



Ponce Bank®

2244 WESTCHESTER AVENUE
BRONX, NEW YORK 10462
TEL (718) 931- 9000
www.poncebank.com

January 27, 2023

Via Electronic Submission

Ms. Melody Braswell
Treasury PRA Clearance Officer
U.S. Department of the Treasury

RE: Comment Request; Annual Certification and Data Collection Report Form and the Abbreviated Transaction Level Report, Federal Register Document Number Vol. 87, No. 239 / Wednesday, December 14, 2022; OMB Control Number: 1559-0046

Dear Ms. Braswell:

Ponce Bank respectfully submits the enclosed comments on the Notice of Information Collection and Request for Public Comment published by the Community Development Financial Institutions Fund (CDFI Fund or the Fund) in the Federal Register on December 14, 2022. As stated, the CDFI Fund is seeking comment on the content of the revised Annual Certification and Data Collection Report (ACR) and proposed “abbreviated” Transaction Level Report (TLR).

Ponce Bank opened its doors in March 1960, in Bronx County New York, at the behest of the Latino community who were then facing banking disenfranchisement by the departure of other financial institutions. Ponce Bank has continued to fight against banking disenfranchisement by opening additional branches in Queens, Bronx, and Kings Counties New York as well as Hudson County New Jersey. Today, the bank has reached \$2 billion in assets and over \$1.4 billion in loans.

Ponce Bank continues to pursue its founding ideals of bringing access to financial products and services to the community we serve by pursuing opportunities at the federal, state, and local level. Recognizing the deeply beneficial impact of CDFIs, Ponce Bank became a certified CDFI in April of 2018.

Additionally, Ponce Bank is designated a Minority Depository Institution (MDI) by the FDIC and is a U.S. Small Business Administration certified lender.

GENERAL COMMENTS ON PROPOSED ACR AND TLR

Ponce Bank appreciates the CDFI Fund’s focus on ensuring transparency and consistency through annual reporting, and on ensuring that communities across the nation are reliably served with responsibly priced and structured financial products and services.

The proposed ACR and TLR materials are practical extensions of proposals put out for comment in late 2022 by the CDFI Fund to revise the CDFI Certification Application and related guidance, as well as introduce a pre-approval process for CDFI Target Markets.

We are concerned however, that the ACR and TLR include proposed Application provisions that may be potentially harmful, and that will force CDFIs to be less flexible and responsive to the needs of LMI communities, reducing the choices available to LMI consumers. We shared our concerns in our response to the CDFI Fund’s CDFI Certification Application Requirements (OMB Control Number 1559–0028), submitted December 5.

While our previous comments address our concerns in detail, it will be useful here to provide summaries where they directly correspond to elements of the ACR and TLR.

SPECIFIC COMMENTS ON PROPOSED ACR AND TLR

As we wrote in December of 2022, several of the proposed changes to the CDFI Certification Application are presented as advancing critical consumer protections. However, we believe that many will have the opposite effect. These problems persist when they are carried through in to the ACR.

In some cases, otherwise legal and often constructive products will be prohibited through “bright line” standards that are automatically disqualifying. In other cases, applicants will be disqualified after a holistic review of their answer to a narrative question for which the CDFI Fund has expressed no standards for how answers will be evaluated and does not identify a path to success. We are concerned that the proposed additional constraints and lack of clarity on disqualifying elements substantially increase the compliance burden of certification and re-certification.

Our comments are organized below to respond to questions raised in the Notice and Request for Information.

CDFI Annual Certification Report Detail

“Board and Executive Staff Demographic Information” (Pages 11-14)

The ACR enshrines questions to collect demographic data on board members and executive staff of CDFIs. This data is not necessary to fulfill any current, ongoing certification or program requirements relevant to CDFIs. Some individuals will decline to answer. We recommend that these questions be made voluntary, ideally in the form of an option for individuals to decline to answer.

“Line of Business” (Pages 14-15)

It is helpful that the ACR will auto-calculate the primary and secondary lines of business from data provided in the TLR. However, we suggest that the CDFI Fund consider calculations that acknowledge both the number and dollar amount of loans. This would more accurately represent the business of many CDFIs that provide significant service to customers that require smaller loans, while also acknowledging the community development value of larger loans.

“Responsible Financing Practices – Financial Products” (Pages 24-35)

We believe that a Primary Mission Test is the most important tool for safeguarding the integrity of the CDFI industry. We agree with the CDFI Fund on its policy goals to ensure that malign actors are not certified as CDFIs, and that consumers are not just protected, but also well served. Unfortunately, we must strongly disagree with much of the proposed approach to revising the Primary Mission Test. *Simply, many of the proposals go beyond sensible consumer protections, and the bright line restrictions should be replaced with a Consumer and Small Business Protection Attestation as proposed by the Community Development Bankers Association (CDBA) and active monitoring for predatory behavior by the CDFI Fund.*

Ability to Repay (ATR) – Report Item RFP1

The ATR question as stated in the ACR should be removed. This “bright line” question introduces a test that is too narrow, and ignores the CDFIs’ exemption from the ATR test in Regulation Z. The Consumer Financial Protection Bureau’s (CFPB) ATR/QM rule exempts CDFIs because of these lenders’ historic, demonstrated need for flexibility in working with people without traditional income documentation. The test as written will limit access to entirely legal and genuinely impactful loans. We do not believe the CDFI Fund should be applying a broad ATR test to CDFI Certification, given the CFPB’s explicit exemption of CDFIs from this particular mortgage regulation. We urge the CDFI Fund to explain what standards will be applied to the narrative portion of this question so that CDFIs may understand how to operate under the CFPB’s ATR/QM exemption for CDFIs without being disqualified from CDFI status.

This test has the potential to damage LMI communities and stifle useful and responsible products. One of the benefits of CDFIs is the ability to be flexible in creating products that meet the needs of our customers. LMI small business owners and individuals without W2 regular income often have a difficult time documenting their income. While this makes it difficult to “verify” income and ability to repay, it does not mean that income is not present or that repayment cannot be made. Enforcing this standard will force many customers to seek funding from unregulated, predatory lenders. This bright line standard should not appear in the ACR.

Military Annual Percentage Rates (MAPR) – Report Items RFP2 – RFP3

MAPR questions as stated in the ACR should be removed and replaced with an appropriate APR standard. We support the CDFI Fund’s intention to ensure that products offered by CDFIs are affordable to end users. Unfortunately, *the CDFI Fund’s proposal to adopt a strict MAPR calculation creates several problems that can be avoided by adopting the existing APR calculation. A strict application of any standard can have unintended consequences.* Context is important in assessing whether a product is appropriate or harmful to customers. For example, very small loans with modest fees can trigger a 36% APR.

The CDFI Fund should not tie an affordability test specifically to the MAPR. While lenders nationwide are prepared to track and calculate *Annual Percentage Rate (APR)*, the *MAPR* calculation is *non-standard*. All depository CDFIs are already subject to calculation of APRs for consumer and business

loans in compliance with the Truth in Lending Act (TILA). APRs incorporate interest rates, origination fees, and other processing fees, but MAPR is much more inclusive of fees *and even other products, such as credit life insurance*. TILA accomplishes the same objective as MAPR of ensuring transparency in pricing. This makes MAPR an onerous standard to apply to all CDFI lending and would require depository-CDFIs to undertake the unnecessary calculation of both APR and MAPR. The question as stated in the ACR should be removed and replaced with an appropriate standard.

Mortgage Loan Product ATR/QM Exempted Mortgage Loan Attributes – Report Items RP17 – RFP 29

The ACR should not include questions that seek to identify and automatically disqualify entities that offer products with specific attributes that are otherwise exempt from the ATR/QM rule.

We strongly disagree with the CDFI Fund’s assertion that specific product attributes that are otherwise exempt from the ATR/QM rule can or should be *automatically* disqualifying. While there are strong consumer protection arguments in favor of applying a “close read” to loans offered by CDFIs under the ATR/QM exemption, we believe this is the wrong way for the CDFI Fund to apply consumer protection standards.

As proposed the strict “bright line” standards will restrict borrower access to both legally neutral and beneficial mortgage loans. *This standard is proposed in direct opposition of a regulatory exemption that was made specifically for entities that vary widely in their business practices, operating environment, and level of regulatory oversight.*

Questions that should be removed from the ACR include:

- RFP17: “. . . Loans that include negative amortization, interest-only payments, or balloon payments.”

Both interest-only payment and balloon payment can be important tools for regulated CDFIs to meet LMI customers and manage interest rate risk. Customers who may need to pay rent on a temporary residence while renovating their flood or otherwise damaged property may benefit from the lower payments these products provide.

- RFP 18: “Underwrite adjustable-rate mortgages at less than the maximum rate in the first five years.”

Prohibiting adjustable-rate mortgages underwritten at less than the maximum rate in the first five years is unlikely to protect CDFI borrowers but is likely to push borrowers out of CDFIs and toward unregulated lenders. For example, the proposed prohibition against underwriting at less than the maximum rate also does not allow for the assumption that a borrower’s income will increase over the loan period.

- RFP20: Does the entity “verify the income of the borrower?”

The CFPB's ATR/QM rule exempts CDFIs from a requirement to verify borrower income because of these lenders' historic, demonstrated need for flexibility in working with people without traditional income documentation. The CDFI Fund has not demonstrated a clear need to deviate from the standard set by the CFPB.

- RFP29: "If the reporting entity is an FDIC-Insured Depository Institution or state-chartered commercial or savings Bank, does the reporting entity have a current Community Reinvestment Act rating of Satisfactory or higher?"

We agree that a CDFI bank that has not earned a minimum CRA rating should be required to reach that standard before having access to CDFI programs and funding. However, the CRA is currently undergoing its own set of reforms. In this uncertain environment a bank's CRA performance should disqualify it from CDFI Certification without allowing for an appropriate cure period.

We strongly urge the CDFI Fund to allow loans with balloon notes and interest only features, not to require income verification, not to prohibit underwriting at less than the five-year maximum, and not to institute a CRA requirement in the absence of a final, joint-agency CRA rule. Banning them outright hampers the ability of responsible and flexible CDFIs, providing the borrower with necessary counseling/education, to use these tools to serve LMI communities.

"Responsible Financing Practices – Financial Services" (Pages 36-39)

The CDFI Fund proposed asking depository applicants to select from a list of product features associated with depository products and transaction services that appear either to advance a community development objective or to represent consumer protections. *We strongly urge the CDFI Fund to clarify this section as it is implemented in the ACR, and not to implement any of these questions without explaining standards or setting clear expectations for how CDFIs should evaluate their offering of financial services.* The CDFI Fund has stated elsewhere that offering certain service features will be automatically disqualifying. Given that these financial services are provided by regulated depositories, it is not clear what "reasonable" or "excessive" can mean, as these are not defined terms CDFIs cannot predict what might trigger decertification. The following questions will create serious problems by creating uncertainty for regulated CDFIs:

- RFP32: "Select each of the listed features associated with a single checking or share account (including checkless checking) offered by the reporting entity." (Plus, follow up question RFP33).
- RFP34: "For any of the reporting entity's depository accounts, is the account holder subject to any potential overdraft fees?" (Plus follow up questions RFP35 through RFP39).

Subsection for any reporting entities whose depositor accounts have potential nonsufficient funds fees.

- RFP40: “Specify the highest dollar amount charged for such a fee.” (Plus follow up questions RFP41 through RFP43).

For example, RFP32 and RFP33 direct regulated depositories to select “features” of services (branch, ATM, deposit product, money transfer service, customer identification alternatives, and two secured loan products) without any insight into the purpose or consequences of making any selections. In RFP34 through RFP43, CDFIs are asked to provide information about services such as overdraft and non-sufficient funds fees that are subject to regulatory oversight.

If the CDFI Fund intends this section to identify products that are contrary to some standard for consumer protections, then the CDFI Fund should make clear what the standards are, whether there is a baseline, and in what combination the features may be issued in combination with other features. The CDFI Fund should then state what consequences there might be for answering any of these questions in any particular way. For example, if the goal is to encourage certain beneficial service features, is it sufficient for an applicant to offer just one service with one feature? Should certain features be offered in combination with others? What are the consequences if an applicant offers no services with what might be objectionable features, but also offers no services with features that advance a community development purpose? Are any features alone, or in several, intended to be disqualifying?

In reviewing this topic, it is important for the CDFI Fund to avoid being inflexible. As with financing, flexibility and responsiveness are the hallmarks of the CDFI industry. CDFI banks respond to the depository needs of their customers in a variety of ways, and all of their financial services are, by definition, subject to oversight by banking regulators.

“Financing Entity” (Pages 39-41)

Ponce Bank believes that the current presumption of Financial Entity qualification for depositories should not change. We are pleased that the current proposal retains this provision.

“Development Services” (Page 41)

Ponce Bank strongly encourages the CDFI Fund to reverse proposed changes to Development Services. The changes proposed in the Certification Application are contrary to the spirit of the CDFI legislation and counterproductive to the stated purpose of the proposed change and conflict themselves. As proposed, the CDFI Fund would eliminate a foundational element of Development Service from eligibility by removing Development Services connected to financial services and defining a Development Service as:

“A formal stand-alone training, counseling, or technical assistance service that promotes access to and/or success with an entity’s Financial Products, and that the entity offers separately and distinctly from its other products/services.”

In conflict with its own definition of Development Services, the proposed ACR offers approved categories for Development Services that include options that are generally offered in connection with financial services (e.g., deposit or transaction products). These approved options include, but are not limited to:

- Basic Banking Skills
- Introduction to retirement savings
- Financial Management/Budgeting

The proposed Certification Application further compounds the problem, as the standards are not consistently or clearly implemented in the ACR. Specifically problematic are the Application provisions which impose onerous requirements on CDFIs:

1. *“Demonstrate that [the CDFI] maintain[s] control over the content and delivery parameters of their Development Service(s).”*
 - a. This provision stops CDFIs from receiving credit for Development Services based on third-party developed financial literacy curricula, and technology solutions which provide financial literacy education. CDFIs use these tools because they are effective but under the proposed language these services risk being excluded. We strongly urge the CDFI Fund to clarify that this language does not to prevent CDFIs from receiving credit for delivering content created by another entity.
2. *“Make at least one Development Service available on an ongoing basis at least four times per year.”*
 - a. Under this provision, CDFIs will be forced to devote staff resources to potentially unneeded additional Development Service events. We urge the CDFI Fund not to mandate the use of staff resources in this manner.

Further, the following also threaten the ability of CDFIs to serve their communities:

3. *“Training, counseling, or technical assistance not clearly intended to prepare consumers to access and/or be successful with a Financial Product and/or Financial Service offered by the Applicant.”*
 - a. This provision, like provision #1 (above), potentially prohibits CDFIs from delivering valuable and widely available curricula, including the FDIC’s “Money Smart” financial literacy program. This provision is broadly applicable to a number of products that may not be “offered by the Applicant,” but are often used in tandem or in a complementary capacity. Enacting this provision inhibits the flow of valuable information to many potential CDFI customers by unnecessarily restricting what information may be presented to them.
2. *“Information presented in newsletters, flyers, or online.”*
 - a. Information presented through online delivery has been deemed adequate innumerable essential services ranging from primary-level education to the CDFI Fund’s own hearings. Disallowing information presented in this format removes a vital tool for delivering Developmental Services.
3. *“Workshops for children or conferences/workshops for broad audiences.”*
 - a. Early childhood financial literacy is essential to establishing long-term positive behaviors in low- and moderate-income communities. Building skills with children as they grow and transition into adulthood provides a method to interrupt generational cycles of predatory lending with information and financial literacy.
4. *“Presentations made at one-off events (like annual fairs), or at regular events held by other entities.”*
 - a. Every contact that a CDFI makes with a potential customer is valuable to a low- and moderate-income community. Presentations made at these events are opportunities for CDFIs to present valuable content that may be otherwise entirely unavailable. These presentations can be the first step in introducing community members to the benefits offered by CDFIs.
5. *“Non-structured conversations with consumers on Development Services subject matter.”*
 - a. It is unclear what constitutes a “non-structured conversation.” However, “informal” conversations provide timely, dispassionate advice are the core of a CDFI’s relationship with its customers. Under this provision the CDFI Fund disincentivizes CDFI from providing information to members of the community when they are most receptive to receiving it.

In summary the provisions referenced above remove key moments of connection and opportunity for CDFIs to engage with our communities. Narrowing these elements of community engagement is contrary to the CDFIs mission to expand economic opportunity for underserved peoples by discouraging community outreach. We encourage the CDFI Fund to allow CDFIs the flexibility to offer Development Services in the form most appropriate to each customer. Mandating how and when CDFIs provide Development Services as a condition for certification will: (1) unnecessarily increase the costs of delivering community development services and products; (2) put the CDFI Fund in the position of micromanaging how CDFIs serve their customers; and (3) remove the flexibility needed to tailor services to each customer. Such provisions will harm the customers living in the LMI communities that CDFIs are dedicated to serve.

“Target Market” (Pages 42 - 48)

New Options for Depository CDFIs

Ponce Bank welcomes the proposed change that allows depository CDFIs some flexibility in meeting the Target Market (TM) standard for Financial Products based on dollar volume and total number, as long as the standard for Financial Services is met based on total unique depository account holders. We concur with others in the industry, including CDBA, that the number of unique account holders is a better metric and will more accurately reflect the business model of CDFI depositories.

Ponce Bank also supports eliminating geographic boundaries and mapping requirements for Target Markets. This change will enable CDFIs to be more responsive to shifts in demand from eligible Target Markets. We support these changes to the extent they are implemented in the ACR.

Customized Investment Areas (CIAs)

Ponce Bank *urges the CDFI Fund to refine its proposed approach to the CIAs.*

For example, the CIA loses its utility for CDFIs by counting only the Financial Products and/or Financial Services within the boundaries of the mix of census tracts that comprise the CIA. Census tract data may not accurately portray economic distress. Census tract qualification is based on data from a distinct point in time that is only updated every five years. Economic distress may not be consistent across a census tract or bound by census tract delineations. Lending in non-qualified tracts is frequently located in tracts that are contiguous with qualified tracts. Lending nearby, but not within, a qualified tract may be just as beneficial to that tract. *This lending should not be excluded.*

Minimum Threshold

Ponce Bank strongly opposes increasing the Target Market test above a 60% minimum level for qualified census tracts within CIAs. The proposed requirement will force CDFIs into even more arbitrary and shifting borders. *We encourage the retention of the current Target Market test minimum level, 60%.*

Target Market Activity Attestation

On p. 45, the CDFI Fund stated: “No additional cure periods will be granted for a reporting entity that fails to meet the Target Market requirement based either on its most recently completed FY or a three-year period.”

This new policy should not be implemented in the ACR until the proposed policy is subject to a thorough public review. The CDFI Fund must also clarify the circumstance under which they would seek to recapture award funds if an entity lost its certification. We recommend that the CDFI Fund address these and other questions regarding its cure policy as part of a broader review.

Accountability (Pages 48 – 51)

We are encouraged that the CDFI Fund has taken steps to accommodate differences between regulated and non-regulated CDFIs in determining the right balance of “Accountability” representatives. In particular, we thank the CDFI Fund for establishing an “Advisory Board Only” option for holding companies and insured depositories to establish accountability.

However, we remain very concerned that the CDFI Fund’s Governing and Advisory Board Target Market Accountability Test proposal remains too narrow and rigid. Ponce Bank recommends that the CDFI Fund take a more flexible approach, and that the ACR not implement the following proposals, whether in the section generally addressing “accountability changes,” or in sections directly referencing their implementation.

Specifically, changes in the standards for accountability are invisible in the ACR but would be implemented through questions requiring CDFIs to attest whether “the reporting entity continues to maintain Accountability to its approved CDFI Certification Target Market(s) since its CDFI Certification was affirmed by the CDFI Fund.” (Page 48).

Accountability Attestation Changes Implemented Indirectly in the ACR

Board Membership as a Means of Accountability.

The CDFI Fund’s proposed application “eliminates the existing option of utilizing an Applicant’s board member’s participation on the governing or advisory board of an unconnected organization as a means of demonstrating accountability to a Target Market.”

Ponce Bank strongly opposes such a prohibition. It is a good and common practice for a CDFI’s employees to sit on the Governing Boards of other CDFIs given their strong expertise and intimate experience providing financial products and services to Target Markets. Ponce Bank employees are strategic Governing Board members because they understand both the needs of the Target Market and how to balance it with the needs of the organization.

Ponce Bank works hard to build relationships/partnerships in our community. This is, in itself, *an accountability enhancer*, and not a detraction. The elimination of this option should not be implemented in the ACR.

Mission-Driven Organization Executive Level Staff

Under the new proposal, *if an applicant relies on its relationships with a third party, mission-driven organization to contribute to its accountability, only Executive Staff may count. This is an unnecessary and potentially damaging restriction.* Both the “board membership” prohibition and the “executive staff” requirement risk two negative outcomes. First, individuals with attributes and skill that would otherwise support goals of the Accountability Test will be disqualified. Second, turning down such qualified individuals hurts low-income communities that need committed and experienced problem

solvers. Ponce Bank employs exceptional staff members throughout our ranks. By limiting accountability credit to executive staff, the CDFI Fund is discouraging further involvement by CDFIs in our Target Market Communities. Ponce Bank urges the CDFI Fund to reconsider these policies that will be harmful to CDFIs and communities.

Board Member Accountability – Low-Income Targeted Population

The proposed Application asks if the CDFI has "verified" board member income for board members listed as providing accountability to a "Low-Income Targeted Population as a Low-Income person." It is intrusive to require volunteer board members to provide tax returns or other documentation to verify low-income status. We strongly recommend that the Fund allow self-certification of income. We urge the CDFI Fund to ensure CDFIs are not required to certify that they have verified board member income in the ACR.

Accountability Attestation Changes Implemented Directly in the ACR

Financial Interest Policy

New in 2022, the CDFI Fund has proposed a policy that is intended to "prevent board members with certain types of financial interest in an organization being considered accountable to any Target Market component, as the financial interest may conflict with a board member's ability to effectively represent the interests of the Target Market." This policy should not be implemented in the ACR.

This policy conflates "financial interest" with "conflict of interest" in a way that will severely impair the ability of many CDFIs, especially regulated depositories, to connect with their communities. Financial interests are not necessarily conflicts of interest. It is standard for CDFIs of all types to have a policy in place to guard against conflicts of interest, but in many cases, it is good and valuable for Governing Board or Advisory board members to have financial interests in their CDFI. In some cases, it may even be a requirement that is fundamental to the institution's governance.

Institutional financial interests for board members, board members' family, or board members' employers, are already subject to Regulation O. For banks, this should suffice to avoid any financial conflict of interest. Further, bank regulators often *encourage* directors to "do business with their banks" in order to better understand them. This prohibition would rule out something as simple as directors having an overdraft line of credit to ensure their accounts are not overdrawn with their own institution.

Source of Investment Capital Table

This table does not make sense for regulated depository institutions. If an exemption for regulated institutions is intended, it should be made clear. For example, the liabilities of depositories are complex, and include potentially hundreds of thousands of individual deposit accounts. This table should not be applied to regulated institutions in the ACR. We refer the CDFI Fund to the comments of Sones and White Consulting, whom we paraphrase here:

In general, we believe regulated institutions should be exempt from this section. (1) They source their lending capital primarily using deposit funding, which is very different from all other CDFIs. (2) These CDFIs' sources of capital are already monitored by prudential regulators. (3) The CDFI Fund should be able to obtain whatever information it needs by auto-generating it from existing Call Report and FR-Y9 data.

If, however, the CDFI Fund determines it must have certain data that is not contained in existing regulatory financial reporting, then for regulated institutions the CDFI Fund should limit this requirement to certain specified data points and provide very clear instructions to regulated institutions regarding how they are to complete this table.

It is unclear which level of detail the CDFI Fund requires in the ACR. However, if the CDFI Fund is asking for every single deposit account to be reflected here, or even types of deposit, many of which are originated over narrow bands of time with only small, incremental changes in interest rate and term, this will be completely untenable. At a minimum, regulated depository institutions should be exempt from filling out a transaction-level table for their deposit funding because of the extremely high volume and high variance of deposit accounts involved.

If the CDFI Fund is instead requiring a summary table regarding all deposit funding, separated out by "Source of Capital," this would still be extremely difficult because the different "Sources of Capital" identified in the table do not align with how regulated institutions keep their depositor records. Classifying every one of our deposit accounts into one of the 19 listed categories would prove extremely difficult and we do not believe this information is necessary to serve the mission of the CDFI Fund.

Contributed Operating Revenue Table

The CDFI Fund must clarify how this table will be implemented in the ACR. Depository CDFIs are already subject to extremely detailed financial reporting requirements, and the information requested in this table does not track regulatory categories at all. The CDFI Fund should state clearly whether there is an intended exemption for depository CDFIs. If no exemption is intended, the table must be reconfigured to reflect regulatory categories.

Loans and Leases Table

Holding Company Subsection

The CDFI Fund should clarify whether the pre-populated data will come from the subsidiary bank's Call Report. The CDFI Fund should also address the question of what happens if a holding company has multiple subsidiary banks, some of which may not be CDFIs.

Transaction Level Report

The proposed Transaction Level Report (TLR) guidance does not include major changes, but rather gives the reported information additional utility. We support the fields that are included in the abbreviated TLR and have no objection to the addition of the Financial Services TLR and Loan Purchases TLR, as well as the new options that were added to the existing data fields.

TLR for Loans Purchased

The CDFI Fund must clarify how the guidance treats loan purchases. The TLR should only be applicable to CDFIs that elect to use loan purchases to comply with Target Market percentages, as was historically the case.

However, a note under the “Purpose” TLR field on page 15 says, “All loan purchases originated during the reporting period will need to be reported in the TLR Loan Purchases table.” If the CDFI Fund is departing from this historical option, the new rule should be justified and communicated more clearly.

Questions Related to Demographic Information of Customers

We appreciate the inclusion of the “Do Not Know” option for the TLR fields related to demographic information of customers including but not limited to the fields “Minority Owned or Controlled,” “Women Owned or Controlled,” and “Low-Income Status.” Many CDFI depositories do not currently track this information, for a variety of reasons, not the least of which are regulatory restrictions under the Equal Credit Opportunity Act (ECOA). It would be extremely burdensome (and in many cases impossible) for them to retroactively add this information to their reports. While this information may become more manageable in the future, it is important to preserve the flexibility for CDFI in the near term.

End Users

We agree with comments submitted by Sones and White Consulting that “‘End Users,’ used to count the number of financial products that are directed to a Target Market should be interpreted to include loans to for-profit and non-profit businesses *and* to count the Target Market residents and Other Targeted Population members that directly benefitted from the lending activity. This is especially important for LIHTC loans, which are extremely high dollar amounts, but currently only count once for CDFIs’ ‘by number’ percentage, although they directly benefit large numbers of Target Market residents.”

CONCLUSION

Ponce Bank deeply appreciates the consideration of the CDFI Fund and its staff in continuously seeking to improve the effectiveness of the CDFI certification process. We sincerely appreciate the opportunity to comment and offer feedback. We look forward to future discussion on these important issues.

If you have any questions, please contact:

Carlos P. Naudon

President & Chief Executive Officer
Ponce Bank
2244 Westchester Avenue
Bronx, New York 10462
(718) 931-9000 Ext 1105
Carlos.Naudon@poncebank.net

Madeline Marquez

Executive Vice President of External Affairs
Ponce Bank
2244 Westchester Avenue
Bronx, New York 10462
718-931-9000 ext. 1195
Madeline.Marquez@poncebank.net

Thank you for considering our recommendations.

Sincerely,



Carlos P. Naudon

President & Chief Executive Officer