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Subj: Comments on Proposed Annual Certification Report (ACR) and Certification Transaction Level Report (CTLR)

Dear Mr. Bischak:

On behalf of Inclusiv¹, I would like to thank you for this opportunity to submit comments on the Notice of Information Collection and Request for Public Comment published by the CDFI Fund in the Federal Register on May 7, 2020. As a CDFI-certified intermediary, a founder of the CDFI movement, and a trade association representing more than 300 community development credit that serve more than ten million residents of low-income and underserved communities across the country, Inclusiv is deeply committed to strengthening the CDFI Fund and the CDFI industry. Credit unions are a central pillar of this industry; CDFI credit unions account for more than 75% of total CDFI assets and serve more people than the rest of the CDFI industry combined. For this reason, we strongly support the collection of data that helps to describe the scale, scope and impact of CDFI credit unions and the rapidly growing CDFI industry as a whole. We also support the collection of data that strengthens compliance and provides useful management information for CDFIs themselves. However, we cannot support the Annual Certification Report (ACR) and Certification Transaction Level Report (CTLR) in its proposed form.

Inclusiv believes that CDFI data collection should be:

- strictly limited to information required for specific and identifiable business purposes (e.g., compliance with Assistance Agreements, reports to Congress);
- proportionate to participation in -- and benefits from -- CDFI programs (e.g., CDFI Financial Assistance, Capital Magnet Fund, NMTC awards);
- consistent with other CDFI and regulatory reporting systems in terms of timing and content without duplication, conflict or redundancy
- completely free from risk that a data breach would compromise sensitive and confidential consumer information; and
- consistent and complementary with CDFI performance management information systems.

¹ Inclusiv is the new name of the National Federation of Community Development Credit Unions

We are deeply concerned that the proposed data collection fails to meet these standards and, if implemented, would render CDFI Certification unsustainable for countless CDFI credit unions across the country. The letter below summarizes our specific concerns and offers some practical alternatives to strengthen compliance and promote continued credit union participation in the CDFI movement.

Major Concerns

CDFI credit unions are regulated, insured depositories that have extensive experience with complex and secure reporting. Every quarter credit unions provide more than 2,500 fields of financial data to regulators that are reflected in public call reports, and every NCUA examination requires credit unions to provide detailed and confidential account-level AIREs data through highly secure channels. In return for these complex reports, credit unions receive clear and commensurate benefits; deposit insurance up to \$250,000 on each and every member account plus transparent industry-wide data that facilitates peer comparisons and performance management. Credit unions also receive assurance that confidential member data will be protected to the fullest extent possible. That said, no cyber security system is impenetrable; like countless private sector corporations and financial institutions, NCUA itself has experienced data breaches of confidential member information.

The CDFI Fund has proposed that all CDFIs submit detailed data on every loan transaction every year simply to retain certification. The proposed ACR/CTRL process raises the following significant concerns.

1. **Security of Confidential Member Data:** The CTRL system – as amended in recently released FAQs -- would require the upload of two files, linked by transaction IDs, that contain sensitive data on member home locations and financial transactions. While the CDFI Fund has promised that “transactional address and latitude and longitude data will be purged” to protect confidentiality, the risk of a data breach is a real and present danger. Credit unions simply cannot risk the irreparable harm that would result from such a breach merely for the privilege of CDFI certification. And certification alone is the sole benefit of this process, as explained in point number 2, below.
2. **Disproportionate Burden for Small and MDI Credit Unions:** The CDFI Fund proposes to exempt all recent Financial Assistance (FA) awardees from the ACR – a sensible and welcome move to reduce the wasteful cost of redundant reporting. However, depository CDFIs with FA awards only submit Transaction-Level Reports (TLRs) for commercial and real-estate loans; all other loans are reported in aggregate at the census tract level in the Consumer Loan Report (CLR). By contrast, the proposed CTRL does not allow data to be aggregated but demands line-by-line reporting of every loan of every type. In short, the CDFI Fund would impose its most costly and risky transaction-level reporting requirement on CDFIs that have received the least capital benefits from their certification. Experience shows that these costs fall disproportionately on credit unions that can least afford them; small and minority designated (MDI) credit unions. There is ample evidence of this disparate impact; since the current ACR was introduced in 2016 95 active credit unions serving 1.5 million members in 30 states have allowed their certifications to lapse. Of these lapsed CDFIs, 73% are small credit unions and 25% are Minority Depository Institutions that remain fully eligible for certification.
3. **Inconsistent Data Collection for Consumer Loans:** As noted above, the transaction-level reporting requirements of the CTRL for non-FA awardees exceed those of the Consumer Loan

Report (CLR) for CDFI depositories that receive FA awards. One of the key strengths of the current CLR is its absolute protection of confidential consumer data and relatively straightforward aggregation at the census tract level, yet CDFIs that have invested in systems to fulfill the requirements of the CLR would now be asked to invest in a parallel system to prepare CTRLs that have slightly different technical specifications, data formats and submission requirements.

4. **Exponential Growth in Cost of Report Preparation and Error Correction:** One of the key weaknesses in the current CLR grant report is the sensitivity of AMIS to even the smallest of software-induced errors – such as the removal of a leading zero from a census tract FIPS code. These small errors can generate multiple error reports and require significant staff time to identify, correct and re-upload, including service requests, emails and phone calls with technical staff at the CDFI Fund. The CTRL would multiply these costs for credit unions by a factor of twenty: (i) by doubling the number of credit unions required to submit these reports (currently 160 credit unions – fully half of all that are certified -- do not have FA reporting obligations and would be subject to the CTRL); and (ii) by requiring transaction-level reporting of consumer loans, which will require more than ten times more lines of data than the aggregated CLR for FA awardees. If the proposed system had been in place this year, 160 CDFI credit unions would have been required to submit ACR reports with more than 1.4 million lines of transaction data uploaded through the CTRL in AMIS. Based on experience with the current grant reporting system, we would expect such volume to generate errors that would occupy staff at credit unions and the CDFI Fund for months.
5. **Lack of Identified Business Need for Transaction-Level Data from Non-Awardees:** The CDFI Fund has a clear business need for detailed reports to verify compliance with Assistance Agreements attached to capital grants. For CDFIs without FA awards, the CDFI Fund has two clear business requirements: (i) verification that credit unions meet standards for certification; and (b) data that can describe the scale and scope of CDFI activities in reports to congress. Transaction-level loan data is not necessary to meet either of these requirements – especially when more efficient and reasonable alternatives exist.
6. **Incompatibility and Conflict with Existing Institutional and Regulatory Systems:** The CTRL is designed as a sealed system that would provide post-facto classifications of transactions for two eligible Target Markets: Investment Areas (IAs) and, for the first time, Low-Income Targeted Populations (LITP). Inclusiv strongly supports the creation of an automated system for LITP classification comparable to the approach long in use by NCUA for Low Income Designation, but the proposed CTRL is incompatible with the performance management systems of CDFI credit unions in two critical areas:
 - a) **Lack of Batch Address/API Interface for Pro-Active Target Market Classification:** The word “target” implies something that can be seen, but the proposed CTRL will keep LITP geographies invisible until after the transaction-level data is submitted. CDFIs need the ability to identify target markets in advance and in real time, not at the end of the performance period.
 - b) **Inconsistency with NCUA Low Income Geographies:** The proposed CTRL would classify LITP based on a 12-digit code that identifies Census Block Groups, but the proposal does not acknowledge that every year NCUA releases a detailed and updated list of Low Income

Geographies that includes 12-digit Census Block Groups. Without coordination with NCUA the CDFI Fund is likely to create a parallel low-income classification system that conflicts with the established regulatory standard and obligates credit unions to track two separate low-income classifications for all of their members.

A Better Way Forward

Inclusiv believes the proposed ACR/CTRL would cripple the CDFI industry and deprive countless communities of desperately needed access to capital and financial services. Fortunately, there are better alternatives.

First, to address concerns about data security, the CDFI Fund should design its enhanced mapping system to provide Investment Area (IA) and Low Income Targeted Population (LITP) classifications based on a simple upload of addresses – without any loan data of any kind. This would eliminate any risk to sensitive consumer information. It also would help CDFIs to identify, track and manage activities and impacts in CDFI Target Markets – a clear benefit to the field. To further protect consumer privacy, any consumer loan activity should not be reported as individual transactions, but rather in aggregate at the census tract level, as is currently required for FA Consumer Loan Reports (CLRs).

Second, we believe a more efficient and equitable reporting system must be appropriately scaled for three categories of CDFIs:

1. **FA Awardees**: FA awards provide significant capital and require a significant degree of transaction-level reporting for grant compliance. As proposed by the CDFI Fund, we agree that FA awardees therefore be exempt from a second transaction-level report for annual recertification.
2. **Non-FA Awardees that intend to apply for FA**: CDFIs that wish to apply for FA can reasonably be asked to provide more detailed activity data for the review of their FA application. This supplemental data should be aggregated at the census tract level, as is done with the CLR.
3. **Non-FA Awardees that do not intend to apply for FA**: CDFIs that do not intend to apply for FA should be able to recertify by submitting a streamlined ACR with data on target market lending activities aggregated at the institutional level. If the CDFI Fund needs better data on the geographic distribution of loans for its reports to Congress, non-FA awardees could be required to report loan data aggregated at the county level. Attestations should be retained as the default mechanism for the majority of remaining recertification tests, while reserving the right to conduct audits and review of public records as appropriate.

Finally, Inclusiv believes that any data collection proposed by the CDFI Fund can only be evaluated in the context of all current and proposed requirements. Over the past five years CDFIs have experienced numerous changes in report formats and due dates that overlap or conflict with other CDFI and regulatory reporting obligations. We believe the CDFI Fund should develop, in consultation with the CDFI field, a comprehensive schedule for all reports and data collection instruments that are consistent across CDFI programs.

Inclusiv believes that a reporting system structured along these lines would protect consumer information, ensure compliance and provide the CDFI Fund and industry with the data needed to expand our reach and impact.

Again, many thanks for this opportunity to comment.

Sincerely,



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Senior CDFI Specialist
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