



December 5, 2022

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

Re: CDFI Certification Application (OMB Control Number: 1559:0028)

Dear Director Harris:

The National Fair Housing Alliance (“NFHA”)¹ appreciates the opportunity to comment on the Treasury Department’s CDFI Certification Application. NFHA’s recommendations include:

- Provide Fair Lending Oversight.
- Include Board and Executive Staff Demographics Data and Require Community Benefit Agreements for CDFIs with assets greater than \$1 billion.
- Include First Generation Downpayment Assistance and Special Purpose Credit Programs in eligible financial products and services.
- Remove the Black-Box on CDFI Venture Funds

Fair Housing/Lending Oversight

CDFIs play an important role in ensuring credit accessibility in underserved communities. While their missions are important, there must be oversight of their fair housing and lending obligations. Treasury must ensure CDFIs’ housing programs comply with our nation’s robust

¹ Founded in 1988 and headquartered in Washington, D.C. the National Fair Housing Alliance (“NFHA”) leads the fair housing movement. NFHA works to eliminate housing discrimination and ensure equitable housing opportunity for all people and communities through its education and outreach, member services, public policy, advocacy, housing and community development, tech equity, enforcement, and consulting and compliance programs. <https://nationalfairhousing.org/>.

fair housing and lending laws, including the Fair Housing Act's dual mandate of prohibiting discrimination in housing and affirmatively furthering fair housing.² Supervision and enforcement are required for all housing-related programs, including direct home loan purchase programs, secondary mortgage market purchasing programs to enable CRA credit, Capital Magnet Fund, Low Income Housing Tax Credits, and any future housing tax credit programs. Treasury's infrastructure for fair housing and lending oversight should be more consistent with the fair housing and lending oversight of other regulators. The CDFI Fund must prohibit lending institutions, housing providers, and other entities that operate in the housing space from accessing federal programs, subsidies, tax breaks, or other government assistance if they have been found in violation of the Fair Housing Act or Equal Credit Opportunity Act within the last five years.

Applicant Basic Information

Board and Executive Staff Demographic Information

NFHA supports the recommendation of the Hope Policy Institute for the inclusion of Board and Executive Staff Demographic Information for every CDFI certified by the CDFI Fund. Data collection and transparency is critical. There is no current requirement by the CDFI fund to collect or publish data on the leadership of all certified CDFIs. The failure to collect this data precludes the ability to analyze award decisions for equity, which is critically needed as research shows that majority-led CDFIs significantly outpace CDFIs led by people of color in receiving awards.³

While collection of board and executive staff demographic information is an important step toward ensuring community representation in the operation of CDFIs, NFHA also recommends CDFIs with assets greater than \$1 billion be required to have Community Benefit Agreements for their target markets. This additional requirement adds protection to ensuring larger scale CDFIs fulfill their missions. There are real concerns with the lack of lending opportunities in target markets across racial, ethnic, and gender demographics. For instance, longtime residents in target markets are unable to secure mortgage loans from CDFIs in underserved communities, while increasingly middle-income and upper-income new residents can benefit from the CDFIs' lending programs. This inequity is contributing to gentrification in communities of color, which is contrary to the missions of CDFIs.

Financing Entity

²42 U.S.C. Section 3601 *et seq.*

³ *Closing the CDFI Asset Gap*, Hope Policy Institute (Apr. 21, 2020) <http://hopepolicy.org/blog/closing-the-cdfiasset-gap/>.

Eligible Financial Products / Financial Services

First Generation Downpayment Assistance (“DPA”) ⁴ programs should qualify. Targeting downpayment assistance by first generation helps to close racial homeownership and wealth gaps. Many Black, Latino, Asian American and Pacific Islander, and Native consumers have sufficient income to pay a monthly mortgage obligation, but exclusionary federal housing policies denied their families the intergenerational wealth to buy a home or gift a down payment to successive generations. Because of the lack of intergenerational wealth, people of color are delaying transitions into homeownership. Adding First Generation DPA as an eligible financial product and service will help to ensure that these programs are robustly administered by CDFIs.

Additionally, the Equal Credit Opportunity Act permits the use of Special Purpose Credit Programs (“SPCP”),⁵ and these programs should count as well. SPCPs offer special underwriting terms or pricing for economically disadvantaged groups. They can be designed in myriad ways and are customized to meet the particular needs of an underserved group. For example, some SPCPs offer down payment assistance for consumers living in neighborhoods long impacted by redlining and disinvestment. Moreover, SPCPs can be designed to remove the over-reliance on discriminatory credit scoring systems⁶ or to consider rental housing payment.⁷ SPCPs are among the nation’s most important mechanisms to correct our history of financial exclusion and create wealth-building opportunities for underserved communities.

Together these products and services can help to remove traditional barriers to access to credit in hardest-hit communities.

Greater Program Transparency

Remove the Black-Box on CDFI Venture Funds

⁴ NFHA and Center for Responsible Lending, *First Generation: Criteria for a Targeted Down Payment Assistance Program* (May 21, 2021) <https://www.responsiblelending.org/research-publication/first-generation-criteriatargeted-down-payment-assistance-program>.

⁵ For more information on the importance of Special Purpose Credit Programs, see NFHA’s analysis and resources on Special Purpose Credit Programs at [Using Special Purpose Credit Programs to Expand Equality - NFHA \(nationalfairhousing.org\)](#)

⁶ See Chi Chi Wu, *Doing Special Purpose Credit Programs Right: Why Programs to Assist Black Communities Should Avoid Conventional Use of Traditional Credit Scores*, National Consumer Law Project (Feb. 2021), <https://www.nclc.org/resources/doing-special-purpose-credit-programs-right-why-programs-to-assist-black-communities-should-avoid-conventional-use-of-traditional-credit-scores/>.

⁷ Freddie Mac recently augmented its Automated Underwriting System, Desktop Underwriter (DU) to allow for the use of rental housing payment information. In its analysis, Fannie Mae found that, in a sample of borrowers who had not owned a home in the previous three years, 17% of those who initially received a denial by DU would have received an Approve/Eligible designation if rental housing payment would have been used to underwrite the loans. See, [Fannie Mae Introduces New Underwriting Innovation to Help More Renters Become Homeowners](#) (Aug. 11, 2021)

Finally, NFHA recommends greater public transparency as it relates to CDFIs operating venture funds. While these funds are touted as catalysts for creating innovative financing, there is concern as it relates to the black-box nature of these programs. We recommend that CDFI Venture Funds with housing programs seeking certification are required to provide data transparency and data collection in order to achieve certification. This will ensure these funds operate in compliance with our nation's fair housing and lending laws. Moreover, the public has a right to know how the funds operate, especially as their parent organization's CDFI Fund designation is being utilized to attract funding. Communities and investors need to be able to understand if these funds are fairly serving target markets.

Conclusion

Thank you for the opportunity to comment. We look forward to continued engagement in ensuring equity in the administration of the CDFI Fund. Please reach out to Nikitra Bailey, Executive Vice President, or Debby Goldberg, VP of Housing Policy and Special Projects at the National Fair Housing Alliance, at NBailey@nationalfairhousing.org, DGoldberg@nationalfairhousing.org and 202-898-1661 should you have any questions concerning these comments.

Sincerely,

National Fair Housing Alliance