



December 5, 2022

Jodie Harris, Director
CDFI Fund
Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

RE: CDFI Certification Application (OMB Control Number: 1559-0028)

Dear Director Harris:

Thank you for the opportunity to comment on the CDFI Fund's updated Certification Application. The proposed updates to the application include provisions that will help the Fund ensure that CDFIs have strong community development missions and offer responsible products and services. The proposed changes also include a number of provisions that would not only make it impossible for some fully eligible regulated depositories to recertify, but would also substantially increase the compliance cost of being a certified CDFI without a commensurate benefit to the CDFI or the people it serves. The updated Certification Application also fails to acknowledge the substantial benefits that CDFI-certified credit unions offer to our members and instead imposes requirements that will be nearly impossible to implement.

We urge the CDFI Fund to pause its implementation of the updated Certification Application and focus on developing effective standards for one or two priority issues in consultation with the field instead of making sweeping changes that will disqualify countless eligible CDFIs and diminish the impact of CDFIs across the country. At a minimum, the Fund should address the issues outlined in this letter before finalizing the Certification Application.

About Prime Financial Credit Union

Prime Financial Credit Union primarily serves the community of Milwaukee, Wisconsin. Prime Financial Credit Union was the state of Wisconsin's first state-chartered credit union in 1923. At Prime Financial Credit Union, we believe in financial well-being for all. Prime Financial became CDFI certified in December 2019, although our focus has always been to serve the underserved. Over the past few years,

we have gained trust in the Hispanic community. Most recently opening a new branch in the community and partnering with the Mexican Consulate to display a beautiful mural on the exterior of the building created by Mexican folk artists. Over the past 5 years we have opened 561 accounts for individuals with alternative forms of identification, using their ITIN. Over the past few years, we have also granted \$11 million of loans to individuals with ITINs. At Prime Financial Credit Union, we have four staff members who are Certified Acceptance Agents for the IRS. To date, we have assisted over 300 members obtain their ITIN from the IRS, free of charge. Last year, Prime granted \$16 million of loans to high poverty areas in our community.

Primary Mission

As a mission-driven, not-for-profit financial cooperative, we strongly support the CDFI Fund's efforts to ensure that all CDFIs have a clear community development mission and do not engage in predatory lending or other abusive practices. In particular, the Fund's scrutiny of loans with APRs in excess of 36% and targeted questions about overdraft practices home in on key ways that predatory payday lenders and mainstream financial institutions have harmed the communities we serve. There are, however, critical implementation details the Fund should take into account to be sure these new standards work for insured depositories like ours:

- **Do not require MAPR in any loan-level reporting.** The CDFI Fund should not require use of the Military Annual Percentage Rate (MAPR) in any loan-level reporting. CDFI credit unions report an average of 5 million transactions to the Fund each year and would require extensive investment in their systems to calculate and report the MAPR. Instead, the CDFI Fund should rely on the narrative information requested in the application to ensure that depositories meet the Fund's APR standards. Requiring MAPRs for all consumer loans reported would effectively bar credit unions like ours from CDFI certification.
- **Leave mortgage regulation to the CFPB.** The CDFI Fund should not prohibit regulated CDFIs from offering affordable, well-underwritten mortgages, no matter their structure. The CDFI Fund has adopted a very limited set of standards for mortgage lending that add a significant barrier to CDFIs that work with homeowners. If a regulated, examined institution's mortgage lending is compliant with CFPB rules, then that should be sufficient for the CDFI Fund.
- **Define and publish clear standards for overdraft and NSF fees.** The application asks depositories to provide information on any overdraft or nonsufficient funds (NSF) fees they charge, but there are no clear guidelines that describe an acceptable product and no explanation of how the information collected will be evaluated and its potential impact on certification. If the CDFI Fund's request for information about overdraft practices is solely to ensure that institutions comply with existing regulations and regulatory guidance, the application should ask that specific question. However, if the Fund intends to make determinations about the quality of an institution's overdraft and NSF policies and practices that will influence whether the institution will be eligible for CDFI certification, the Fund must make its standards public. Without transparent and consistent standards, institutions will be denied the opportunity to adjust their overdraft and NSF practices to comply with the CDFI certification requirements.
- **The CDFI Fund cannot require that every product offered by a regulated depository be reviewed and approved.** The CDFI Fund should clarify that all Financial Products and Services

offered by an insured depository CDFI that have been approved by the CDFI's prudential regulator are automatically pre-approved by the CDFI Fund. Regulated financial institutions are rigorously examined every year for compliance with consumer protection regulations as well as safety and soundness. Given the wide variety of products and services offered, the Fund does not have the ability to review each product. If an institution is regulated and attests in the application that all of their Financial Products have MAPRs of 36% or less, then the Fund should automatically approve all products.

Target Market Test

The updates to the Target Market Test, such as removing individual target market maps, will generally help regulated depositories with strong community development missions secure and maintain CDFI certification. The major issue the CDFI Fund should address is the fact that the current Transaction Level Report (TLR) suffers from both data privacy and system capacity issues.

- The Fund must ensure AMIS has the capacity to handle the volume of data the Fund will require CDFIs to report. Reporting data on credit union members will, on average, quintuple the data credit unions report. Credit unions already experience significant bugs and delays. The new reporting will overwhelm AMIS, potentially raising liability issues for the Fund and credit unions.
- The CDFI Fund should ensure the updated TLR does not allow the upload of personally identifiable information (PII), like homebuyer addresses, and should condense the report by limiting data fields to only those needed to determine compliance with Fund standards and by allowing reporters to aggregate both consumer and 1-4 family mortgage loans by census tract.

This letter does not address the CDFI Fund's open request for comment on Target Market Assessment Methodologies. The Fund's current list of pre-approved methodologies would effectively preclude any credit union from obtaining CDFI certification based on Low-Income Targeted Population or Other Targeted Population. The Fund must add additional pre-approved methodologies that will allow regulated depositories to serve these Target Markets that are operationally feasible and comply with the Equal Credit Opportunity Act. These comments assume that the CDFI Fund will approve such methodologies after the December 19th comment deadline, and we urge the Fund to be mindful of the scale of credit union operations and the compliance landscape in which regulated depositories work when updating the list of pre-approved methodologies.

Development Services

The CDFI Fund's changes to Development Services are deeply concerning as they would exclude from consideration many proven ways credit unions advance financial inclusion and ignore known best practices in financial coaching. Omitting informal interactions and interventions at "teachable" moments in favor of structured courses and defining Development Services as activities that support access to and success with Financial Products, but not Financial Services will undermine the CDFI Fund's mission to "expand economic opportunity for underserved people and communities."

The CDFI Fund should:

- Include hours spent on financial coaching, whether it's delivered through a formal program or not.

- Include services that support access to and success with Financial Services as successful use of financial services is integral to our ability to successfully deliver Financial Products to our members.
- Include Development Services provided online and through mobile applications.

Prime Financial Credit Union provides numerous accounts of individualized financial coaching, as our bi-lingual loan officers provide one-on-one support to members to help them succeed in using transaction accounts, offers support for members in managing their debts or budgeting, or preparing to purchase a home or car. Through these one on one financial counseling conversations, we are assisting our members in achieving their financial goals.

Prime Financial Credit Union presents first -time home buying sessions regularly. Many of these sessions with over 50 individuals in attendance. Individuals attending these sessions, then will contact our mortgage loan officers for personalized help specific to individual situations.

Given the clear benefits to credit union members of Development Services that include supporting access to and success with Financial Services, as well as the value of less-structured interactions that support access to and success with Financial Products, it is critically important that the CDFI Fund expand its definition of Development Services in the new certification application.

Accountability

The CDFI Fund should recognize the governing board members of credit unions as being accountable to each credit union's Target Market. Not-for-profit credit unions are member-owned financial cooperatives, governed by boards that are legally accountable to the people they serve. Regulations require that credit union boards consist solely of credit union members who are democratically elected by the membership on the basis of one-member-one vote and serve as unpaid volunteers. These requirements are the same for credit unions of all types, regardless of whether they are federally chartered, state chartered, or cooperativas in Puerto Rico. As democratically elected representatives who serve at the pleasure of credit union members, credit union board members can only be recognized as directly accountable to the people they serve. Cooperative ownership and governance mean that credit union members have a direct mechanism to influence board membership and deliberations through mandatory annual elections and annual general meetings.

The CDFI Fund has proposed that any board members with "active loan products" cannot be considered accountable to their CDFI Target Market. This Policy would effectively prohibit virtually all members of credit union governing boards from being recognized as accountable. As noted above, credit union board members must themselves be credit union members of the credit union and can be expected to use the credit union's financial products on equal footing as all other members. The potential for conflicts of interest is addressed by specific provisions in the Federal Credit Union Act and in each credit union's Bylaws that mandate the "nonpreferential treatment" of credit union officials and members of their immediate family. These provisions are further strengthened through rigorous regulatory review as a standard part of supervisory examinations. The proposed Financial Interest Policy is particularly unfair to board members who have low incomes or who are members of targeted populations who may rely on their credit unions to meet their transaction account and borrowing needs. Barring these members from being considered accountable to their communities because they use their credit unions' services in the same way as the broader credit union membership they represent decreases, rather than

increases the accountability of those boards. The Financial Interest Policy must exempt regulated CDFIs from the provision related to “active loan products,” since the risk of conflicted board members is fully mitigated by regulation and supervision.¹

Thank you for the opportunity to comment on this important update to CDFI certification. We urge the CDFI Fund to make the changes detailed above to ensure CDFI credit unions can continue to effectively serve low-income communities, communities of color, and immigrant communities who continue to be excluded from the mainstream financial system.

Sincerely,

A handwritten signature in black ink, reading "Christine A. Moczynski". The signature is written in a cursive, flowing style.

Christine A Moczynski
President and CEO
Prime Financial Credit Union

¹ <https://www.law.cornell.edu/cfr/text/12/701.21>