



January 3, 2022

Ms. Jodie Harris
Director
Community Development Financial Institutions Fund
U.S. Department of Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

RE: CDFI Compliance Standards and Practices

Dear Director Harris:

Thank you for your leadership and engagement as the CDFI Fund manages unprecedented levels of resources for the community development finance movement. As a leading advocate for these resources, Inclusiv is pleased to see historic capital awards targeted to CDFIs in communities most affected by the COVID pandemic. Capital grants from the CDFI Fund and Treasury's Emergency Capital Initiative Program (ECIP) are critical tools that help CDFI credit unions manage the unprecedented risks of the COVID economy.

I am writing this letter today to ensure that the critical progress on driving capital to low-income and communities of color not be undermined or threatened by unresolved conflicts and inconsistencies in CDFI compliance and reporting procedures that add uncertainty and risk to already overburdened financial institutions. Our network suggests several proposed solutions to streamline the ACR review process using existing standards for target market response, standardize the cure period for CDFIs that fall below those standards, and address the current backlog in new certification application.

Address Conflicts in Target Market Data Tracking between Certification and Award Reporting

The primary source of concern is the continued conflict between standards used by the CDFI Program for grant reports (TLRs) and those used for annual recertification (ACRs). The complexity of CDFI certification poses challenges for CDFIs with growing contiguous target markets that limit expanding CDFIs to be responsive to changing needs in communities; eligible Target Market adjustments due to displacement of people at MSA or regional level; and slow pace of Target Market amendment approvals which slow the ability of CDFIs to be responsive to changing market needs. Adopting the current TLR standards for ACRs would go a long way towards streamlining the review of annual certification reports until updates to the CDFI certification standards are introduced. While TLRs use "Eligible Market(s) and/or the Recipient's approved Target Market", ACRs are restricted to "approved" Target Markets only. Currently CDFIs can be subjected to cure periods on their ACRs, even if their TLRs clearly shows



well over 60% of financing in Eligible CDFI Target Markets. Conversely, and in accordance with current CDFI Fund policies on custom Investment Areas, CDFIs can successfully recertify on their ACRs even if TLRs shows far less than 60% of loans in Eligible CDFI Target Markets.

We expect that planned changes to certification standards and procedures will resolve these concerns and many others as well, but those changes have been in process for years and remain far from ready for implementation. In the meantime, CDFIs and the CDFI Fund continue to be burdened with duplicative, costly and unproductive work trying to reconcile conflicts between two standards set by the same agency. The burden has risen to a critical point with the unprecedented surge in new certification applications, new CDFI grantees and CDFIs receiving ECIP investments.

Until the new certification standards are implemented, the CDFI Fund can resolve concerns raised by CDFIs, increase efficiency, and strengthen standards by allowing all CDFIs to use the same “Eligible Market(s) and/or approved Target Markets” for both TLR grant reports and ACRs. This would save thousands of hours of duplicative work for CDFIs and would provide the CDFI Fund with the ability to cross-validate data from two compliance reports that currently are out of alignment.

Inclusiv remains committed to the CDFI Fund’s efforts to strengthen CDFI standards, performance, and impact. We work hard to ensure that credit unions clearly understand the requirements for CDFI certification and have invested heavily in developing the most rigorous CDFI analytics in the credit union industry. We believe our approach considerably reduces the burden on the CDFI Fund’s review process and strengthens the integrity of CDFI certification.

Standardize the Cure Period

We encourage the CDFI Fund to apply cure periods to CDFIs that fall short of specific certification and compliance standards, but cure periods must be structured to allow CDFIs reasonable time to address the specific issues without fear of sudden loss of certification and recapture of funds. The risks associated with decertification are particularly acute for CDFI depositories, where any adverse action by the CDFI Fund may be misperceived by the public as a negative rating from a federal agency regarding institutional safety and soundness. Adopting current TLR Target Market standards for ACRs would also allow the CDFI Fund to make better use of cure periods to strengthen industry standards and compliance. Currently, cure periods are too short to allow CDFIs to address changes in their market – especially in communities rocked by the pandemic.

The CDFI Fund can eliminate the risk of permanent institutional harm by ensuring that all cure periods meet three specific criteria:



- i. **Strict Confidentiality:** as with CAMEL ratings for banks and credit unions, the imposition of a cure for any reason should be kept between the CDFI Fund and the institution.
- ii. **Sufficient Duration:** CDFIs that have seen their CDFI financing activities disrupted by pandemic shutdowns, remote work, PPP loans and massive mortgage refinancing can hardly fix their target market percentages within a six-month cure period. Just as the CDFI Fund has proposed that certification and recertification be based on three-years of data, all cure periods that pertain to Target Market performance and accountability should be set at a minimum of three years or the end date for any open Assistance Agreements, whichever is later. This is consistent with the principle underlying NCUA's grace period for credit unions at risk of losing their low-income designation, which is set at five years to allow credit unions to either regain eligibility or unwind financial instruments (e.g., secondary capital) with minimum disruption to safety and soundness.
- iii. **Limited Privileges:** As we have previously noted, CDFIs placed in a confidential cure should not be permitted to apply to any CDFI programs until the cure has been resolved. This will prevent CDFIs from extending cure periods with new Agreements and maintain the focus where it belongs – on regaining full CDFI eligibility by serving targeted communities and populations.

Address Backlog

While some Inclusiv members are experiencing peppered concerns with detailed questions about “approved” Target Markets used for their ACR others have waited more than nine months without a decision on their certification applications.

The critical level of this burden for the Fund was also acknowledged recently in its *Impact Blog post (435)* on “Rightsizing the CDFI Certification Application Process.” While Inclusiv credit unions appreciate the need to carefully review each new applicant for certification and manage expectations, the CDFI Fund’s proposed solution of outright rejecting so-called incomplete or inaccurate information may only extend the burden, as rejected applicants become weary of the process and potentially permanently discouraged from reapplying. Of primary concern to us is the burden this decision represents for Small and minority designated credit unions that because of capacity constraints, rely the technical assistance and support Inclusiv provides.

We urge the Fund to not simply address the backlog by rejecting any for whom they don’t feel the information fully answered questions as that would overly bias against small CUs who are often pulling their applications together internally with staff who are not expert in federal programs or grant writing. 90% of all African American credit unions have assets under \$100M and at Inclusiv we are concerned that a bias against small institutions will fall disproportionately on minority depository institutions.



In concert with our partners in the CDFI Coalition, we endorse the efforts to build certification standards that are strong, consistent, efficient, and effective, while noting that the changes proposed in 2020 fell well short of those objectives. We look forward to continued engagement with the CDFI Fund on the development of these new standards.

The membership of Inclusiv appreciates the opportunity to provide these suggestions to maximize the effectiveness of all programs for the benefit of the most underserved communities in the nation. We look forward to future discussions on these critical issues. If you have any questions, please contact me at cmahon@inclusiv.org or Pablo DeFilippi (pablo@inclusiv.org).

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Cathleen A. Mahon". The signature is fluid and cursive, with the first name being the most prominent.

Cathleen A. Mahon
President and CEO