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Ms. Tanya McInnis
Program Manager, Office of Certification, Compliance Monitoring and Evaluation
Community Development Financial Institutions (CDFI) Fund
U.S. Department of the Treasury
1500 Pennsylvania Ave. NW
Washington DC 20220
Submitted via email to ccme@cdfi.treas.gov

Mr. Greg Bischak
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Submitted via email to CDFI-FinancialStrategiesandResearch@cdfi.treas.gov

Re: Proposed CDFI Program--Certification Application and Annual Reporting

November 5, 2020

Dear Ms. McInnis and Mr. Bischak:

Please find below the comments of the Hope Enterprise Corporation / Hope Credit Union / Hope Policy Institute (HOPE) in response to the CDFI Fund's proposed certification application and annual reporting requirements published on May 6, 2020.

HOPE is a community development financial institution, credit union, loan fund and policy institute that provides affordable financial services; leverages private, public and philanthropic resources; and engages in policy analysis to fulfill its mission of strengthening communities, building assets, and improving lives in economically distressed areas throughout Alabama, Arkansas, Louisiana, Mississippi and Tennessee. HOPE exists to mitigate the extent to which factors such as race, gender, birthplace and wealth limit one's ability to prosper. Since 1994, HOPE has generated more than $2.5 billion in financing that has benefitted more than 1.5 million people in the Deep South.

The CDFI Fund should use the opportunity of its review of the certification and annual reporting process to assess how well CDFIs and the CDFI Fund are serving communities of color, including CDFIs owned/controlled by people of color. HOPE brings the unique perspective of serving communities of color, particularly in rural communities and others in the Deep South.

In this comment, HOPE urges the CDFI Fund to:

1. Gather information on the race and ethnicity demographics of CDFI leadership, ownership, and borrowers and communities served by all certified CDFIs.
2. Preserve the geographic boundaries of the Target Market test, and preserve the 60% threshold for financial products even if financial services are also considered for depository institutions.
3. Ensure the quality of products and practices build and protect, rather than strip, wealth from borrowers and communities served by CDFIs.

The following comments provide more detail on each of these recommendations.

1. Gather information on the race and ethnicity demographics of CDFI leadership, ownership, and borrowers and communities served by all certified CDFIs.

Currently, the CDFI Fund does not gather information about the race and ethnicity of CDFI leadership or ownership for all certified CDFIs. The only CDFIs for which this information is gathered are CDFI Fund awardees, which provide this information as part of their institutional level reports (ILR). Even so, the CDFI Fund does not report or publish the amount of CDFI Funds awarded in a way to assess the initial award amounts by minority ownership status. Even for CDFI Fund awardees, not all awardees report the information consistently. As discussed in this section, this information gap creates a tremendous information gap for the CDFI Fund and the CDFI industry as whole to measure the extent to which the CDFI Fund resources are equitably distributed and sufficiently reaching borrowers and communities of color. The proposed CDFI certification and annual reporting requirements do not fill these gaps. As such, this section provides new analysis on why this information is necessary and recommends four questions to ask of all CDFIs.

Existing Gaps

In April 2020, Hope Policy Institute completed an initial analysis of assets held by CDFI Fund awardees in FY 2014 and FY 2017. In that analysis, HOPE found that in FY 2017, the average assets held by white-owned CDFIs were more than double that of minority-owned CDFIs.[1] HOPE expanded this analysis to cover all years for which the data are available (FY 2003 – FY 2017) to see if racial disparities existed overtime. This expanded analysis, attached hereto, finds the following:

- **The number of white-owned CDFI Fund awardees has significantly outpaced minority awardees every year.** The number of minority awardees has never exceeded more than 34% of the total number of awardees in any given year, and collectively represent just 291 (32%) of all 922 unique awardees during this timeframe.
- **While the asset size for all CDFI Fund awardees has grown over time, the growth has not been evenly distributed.** For example, in FY 2017, white-owned awardees held $35.1 billion in assets, up from $4 billion in 2003, whereas minority-owned awardees held $5.7 billion in assets in 2017, up from $530 million in 2003. It took minority

awardees until 2013 --10 years--to exceed the median asset size of white awardees in 2003 ($5.5 million).

- **There has been no progress in closing the asset gap between white and minority-owned CDFIs.** Every year, the median asset size of white-owned awardees has been at least twice the median asset size of minority-owned awardees. In some years, it was three times as high.

This analysis is limited to CDFI Fund awardees because it is the only data which provides ownership demographics, along with asset size. It is not possible to make further conclusions about the relationship between CDFI Fund awardees and the field as a whole, or the relationship to CDFI Fund initial award amounts and ownership demographics, because this data are not available.[2]

Additionally, the data gathered by the proposed CDFI certification application and annual report do not require any data about the race or ethnicity demographics of communities served by CDFIs. It only requires information about the race of the borrower if the CDFI has chosen to meet its Target Market test through meeting the needs of a racial or ethnic group as part of the Other Targeted Population option. The current certification and annual report process allows CDFIs to avoid the issue of race or ethnicity altogether by choosing its Target Market based on Investment Area and/or Low-Income Population.

In places like Mississippi, the ability to rely just on serving low-income communities has allowed CDFIs to by-pass borrowers of color. Analysis of Home Mortgage Disclosure Data (HMDA) provides insight into how deeply CDFIs in Mississippi may or may not be lending to communities of color. As a brief example, HOPE analyzed 2019 HMDA mortgage lending data for 10 Bank CDFIs in Mississippi and found that 71% of mortgage loans went to white borrowers while only 14% went to Black borrowers.[3] By contrast, Hope Federal Credit Union made 82% of its mortgage loans to Black borrowers, and less than 20% of its loans to white borrowers. Economic disparities along racial lines is also important context. In Mississippi, 55% of households statewide are liquid asset poor, but for Black households its 72% and 42% for white households. [4]In terms of median household income, statewide it is $45,792, but for Black households it is $31,067 and for white households, it is $57,191.[5]

The proposal does not yet a seek to gather sufficient information to close the gaps identified in the above analysis, but could easily do so by including questions outlined below.

Recommendations

While it is encouraging to see that the proposal asks whether the applicant is a Minority Depository Institution (MDI) or not; there is no proposed definition for a MDI and it is unclear how this would apply to non-depository loan funds, many of which are minority-led. As such, to ensure robust gathering of this information, while balancing a variety of CDFI business models, the CDFI Fund should include the following questions in the Basic Information section of the CDFI Application and collected annually from all CDFIs:

- Is the CDFI designated as a MDI by the FDIC or NCUA?
- What is the race, ethnicity, and gender of the CDFI's CEO/Executive Director/President?
- Are more than 50% of the Board of Directors minority individuals?

"Minority" should be defined as any person who is Black American, Hispanic American, Asian American, Native American, Native Alaskan, Native Hawaiian, or Pacific Islander.

The CDFI Fund should make this information publicly available as part of the information on the spreadsheet of certified CDFIs available on the CDFI Fund website. Doing so is consistent with the helpful practices of both the FDIC and NCUA publishing public lists of MDI credit union and banks on their websites. The information gathered above should also be part of the public reporting for CDFI Fund awardees.

CDFI Fund should also gather data about how well CDFIs are providing Financial Products to borrowers and communities of color, regardless of the method chosen to meet its Target Market. Towards this end, the CDFI Fund should require, as part of the certification and annual reporting, CDFIs to provide the following information:

- Over the last three years, did the CDFI provide more than 50% of its lending, in number and dollar amount, to census tracts where more than 50% of the residents are minority?

The CDFI Fund should also monitor how well CDFIs are serving borrowers of color. A good starting point would be monitoring HMDA reporting, and once finalized, reporting required under Section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

If the CDFI Fund does not gather and publicly report this information, it will not be possible to know if the Fund is closing or perpetuating resource gaps for minority-led, minority-owned, and minority-serving CDFIs. Data from the 15 years of CDFI Fund awards show little progress in closing the asset gaps and funding gaps between minority-owned and white-owned CDFIs. These findings described below underscore the importance of gathering this data going forward in order to inform policy decisions and resource allocations in the future.

2. Preserve the geographic boundaries of the Target Market test, and preserve the 60% threshold for Financial Products even if Financial Services are also considered for depository institutions' Target Market test.

As currently proposed, two significant changes to the Target Market test – removal of geographic boundaries and lowering of the required lending threshold into the Target Market – raises significant concern. In each individual proposal scenario and particularly when combined, these will allow CDFIs, particularly depositories, to be located in and take deposits from underserved Target Markets while having a diminished obligation to lend in those same communities. As described more fully below, HOPE is concerned about the dilution of funds to the most economically distressed communities as well as diversion of investments from CDFIs with experience in these markets. This is not the direction the CDFI industry should be headed.

Geographic Boundaries

HOPE urges the CDFI Fund to preserve geographic boundaries for Target Market tests. The removal of geographic boundaries risks diluting the amount of resources invested in the hardest to serve communities. If CDFIs can chose economically distressed census tracts anywhere in the country, then it is likely more national CDFIs will chose to invest in the tracts in larger, urban areas rather than reaching into harder to serve tracts with deeper poverty rates and fewer resources such as rural and majority people of color communities. Maintaining the geographic boundaries helps ensure that regional and local CDFIs remain competitive in the application process for scarce resources to serve the hardest to reach areas in any given market.

Our concern is not hypothetical. In looking at other CDFI Fund programs, New Market Tax Credit activity provides an informative example. While there is New Market Tax Credit investment in the Deep South, it is heavily concentrated in New Orleans, a market where capital has been plentiful to fund projects over the last 15 years as the city rebuilt after Hurricane Katrina. These concerns hold true beyond the Deep South, and for rural, persistent poverty counties generally. Hope Policy Institute analysis found that from FY 2003 to FY 2017, 75% of NMTC investments in persistent poverty counties were in metro areas.[6] By comparison, for HOPE's NMTC activity over this same time, more than 55% of its investments in persistent poverty counties were in non-metro areas.

Crucial for HOPE in funding projects in harder to reach communities is the ability to have a mix of projects on our balance sheet. Generally, local and regional CDFIs need to balance these types of transactions with the ones that are more expensive to manage risk. It becomes harder to accomplish this goal if out-of-region or national CDFIs are able to more easily do these deals in urban areas at the risk of pushing out those already located in these markets. An additional concern is that there are weaker ties for community accountability if the CDFI is not located in the market, particularly when coupled with the proposed removal of geographic requirements for the Board members in relation to the target markets served. As such, HOPE is concerned that this proposal will further disadvantage CDFIs with a long track record serving the most economically distressed areas.

For these reasons, HOPE urges the CDFI Fund to maintain its geographic boundaries for the Target Market test. To the extent that the CDFI Fund does chose to let lenders count activities outside of their geographic boundaries towards the Target Market test, it should be in limited circumstances. Specifically, it should only be activity in investment areas in persistent poverty counties or to investment areas in times of national crisis, such as COVID-19 where CDFIs expanded to meet emergency needs in areas beyond their geographic footprint.

Financial Products Threshold

The CDFI Fund also proposes to lower the threshold of Financial Products required to reach a CDFI's Target Market. Currently, a CDFI must provide 60% of the number and dollar value of its Financial Products to the Target Market. The CDFI Fund is proposing to allow depositories to reach a lower threshold of 50% of Financial Products to the Target Market if the depository also provides 60% of its depository accounts to the Target Market. Located in the region of the country with the highest unbanked population, particularly for communities of color, HOPE recognizes the need for bank account access to underserved communities. However, increased incentives to provide bank accounts should not come at the expense of providing sorely needed capital into these same communities. HOPE agrees with the proposal that depository accounts should be the only Financial Services be counted towards this test. The count, however, should be by number of unique customers with an account(s) rather than number of individual accounts, and it should be based on the address of the customer/member. Rather than allowing a lower threshold for Financial Products, the CDFI Fund, in its operationalization of accounting for Financial Services as part of the Target Market Test, should require for both Financial Services and Financial Products, that 60% each reach the designated Target Market**.**

3. **Ensure the quality of products and practices build and protect, rather than strip, wealth from borrowers and communities served by CDFIs.**

HOPE concurs with the CDFI Fund's goal of these proposed revisions "to maintain the integrity of what it means to be a certified CDFI from a mission perspective."[7] The quality of products and services offered cannot be separated from to question of how CDFI's fulfill their mission of serving economic distressed communities. HOPE is generally supportive of the information the CDFI proposes to gather, and would like to highlight three specific areas of note: pricing, mortgage loans, and debt collection practices.

HOPE affirms the gathering of information about pricing in terms of the Military annual percentage rate (MAPR), and urges the Fund to prohibit certified CFDIs from making loans in excess of 36% MAPR (unless lower as required by state law). For example, HOPE is aware of CDFIs making loans with small dollars loans reaching up to 190% APR. These high rates are not only inconsistent with, but undermine, CDFIs' Fund's goal, which as it says, "is an inclusive economy: an America where all citizens have the chance to participate in the mainstream economy."[8] HOPE hears first-hand from our members and people in the communities where our branches are located about the troubles caused by unaffordable high-cost loans, such as difficulty paying other bills, the psychological stress caused by unaffordable debt, and the subsequent inability to build wealth in the future. Beyond HOPE members, research shows that high-cost loans, even when structured with longer-terms and over installments, can have devastating effects on people's financial situation.[9]

HOPE also urges the CDFI Fund to require CDFI mortgage loans to be compliant with qualified mortgage (QM) standards as provided in the Dodd-Frank Wall Street Reform and Consumer Protection Act. In summary, this means: (a) no negative amortization, interest-only payments, or balloon payments; (b) adjustable rate mortgages underwritten at the maximum rate in the first five years; (c) original maximum term of 30 years; and 4) total points and fees generally not exceeding three percent of the loan amount. These product protections, along with provisions to ensure CDFI mortgage lenders adequately assess a borrower's ability to repay, will help ensure responsible mortgage lending while allowing innovation in underwriting that may benefit communities that CDFIs serve.[10]

Each of the five states in HOPE's footprint has a 20-point difference between the Black and white homeownership gap. High-cost mortgage loans, with predatory terms, increase the likelihood the borrowers will default on those loans, and research shows these are disproportionately made to Black borrowers. The CDFI Fund can play a critical role in closing this gap by ensuring that CDFI mortgage loans are made on terms that are safe and affordable rather than terms that strip wealth from underserved communities. In the six years since their implementation, QM standards are now well-established and lending institutions, including CDFIs, have had ample time to adapt lending practices to meet these standards in their markets.

Finally, HOPE appreciates the attention to CDFIs' debt collection practices. Unfair and unsafe debt collection practices are disproportionately borne by communities of color, particularly here in the Deep South. In each of HOPE's five Deep South states, approximately 40% of consumers have a debt in collection. This number jumps to an eye-popping over 60% of consumers in communities of color in Alabama and Louisiana.[11] As such, the long term consequences of debt-related abuses, such as people being pursued by debt buyers for debt they may not even owe, perpetuate the racial wealth gap. The CDFI Fund is correct to examine the debt collection practices of CDFIs to ensure they are not also a contributing factor.

Thank you for the CDFI Fund's work and thoughtfulness into this process and proposals, and for your consideration of this feedback on these critical matters.

Sincerely,

William J. Bynum
Chief Executive Officer

Diane Standaert
Director, Hope Policy Institute

[1] Kiyadh Burt, Hope Policy Institute, "Closing the CDFI Asset Gap," April 21, 2020, http://hopepolicy.org/blog/closing-the-cdfi-asset-gap/
[2] Kiyadh Burt, Hope Policy Institute, "Analyzing the CDFI Asset Gap: Examining Racial Disparities in CDFI Fund Awardees from 2003 to 2017," Nov. 4, 2020, http://hopepolicy.org/briefs/analyzing-the-cdfi-asset-gap-examining-racial-disparities-in-cdfi-fund-awardees-from-2003-to-2017-2/
[3] Analysis of 2019 HMDA data, available at https://ffiec.cfpb.gov
[4] Prosperity Now Scorecard, "Liquid Asset Poverty," https://scorecard.prosperitynow.org/data-by-issue#finance/outcome/liquid-asset-poverty-rate (defining liquid asset poverty rate as "percentage of households without sufficient liquid assets to subsist at the poverty level for three months in the absence of income.)
[5] U.S. Census Bureau American Communities Survey 2019, Table S1903
[6] Sara Miller, Hope Policy Institute, Analysis of data from the CDFI Fund FY 2019 NMTC Public Data Release: 2003-2017 Data File and CDFI Fund Persistent Poverty County data
[7] CDFI Fund, Notice of Information Collection and Request for Public Comment, Federal Register, Vol. 85, No. 89, page 27276, May 7, 2020, https://www.cdfifund.gov/Documents/2020-09747-Certification%20Application.pdf
[8] CDFI Fund, "CDFI Fund's Fact Sheet," https://www.cdfifund.gov/Documents/CDFI_Brochure%20Updated%20Dec2017.pdf
[9] HOPE Comments to the Office of the Comptroller of the Currency, Sept. 2, 2020 http://hopepolicy.org/blog/hope-submits-comments-opposing-occ-true-lender
[10] For more discussion on this recommendation, see Self-Help and Center for Responsible Lending, Comments to the CDFI Fund, Proposed CDFI Program--Certification Application, Nov. 5, 2020.
[11] Calandra Davis, Hope Policy Institute, "Southern States Must Act With Urgency to Protect Stimulus Checks from Debt Collectors," May 4, 2020 (analyzing data from the Urban Institute, Debt in America), http://hopepolicy.org/blog/southern-states-must-act-with-urgency-to-protect-stimulus-checks-from-debt-collectors/