



December 19, 2022

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

Re: Notice and Request for Comment on CDFI Target Market Assessment Methodologies (Document No. 2022-22767)

Dear Director Harris:

The Indiana Credit Union League (ICUL) appreciates the opportunity to respond to the Notice and Request for Public Comment issued by the U.S. Department of the Treasury's Community Development Financial Institutions Fund (CDFI Fund) regarding its proposed changes to the Target Market assessment methodologies process. The ICUL member credit unions represent 99% of assets and members of Indiana's credit unions, with those memberships totaling more than 2.8 million consumers. Currently, eight Indiana credit unions are CDFIs and the ICUL regularly engages with others that are interested in the process of becoming CDFIs.

We understand and appreciate the CDFI Fund's desire to increase transparency and reduce burden in the CDFI certification process. We also recognize the importance of having processes that help ensure that these critically important resources reach the underserved people and communities they are intended to benefit and that a CDFI certification can only be held by organizations that are truly and demonstrably focused on serving these Target Markets. Today's CDFI credit unions are eager to continue their important and impactful efforts and we look forward to more credit unions having the ability to become CDFIs in the future. However, we are very concerned that the list of proposed pre-approved Target Market assessment methodologies includes some methodologies that would put credit unions and other depository institutions in jeopardy of violating federal fair lending law and does not include current or potential methodologies that better fit how CDFI credit unions currently identify and serve Target Markets.

Conflict with Fair Lending Laws

Several of the proposed pre-approved methodologies would cause a lender to violate provisions of the Equal Credit Opportunity Act (ECOA) and Regulation B, which specifically prohibit a creditor from inquiring about a borrower's race, color, religion, national origin, or sex in connection with a credit transaction involving the purchase or refinance of the applicant's principal dwelling except for a few specific exceptions that do not include the CDFI certification process. Proposed pre-approved assessment methodologies for serving Other Targeted Population (OTP) for African American populations (OTP-AA.1 and OTP-AA.2) and Hispanic populations (OTP-Hisp.1, OTP-Hisp.2, and OTP-Hisp.3) would require individuals to self-report their race as African American or their ethnicity as Hispanic, or for the lender to guess the race or ethnicity of the member based on visual observation or

surname. Because these proposed methodologies would put credit unions in such jeopardy of violating the ECOA and Regulation B's prohibition on inquiring about that information, we believe that credit unions seeking CDFI certification would not have access to these pre-approved Target Market assessment methodologies.

Similarly, one of the proposed pre-approved assessment methodologies for Low Income Targeted Population (LITP) also appears to violate ECOA and Regulation B. LITP.1 would require CDFI credit unions to collect income data from "the entire family" of an individual in order to compare family income to HUD's income limits. Regulation B expressly prohibits a lender from requesting information concerning the spouse of a loan applicant unless the spouse will be involved in the transaction, or the applicant will rely on the income of the spouse for loan repayment. Beyond that, attempting to collect income information for everyone in a family would be extremely burdensome for the institution and invasive for the consumer. We are concerned that consumers facing this type of information request/requirement would choose not to seek financial services at a CDFI and instead seek services from non-CDFI and potentially predatory providers.

Methodologies Should Include Proxies

In each of these cases, we encourage the CDFI Fund to adopt additional pre-approved Target Market assessment methodologies that would allow for the use of any well-documented statistical proxies for individual race or ethnicity, and income data, including geographical proxies. For example, the CDFI Fund should permit majority-minority census tracts and/or block groups as a proxy for race and ethnicity-based OTPs. Likewise, we encourage the CDFI Fund to permit low-income census tracts and/or block groups as geographic proxy for LITPs. Today, there are many qualified third party vendors providing accurate and effective tools that enable depository institutions to identify the likely race, ethnicity, and income levels of borrowers and account holders in compliance with fair lending laws and regulations. CDFIs should be able to fully utilize these resources to identify and serve their Target Markets.

The CDFI Fund Should Include an Asian American and Pacific Islanders OTP

The CDFI Fund should also add Asian Americans and Pacific Islanders as an OTP Target Market. With the CDFI Fund already in the process of finalizing its Minority Lending Institution (MLI) designation that will recognize institutions serving Asian Americans and Pacific Islanders as MLIs, it makes sense for the CDFI Fund to add the group as an OTP Target Market. Research has shown significant disparities in lending outcomes based on the nationality of AAPI borrowers. For example, a 2021 CFPB report documented that mortgage applicants who reported their nationality as Vietnamese, Native Hawaiian, Guamanian, or Samoan experienced mortgage denial rates that exceeded those of Hispanic white mortgage applicants and approached the denial rates experienced by Black mortgage applicants. These findings underscore the need for CDFIs to serve low-income AAPI communities.

Smooth Process for Alternative or Modified Target Market Assessment Methodologies

We appreciate that one of the purposes of providing pre-approved options is to streamline and simplify the CDFI certification process or the process for modifying a Target Market. Additionally, we appreciate that the request for comments notes that there also will be a process for a CDFI to seek to use an alternative or modified Target Market assessment method by submitting a service request through the Awards Management Information System (AMIS). We strongly encourage the CDFI Fund to ensure that

this process runs as smoothly as possible and acknowledges Target Market assessment methodologies that have previously been considered and approved but are not included in the pre-approved list.

Conclusion

CDFI credit unions play a critical role in their communities, and we appreciate the efforts the CDFI Fund is making to improve the CDFI certification process. As we discussed, we are very concerned with potential negative impact on CDFI credit unions of several of the pre-approved Target Market assessment methodologies being proposed and we strongly hope that you will consider our views and the views of many others to make changes. Thank you again for the opportunity to comment and provide feedback. If you have any questions about our letter, please do not hesitate to contact me at (317) 594-5320 or johnm@icul.org.

Sincerely,

A handwritten signature in black ink that reads "John McKenzie". The signature is written in a cursive style with a large, stylized "J" and "M".

John McKenzie, President
Indiana Credit Union League