

# PROPOSED CDFI CERTIFICATION APPLICATION, ACR & CTLR

## REQUEST FOR PUBLIC COMMENTS

FREQUENTLY ASKED QUESTIONS  
UPDATED OCTOBER 2020

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**NOTE:** This document is intended to serve as public guidance for the subject matter contained herein. The CDFI Fund reserves the right, however, to modify this guidance at any time upon public notice. The examples contained in this guidance are not exhaustive in nature and the CDFI Fund has the discretion to consider additional factors when determining matters of compliance.

## A. CDFI Certification Application in Public Comment Period

### Application Process

1. Do currently certified CDFIs have to be recertified using the new Certification Application once it is finalized?

All currently certified CDFIs will be required to come into compliance with the new certification policies, the mechanism for becoming recertified is still under consideration. The CDFI Fund will provide a grace period for these entities and has requested comments from the industry on what it considers a reasonable grace period.

### Requirements and Special Provisions

2. When would an organization create an eligible spinoff entity for the purposes of certification?

Organizations that might typically create a spinoff entity for the purposes of certification are mission-driven entities that engage in financing activity but whose predominant activity is non-financing and therefore are unable themselves to meet the Financing Entity criterion for certification. To be eligible for certification, the newly created entity, the spinoff entity, must retain the financing assets and activities of the original entity(ies) for the purpose of continuing that financing activity and becoming a certified CDFI.

Participants in the Bond Guarantee Program also may create an Affiliate spinoff entity to participate as part of a proposed Bond Issue. Such entities may also need to meet additional parameters and restrictions established via an applicable Notice of Guarantee Availability (NOGA) for a CDFI BG Program application round (see 12 CFR 1805.201(b)(2)(ii)).

### Primary Mission

3. What is the CDFI Fund's intent behind the revisions to the Primary Mission criterion?

As noted in the Federal Register 85 Fed. Reg. 27277(May 7, 2020), to strengthen the Primary Mission test and examine the extent to which an entity's Financial Products and Financial Services align with that mission, the CDFI Certification Application will evaluate an entity's Financial Products and Financial Services, with a focus on the strategies, policies, and practices related to the products and services offered by that entity.

Given the CDFI Fund's limited resources to review an entity's products or services individually, the application asks entities a series of questions and/or attestations about their activities. The aim of these

questions is to determine, to the extent possible, whether an entity—and the Financial Products and Financial Services it offers—adheres to a set of mission related principles.

These include:

- Community Development Intent: Be *purposefully* directed toward improving the social and/or economic conditions of underserved people and/or residents of economically distressed communities.
- Responsible Financing Practices: Engage in providing products and services in a way that does not harm consumers. Financial Products should be affordable and based upon a borrower's ability to repay, and CDFIs should practice transparency, fair collections, and compliance with federal, state, and local laws and regulations.

The CDFI Fund is considering whether certain practices that do not align with these principles should be considered disqualifying for the purposes of CDFI Certification.

4. How will the new collective Primary Mission test be applied to an Applicant's affiliate organizations that are mission focused but do not have a Primary Mission of community development?

The proposed application includes a new requirement that Applicants--other than DIHCs, Affiliates of DIHCs, and Subsidiaries of IDIs (which are already subject to a collective certification test)--must meet the Primary Mission test collectively with any Affiliates that either control the Applicant (i.e., a parent entity) or engage in the provision of Financial Products and/or in Financial Services. (Tribal governments are exempted from this requirement.) In determining an Applicant's compliance with this test, the CDFI Fund will first assess any relevant parent and/or affiliates of the CDFI Certification Applicant to determine whether or not its Primary Mission is that of community development. If the parent or affiliate's mission is not expressly that of community development, the CDFI Fund will consider whether the parent or affiliate's mission aligns with community development. The intent of this provision is to limit potential backdoor access to the benefits of CDFI certification by organizations with missions or activities that do not demonstrate broader alignment with the goals of the statute.

5. Can the low income designation from the National Credit Union Association still be used to demonstrate Primary Mission?

Yes, the low income designation for NCUA-insured credit unions may still be used to demonstrate a Primary Mission of community development for the purposes of responding to questions PM01 – PM08.7 of the proposed application. The credit union will need to provide evidence that the designation has been in place for the period of time under review. If the low income designation was not in place for the entire



time period under review, the credit union must provide evidence that it had a Primary Mission statement in place until a 12 full month's timeframe has been covered.

The Low Income Designated credit union is still required to respond to the remaining questions in the Primary Mission criterion section.

**6. For the "Applicant's Community Development Strategy" section of the Primary Mission test (PM09-PM16), does the Applicant need to identify a community development objective or terms, conditions or practices and results for each of its Financial Products and/or Financial Services?**

No, the Application does not request or require that an Applicant complete the "Applicant's Community Development Strategy" questions for each of its Financial Products and/or Financial Services separately, nor does it require that each of an Applicant's Financial Products and/or Financial Services have a community development objective. To respond appropriately to this section, the Applicant should assess how it uses its arm's-length, on-balance sheet Financial Products to advance a community development objective, and identify at least one related output category as well as the Financial Product and/or Financial Services terms, conditions, or practices that help it to achieve that result. An Applicant also may select and describe "Other" from the picklists if it utilizes a strategy or promotes a community development objective other than those listed.

The intent of this section is to provide further evidence of the intentionality of an Applicant's activities (and those of certain Affiliates) in promoting community development (i.e., that they are "purposefully directed toward improving the social and/or economic conditions of underserved people and/or residents of economically distressed communities"). The questions in this section allow the Applicant to make a connection between different Financial Product and/or Financial Services terms, conditions, or practices and the Applicant's community development objectives. This approach was created in an effort to reduce Application burden and allow the CDFI Fund to analyze the data more efficiently than using open ended narratives.

**7. Why does the application require entities to use the Military Annual Percentage Rate (MAPR) to calculate the annualized rate of interest and other fees charged to a borrower?**

The methodology used to calculate the MAPR is an established and widely used measurement of a loan's interest and other charges, including application fees and participation fees. Although its use is required by statute for certain types of consumer credit extended to active duty servicemembers and their spouses, children, and certain other dependents, the CDFI Fund has proposed its use as a single standard for all Applicants for CDFI Certification to ensure that Applicants do not have incentives to disguise their rates by not including certain fees in calculating the Annual Percentage Rate. (For

additional guidance on calculating the MAPR, see the Consumer Financial Protection Bureau's Military Lending Act (MLA), Interagency Examination Procedures—2015 Amendments, Terms of Consumer Credit Extended to Covered Borrowers (Calculation of MAPR) – 32 CFR 232.4, pp. 6-9.) The CDFI Fund welcomes comments through the Federal Register Notice on the use of the MAPR and whether other methodologies might be more appropriate for non-consumer lending.

## Target Market

8. What is the difference between a Pre-qualified Investment Area and a Customized Investment Area?

### 1) Pre-qualified Investment Area

A Pre-qualified Investment Area consists only of individual census tracts that the CDFI Fund has determined meet one or more of the statutory economic distress criteria. If an Applicant elects to serve an Investment Area comprised of qualified census tracts only, then the Financial Product and/or Financial Services activity that falls within qualified census tracts anywhere within the United States and its territories is counted as being within the entity's Target Market. CDFI Information Mapping System (CIMS) maps are not required for pre-qualified Investment Area, as an investment in any qualified census tract will count toward the entity's Target Market activity, even if it is outside of the entity's primary area of investment.

### 2) Customized Investment Areas

Customized Investment Areas consist of specially designated geographic areas established at either the census tract or county level that:

- Include a contiguous mix of both qualified and non-qualified geographic units of a single type, which may be census tracts, non Metro counties, or parishes; and
- validate as a distressed community per the CDFI Fund Information Mapping System (CIMS) by meeting the following criteria:
  - More than 85% of the population must be in pre-qualified investment areas and
  - The geographic units must be contiguous.

If an Applicant designates a Customized Investment Area as its Target Market, only the Financial Products and/or Financial Services activity that falls within the boundaries of that mix of tracts is counted as being within a Target Market. Although financing activity can occur and be counted in individually non-qualifying census tracts within a Customized Investment Area, the Applicant must direct at least 85% of their financing activity in the individually qualified census tracts of that Customized Investment Area. In addition, financing activity to individually non-qualifying census tracts within a Customized Investment Area should support the financing activity within the qualified census tracts. Detailed transaction level financing information must be provided upon request. Likewise, Applicants must direct at least 85% of



financing activity to individually qualified census tracts within non-Metro counties or parishes, that qualify as an Investment Area as a whole.. CIMS maps are required for Customized Investment Areas.

**9. Will CDFIs be able to have a Target Market comprised of both a Pre-qualified Investment Area(s) and a Customized Investment Area(s)?**

Yes, a CDFI may be certified to serve both a Customized Investment Area(s) and a Pre-qualified Investment Area as part of its Target Market. In such cases an Applicant must submit a map of any Customized Investment Areas in CIMS and meet the accountability requirements for both the Customized Investment Area(s) and the Pre-qualified Investment Area. For the purposes of measuring Target Market activity, the Applicant may count all eligible activity within the Customized Investment Area (so long as at least 85% of its financing activity is within individually qualified census tracts within the Customized Investment Area) as well as all financing activity that falls within qualified census tracts anywhere within the United States.

**10. To meet the Target Market test using Financial Services depository accounts, will CDFIs assess Target Market qualification of all depository accounts provided during a year, or only those newly accounts opened during the year?**

For Applicants that choose to meet the Target Market test based on Financial Services activity, the Applicant must demonstrate that at least 60% of all depository accounts newly opened during the prior 12-month period were held by a member of a Target Market and direct at least 50% of their Financial Products to one or more Target Market types. The Financial Services test is similar to the Target Market test for Financial Products, by which the CDFI Fund measures newly originated loans or investments during the prior 12-month period, rather than the Applicant's entire portfolio.

**11. Where can the CDFI approved Target Market verification processes be found?**

The CDFI Fund is developing a comprehensive list of approved processes an entity may use, without seeking prior approval from the CDFI Fund, to verify that the entity's Financial Products and/or Financial Services are serving a specific Target Market. This list will be made available prior to the finalization of the revised application, at which point an Applicant will be able to refer to the approved processes in attesting to its own verification process(es). Entities still will be able to request approval of a Target Market verification process(es) not already accepted by the CDFI Fund.

**12. What is the process for obtaining CDFI Fund approval for a verification methodology that is not currently approved?**

Applicants or CDFIs requesting approval for a currently unapproved Target Market verification methodology will need to submit the request in writing for review. The details and timeframes for submission are under development.

**13. Does the proposed Census Block Group Low Income Targeted Population (LITP) methodology use geographic location rather than the borrower's actual income to determine LITP status?. How does geocoding for LITP differ from using Investment Areas?**

Although the proposed LITP methodology uses a combination of a borrower's location and the income distribution of a Census Block Group, it is distinct from the methodology for determining an Investment Area. Qualified Investments Areas are reported with a census tract number that is an 11-digit FIPS Code; there are about 74,000 total census tracts from the 2010 census, of which approximately 34,000 meet the Investment Area criteria. The proposed LITP Census Block Group methodology will generate a 12-digit code for a loan based on its geocoded location in a Census Block Group. There are about 200,000 census block groups within the 74,000 census tracts for the 2010 census.

One criteria to qualify as an Investment Area is if the census tract has a median family income of 80% or less of the area or state median family income. The proposed LITP methodology, on the other hand, would be based on an underlying Census Block Group's percentile distribution (i.e., the block group's rank compared to other block groups) of household income that is less than or equal to 80% of Area Median Income. This approach would enable CDFIs to code transactions as low-income based on a borrower's location in a qualified LITP census block group that is outside of a qualified Investment Area census tract.

The Census Block Group methodology is designed as a proxy for documenting LITP lending and is principally intended to be used for coding transactions that are in non-qualified census tracts. Please note that if an organization used the Census Block Group methodology to code a transaction located within a qualified Investment Area census tract it would not necessarily meet the LITP criteria. Such transactions, however, still could be coded at the census tract level to qualify as an eligible Investment Area investment.

## Development Services

**14. For Bond Guarantee Program Applicants, what are the requirements for meeting the Development Services criterion?**

To be a Certified CDFI, an Applicant must provide Development Services in conjunction with its arms-length Financial Products and/or Financial Services either directly, through an Affiliate, or through a contract with another provider.

Pursuant to the regulations (see 12 CFR 1805.201(b)(2)(iii)), the CDFI Fund will allow an exception to the Development Services requirement for entities applying for certification solely for participation as Eligible CDFIs in the Bond Guarantee (BG) Program. BG Program Applicants can meet the Development Services criterion by identifying the product and development service offered by and between the Eligible CDFI and the controlling CDFI. The exemption allows the Eligible CDFI Applicant to count products, services and Development Services activity that are not arms-length. The CDFI Fund has provided a list of Development Services topics (p 64 of the application) but the Applicant can identify other topics if the ones provided do not fit.

## Accountability

15. Can you give some examples of eligible board representation for the Accountability test for entities with more than one Target Market?

To meet the Accountability test through an Applicant's governing board, an Applicant must demonstrate that at least one governing board member is accountable to each proposed Target Market, and at least 33% of the governing board is accountable to the overall proposed Target Market(s). For example a CDFI with a Target Market of Pre-qualified Investment Areas, LITP, and OTP-Hispanic, and a governing board consisting of fifteen members would have to have at least five board members (i.e., 33% of the board) who met at least one of the accountability criteria for each of the three different Target Markets - one accountable to an Investment Area, one accountable to an LITP, one accountable to an OTP-Hispanic, and two additional members accountable to any of the Target Markets.

If the Applicant has a governing board but seeks to meet the Accountability test through an advisory board, the Applicant must demonstrate that at least one advisory board member is accountable to each proposed Target Market; at least 60% of the advisory board is accountable to the overall proposed Target Market(s); at least 20% of the governing board members are accountable to at least one proposed Target Market; and at least one governing board member has a seat on the advisory board. For example the same CDFI with a Target Market of Pre-qualified Investment Areas, LITP, and OTP-Hispanic, and a governing board consisting of fifteen members and an advisory board consisting of ten members would have to have at least six advisory board members (i.e., 60% of the advisory board) who met at least one of the accountability criteria for each of the three different Target Markets - one accountable to an Investment Area, one accountable to an LITP, one accountable to an OTP-Hispanic, and three additional

members accountable to any of the Target Markets - and at least one advisory board member who was also a member of the governing board. In addition, the Applicant's governing board must have at least three members (i.e., 20% of the governing board) who met at least one of the accountability criteria for any of the three different Target Markets. .

16. Can a board member meet the accountability test for more than one Target Market?

Yes. For example, an African-American resident of an Investment Area may serve as a board member of a CDFI that has a Target Market of Pre-qualified Investment Areas and OTP-African American and meet the accountability criteria for both Target Markets. However, the CDFI still must meet other minimum accountability requirements, e.g., that at least 33% of the governing board is accountable to the overall proposed Target Market(s) when using a governing board to meet the Accountability test.

17. Do employees of a certified CDFI that serves a Targeted Population meet the accountability test to serve on the board of another entity serving that Targeted Population?

An employee of a certified CDFI may meet the accountability test on the basis of her or his employment for a certified CDFI only when serving as a board member for a CDFI with a Target Market of OTP-CDFI. An employee of a CDFI may still serve on the board of other CDFIs that do not have a Target Market of OTP-CDFI, but must meet the accountability test based on other accountability criteria. For example, an Hispanic employee of a certified CDFI may meet the accountability test if serving on the board of another CDFI with a Target Market of OTP-Hispanic on the basis of being a member of the Other Targeted Population. However, a white employee of a certified CDFI would not meet the accountability test if serving on the board of another CDFI with a Target Market of OTP-Hispanic, even if the CDFI by which the board member is employed also has a Target Market of OTP-Hispanic. Either employee would meet the accountability test if serving on the board of another CDFI with a Target Market of OTP-CDFI.

## B. Certification Transaction Level Report (CTLR) in Public Comment Period

18. Will Applicants be required to use the proposed geocoding methodology to demonstrate a Financial Product serves a LITP?

The use of the proposed LITP Census Block Group coding function will be optional. CDFIs will be able to continue to use existing Certification guidance on required documentation or pre-approved verification methodology to code a loan as LITP. If, however, a CDFI chooses to use the LITP Census Block geocoding approach, it provides an alternative to the Certification guidance on documenting a loan as LITP by line of business.

19. For CDFIs with LITPs electing not to use the Census Block-level geographic proxy data, how will they report that a loan has been made to their LITPs?

CDFIs that do not elect to use the LITP Census Block Group geocoding for designating a transaction as LITP may manually enter "Yes" to the LITP status. When doing so, the CDFI will need to retain all of the required documentation for the loan record, as detailed in the forthcoming certification guidance, to show that household income for the borrower is less than or equal to 80% of AMI.

20. When will the LITP geocoding tool be available?

The Census Block Group Geocoder is not yet built. The CDFI Fund will provide additional information on the use of the tool and offer a webinar when released.

21. Will the CTLR and CIMS geocoding process allow CDFIs to upload and code the CTLR address file separately from the transaction file so that borrowers' confidential loan details are kept anonymous? Also, will the CIMS address geocoding output file display only the FIPS code information for qualified Investment areas and LITP census block groups?

Yes, the CTLR and CIMS coding process will permit the CTLR address file to be uploaded into CIMS and coded separately from the transaction file so that borrowers' confidential details are kept anonymous. The two files will be linked by the origination transaction IDs. The CIMS generated CTLR output file from the address geocoding process will display the Investment Area and Census Block Group FIPS codes only, thereby protecting confidential information.

22. Will Transaction Level Report (TLR) data be used to autopopulate the Annual Certification and Data Collection Report (ACR) for awardees that do not complete the CTLR?

CDFI Program Financial Award recipients in their first year of reporting (i.e., before they are required to submit a TLR) will be required to submit a CTLR when completing their ACR. Award recipients in their reporting period that are required to submit a TLR will not be required to submit a CTLR. In such cases, CDFI award recipients will note in their ACR that they will be submitting a TLR and the fields that otherwise would be autopopulated with data from the CTLR will be disabled. The recipient's ACR will then be evaluated once its TLR is submitted through AMIS.

23. Will CDFIs be able to review their cumulative Target Market lending in their CTLR before it is submitted to the CDFI Fund?

Yes, the CTLR will provide a preview of an entity's tabulation of its Target Market lending and investments prior to submission.

24. Will users be able to correct errors in the CTLR's assessment of individual loans included within a Target Market?

Yes, users will be able to correct errors either through the CTLR's AMIS interface or through the CSV error correction for the address and transaction files. An XML error correction process also will be provided. Additional assistance can be requested through a Service Request.

25. How will a CDFI with a Customized Investment Area(s) indicate that a given loan is contained in its Investment Area map through the CTLR?

Using the reported census tract FIPS code for each loan, the CTLR will automatically validate whether a given loan is located in a census tract within a CDFI's approved Customized Investment Area so that it can be counted toward the CDFI's Target Market deployment.

## C. Annual Certification and Data Collection Report in Public Comment Period

26. For non-profit CDFIs that solicit donations from individual donors, how will these be reported within the Investment Capital and Operating Revenue tables in the ACR? Will CDFIs need to submit each donor's contribution as a separate Source of Capital or Operating Revenue?

ACR reporters will only report the aggregate for each source in the Investment Capital and the aggregate for each donor type in the Operating Revenue tables in the Annual Certification Report.