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December 5, 2022

Jodie L. Harris  
Director  
Community Development Financial Institutions Fund  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue NW  
Washington, DC 20220  
Re: CDFI Certification Application (OMB Control Number: 1559:0028)

Dear Director Harris:

Please find below the comments of Hope Enterprise Corporation / Hope Credit Union / Hope Policy Institute in response to the Request for Comment on the CDFI Fund Certification Application. The spirit of the request – to ensure that all certified Community Development Financial Institutions are in fact deploying capital to historically underserved people and places in a responsible manner oriented towards closing systemic gaps – is commendable and past due.

Hope Enterprise Corporation and Hope Credit Union are both CDFIs. Through 2021, Hope Enterprise Corporation has received 20 awards from four CDFI Fund programs (Rapid Response, Financial Assistance, Capital Magnets Fund and New Markets Tax Credit) totaling \$308 million. Hope Credit Union has received 19 Awards since 2000 totaling \$29 million from five CDFI Fund programs.

One of the nation's largest Black- and women-owned financial institutions, since 1994 HOPE has worked to increase financial inclusion among vulnerable populations in Alabama, Arkansas, Louisiana, Mississippi, and Tennessee – a region that is home to more than a third of the nation's persistent poverty counties. HOPE was established to ensure that all people regardless of where they live, their gender, race or place of birth have the opportunity to support their families and realize the American Dream. HOPE has generated over \$3.6 billion in financing, investments and related services for the unbanked and underbanked, homeowners, entrepreneurs, nonprofit organizations, health care providers and other community and economic development purposes. Collectively, these activities have benefited more than 2 million individuals throughout the Deep South.

Of the credit union's 35,000 credit union members, 69% have household incomes below \$45,000 and eight out of 10 are people of color. Our branches are located in areas with less

public, private and philanthropic investment, with 86% in counties where the majority of the residents are Black. More than 85% of HOPE's branches are in high poverty census tracts, and in many places, HOPE is the only depository with a local branch. HOPE's staff, management and governance reflect the places we serve. People of color comprise roughly 68% of HOPE's workforce, 60% of management and the majority of the governing boards of Hope Enterprise Corporation and Hope Credit Union, both Treasury-certified Community Development Financial Institutions. Similarly, 72% of HOPE's employees and 60% of management are women.

Several of the proposed changes in the draft certification application portend significant advancement for the CDFI Fund – particularly with regard to certifying CDFIs with demonstrated records of consistently serving people and communities most in need. At the same time, some of the proposed changes impose barriers to implementing proven, high-impact approaches for importing capital to capital starved regions. This letter emphasizes both and includes recommendations below.

### **Applicant Basic Information**

#### *Board and Executive Staff Demographic Information*

HOPE strongly endorses the inclusion of Board and Executive Staff Demographic Information for every CDFI certified by the CDFI Fund. Currently, the CDFI Fund does not collect / publish data on the leadership of all certified CDFIs. In the absence of this information, it is not possible to conduct a comprehensive disparity analysis on award decisions based on the racial makeup of CDFI leadership. Such an analysis is critically needed as, historically, awards to white led CDFIs have outpaced awards to CDFIs led by people of color.<sup>1</sup>

### **Primary Mission**

#### *Overdraft / NSF Fees*

HOPE strongly supports the inclusion of responsible financial practices into the determination for CDFI certification. In all instances where the delivery of certain products and services would result in the deeming of an entity as ineligible for CDFI certification, the CDFI Fund must be clear and transparent on the types of products and services that would trigger such a determination. Currently, such guidance is clear for the evaluation of responsible mortgage lending. In the proposed application, guidance is not clear for overdraft and nonsufficient fund (NSF) fees. If the CDFI Fund proceeds with collecting information on the overdraft and NSF practices of CDFIs that offer these products, it must establish clear standards for evaluating whether or not a CDFI's practices are responsible or not. Publication of such standards could have a transformative effect on the field. In the absence of this information, however, the CDFI Fund could de-certify a significant number of CDFIs, including a significant number of Minority Depository Institutions, without providing time to make adjustments.

## **Financing Entity**

### *Certain Regulated Financial Institutions*

In the proposed application, there is a list of Certain Regulated Financial Institutions “Presumed to meet the CDFI Certification Financing Entity requirements.” While the list includes FDIC insured depositories, it currently excludes depositories with National Credit Union Administration (NCUA) insurance. The omission of depositories with NCUA insurance for this test is unacceptable and follows a pattern and practice in state legislatures where legislation has been passed to exclude credit unions from participation in the provision of financial services. For example, in Mississippi, credit unions are unable to accept deposits from local units of government. This law has placed an undue burden on multiple majority Black towns that could deposit local funds in Hope Credit Union – the only depository in the town – but cannot because of state law. The CDFI Fund should not sanction this type of divisive lawmaking leading to inequitable outcomes by engaging in a similar practice through its rulemaking.

## **Target Market**

### *Target Market Assessment Methodology – Consumer Loans*

There is currently a lack of congruence between some of the pre-approved methodologies for Target Market Assessments and the Equal Credit Opportunity Act. If this issue is not remedied, nearly all credit union CDFIs that use an “Other Targeted Population (OTP)” will be deemed ineligible for certification because lenders are generally prohibited from asking questions or collecting information about race on non-mortgage credit applications, which includes consumer loans.<sup>2</sup> If consumer loans are excluded from the OTP Target Market calculation, credit union CDFIs will not be able to meet the 60% thresholds for deploying loans by number as consumer loans typically comprise the vast majority of loans, closed by number, for nearly, if not all, credit unions. Such actions would have drastic consequences for the CDFI field by limiting access to CDFI certification for Minority Depository Institutions which are highly likely to use an OTP Target Market. To respond to this issue, the CDFI Fund must add additional pre-approved methodologies to account for consumer loans. One approach to consider includes counting of all consumer loans closed in a majority-minority census tracts as meeting the OTP threshold.

## **Development Services**

### *Definitions*

Nearly half of HOPE’s members were unbanked or underbanked prior to joining the credit union. Likewise, approximately ¼ of HOPE’s small business / community development loan borrowers applied for financing at bank, but were turned down or offered less than what was requested. In our experience, nearly every loan engagement in which HOPE is involved, technical assistance is being provided – to strengthen the credit request for a small business loan, to provide a roadmap for qualifying for a mortgage or to move into a more low cost checking account. As a result, while the time to close from the initial inquiry may be longer, the results are clear. The vast majority of HOPE’s small business and community development loans and its mortgages are to people of color. The effectiveness of these structured conversations, around the process of applying or credit – particularly among people and in places where credit

has been systemically denied – are among the most effective development services HOPE provides. The CDFI Fund should recognize the level assistance that is provided during the loan application process for underserved borrowers by allowing CDFIs to count this type of service for every loan transaction carried out by the CDFI.

### **Accountability**

#### *Financial Interest Policy*

The proposed Financial Interest Policy is currently structured in a way that is incompatible with the governance structure of CDFI Credit Unions. Under no circumstances should credit union board members using the products and services of the credit union be excluded from the Target Market Accountability calculation. First, all credit union board members, must be members of the credit union. As members, one would expect the Board members to use the financial products and services of the credit union. In fact, use of the products and services positions board members to be particularly well versed in the utility, effectiveness and accessibility of the credit union – more so than if use did not occur. Second, any concerns around conflict of interest are mitigated by safeguards in the Federal Credit Union Act and in credit union bylaws. Additionally, adherence to these provisions are examined annually by NCUA regulators. Given all of the controls in place to prevent “preferential treatment” of credit union board members, CDFI credit union board members should be exempt from the Financial Interest Policy as it is currently written.

Thank you for the opportunity to comment on proposed changes to the CDFI Fund Certification application. The sharpening of the process to ensure CDFIs with long track records of serving communities of color and those most in need is paramount to protecting the CDFI brand and ultimately the ability to procure the resources necessary to carry out this important work.

Sincerely,



Ed Sivak  
Chief Policy & Communications Officer

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<sup>1</sup> Burt, Kiyadh. “Analyzing the CDFI Asset Gap: Examining Racial Disparities in CDFI Fund Awardees from 2003 to 2017. November 5, 2020. <http://hopepolicy.org/manage/wp-content/uploads/CDFI-Fund-Time-Series-Analysis-brief-edited.pdf>

<sup>2</sup> <https://www.consumerfinance.gov/ask-cfpb/can-a-lender-or-dealer-ask-me-about-my-race-color-religion-national-origin-or-sex-en-1185/>