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# CDFI Office Hours Changes in Accountability Standards

November 10, 2022



# Changes in Accountability Standards

- Comments on proposed CDFI Certification Application are due by December 5th
- Comments on Pre-Approved Target Market Verification Methodologies are due by December 19<sup>th</sup>



# Changes in Accountability Standards

Inclusiv's comment letters will be made available to all members

Inclusiv also will circulate comment letter templates that members can customize and submit, if they so choose



# The good, the bad & the “meh”

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# / Inclusiv's First Take /

good

- ✓ Conditional 50% Target Market threshold for \$\$ deployment
- ✓ Closure of Custom Investment Area loophole
- ✓ End of almost all Target Market mapping requirements
- ✓ Potential census block proxies for LITP Classification
- ✓ Same deadline for ACR & TLR
- ✓ More clarity and options for Accountability
- ✓ Narrowed focus of Primary Mission test

bad

- ✗ TLRs required for cert & recert
- ✗ Uncertainty about modified TLR data requirements
- ✗ Limitations of Target Market Verification methodologies
- ✗ No recognition of democratic governance for Accountability
- ✗ Silence on structure of cure periods
- ✗ Narrowed definition of "Development Services"
- ✗ Cert "Agreement" with problematic clauses on use of data, cures, termination, etc.

"meh"

- ❖ Legal Entity still requires historic documentation
- ❖ SAM.gov registration still not required
- ❖ Continued conflation of "accountability" and "representation"
- ❖ LID no longer sufficient for Primary Mission test
- ❖ Increased narrative and data requirements
- ❖ Continued disconnect with regulatory definitions and requirements



/ Inclusiv's First Take / Accountability  
good bad

“meh”

**X** No recognition of democratic governance for Accountability

❖ Continued conflation of “accountability” and “representation”

✓ More clarity and options for Accountability



# CDFI Fund Proposed Certification Application

<https://www.cdfifund.gov/news/487>

U.S. DEPARTMENT OF THE TREASURY  
COMMUNITY DEVELOPMENT  
FINANCIAL INSTITUTIONS FUND

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Home » News » CDFI Fund Advance Look: Preview the Revisions to the New CDFI Certification Application

## CDFI Fund Advance Look: Preview the Revisions to the New CDFI Certification Application

Tuesday, October 4, 2022

*Release is in Advance of Further Request for Comments coming from OMB*

In May 2020, the Community Development Financial Institutions Fund (CDFI Fund) requested public comment on the application and reporting requirements for Certified Community Development Financial Institutions (CDFIs). The CDFI industry overwhelmingly responded and [submitted 55 letters with over 600 unique comments](#) to proposed changes to the CDFI Fund's Certification Application and Annual Certification and Data Collection Report (ACR), as well as its data collection mechanisms. Over the past two years, the CDFI Fund has spent considerable time reviewing and considering these comments and suggestions.

In the coming weeks, the revised CDFI Certification Application, ACR, and updated methods for collecting transactional level data from Certified CDFIs will be released by the Office of Management and Budget (OMB) for a final round of public comment. This will be the last opportunity for public input on the revised CDFI Certification Application and reporting requirements before they are implemented in April 2023.



# CDFI Fund Notices and Information

<https://www.cdfifund.gov/news/487>

In the next few weeks, the CDFI Fund will also release for preview further revisions that have been proposed to the ACR, as well as updated methods for collecting transactional level data from Certified CDFIs. Of significant note, the CDFI Fund is no longer proposing the creation of a separate **Certification Transaction Level Report (CTLR)**, instead all CDFIs will be required to submit a slightly modified version of the existing **Transaction Level Report (TLR)**—the length of which will vary by award status.

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# CDFI Fund Notices and Information

Proposed application and materials can be downloaded from CDFI Fund website

<https://www.cdfifund.gov/news/487>

## Related Information:

- [CDFI Certification Application \(For Preview Purposes Only\)](#)
- [CDFI Certification Agreement \(For Preview Purposes Only\)](#)
- [CDFI Certification Application: Overview of Final Revisions and Modifications \(October 2022\)](#)
- [CDFI Certification Application & Data Collection Reporting Revisions Web Page](#)

The screenshot shows the CDFI Fund website header with the logo and navigation menu. The main content area features the article title, date (Tuesday, October 4, 2022), and a sub-headline: "Release is in Advance of Further Request for Comments coming from OMB". The article text discusses the public comment process on the CDFI Fund's Certification Application and Annual Certification and Data Collection Report (ACR).

Home » News » CDFI Fund Advance Look: Preview the Revisions to the New CDFI Certification Application

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# CDFI Fund Notices and Information

## [Contents](#)

CERTIFICATION APPLICATION OVERVIEW.....	2
KEY DEFINITIONS.....	3
ADDITIONAL AND ALTERNATIVE REQUIREMENTS AND PROVISIONS BY CDFI TYPE.....	5
APPLICATION PROCESS.....	9
APPLICANT BASIC INFORMATION.....	12
LEGAL ENTITY.....	29
PRIMARY MISSION.....	33
FINANCING ENTITY.....	51
TARGET MARKET.....	67
DEVELOPMENT SERVICES.....	79
ACCOUNTABILITY.....	83
NON-GOVERNMENTAL ENTITY.....	97
NATIVE CDFI DESIGNATION.....	100

<https://www.cdfifund.gov/news/487>

Home » News » CDFI Fund Advance Look: Preview the Revisions to the New CDFI Certification Application

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# CDFI Fund Notices and Information

ACCOUNTABILITY ..... 83

## ACCOUNTABILITY

To be a CDFI, an entity must maintain accountability to residents of its Investment Area or Targeted Population, through representation by individuals on its governing board and/or Advisory Board(s). Individual accountability to a Target Market may be demonstrated through any of the following means:

Investment Area (IA)	Low-Income Targeted Populations (LITP)	Other Targeted Population (OTP)
Residence in a qualified census tract	Status as a Low-Income individual	Status as a member of the Targeted Population
Status as an owner of a small business located in a qualified census tract(s) or owner of a small business that principally employs and/or principally provides goods or services to residents of the IA	Status as an executive staff member of a third party, mission-driven organization that primarily provides services to Low-Income people	Status as an executive staff member of a Certified CDFI (OTP-CDFI only)
Status as an elected official primarily representing residents of qualified census tracts		Status as an executive staff member of a third party, mission-driven organization that primarily provides services to the Other Targeted Population (OTP – Persons with Disability only)
Status as an executive staff <sup>22</sup> member of a third party, mission-driven organization that primarily provides services to residents of a qualified census tract(s)		Status as a family member of a person with disability (OTP – Persons with Disability only)

The CDFI Fund requires that a governing board consist of no less than three (3) members and that an Advisory Board consist of no less than five (5) members.

In determining whether an Applicant maintains accountability to its proposed Target Market(s), Applicants must demonstrate accountability to a proposed Target Market(s) through at least one of the following options:

<sup>22</sup> Executive Staff means all directors and executive officers (e.g. President, Vice-President, Chief Financial Officer) of a company vested with the powers to manage and supervise the day-to-day affairs of an organization.

<https://www.cdfifund.gov/news/487>





# / Accountability / Board Member Analysis

Investment Area (IA)	Low-Income Targeted Populations (LITP)	Other Targeted Population (OTP)
Residence in a qualified census tract	Status as a Low-Income individual	Status as a member of the Targeted Population
Status as an owner of a small business located in a qualified census tract(s) or owner of a small business that principally employs and/or principally provides goods or services to residents of the IA	Status as an executive staff member of a third party, mission-driven organization that primarily provides services to Low-Income people	Status as an executive staff member of a Certified CDFI (OTP-CDFI only)
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Status as an executive staff <sup>22</sup> member of a third party, mission-driven organization that primarily provides services to residents of a qualified census tract(s)		Status as a family member of a person with disability (OTP – Persons with Disability only)

X Proxy indicators of “Accountability” will always be problematic for credit unions

- Annual Board elections can change Board composition every year
- Any change in Board composition could have material impact on CDFI eligibility, requiring fresh analysis and approval from CDFI Fund



# / Accountability / Board Member Analysis

Investment Area (IA)	Low-Income Targeted Populations (LITP)	Other Targeted Population (OTP)
Residence in a qualified census tract	Status as a Low-Income individual	Status as a member of the Targeted Population
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Status as an executive staff <sup>22</sup> member of a third party, mission-driven organization that primarily provides services to residents of a qualified census tract(s)		Status as a family member of a person with disability (OTP – Persons with Disability only)

X Democratically elected “official” is Accountable (for Investment Areas only), but not democratically elected CDFI Board Members

➤ Same principle should be applied to all Target Markets for

- ✓ Publicly elected officials; and,
- ✓ CDFI Board Members who are democratically elected (one person, one vote) by the CDFI’s members, account holders or constituents.



# / Accountability / Board Member Analysis

Investment Area (IA)	Low-Income Targeted Populations (LITP)	Other Targeted Population (OTP)
Residence in a qualified census tract	Status as a Low-Income individual	Status as a member of the Targeted Population
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X CDFI Fund has narrowed the proxy indicators that will be accepted to demonstrate Accountability

- Board membership on mission-driven non-profits no longer accepted, regardless of focus on specific Target Markets
- Employment only considered “accountable” for executive staff of mission-driven organizations that primarily serve specific Target Markets



# / Accountability / Three Ways to Show Accountability

## Option 1: Governing Board Only

- 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);

## Option 2: Governing Board Supplemented by Advisory Board

- At least 20% of the governing board members are accountable to at least one proposed Target Market;
- 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 one governing board member has a seat on the Advisory Board; *and*
- The Applicant has adopted an organizational accountability policy.

## Option 3: Credit Union Membership Supplemented by Advisory Board (*Credit Union Applicant Only*)

- At least 33% of a credit union's members are determined to be members of an individual Target Market, using a CDFI Fund-approved Target Market assessment methodology;
- 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 one governing board member has a seat on the Advisory Board; *and*
- The Applicant has adopted an organizational accountability policy.

- The CDFI Fund has proposed three ways that Credit Unions can demonstrate Accountability to their designated Target Markets
- Accountability will be evaluated separately for each designated Target Market, not simply for the overall Target Market
- For example:
  - a CDFI that only designates a single IA Target Market will only have to pass one Accountability test; while,
  - a CDFI that designates IA, LITP and OTP Target Markets will have to pass three Accountability tests



# / Accountability / Three Ways to Show Accountability

## Option 1: Governing Board Only

- 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);
- 
- ✓ Reduces the current percentage requirements that varied from 20% to 50% depending on type of Target Market
  - ✓ Sets a percentage for “overall” Target Market
  - ✗ Difficult/impossible to ensure at least one low-income “accountable” Board Member based on the two proposed “accountability” criteria
  - ✗ Every annual Board Election could generate a Material Event that requires compliance reporting to CDFI Fund, fresh Accountability analysis and approval from CDFI Fund





# / Accountability / Three Ways to Show Accountability

## Option 2: Governing Board Supplemented by Advisory Board

- At least 20% of the governing board members are accountable to at least one proposed Target Market;
- 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 one governing board member has a seat on the Advisory Board; *and*
- The Applicant has adopted an organizational accountability policy.

- ✓ Does not require Board representation from every designated Target Market
- ✓ Sets a lower percentage for “overall” Target Market
- ✓ Advisory Board provides a stable way to meet Accountability test, with other benefits as well
- ✗ Difficult/impossible to ensure at least one low-income “accountable” Board Member based on two proposed “accountability” criteria
- ✗ Annual Board Elections could still trigger Material Event if Board falls below 20% TM threshold



# / Accountability / Three Ways to Show Accountability

## **Option 3: Credit Union Membership Supplemented by Advisory Board (*Credit Union Applicant Only*)**

- At least 33% of a credit union's members are determined to be members of an individual Target Market, using a CDFI Fund-approved Target Market assessment methodology;
- 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 one governing board member has a seat on the Advisory Board; *and*
- The Applicant has adopted an organizational accountability policy.

- ✓ No assessment of Board Members
- ✗ Only applicable for Target Markets that make up more than 33% of membership
- ✗ CDFI Fund's "Pre-Approved Target Market Validation" methodologies would not permit membership assessments based on income (LITP) or race/ethnicity (OTP)



# / Accountability / Advisory Boards

## Assessing an Advisory Board

In addition to the review of each board member, the CDFI Fund also will assess an Advisory Board to verify:

- It is governed by an organizational accountability policy.
- It meets a minimum of three (3) times a year.
- How the board members were selected.
- It uses its connection with the Target Market to obtain input that informs the recommendations to the governing board.
- The activities/policies on which it provides input to the governing leadership.

- ✓ Advisory Boards should have at least 5 members
- ✓ At least one member of governing board should have seat on Advisory Board
- ✓ Advisory Boards can be a strategic asset in support of credit union growth and impact
- ✓ Will provide a stable foundation for meeting CDFI Fund Accountability requirements



# / Accountability / Accountability Policy

## Assessing an Organizational Accountability Policy

At minimum, an organizational accountability policy must include a description of the following:

- The role of the Advisory Board, including methods by which the Advisory Board has the opportunity to provide advice to the governing board and other decision-makers (e.g. regular meetings, written feedback on strategic decisions, etc.)
- How the Applicant informs itself about the Target Market(s) (e.g. gathers data, engages in outreach to community members, etc.)

- ✓ Board-approved Accountability Policy also will provide a stable foundation for meeting CDFI Fund Accountability requirements
- ✓ Fund expects policy documents to be in place six-months before applying for certification

➤ *Best to put Policy in place as soon as possible!*

# Audience Discussion

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# / Inclusiv's First Take / Join Us!

## Inclusiv Office Hours

### Proposed Changes to CDFI Certification

Day & Date	Time	Primary Focus
Wednesday, November 2 <sup>nd</sup>	3:00 PM ET	Target Market Standards & Verification
Wednesday, November 9 <sup>th</sup>	3:00 PM ET	Accountability
Wednesday, November 16 <sup>th</sup>	3:00 PM ET	Primary Mission & Development Services

# Upcoming Events



## Inclusiv CDFI Certification Office Hours

Wednesday afternoons at 3pm ET

To register for the series:

<https://forms.office.com/pages/responsepage.aspx?id=URkTPdR2J06IUEAfCbvyu3PLJRJPufxLqGlvsP1qthUMVIWWkVYTzBUSk9PQVdBM0ZQVEIJRUNSSS4u>

[/inclusiv/](#)



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# *Thank you!*

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