



December 20, 2022

Via Electronic Submission

The Honorable Sherrod Brown
Chairman
Senate Committee on Banking, Housing
and Urban Affairs
503 Hart Bldg.
Washington, DC 20510

The Honorable Pat Toomey
Ranking Member
Senate Committee on Banking, Housing
and Urban Affairs
455 Dirksen Bldg.
Washington, DC 20510

Dear Chairman Brown and Ranking Member Toomey:

The undersigned organizations that collectively represent all CDFI-certified banks and credit unions respectfully submit this joint letter on behalf of the regulated, depository Community Development Financial Institution (CDFI) certified banks and credit unions with a primary mission of community development. Specifically, we ask to meet with you and your senior staff to discuss our concerns about forthcoming changes to the U.S. Department of Treasury's standards for CDFI certification. We ask that you meet with representatives of our respective organizations in early January.

We wholeheartedly support the Community Development Financial Institutions Fund (the CDFI Fund) and its efforts to ensure that CDFIs are accountable to and effectively serve low income and financially underserved target markets. We also support efforts to ensure that only entities that meet strong consumer protection standards and are truly mission-focused are eligible to be certified as CDFIs. We applaud the CDFI Fund's efforts to protect the CDFI brand and ensure Federal resources are allocated only to organizations aligned with the purposes of its authorizing statute.

We are gravely concerned, however, about the proposed new CDFI certification application and guidance published by the Office of Management and Budget (OMB) on November 4, 2022 under the Paperwork Reduction Act (PRA). Specifically, we strongly believe that the proposed changes will significantly undermine the efforts of CDFIs to meet the needs of borrowers in low-income and distressed communities. In addition, the scope of the proposed changes is broad enough that we believe implementing those changes through the PRA was procedurally inappropriate and did not allow for sufficient consideration of stakeholder feedback.

To provide context, on May 7, 2020, the CDFI Fund published a request for public comment on the certification application. CDFI practitioners provided a robust response. The CDFI sectors expressed their alignment with the agency's policy objectives. Yet, they also expressed great concern about the rigidity of the proposed standards and requested greater engagement from the CDFI Fund with the field to craft a solution that would protect the integrity of CDFI certification, while allowing mission-focused CDFIs to continue to be flexible and responsive to the needs of their communities. The CDFI Fund continued to internally deliberate, but did not engage the industry in further dialogue.

The recently proposed application and application guidance, which will go into effect in April 2023, go well beyond a simple information collection. They constitute major policy changes with regard to which entities will be eligible to be certified, and hence, eligible for Federal funding. We believe it is inappropriate to implement significant policy changes via the PRA. PRA governs the collection of information only. For example, embedded within the proposed new application are substantial new policies such as creating bright line tests that prohibit product features, mandate changes to the governing and advisory boards of CDFIs, and disqualify certain forms of critical Development Services. These policy changes far exceed the parameters of the PRA. We strongly believe the CDFI Fund should engage in a formal rule making process with adequate opportunity for public comment as required by the Administrative Procedures Act (APA).

With this proposed policy overhaul, the CDFI Fund will radically reshape the CDFI industry. This new application and guidance will not simply flush out a few “bad apples.” Mission-focused CDFIs with long track records of impact and quality service to low-income communities will be forced to make a painful choice. Some will forgo CDFI certification and access to the CDFI Fund’s resources but continue to serve their communities, while others will maintain their CDFI certification at the expense of reductions in service and access to capital for CDFI Target Markets. We do not believe these choices should be inevitable, or forced by the CDFI Fund.

We thank you for your consideration of our concerns and hope to arrange a meeting with you in the near future for further discussion.

Thank you for considering our request. If you have questions or comments, please contact Jeannine Jacokes, Chief Executive Officer of the Community Development Bankers Association (CDBA), at (202) 689-8935 ext. 222 or jacokesj@pcgloanfund.org, or Cathie Mahon, President & CEO of Inclusiv, at (212) 809-1850 ext. 216 or CMahon@inclusiv.org.

Sincerely,

American Bankers Association

www.aba.com

Community Development Bankers Association

www.cdbanks.org

Credit Union National Association

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Inclusiv

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Independent Community Bankers of America

www.icba.org

National Association of Federally-Insured Credit Unions

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National Bankers Association

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