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December 5, 2022

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

Ms. Tanya McInnis  
Program Manager  
Office of Certification, Compliance Monitoring and Evaluation  
Community Development Financial Institutions Fund  
US Department of Treasury  
1500 Pennsylvania Avenue, NW  
Washington, DC 20220

RE: Responses to Proposed CDFI Certification Application Requirements, Federal Register  
Document Number Vol. 87, No. 213 / Friday, November 4, 2022

Dear Director Harris and Ms. McInnis:

The Mississippi Bankers Association appreciates the opportunity to comment on the Treasury Department's notice of information collection and request for comment on the CDFI Certification Application published in the November 4, 2022 *Federal Register*.<sup>1</sup> As a state with a high concentration of LMI and underserved communities, we can speak first hand to the incredibly important resource the CDFI Fund has become in supporting access to financial services and growth and development in underserved communities around Mississippi. The Fund plays a critical role in supporting rural bank effort to achieve these goals. While we appreciate that the proposed revisions to the CDFI Certification Application are intended to ensure that certification policies meet statutory and regulatory requirements while also being

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<sup>1</sup> Request for Public Comment, 87 Fed. Reg. 66786 (November 4, 2022), <https://www.govinfo.gov/content/pkg/FR-2022-11-04/pdf/2022-24082.pdf>.

responsive to the evolving nature and the growth of the CDFI industry, we have serious concerns that in their current form these changes would cause significant obstacles to the Fund's ability to continue to support the rural banks and the communities they serve.

We support the goals of the proposal and agree that CDFI Certification should not subsidize entities whose products, services, or policies do not align with the Fund's mission to expand economic opportunity for underserved people and communities. We commend the Fund's efforts to better calibrate the CDFI certification standards, and we recognize that it has been challenging to work through this process while also committing Fund resources to implementing the various pandemic relief programs the Fund has concurrently managed while undertaking this review process. We hope that you'll find these comments and suggestions as helpful recommendations. We believe that if you address these concerns in the final rule you will position the Fund to continue to play a pivotal role in helping rural banks serve underserved communities and expand economic opportunities in rural, impoverished markets. Our comments on the proposal are organized as follows:

### **Mortgage Exemption Changes Disadvantage Rural Communities**

As you are aware, CDFI lenders were explicitly exempted from the "Ability-to-Repay" (ATR) standards by the Consumer Financial Protection Bureau (CFPB) when the Bureau promulgated the "Qualified Mortgage" (QM) Rule following the mortgage crisis that began in 2007. The CFPB wisely created this exemption after several groups of rural lenders, including the MBA, discussed the importance of balloon note portfolio mortgages in the rural markets, and this exemption is critical to the success of rural CDFI lenders.

As you know, almost all of Mississippi is rural, and many would-be mortgage borrowers in rural markets require a great deal of lender flexibility to qualify for mortgage credit. The CDFI Fund has been a great encourager of rural mortgage lending, and various CDFI programs including BEA and FA have helped Mississippi's many CDFI banks make mortgage loans that would have not been made without the Fund's support.

To help illustrate the challenges the current proposal will create, please review the article included after this letter from the *Mississippi Business Journal*, the state's weekly business newspaper. This article highlights how Mississippi CDFI banks and the Fund work together to ensure LMI individuals have access to mortgage credit, and this provides us with a good example of the problem the new proposal will create.

This article showcases the success Bank of Franklin has had in leveraging an FA Award to originate LMI-targeted mortgage<sup>2</sup>. This bank has used FA funds to create a new "Home Owners' Pathway to Equity", or HOPE mortgage loan program. These HOPE loans are targeted to LMI borrowers in rural southwest Mississippi, and the bank has had tremendous

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<sup>2</sup> "Local bank introduces new mortgage product to assist LMI borrowers," *Mississippi Business Journal*, September, 17, 2021. Full article attached as a PDF file to this letter.

success in working one-on-one with borrowers to help them obtain mortgage credit; the program has continued to grow since the article was published. In total, through the FA funding they received, so far Bank of Franklin has originated 35 loans totaling \$2.6 million in credit extended. Each loan is held in the bank's portfolio, and this program is having a real and important impact in the communities Bank of Franklin serves. It is a wonderful example of the CDFI Fund and a local CDFI bank working together to address housing needs in low-income communities.

As you can tell from the included article, lender flexibility is a key feature of the program, and the article states that "The product has underwriting standard designed to lessen credit risks, but those standards ***flexible*** enough to allow borrowers who couldn't otherwise qualify for traditional mortgage loans to qualify for our HOPE loans..." (emphasis added). Unfortunately, if left unchanged the proposed certification requirements will take away the mortgage flexibility that is critical to the success of rural CDFIs like the Bank of Franklin. These HOPE loans include a 5-year rate reset feature, which is a critical component to the bank's ability to work with high-risk borrowers. Unfortunately, the proposed new certification requirements will force Bank of Franklin to choose between eliminating this successful program or risk losing their CDFI status all together. In other words, the proposal is forcing this bank to make a choice to reduce its CDFI impact if it intends to maintain its CDFI status<sup>3</sup>.

While this specific example focuses on Bank of Franklin, every CDFI bank in Mississippi and likely across all rural markets will have to weigh this same question if the proposal's mortgage provisions are left unchanged. Lender flexibility is critical to successful community bank mortgage programs in rural markets. The CFPB understood this when they created the CDFI exemption to the QM/ATR regime, but the CDFI Fund's current proposal undercuts the Bureau's wisdom in creating these exemptions. Mississippi's CDFI banks are troubled by the proposal's mortgage limitations and believe they will greatly harm rural lenders' ability to provide much needed mortgage products to their LMI customers and will ultimately push these borrowers into unregulated financial products. We urge the Bureau to reconsider the proposal's treatment of mortgage lending before finalizing the certification requirements.

### **Target Market Changes Disadvantage Rural CDFIs**

To maintain CDFI status, a bank must allocate at least 60% of its activity in eligible Target Markets. Currently banks may choose to designate a Customized Investment Area (CIA); importantly these areas include a mix of qualified and non-qualified geographic areas. This is an important and frequently used option for rural bank-CDFIs. These banks are often small and

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<sup>3</sup> Like dozens of Mississippi CDFIs, Bank of Franklin received an ECIP allocation. Under ECIP rules the bank must make every effort to maintain CDFI status, so if this proposal is unchanged Bank of Franklin will almost certainly have to eliminate this program. Nearly every bank that received an ECIP allocation will be forced to make similar decisions depending on the specific structures of their various lending programs.

limited to a branch footprint that only includes a handful of counties; these banks frequently consider the entirety of each county in their branch network as part of their target market. The current CIA designation process is an important way that CDFI community banks can serve rural communities, where population is largely dispersed, and opportunity is rarely clustered in a single census tract. The proposal would require that CDFIs direct at least 85% of their financing into individually qualified census tracts; we believe this threshold is too high and should be reexamined.

Rural communities are by their very nature decentralized and rural populations are widely spread out. This dynamic makes the 85% threshold in eligible census tracts a very complicated metric for rural CDFI banks. Rural communities would be much better served if CDFI banks can consider entire counties as their target market. Allowing rural banks to consider entire counties as their target market is a much more realistic reflection of rural lifestyles. This is true due to a variety of factors.

First, in rural census tract residents are used to traveling large distances for employment and economic opportunity. This is particularly true in the Mississippi Delta, a region that is almost entirely supported by CDFI banks that support a largely agricultural economy. It is very common for a farmer in the Delta to house his equipment in one county while he grows and processes crops in that same county as well as two or three adjoining counties and then delivers his crop to a grain silo located two or three counties away from the counties in which he farms. The same is true for non-agricultural workers. For example, a 2020 article published by Mississippi Public Broadcasting<sup>4</sup> chronicles casino workers who are required to be bussed across three large counties to get to work each day. Another article in the Commercial Appeal<sup>5</sup> chronicles workers who take bus transportation from the central Mississippi Delta to the Memphis metropolitan area for work each day. Both are complicated and challenging situations for the employees featured in the articles, but they are reflective of the real-life challenges rural people face in finding good income and employment opportunities. Whether it be the farmer, the blackjack dealer, or the FedEx line worker, each of these individuals travel across multiple counties each day to earn their incomes.

Similarly, people that live in rural census tracts frequently travel long distances for entertainment and dining options. On any given weekend night in Mississippi, the parking lots of rural steak houses, catfish joints, and blues bars are filled with cars from multiple counties. Dining in rural Mississippi counties is frequently a long-distance affair, as families will traverse multiple counties to go to their favorite restaurants or may travel across three of or four counties to watch a movie. Even the state's largest city, Jackson, did not have an active movie

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<sup>4</sup> <https://www.mpbonline.org/blogs/news/mississippi-delta-residents-face-long-rides-to-work/>

<sup>5</sup> <https://www.commercialappeal.com/story/money/industries/logistics/2019/03/05/fedex-express-hub-cleveland-mississippi-part-time-jobs/2595237002/>

theatre for multiple decades<sup>6</sup>. Instead, residents would drive to adjoining counties to watch a movie.

This expectation that one is likely to travel across multiple counties for both work and entertainment purposes exemplify how geographically spread out our state's economy is, especially compared to urban centers where residents are frequently able to walk a couple of blocks to a local deli, bodega, or restaurant. Perhaps in those urban markets the 85% threshold is a sensible approach, but in rural areas like Mississippi where economic activity is so spread out it is unreasonable. Instead, rural CDFIs need flexibility to effectively measure the impact of their activity across such a broad geography. The CDFI Fund should consider addressing this by lowering the 85% threshold and by instituting a different set of requirements for rural lenders and urban lenders that adequately tailors expectations to the unique challenges faced by urban and rural LMI communities.

### **Certification Period and Existing CDFIs**

More than two-thirds of the banks chartered in Mississippi are currently certified as CDFI institutions. These banks are concerned that the proposed time frame will unintentionally create challenges for existing CDFI banks seeking recertification, and at the same time create an incentive for non-certified banks seeking entrance into the program for the first time. Even if the Fund adopts the changes that we and other concerned industry groups suggest, banks that have long maintained CDFI certification will most likely be required to make several changes to their usual recertification process and data collection. And the proposal will require existing CDFI's to show that they have met the **new** Target Market benchmarks over the last three years, even though they've been measuring against current criteria across that same period of time.

This three-year-look-back could unintentionally penalize banks that have long been a part of the fund and could be very challenging to institutions that received ECIP allocations. As you know, those institutions are required to attempt to maintain their CDFI status, and we believe that it would be helpful to these institutions to extend the twelve-month time frame to provide these banks with adequate time to analyze the final rules and adjust as necessary.

On the other hand, prospective new entrants must only show they have met Target Market goals over the previous year. This time frame could inadvertently favor new entrants over established CDFIs during the next few rounds of award allocations. We encourage the Fund to better align the implementation time frame to provide both existing CDFIs and potential new entrants with an even playing field as they work to meet the new standards.

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<sup>6</sup> <https://www.wlbt.com/2022/01/22/capri-movie-theatre-show-first-film-decades/>

## **Governance**

Mississippi's CDFI banks are very concerned with the proposal's Governing and Advisory Board Target Market Accountability test. Potentially restricting the ability of governing directors to be compensated will be both a discouragement to local community leaders participating in bank governance and advisory functions and will be a strong disincentive against rural bank participation in the CDFI program. It has been well documented that rural communities around Mississippi struggle with "brain drain," and small, rural banks like so many of the CDFI's around Mississippi often struggle with issues of board succession. It has also been well documented by investment bankers and community banking industry advocates that board succession issues are one of the major causes of rural bank consolidation.

Mississippi's CDFI banks work hard to maintain their independent bank status. Maintaining solid governance with a thoughtful, dynamic board of directors composed of community leaders is a critical factor in a community bank's ability to continue to exist. To put it bluntly, director recruitment and retention is one of the key factors in determining whether a rural bank can continue to survive, and this can be an especially difficult challenge in underserved markets like so many in our state. Instead of penalizing local banks for compensating directors, the Fund should be providing tools to help CDFI banks identify and engage potential new directors. After all, only local and independent banks are going to pursue the efforts and expenses associated with investing in the persistent poverty communities so prevalent in our state. In the last few years multiple Mississippi-based CDFI have acquired through merger or acquisition, and in most of these instances board succession issues were a major factor in driving the selling bank's decision to be acquired.

This issue of independent, strong, and community minded directors is of critical importance to the future of community bank CDFI's, and we strongly encourage the Fund to step back from further complicating the director recruitment and succession practice by removing this part of the proposal from further consideration.

## **Conclusion**

The CDFI Fund has become a critical partner to most community banks in Mississippi. This partnership has grown over the last decade, and over that time the Fund has helped banks of various asset size and geographic footprints serve LMI communities around the state. As you work to finalize this proposal, we urge you to be mindful of the potential problems it will cause to rural lenders if unchanged. We trust that you will carefully consider these comments and those of several other interested banking trade groups as you move toward finalizing the requirements.

We appreciate the Fund's great partnership and the important role you play in helping rural banks finance opportunities and grow their communities. We believe that if you address the concerns we've raised you will ensure the fund is well positioned to continue to support the rural communities of Mississippi going forward. We commend you for the work the Fund has

done on this project already, and more broadly for the work the Fund has done over the past few years to help CDFI banks support economic recovery in the aftermath of the early days of the pandemic. We hope the partnership that exists between the Fund and Mississippi banks can continue to flourish under the new certification regime once it is finalized.

If we can be of assistance with this or any other matter, please do not hesitate to reach out to me any time at [gfellows@msbankers.com](mailto:gfellows@msbankers.com). We would be glad to host you on a visit to many of the communities around our state positively impacted by the CDFI Fund's work if that is ever of interest to you.

Sincerely,

A handwritten signature in cursive script that reads "Gordon Fellows". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

Gordon Fellows  
President & CEO

[https://www.djournal.com/mbj/local-bank-introduces-new-mortgage-product-to-assist-lmi-borrowers/article\\_caf6587c-14e8-5b63-9d3f-8ab98a370efa.html](https://www.djournal.com/mbj/local-bank-introduces-new-mortgage-product-to-assist-lmi-borrowers/article_caf6587c-14e8-5b63-9d3f-8ab98a370efa.html)

## Local bank introduces new mortgage product to assist LMI borrowers

Sep 17, 2021

With the help of a Community Development Financial Institutions (CDFI) Fund award, Bank of Franklin has successfully created and implemented a new loan program that is getting Low-to-Moderate Income (LMI) borrowers into homes. CDFI awards are given yearly through the United States

Department of the Treasury Community

Development Financial Institutions Fund, which was created to promote economic revitalization and community development through investment in banks and other qualified lenders that combine CDFI awards with private funds to have dramatic economic impact in LMI areas. Mississippi has more CDFI banks than any other state, and this is an example of the type of investments that the many CDFI banks around Mississippi make.

### How it Began

Brad Jones, President and CEO, and his team at the Bank of Franklin wanted to find a way to help provide more mortgage loans to LMI borrowers. In addition to finding a way to approve more loans, they also needed to find a way to get more applications into



bank. They created a new program to help kickstart the mortgage process for these borrowers.

“We had the pieces already in progress, we just had to finalize our idea. There was a FA (Financial Assistance) CDFI award that we hadn’t applied for before, but we needed a new product to qualify for the award. The LMI mortgage product was a perfect fit,” he said.

The U.S. Department of the Treasury's Community Development Financial Institutions Fund (CDFI Fund) awards Community Development Financial Institutions (CDFIs) grants annually. The awards enable CDFI banks to increase lending and investment activity in low-income and economically distressed communities across the nation, and Mississippi benefits from the largest concentration of CDFI-certified banks of any state in the country.

Jones and his team applied for the CDFI FA award with the new mortgage loan product in mind. ““We called it ‘HOPE,’ short for Home Owners’ Pathway to Equity, because LMI borrowers often don’t have hope that they can get a mortgage loan. The product has underwriting standards designed to lessen credit risks, but those standards are flexible enough to allow borrowers who couldn’t otherwise qualify for traditional mortgage loans to qualify for our HOPE loan,” said Jones. “When we decided on the impact that we wanted to have, we compared traditional secondary market mortgage loan standards with the needs that we wanted to meet, and ultimately decided to build this product to fit those needs.”

The bank was awarded an FA award of \$637,500 for the new mortgage loan product.

## How it Works

The bank team looked at how this community of borrowers might be getting left out, and tried to approach the mortgage process in a new way. The bank established a HOP] committee that meets weekly. “Every application automatically goes in front of th

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HOPE loan committee. While we do have underwriting standards, our goal is to look at each application and situation holistically and to really dig deep to find out if the loan is possible,” said Jones.

The HOPE loan program goes further than standard down payment assistance programs that are hard to qualify for and offers a more solid path to success. One of the key differences has been the required step of homeownership counseling.

The Bank of Franklin sends potential borrowers to a program with D & E, A Housing & Economic Empowerment Center, Inc., located in McComb, Mississippi. They offer various workshops on homeownership, and the borrowers must provide proof of workshop completion to continue with the HOPE process.

“This step has been a very helpful tool in making our borrowers successful,” said Jones.

## How it’s Going

Jimmy Allen is a mortgage loan lender with Bank of Franklin. The very first loan she had approved with the HOPE program was a borrower that she had been working with for over two years. “We had been working with this borrower for a while, and she was always right on the cusp of getting approved. The HOPE loan program was what allowed her to finally get into her first home. It was rewarding for both of us to cross that finish line,” said Allen. To reach potential borrowers with whom the bank does not have an existing relationship, they use targeted digital advertising, including geocoding in places where renters are prevalent. The bank also uses a combination of tv, radio and print advertising.

So far, the results speak for themselves. The bank has already approved \$1.650 million in HOPE mortgage applications. “We were initially aiming for \$3 million in 3 years with \$750k to start in 2021. We are significantly ahead of our projected goals,” said Jones. “While these loans do carry a higher than normal risk profile, done responsibly, the grant should more than cover any losses on these loans.”

Most of the loans in their footprint have been in Pike County, and 69% have gone to minority borrowers.

“When we do have to turn a borrower down, the goal is to not say no, but merely not now. We attempt to work individually with each applicant to turn homeownership into a possibility over time.” added Jones.

The HOPE program has been so successful in getting LMI borrowers into homes, many of whom are first-time homebuyers, that the CDBA has invited Jones to speak on a panel in December.

“We’re a CDFI bank. That means we’re mission-driven to help address generational poverty issues and that’s the real goal of this program,” Jones said.