



An Overview of Key Updates to the CDFI Certification Application

December 7, 2023

On December 7, 2023, the Community Development Financial Institutions Fund (CDFI Fund) published a revised CDFI Certification Application (the Revised Application).

The Revised Application was finalized after an extensive process in which the CDFI Fund sought public comment over more than six years. To assist in its review and to collect public input, in January 2017 the CDFI Fund published a request for information (RFI) to seek comments on CDFI certification policies and procedures. The CDFI Fund received 28 letters containing over 200 pages of comments. Based on input provided through the RFI, the CDFI Fund developed an initial draft of a revised certification application and related tools that it released for public comment in May 2020. A further revised draft of the application was [published in the Federal Register](#) on November 4, 2022 (the Draft Application). The CDFI Fund received approximately 300 public comments in response to its requests for public comment in 2020 and 2022. The CDFI Fund carefully considered all of the public comments, and the Revised Application reflects modifications responsive to the comments that were submitted. In addition to reviewing and considering all the comment letters, officials at the CDFI Fund and at the Treasury Department conducted extensive outreach with a broad array of stakeholders to hear their views as the CDFI Fund was working to develop the Revised Application.

This document describes how the CDFI Fund evaluated certain key issues that were raised in public comments.

Key Updates to the CDFI Certification Application

The following is a description of certain key aspects of the Revised Application, including changes that were made compared to the Draft Application, which was published in November 2022. This discussion is organized in order of the sections of the Revised Application.

Preamble and Basic Applicant Information Section

Process for changing certain certification-related lists and standards

A number of public comments encouraged the CDFI Fund to provide greater flexibility with respect to various lists and standards described in the Revised Application. Other comments recommended greater specificity and transparency regarding various aspects of the certification process. To balance these concerns, the CDFI Fund has established a method for Applicants¹ to request CDFI Fund approval of additions or amendments to certain key lists and standards related to certification, including:

- Financial Products and Financial Services;
- disregarded or included assets and staff time;

¹ Capitalized terms used but not defined in this document have the meanings set forth in the Revised Application or in other applicable CDFI Fund materials, including the CDFI Fund's statutes, rules, or guidance.

- Targeted Populations;
- Target Market assessment methodologies; and
- responsible financing standards.

Many public comments requested flexibility regarding these factors. The Revised Application will enable Applicants to request changes to these lists and standards. This will allow the CDFI Fund to consider requests for flexibility from Applicants in a structured and transparent manner. If the CDFI Fund approves a request to change a list or standard, the CDFI Fund will publish an update to the relevant lists or standards and related guidance so the change will be available to all Applicants.

Removal of loan purpose tables; product pricing data

The Draft Application included a “Financial Products Information” table and a “Financial Services Information” table, referred to as the “loan purpose tables,” for Applicants to enter information about their loan products. Commenters expressed concern that the loan purpose tables would be burdensome and that the categories in the tables did not reflect how CDFIs described their products. To reduce burden on Applicants, the loan purpose tables are not included in the Revised Application. Instead, a limited amount of the data proposed to be collected in the loan purpose tables will instead be collected under a set of questions in the Revised Application and in the Transaction Level Report.

The loan purpose tables would have included certain data on product pricing. Some commenters expressed strong support for the collection of product pricing data to increase transparency about CDFIs’ products, while others indicated that the collection would be overly burdensome. Affordability is a key criterion for determining whether a CDFI promotes a community development purpose; therefore, the CDFI Fund will collect certain product pricing data, such as interest rates, through the Transaction Level Report.

Legal Entity Section

Use of SAM.gov to determine legal entity status

Many stakeholders recommended that the CDFI Fund integrate SAM.gov into the certification process to reduce the burden of data and document collection to satisfy the Legal Entity test. The CDFI Fund has integrated SAM.gov into its Awards Management Information System (AMIS). AMIS is the system that an Applicant must use to submit the Revised Application. The CDFI Fund believes this change will reduce the burden for Applicants because many are likely already registered in SAM.gov.

Primary Mission Section

Documenting mission and strategy

An Applicant must be able to demonstrate that it has a primary mission of promoting community development.² The Draft Application would have required applicants to submit an acceptable strategic plan to satisfy this requirement. Many stakeholders, particularly those advocating for smaller or less-resourced CDFIs, indicated that producing a strategic plan could be burdensome and costly. To reduce potential burdens and costs, the Revised Application and supporting guidance make it clear that if an Applicant does not have a strategic plan, it may instead submit a board- or owner-approved narrative. The narrative must describe the community development outcomes that the Applicant believes will result from its financing activities and describe how those activities will lead to the outcomes.

Responsible financing standards

To meet the CDFI certification requirements for responsible financing standards, an Applicant must provide Financial Products and Financial Services that are consistent with promoting community development.³ The Revised Application collects information on an Applicant's financing practices to ensure those practices are consistent with a community development mission. Many commenters expressed support for greater clarity about responsible financing, and many expressed concerns about specific standards, described below.

Some commenters sought greater clarity on how the CDFI Fund will interpret information that an Applicant provides in this section. In response to those comments, this section now begins with an informational narrative. The narrative identifies the practices that the CDFI Fund considers to be consistent with promoting community development. The narrative specifies that a CDFI's Financial Products should (a) not harm consumers; (b) be affordable and originated based on an assessment of whether a borrower is able to pay back a loan; and (c) have terms and conditions that are transparent and understandable to the borrower. These principles also specify that the safety, affordability, and transparency of an Applicant's Financial Services are an important aspect of the Applicant's commitment to a community development mission. The narrative also clarifies that a CDFI should practice fair collections and comply with federal, state, and local laws.

² See 12 U.S.C. 4702(5)(A)(i).

³ See 12 CFR 1805.201(b). In considering the responsible financing standards, the CDFI Fund considered public comments, consultation with financial regulators and other agencies, and the following sources: Department of Defense, proposed and final rules on Limitations on Terms of Consumer Credit Extended to Service Members and Dependents (79 Fed. Reg. 58602 (Sept. 29, 2014), 80 Fed. Reg. 43560 (July 22, 2015)); Consumer Financial Protection Bureau (CFPB), rules on Qualified Mortgages (12 CFR § 1026.43) and high cost mortgages (12 CFR § 1026.32); CFPB, proposed rule on Payday, Vehicle Title, and Certain High-Cost Installment Loans, 81 Fed. Reg. 47864 (July 22, 2016); CFPB, [Trends in overdraft/non-sufficient fund \(NSF\) fee revenue and practices](#); FDIC, guidance on "Overdraft Payment Programs and Consumer Protection," [FIL-81-2010](#) (Nov. 24, 2010); FDIC, "[Supervisory Guidance on Multiple Re-Presentation NSF Fees](#)" (Aug. 2022); Responsible Business Lending Coalition, [Small Business Borrowers' Bill of Rights](#); and Cities for Financial Empowerment Fund, [Bank On National Account Standards](#).

- *Practices not consistent with promoting a community development mission.* Providing a list of practices that are not consistent with promoting community development gives greater clarity to Applicants about how the CDFI Fund will consider their products and services as it reviews an application. The Draft Application included a list of such practices that generated significant feedback from stakeholders. In response to the public comments, the Revised Application does not include several practices that were included in this list in the Draft Application. The CDFI Fund also established a separate list of practices that are not automatically deemed to be inconsistent with a community development mission, but which require the Applicant to explain how they promote community development.

The Revised Application asks about certain practices that the CDFI Fund views as inconsistent with promoting a community development mission and that will result in the denial of an application for CDFI certification. The list now includes the following:

- originating or offering loans that exceed the interest limits that apply to non-depository institutions in the borrower's state;
 - offering single-family, owner-occupied, residential mortgage loan products secured by a non-subordinate lien that:
 - fails to verify the income or assets of the borrower;
 - includes negative amortization;
 - includes interest-only payments;
 - charges upfront points and fees to the consumer more than 3%, or more than the Qualified Mortgage limits for smaller loans; or
 - is underwritten at less than the maximum rate in the first five years;
 - offering consumer loans with an annual percentage rate (APR) more than 36%, as measured by the Military Annual Percentage Rate under the Military Lending Act, if the loan has any of the following characteristics:
 - the applicant's portfolio of such loans has an annual default rate over 5%;
 - the loans in question include a leveraged payment mechanism;
 - any such loans of \$1,000 or less have repayment timeframes that exceed 12 months;
 - for 12 months after the issuance of any such loan, the Applicant does not waive any upfront fees for any refinancing or new loan issued to the same borrower;
 - any fees associated with installment loans are not spread evenly over the life of the loan or pro rata refundable in the event of early repayment (including through a refinance); or
 - all payments on any installment loans are not substantially equal and do not amortize smoothly to a zero balance by the end of the loan term;
 - selling its charged-off consumer or small business debt to debt buyers;
 - having a current Community Reinvestment Act rating below Satisfactory;
 - using its Equity Investment Financial Products to gain Control over an investee (except if the Applicant must save a business through ownership as a last resort for a limited period of time); and
 - leveraging, for its own benefit, the assets of any of its active equity investees.
- *Practices that require an explanation to clarify how they promote community development.* Based on public comments, the Revised Application contains questions about certain practices that will require the Applicant to explain how the practice promotes community

development. Stakeholders communicated that even though these practices could be implemented in an abusive manner, they could be used to promote a community development purpose. Therefore, the CDFI Fund will use additional questions in the application about each practice to determine whether the Applicant uses the practices in a way that is consistent with a community development mission. The CDFI Fund will evaluate the responses based on the principles described at the beginning of this section. The practices that will require the Applicant to explain how it promotes community development include:

- failing to evaluate the ability of their consumer, mortgage, or small business borrowers to repay a loan;
 - offering small business loans that allow for an APR more than 36%;
 - offering single-family, owner-occupied, residential mortgage loan products secured by a non-subordinate lien with balloon payments or that carry an original maximum term longer than 30 years (unless offered through a government program);
 - charging overdraft fees that exceed the amount of the item cleared, or charging such fees on more than six occasions in a 12-month period; and
 - charging nonsufficient funds fees that exceed the amount of the item returned unpaid.
- *Considerations related to specific products and services.* The following discussion provides additional information regarding the CDFI Fund’s evaluation of public comments on the products and services identified in the responsible lending standards above. The products and services are grouped below in the categories of mortgage lending, consumer lending, and small business lending.

- *Mortgage lending.*

- The responsible financing questions and standards related to residential mortgage product protections in the Draft Application broadly aligned with the mortgage product protections in the CFPB’s Ability to Repay/Qualified Mortgage Rule (ATR/QM). The CFPB exempts certified CDFIs from aspects of the ATR/QM requirements. Many stakeholders expressed concern that they were concerned that the CDFI Fund was effectively subjecting CDFIs to the ATR/QM rule notwithstanding that exemption. As discussed above, the Revised Application clarifies that while the application may rely on concepts in the ATR/QM rule, the CDFI Fund is not requiring CDFIs to conform to the ATR/QM underwriting standards.
- Scope of mortgage product protection questions; definition of “mortgage.” Some stakeholders requested clarity regarding the proposed definition of “mortgage.” There questions in application about consumer protections that seemed to apply to all mortgage loan products. Some expressed concern that commercial and multifamily housing loans, construction loans, bridge loans, or foreclosure prevention loans might be viewed as mortgages. Based on this feedback, the Revised Application makes clear that these questions about mortgage products only apply to consumer credit transactions that are secured by a lien on a single-family, owner-occupant residence, and the CDFI Fund has excluded following transaction types from the definition of mortgage to avoid constraining community development investment:

- Transactions secured by a subordinate lien;
 - A reverse mortgage subject to the CFPB’s rules at 12 CFR § 1026.33;
 - A temporary or “bridge” loan with a term of 12 months or less, such as a loan to finance the purchase of a new dwelling where the consumer plans to sell a current dwelling within 12 months or a loan to finance the initial construction of a dwelling;
 - A construction phase of 12 months or less of a construction-to-permanent loan;
 - An extension of credit made pursuant to a program administered by a Housing Finance Agency, as defined under 24 CFR § 266.5;
 - An extension of credit made pursuant to a program administered by the U.S. Department of Housing and Urban Development, the U.S. Department of Veterans Affairs, or the U.S. Department of Agriculture (USDA);
 - A transaction that does not require payment of interest;
 - A transaction made for the purpose of foreclosure avoidance or prevention; or
 - For loans with interest-only payments and loans with balloon payments only, a transaction with a payment schedule that is adjusted to the seasonal or irregular income of the consumer.
- Failure to verify income or assets of the borrower. The CFPB and non-governmental organizations have documented how “no doc” mortgage lending (including issuing a mortgage for which the lender does not collect information on a borrower’s income and assets, or for which they allow the borrower to state their income without verification) has led to consumer harms.⁴ The Revised Application includes an attestation that, if an Applicant engages in mortgage lending, the Applicant verifies the income or assets of the borrower.
 - Negative amortization. The Draft Application contained questions where the answer would have disqualified an Applicant that originates mortgage loans that have negative amortization, on the basis that negative amortization creates risks to the borrower.⁵ This provision received few comments and is maintained in the Revised Application.
 - Adjustable-rate mortgages (ARMs) underwritten at less than the full amount for the first five years. The Draft Application contained questions where the answer would have disqualified an Applicant that originates mortgage loans that are underwritten at less than the full amount. There is significant potential for harm to mortgage borrowers if they cannot afford a higher payment based on an adjusted rate. This provision received few comments, and no change was made in the Revised Application.
 - Interest-only payments. Mortgages with interest-only features contributed to many homeowners being delinquent or facing foreclosure after the 2008 housing market crisis.⁶ The Draft Application contained questions where the answer would have disqualified an Applicant that originates loans that allow interest-only payments. The Revised Application maintains some of these questions on non-subordinate

⁴ See, e.g., CFPB, Protecting Consumers from Irresponsible Mortgage Lending (Jan. 10, 2013), [201301_cfpb_ability-to-repay-factsheet.pdf \(consumerfinance.gov\)](https://www.consumerfinance.gov/201301_cfpb_ability-to-repay-factsheet.pdf).

⁵ For a background discussion of negative amortization, see CFPB, [What is negative amortization?](#).

⁶ See CFPB, [Consumer Financial Protection Bureau Issues Rule to Protect Consumers from Irresponsible Mortgage Lending](#) (Jan. 10, 2013).

mortgages, but based on stakeholder feedback the scope of the question now excludes certain loans with interest-only payments, such as temporary or “bridge” loans with a term of 12 months or less, transactions made to avoid or prevent foreclosure, and transactions with a payment schedule that is adjusted to the seasonal or irregular income of the consumer.

- Amortization of greater than 30 years. The Draft Application contained questions where the answer would have disqualified an Applicant that originates mortgage loans that have amortization of greater than 30 years. Such loans are excluded from the CFPB’s QM definition. Longer amortization periods can slow the pace at which a borrower builds equity and can result in the payment of more interest over the life of the loan compared to loans with shorter amortization periods. However, stakeholders, including some Native CDFIs, indicated that amortization periods longer than 30 years are sometimes used to achieve lower payments for low-income homebuyers who would not otherwise be able to purchase a home, especially in locations with a shortage of rental housing or other housing options. Stakeholders also noted that certain USDA mortgage products have a 40-year amortization period. Such lending does not result in an automatic disqualification from CDFI certification. Instead, the Revised Application requires lenders that provide mortgages with amortization periods longer than 30 years, and that are not originated in connection with a federal government program, to provide an explanation of how their product promotes community development.
- Balloon payments. The Draft Application contained questions where the answer would have disqualified an Applicant that originates mortgage loans with a balloon payment. Except under certain conditions, such loans are excluded from the CFPB’s QM definition. Balloon payments at the end of a mortgage generally result in the borrower being required to either make a large payment or refinance the debt. If a borrower is unable to do either, they could be at significant risk of foreclosure. However, many stakeholders, including many Native CDFIs and rural-serving CDFIs, indicated that mortgages with balloon payments are important tools in opening access to homeownership for the low- and moderate-income people who they serve. The provision of mortgages with balloon payments is no longer an automatic disqualification from CDFI certification. Instead, the Revised Application requires an Applicant that provides mortgages with balloon payments to explain how their loan product promotes community development.
- *Consumer lending.* There is substantial evidence that high-cost consumer loans can create significant harm to borrowers.⁷

36% APR. The Draft Application identified providing consumer loans with an interest rate over 36% as a practice that is inconsistent with a community development mission unless the loans include certain consumer protection attributes. These attributes were maintained in the Revised Application.

- Utilization of the Military Annual Percentage Rate (MAPR). The Draft Application indicated that the CDFI Fund would use the MAPR for determining whether the

⁷ See, e.g., CFPB, [CFPB data point: Payday lending](#) (March 2014).

- annual percentage rate of an Applicant’s consumer loans exceeded 36%. The MAPR takes into account fees to calculate an “all-in” APR, and the CDFI Fund views the use of MAPR as protective of consumers and consistent with a community development mission. There were numerous stakeholder comments regarding whether certified CDFIs would need to calculate MAPR on all consumer loans that they originate. According to commenters, this would create an unreasonable burden on CDFIs. Therefore, the Revised Application and related materials make it clear that CDFIs are not required to calculate and report MAPR on their loans. Instead, an Applicant must attest whether any of its consumer loan products “allow for” an MAPR more than 36%. If a certified CDFI determines that a previous transaction’s MAPR exceeds 36%, the CDFI will be able to remain eligible for CDFI certification if the CDFI if it takes appropriate action. Specifically, within 210 days after consummation, the CDFI must make any necessary rate correction and repay any interest or fees that caused the MAPR on the loan to exceed 36%.
- Payday alternative loans (PAL). Some credit unions expressed concern that certain PALs authorized by the National Credit Union Administration, which have an interest rate cap of 28% and allow for a small application fee, might result in a loan with an MAPR over 36%. However, the CDFI Fund notes that the MAPR methodology allows a PAL application fee to be excluded once within a 12-month period. Under the Military Lending Act, additional loans to the same borrower within a 12-month period must either include any new application fee in the rate measurement or waive the fee if its inclusion would push the rate above 36% MAPR.
 - *Small business lending.* The responsible financing standards include provisions related to small business lending.
 - Small business lending over 36% APR. The Draft Application contained questions where the answer would have disqualified Applicants that originate small business loans with APRs over 36% using the standard Truth in Lending Act (TILA) methodology if they do not have the following consumer protections:
 - An annual default rate less than 5%;
 - No leveraged payment mechanisms;
 - All fees are spread evenly over the life of any installment loans in question, and are pro rata refundable in the event of early repayment (including through a refinance); and
 - All installment loan payments are substantially equal and amortize smoothly to a zero balance by the end of the loan term.
 The provision of such loans no longer results in an automatic disqualification from CDFI certification. Instead, the Revised Application allows Applicants that provide small business loans with an APR over 36% to explain how such loans are consistent with a community development mission.
 - Disclosures to small business borrowers. The Draft Application published in fall 2022 indicated that Applicants would be required to disclose for each of their small business loan products the periodic payment due, the total amount to be repaid over the life of the loan, the total finance charges over the life of the loan, and the APR.

Stakeholders raised concerns about the cost of complying with these disclosure requirements. The CDFI Fund will delay implementation of this requirement for new Applicants until January 1, 2026, and until October 1, 2026 for CDFIs that have already been Certified by the earlier date. Numerous CDFI membership associations and small business lenders have already publicly committed to these disclosures by signing on to the Small Business Borrowers Bill of Rights.⁸

- *Selling charged-off consumer or small business debt.* The Draft Application contained questions that would result in an Applicant being disqualified if it sells charged-off debt to third-party buyers. The CFPB has published numerous bulletins about harmful debt-collection practices, including by debt buyers.⁹ Some stakeholders indicated that selling charged-off debt other than consumer and small business debt did not necessarily cause harm to consumers and is a business practice that should be available to CDFIs. Consistent with this feedback, the Revised Application clarifies that selling charged-off consumer and small business debt to third-party buyers is a practice that would result in an application for CDFI certification being denied; the sale of charged-off debt of other types of borrowers is no longer included.
- *Having a current Community Reinvestment Act rating below Satisfactory.* In order to promote consistency with the determinations of prudential regulators, an institution will not be certified as a CDFI if has a Community Reinvestment Act examination rating below Satisfactory. This provision did not receive significant comment and is maintained in the Revised Application.
- *Standards for responsible venture capital investment.* Based on input previously received from stakeholders early in the development of the application, the Draft Application identified certain venture capital investment practices that would result in an application for CDFI certification being denied. Such practices included using Equity Investment Financial Products to gain Control over an investee (except if the Applicant must save a business through ownership as a last resort for a limited period of time) or an entity leveraging, for its own benefit, the assets of any of its active equity investees. This provision did not receive significant comment and is maintained in the Revised Application.
- *Overdraft products and non-sufficient funds fees.* The Draft Application posed questions for Applicants that are depository institutions about overdraft and non-sufficient funds (NSF) policies. The Draft Application asked Applicants to identify limits on the overdraft and NSF fees that they charge, any protections they offer customers against incurring excessive fees, and certain account features. Some commenters stated that some overdraft and NSF fees are appropriate and not inconsistent with a community development mission. The Revised Application has been revised to require Applicants to provide an explanation about NSF and overdraft fees that exceed the amount of the item being cleared or returned unpaid, any NSF fees that are charged more than once for the

⁸ See Responsible Business Lending Coalition, [Small Business Borrowers' Bill of Rights](#).

⁹ See, e.g., CFPB, [New ways to combat harmful debt collection practices](#) (updated May 22, 2014).

same transaction, and any overdraft fees that may be charged more than six times in 12 months.

Financing Entity

Disregarding staff time dedicated to the provision of development services when calculating the predominance test

Among other factors, to meet the Financing Entity test, an Applicant must demonstrate that the provision of Financial Products and/or Financial Services, as measured by the Applicant's assets and staff time, is the Applicant's predominant business activity. Predominance is when an amount is greatest as compared to all other amounts.

When calculating predominance for the Financing Entity test, an Applicant must present all assets held by an Applicant and all available staff time, including of staff who do not support the direct provision of Financial Products and/or Financial Services. Some stakeholders advocated that Development Services should count toward the predominance test. These stakeholders argued that such services were integral to their ability to provide Financial Products to the populations they serve and expressed concern that there may be times when Development Services might be their predominant activity.

The CDFI Fund's regulations preclude counting Development Services toward the Financing Entity predominance test.¹⁰ However, certain assets and activities that are not Financial Products or Financial Services, such as endowments and certain real property, may be disregarded for purposes of the predominance test, so that they do not skew the calculation of predominance. While staff time dedicated to the provision of Development Services cannot be used to demonstrate predominance, counting that staff time in the denominator of the calculation has the effect of creating an implicit and unintended limit on Development Services, which could restrict CDFIs that provide the most Development Services, potentially to the most underserved borrowers. Therefore, to determine an Applicant's predominance, the CDFI Fund will disregard staff time dedicated to the provision of Development Services. The Revised Application contains relevant questions on this topic.

Target Market

Three-year average to meet Target Market benchmarks

Except when using the flexibility described under "Financial Services Option," described below, to be certified as a CDFI, an Applicant must direct at least 60% of both the quantity and dollar volume of arm's-length, on-balance sheet Financial Products to one or more eligible Target Markets. Some stakeholders expressed concern that, due to factors beyond their control, they may fall below these benchmarks in a given year. The Revised Application therefore introduces a new flexibility. If a certified CDFI fails to meet the Target Market benchmark over its most

¹⁰ See 12 CFR § 1805.201(b)(2).

recently completed fiscal year, under certain circumstances it may maintain its certification by demonstrating that it met the benchmark over the previous three-year period.

Financial Services Option

The Draft Application included a significant flexibility in the Target Market section for depository institutions, which allows an Applicant to use a “Financial Services Option” for meeting the Target Market benchmarks if it does not deliver 60% of both the quantity and dollar volume of arm’s-length, on-balance sheet Financial Products to one or more eligible Target Markets. Under this option, if at least 60% of the Applicant’s total unique depository account holders are members of one or more eligible Target Markets, then the Applicant may meet the Target Market test if it delivers to the Target Market either 60% of the number of Financial Products and 50% of the dollar volume of Financial Products, or 50% of the number of Financial Products and 60% of the dollar volume of Financial Products. The Revised Application maintains this flexibility.

Removing geographic boundaries on pre-qualified Investment Areas

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 composed of qualified census tracts only, the Financial Product and/or Financial Services activity that falls within a qualified census tract is counted as being within the entity’s Target Market. The Draft Application indicated that Applicants proposing to serve pre-qualified Investment Areas will not need to develop a map of their Target Market, as has been previously required. Many stakeholders applauded the flexibility and the reduced burden associated with pre-qualified Investment Area. Consistent with this stakeholder feedback, the CDFI Fund has maintained this flexibility in the Revised Application.

Revising the approach to Customized Investment Areas (CIAs) and non-Metro counties

The CDFI Fund’s regulations provide the option for Applicants to develop a customized geographic Investment Area, which allows them to combine contiguous geographic units that meet the criteria of economic distress (e.g., high poverty and/or low income) with other areas that do not, such that on average they would meet criteria of economic distress. Similarly, Applicants may designate non-Metro counties as Investment Areas if they meet the criteria of economic distress as a whole. However, a CDFI that claims a customized or county-wide Investment Area is not currently required to conduct most of its lending in the portions of the CIA or non-Metro county that meet the economic distress criteria. As a result, such an entity can claim to meet the 60% Target Market threshold even if all of its financing activity is directed to areas that do not meet the economic distress criteria. This outcome significantly undermines the purpose of the Target Market requirement. Therefore, the Draft Application indicated that to count the activity in the non-qualified census tracts of a CIA or non-Metro county toward its 60% Target Market requirement, an Applicant claiming a CIA or non-Metro county Investment Area would be required to demonstrate that it directs at least 85% of its CIA or county financing activity within the qualified census tracts of that CIA or county. The result of establishing this threshold would be that at least 51% ($85\% \times 60\% = 51\%$) of the total transactions of a certified CDFI utilizing only CIAs and/or non-Metro counties would be in census tracts that meet the

criteria of economic distress. In comparison, entities serving only Pre-qualified Investment Areas must direct at least 60% of their total activity within qualified census tracts.

Some stakeholders described the pre-existing CIA policy as a loophole and strongly supported the proposed additional requirements on using CIAs and non-Metro counties described in the Draft Application. Other stakeholders expressed concern that this change could have a disproportionate impact on rural lenders. There is some evidence that the provision of lending and financial services to low-income populations may be more difficult for rural lenders than lenders that focus in Metro areas, though the evidence is not conclusive.¹¹

In response to these concerns, the CDFI Fund is adopting a transition period for this change for rural lenders. Specifically, rural lenders that rely on a customized Investment Area will have three years after the publication date of the Revised Application to meet the new 85% standard for financing within the qualified tracts of a non-Metro CIA or county. During these initial three years, rural lenders will be permitted to meet a lower threshold. For those lenders, at least 75% of their non-Metro customized Investment Area and/or non-Metro county Investment Area financing must be in qualifying tracts to meet the overall 60% Target Market benchmark. As a result, for three years after the publication of the Revised Application, an Applicant exclusively serving a non-Metro CIA or county Target Market could become certified with no less than 45% of its total financing activity within individually qualified census tracts.

New Other Targeted Populations (OTP)

The Revised Application reflects that the CDFI Fund has determined that persons with disabilities will be a newly approved OTP.

In addition, CDFIs and stakeholder groups commented that Asian-American populations should be considered a pre-qualified OTP for Target Market purposes. Based on its analysis, the CDFI Fund determined there is statistically significant evidence to support designating Filipino and Vietnamese populations as OTPs.

Development Services

Defining “structured Development Services”

To be a certified CDFI, the Applicant must have a track record of providing Development Services in conjunction with its Financial Products and Financial Services either directly, through an Affiliate, or through a contract with another provider. Numerous stakeholders expressed concern that the Draft Application’s definition of “Development Services” was insufficiently clear or potentially overly restrictive. Based on this feedback, the Revised Application defines “structured Development Services” as having a defined curriculum or written set of goals and objectives, and for which the outcome of success may be the completion of a specific step that prepares current or potential customers to access or increase their knowledge about the CDFI’s Financial Products and Financial Services. The language clarifies

¹¹ See, e.g., David Benson, Serafin Grundl, and Richard Windle; Board of Governors of the Federal Reserve System, [How do Rural and Urban Retail Banking Customers Differ?](#) (June 12, 2020); Board of Governors of the Federal Reserve System, [Perspectives from Main Street: Bank Branch Access in Rural Communities](#) (Nov. 2019).

that this may be demonstrated through a “written set of goals and objectives,” and does not require a costly curriculum. It also clarifies that Development Services may be delivered in a classroom setting or one-on-one.

Clarifying standards for Development Services delivered online and through technology platforms without an instructor

Numerous stakeholders encouraged the CDFI Fund to explicitly allow for Development Services to be delivered via online platforms, including without an instructor. Online learning is widely practiced in many fields, including through modules that do not require an instructor. The CDFI Fund seeks to ensure that the quality of Development Services delivered online is not lower than if delivered in person. Therefore, the Application and supporting guidance now clarify that Development Services may be delivered online; however, online Development Services delivered without a live instructor or facilitator must be well-developed and include learning modules that have a method of confirming the engagement of the viewer and measuring their increased knowledge.

Development Services delivered to youth

Many commenters, including Native CDFIs, stated that financial education for youth should be counted as a development service. Depository institution Applicants that provide financial education for youth that promotes the opening of a depository account or promotes savings may include such Development Services in their applications.

Accountability

Accountability methods

To be a CDFI, an entity must maintain accountability to residents of the Applicant’s identified Investment Areas or Targeted Populations, through representation by individuals on its governing board and/or Advisory Board(s).¹² The Draft Application contained questions related to four methods of accountability: Governing Board Only; Governing Board Supplemented by Advisory Board; Advisory Board Supplemented by Credit Union Membership (for Credit Union Applicant Only); and Advisory Board Only (for DIHCs and IDIs, and entities without a formal governing board only). For each accountability method, there is a specific percentage of board members or advisory board members to maintain accountability to the Applicant’s identified Investment Area or Targeted Population. Due to the limitations of advisory boards on the decisions of a CDFI, the accountability standards place greater emphasis on an entity’s governing board membership than on advisory boards. The CDFI Fund will continue to allow Applicants that are regulated institutions to rely on an advisory board to demonstrate accountability but requires that at least a supermajority of its members be representatives of its Target Markets. The accountability is made more meaningful in such cases by the additional requirement that at least one governing board member also sit on the advisory board to serve as a bridge to the decision-making process.

¹² 12 CFR § 1805.201(b)(5).

Increasing flexibility for Applicants with multiple Target Markets or national Investment Areas

The Draft Application would have enabled Applicants to choose multiple Target Markets or national Investment Areas. When assessing board membership percentages, CDFIs with multiple Target Markets receive a “collective review” of the representatives of the different Target Market types. The review is cumulative rather than separate; however, the Applicant must present at least one representative for each Target Market. There were numerous positive comments from stakeholders about this increased flexibility, and it has been maintained in the Revised Application.

Assessing an advisory board and an advisory board policy

Numerous stakeholders encouraged the CDFI Fund to be clearer about how it would assess an advisory board. Accordingly, the instructions to the Revised Application provide greater clarity about the requirements for a CDFI advisory board. The Application collects information that ensures that Applicants have adopted an advisory board policy that addresses (a) the purpose of the advisory board, (b) how the advisory board’s input to the governing board is documented, (c) how advisory board members are selected and approved; and (d) how the advisory board seeks input from, or reviews data on the financial needs and opportunities in, the Target Markets for which it provides accountability.

Considering employees, not only executive staff, of an accountable organization to meet the standard for accountability

The Draft Application reflected that only executive staff of a mission-driven organization that serves certain Target Markets could be considered accountable to the Target Market. Numerous commenters indicated that CDFI staff who understand the populations they serve may not be executives. Based on this feedback, Applicants may submit information on any staff member of a mission-driven organization that serves the Applicant’s Target Market to be considered accountable if they meet the accountability criteria.

Financial interest: board compensation

The Draft Application reflected that board members of an Applicant who receive compensation for their service had a conflict of interest and could not be considered accountable to a Target Market. Many stakeholders, particularly depository institutions, stated that it was standard industry practice to compensate board members for service and objected to the idea that such compensation would prevent board members from being accountable to a Target Market. Therefore, the CDFI Fund has determined that compensated board members will not be prohibited from being considered accountable to a Target Market if they meet the accountability criteria.

Financial interest: active financial products

The Draft Application indicated that board members of an Applicant who have active Financial Products from the Applicant could not be considered accountable to a Target Market. Many stakeholders, particularly credit unions, expressed concern that it is typical for board members to

have a mortgage or an auto loan with the financial institution on whose board they serve and stated that such financial products should not prevent board members from being considered to be accountable to a Target Market. Numerous depository institutions stated that regulators monitor for conflicts of interest among the leadership of regulated institutions. Therefore, the CDFI Fund has determined that affirmative responses in the Revised Application on this issue will not exclude board members from potentially being considered accountable to a Target Market if they hold an active financial product with the Applicant. Rather, the Applicant will need to confirm that it has a policy that requires board members to recuse themselves from any decision that may involve their Financial Product.

Grace Period for Currently Certified CDFIs

Many currently certified CDFIs requested time to understand and adapt to changes in the CDFI certification application. The CDFI Fund understands this concern and has determined to provide an appropriate period to enable CDFIs to review the application and prepare the necessary information. Specifically, entities that are certified CDFIs as of December 20, 2023, must apply for recertification within one year from that date.