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CDFI Fund
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Subj: Comments on Proposed Changes to CDFI Certification Application

Dear Ms. McInnis:

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 unions that serve more than ten million residents of low-income, underserved urban and rural communities across the country, Inclusiv is deeply committed to strengthening the CDFI Fund and the CDFI industry.

Credit unions are a central pillar of the CDFI movement; 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 efforts to establish clear, strong and consistent standards for CDFI certification, with an efficient and effective Certification process that facilitates entry for eligible institutions and denies entry to those that are not. Unfortunately, the proposed CDFI Certification Application would not achieve these objectives. Instead, the proposed application erects significant and costly barriers that would dissuade and exclude many highly committed and fully qualified CDFIs while still allowing entry to less scrupulous institutions backed by the resources needed to game a needlessly complex and inefficient application. Without fundamental changes, the proposed application would encourage an exodus of credit unions from the ranks of certified institutions, depriving the CDFI movement of an irreplaceable source of community-based capital, innovation, impact and integrity.

Inclusiv does not believe that the proposed CDFI Certification Application can be repaired by simple adjustments, corrections and alterations. In just 44 pages of the proposed application we have noted 96 specific areas that require substantial modification, extensive restructuring or simple deletion². We note that many of our CDFI partners have similar long lists of exceptions to the proposed application. Indeed, the depth and breadth of these concerns have led us to join our partner CDFI trade associations in a call for the CDFI Fund to engage in series of substantive consultations with the CDFI industry as part

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

² Inclusiv's specific concerns relate to the following sections of FR Cert Application 2020-09747: Key Definitions (pp 3-4); Applicant Basic Information (pp 9-10); Legal Entity (pp 26-28); Primary Mission (pp 29-42); Target Market (pp 53-61); Development Services (pp 62-67); and, Accountability (pp 68-79).

of a substantial redesign of the application, with a redesigned proposal published for a second round of formal comments prior to implementation.

This letter does not list each of Inclusiv's 96 specific exceptions to the proposed application, as many of our concerns are connected to fundamental changes that are needed to the application's underlying strategy and structure. Instead, this letter summarizes our comments according to the outline of the proposed application and offers alternative approaches that would address our major concerns. Our responses to the specific questions asked in the Request for Public Comment are contained in the Annex to this letter.

Summary of Major Concerns and Alternatives

1. Key Definitions (pp 3-4)

a) Major Concerns

Inclusiv is concerned that the proposed definitions of financial products and services have been developed without regard to the regulatory environment occupied by banks and credit unions. Our concerns for each category of proposed definitions are summarized below.

- **Financial Products:** As regulated entities, credit union financial products are defined by regulatory standards. For example, the National Credit Union Administration (NCUA) provides credit unions with specific instructions for how financial products should be classified and reported in quarterly 5300 call reports, including the proper accounting of loan participations as new lending activity – incidentally, a loan product that does not appear on the CDFI Fund's list.
- **Financial Services:** Inclusiv is grateful for the CDFI Fund's efforts to recognize the importance of financial services for CDFI depositories. However, the fatal flaw lies in the proposed methodology for counting financial services, which is apparent from definitions that blur the lines between account *types* (e.g., checking and savings) and account *features* (e.g. check-cashing, ATMs). Financial services are an area of dynamic innovation and expansion, with features such as mobile banking, billpay, PopMoney™, remote deposit, no-contact payment, text alerts and other high-impact services rapidly moving from the cutting edge to standard practice within one or two years. Yet the CDFI Fund proposes that any financial services not on their list – such as all that were listed in the previous sentence – must be “specially approved by the CDFI Fund to be recognized as a Financial Service.” There is no explanation of why such “recognition” would matter, since the CDFI Fund specifies that only the narrowest slice of financial services – “the direct holding of depository accounts” -- would count for the Target Market test. As further explained in the FAQs released by the CDFI Fund, the Target Market test only would count new depository accounts opened during the prior fiscal year. This well-intentioned attempt to “count” financial services suffers from four fundamental flaws:
 - i. The number of accounts is a significantly biased measure, since wealthier members will always have many more savings, money market, investment, IRA Keogh and other accounts than our low-income members.

- ii. High frequency financial services such as check cashing, pre-paid debit and money orders are critically important to many low- and very-low income consumers, but the volume of these services is not captured by counting deposit accounts.
- iii. Specialized deposit accounts like certificates of deposit are tools for asset/liability management, with the number of accounts opened in a year subject to large fluctuations based on external factors such as, cost of capital, liquidity and lending – factors that are essential for credit unions to serve CDFI Target Markets but do not reflect the delivery of financial services in CDFI Target Markets.
- iv. While the *number* of new deposit accounts is a relatively meaningless measure for credit unions, the CDFI Fund’s proposal would incentivize the costly collection of irrelevant data, which would diminish focus on meaningful financial services and open the door for unscrupulous players who could easily manipulate the “number of new deposit accounts” metric.

b) Better Alternative

- **Financial Products:** While key product definitions may be useful and necessary for unregulated CDFIs, the CDFI Fund should defer to the definitions provided by regulatory authorities for banks and credit unions. To avoid confusion, the application should clearly state that CDFI banks and credit unions are expected to follow the applicable guidance of their regulators for defining and reporting financial product activities.
- **Financial Services:** Since it is not possible to “count” total financial service activities, a better proxy measure would be the total number of unique and active members served by credit unions (or the number of unique account holders served by CDFI banks). This would provide a more accurate indicator of the full range of access to financial services -- without giving more weight to wealthier members who will always have more deposit accounts. It would also eliminate any incentive to manipulate “new” account openings or saddle low-income members with more accounts than they require – a practice that lay at the heart of a major bank scandal in 2016.

2. Applicant Basic Information (pp 9-10)

a) Major Concern

After more than two decades of credit union certifications Inclusiv is disappointed to find that the CDFI Fund still does not recognize a fundamental philosophical and legal requirement for all credit unions; specifically, that all credit unions are financial cooperatives governed by a board of directors who are democratically elected by members on the basis of one-member, one vote. This requirement applies equally to every credit union, whether chartered at the federal level by NCUA, by state regulatory authorities or by COSSEC in Puerto Rico. Nevertheless, the proposed Basic Information section includes ten questions that ask credit unions to demonstrate through short answers and uploaded documentation that their governing boards are democratically elected by members.

b) Better Alternative

The Certification Application should recognize that all credit union boards are democratically elected by membership and recognize that democratic governance ensures accountability to all segments of a credit union's membership. As noted in the Accountability section below, the "special" provision for credit union accountability should be available for any type of CDFI that has a governing board democratically elected by the people they serve. If CDFI Fund does extend this provision to any democratically governed CDFI, then these questions may be appropriate for non-credit union CDFIs that wish to qualify for the special provision.

3. Legal Entity (pp 26-28)

a) Major Concern

Inclusiv is concerned that Legal Entity verification remains substantially unchanged from the cumbersome manual process introduced with the first certifications in 1996. The proposed application continues to rely on copies of historic documents to confirm the legal status of each CDFI; a costly process that ultimately does nothing to establish whether an entity is an active legal entity. For example, after decades of consolidation in the financial sector there are literally thousands of inactive banks and credit unions that no longer exist for which the full list of documentation requested by the CDFI Fund could be provided.

b) Better Alternative

The Federal Government's System for Award Management (SAM.GOV) conducts due diligence and validates the legal and operational status of institutions without need for submission of historical organizational documents to the CDFI Fund – or lengthy review by CDFI Fund staff. The Legal Entity test could be streamlined by requiring all applicants to complete their registration with SAM.GOV, which would provide efficient due diligence on legal status and also would ensure that all certified CDFIs are prepared to apply for CDFI financial awards. New CDFIs frequently miss the opportunity to apply for FA and TA grants because their SAM registrations are not completed in time, but early SAM registration would prevent this from ever happening again.

4. Primary Mission Test (pp 29-42)

a) Major Concerns

Inclusiv recognizes the CDFI Fund's desire to discern an organization's primary mission through a review of its activities, but the proposed attempt to set objective boundaries for all varieties of financial products and financial services is akin to trying to build a permanent wall around a dynamic and rapidly growing community. The CDFI Fund is not a regulator and does not have the capacity to establish static boundaries for acceptable products and practices in a financial sector undergoing accelerating innovation. Nevertheless, the proposed application attempts to do just that. In so doing, the application does not acknowledge that credit unions and other regulated CDFIs already operate within strict parameters imposed by our regulators and CFPB to safeguard against predatory products and practices. Instead, the section requires regulated CDFIs to describe each and every product and service in a virtually endless series of repetitive questions with limited drop-down choices and descriptive narratives. The drop-down options

themselves are deeply problematic, with non-standard terminology (e.g. “below market rate,” “lower than standard,” “less established,” “mainstream underwriting criteria,” etc.) that would distort the view of a credit union’s ever-evolving business model and yield little insight into its primary mission.

Our review of the proposed Primary Mission section identified significant concerns with almost every question that would be asked of credit unions. We find the design of the proposed Primary Mission section to be fundamentally flawed in two significant ways:

- i. it would impose disproportionate costs on regulated CDFIs that offer a comprehensive and ever-evolving range of products and services; and,
- ii. it would not achieve the intended goal of protecting the integrity of CDFI certification but would be an ineffective and porous barrier that could be easily breached by unscrupulous institutions seeking to “game” the certification process.

b) Better Alternative

Inclusiv believes an efficient and effective Primary Mission test would include the following elements:

- ***Strong and Informed Support from Governing Board:*** The CDFI Fund proposes to continue the current practice of parsing documents and checking dates to see if there is a paper trail with sufficient evidence of primary mission. While virtually all credit union bylaws contain language that speaks to a mission of community development, the CDFI Fund’s time-consuming desk review does not yield useful insight into organizational commitment. While NCUA requires credit union boards to formally accept low-income designation, CDFI certification has never required any comparable participation from governing boards. We believe the Primary Mission test should require applicants to submit board resolutions that:
 - i. attest to the institutional commitment to the CDFI mission;
 - ii. provide a brief narrative to summarize activities that demonstrate that commitment; and,
 - iii. confirm that the board understands the seven certification requirements and obligations for annual recertification and reporting.
- ***Attestations of Consumer Protection:*** The CDFI Fund could ask certification applicants a series of questions that would identify any products or practices that exceed design parameters established by financial regulators or CFPB and whether they have been the subject of consumer complaints, lawsuits or judgements. Regulated entities would be asked to attest that all products and services adhere to regulatory standards and whether they have received a negative finding related to consumer regulations. Applicants would be able to provide narrative explanations for any exceptions to the requested attestations.
- ***Due Diligence on Consumer Protection:*** Based on the attestations provided by applicants, the CDFI Fund can conduct due diligence with regulatory authorities and public reporting agencies such as the Consumer Financial Protection Bureau (CFPB), Better Business Bureau,

state and local authorities and media scans. The CDFI Fund should also review consumer-facing product information to further validate the attestations. Any exceptions noted in the due diligence process would require additional follow-up with certification applicants before making a final determination.

A Primary Mission test structured along these lines would take full advantage of existing regulatory and consumer protection structures and would redirect the energies of the CDFI Fund away from the inward scrutiny of application data and outward to an open review of institutional operations, communications and consumer performance in the real world.

5. Target Market Test (pp 53-61)

a) Major Concerns

The CDFI Fund has proposed that Insured Depositories could qualify for a lower (i.e., 50%) threshold for Target Market financial product activities provided that more than 60% of “financial services” are in CDFI Target Markets. We support the CDFI Fund’s effort to recognize the special obligation of depositories to diversify risk across markets and the challenges that CDFI depositories may face in meeting a strict 60% target market lending standard. Indeed, 2020 provides ample evidence of the need for flexibility on the dollar side of the Target Market test, particularly for banks and credit unions with significant mortgage lending operations. For example, low interest rates from the current pandemic and economic crisis have fueled a tremendous boom in mortgage refinancing across the country. For a CDFI credit union, one single Jumbo mortgage that is refinanced outside their CDFI Target Market can be as large as ten affordable housing loans inside their Target Market. In other words, even if more than 90% of mortgage loans are issued in CDFI Target Markets, they may only account for 50% of total financing dollars. CDFI credit unions across the country are confronting this challenge in real time; while the current refi boom provides much-needed income that allows increased lending in CDFI Target Markets, the large size of the average refi drags down the calculation of dollars deployed in CDFI Target Markets and puts their certification at risk.

As this example illustrates, the CDFI Fund has correctly determined that Insured Depositories require a measure of flexibility in meeting the Target Market test for certification. However, the CDFI Fund’s proposal to condition this flexibility on the provision of financial services – as measured by *number of new deposit accounts* – is fundamentally flawed by its overwhelming bias. As noted in the “Key Definitions” comments above, some of the most critical innovations in financial services in recent years – mobile banking, text alerts, cashless payments and the like – are delivered as features of deposit accounts, not as new deposit accounts in and of themselves.

The additional problems with this approach, as noted above, bear repeating:

- i. Wealthier members will always have many more savings, money market, investment, IRA Keogh and other accounts than low-income members, so contrary to the democratic governance ethos of credit unions, wealthier members will be counted more than low-income members.

- ii. High frequency financial services such as check cashing, pre-paid debit and money orders are critically important to many low- and very-low income consumers, but the volume of these services is not captured by counting deposit accounts.
- iii. Credit unions use specialized deposit accounts, such as certificates of deposit, as tools for asset/liability management with the number of accounts opened in a year subject to large fluctuations based on external factors such as cost of capital, liquidity and lending – factors that are essential for credit unions to serve CDFI Target Markets but do not reflect the delivery of financial services in CDFI Target Markets.
- iv. The *number* of new deposit accounts opened in any given year is a relatively meaningless measure for credit unions, but the CDFI Fund’s proposal would incentivize the costly collection of this irrelevant data, which would diminish focus on meaningful financial services and open the door for unscrupulous players who could easily manipulate the “number of new deposit accounts” metric.

These fundamental flaws in the proposed financial services test for Insured Depositories means it could never actually be used by the CDFI credit unions and banks for which it was intended. As a result, many large CDFI depositories that consistently lend more than 50% of their dollars in CDFI Target Markets – and were historically certified on that basis – would be forced to leave the ranks of CDFI certified institutions.

b) Better Alternative

Inclusiv supports the CDFI Fund’s proposal to lower the Target Market percentage for financial products of Insured Depositories to 50%, but we believe that threshold should only be lowered for dollars deployed – not for number of loans. In short, Insured Depositories – and perhaps all CDFIs -- should be able to fulfill the Target Market requirement for certification provided that:

- More than 50% of the total dollar volume of financial products are deployed in CDFI Target Markets
- More than 60% of the number of financial products are deployed in CDFI Target Markets

In the absence of any standard, meaningful or practical measure of financial services activities that could be tracked and reported by Insured Depositories, Inclusiv recommends that the CDFI Fund does not use the number of deposit accounts as a proxy for this purpose. If the Fund believes an additional Target Market metric is warranted, it may consider a test to verify that more than 60% of unique members (for credit unions) or unique account holders (for banks) are in CDFI Target Markets. The use of unique members or unique account holders is a stronger proxy measure for financial services as it more accurately reflects the reach of financial services in the communities served. The metric is also rooted in a meaningful number that is tracked and publicly reported by credit unions and subject to regulatory examination.

6. Development Services Test (pp 62-67)

a) Major Concerns

The proposed application narrows the definition of Development Services and adds a number of inflexible requirements that rule out many of the most effective educational, counseling and coaching services we provide to our members. For example, the CDFI Fund proposes to eliminate consideration of any one-on-one support provided in conjunction with a product or service. This ignores considerable research – including recent work by Inclusiv and CFSI -- that challenge the effectiveness of stand-alone financial education and counseling and instead emphasize the importance and positive impact of delivering key messages at “teachable moments,” specifically in conjunction with the delivery of appropriate products and services³. In a sense, the CDFI Fund has proposed that meaningful driver training can only take place as a stand-alone activity in a classroom, and anything delivered behind the wheel of an actual car simply does not count.

The narrowed definition of Development Services strikes out a number of other activities that many credit unions consider to be important ways to connect unbanked and underbanked communities with credit union products and services. For example, community educational events, marketing events and activities, and youth financial education are not considered, even though all of these can be important activities that build financial capability among credit union members.

b) Better Alternative

With the rapid expansion of online learning and the COVID-accelerated need to deliver content without in-person contact, the CDFI Fund should acknowledge a broader range of Development Services activities.

7. Accountability Test (pp 68-79)

a) Major Concerns

The proposed application offers a “special provision” for credit unions to demonstrate Target Market Accountability, but the draft provision reflects a lack of understanding about corporate governance in general and cooperative institutions in particular. The “special provision” only recognizes the accountability of democratically elected boards for target markets that make up more than 50% of credit union members. In corporate governance, more than 50% of voting shares is defined as a “controlling interest,” but activist investors do not need a controlling interest to hold corporate boards accountable; they demand accountability -- and even change board composition -- with as little as 4% of voting shares. Nevertheless, the CDFI Fund maintains that democratically elected board members are not accountable to large segments of their members, simply because they do not represent a controlling interest. This is an unsupportable position; credit union boards are democratically elected on the basis of one-member, one-vote; they are directly accountable to all members, not just a majority that is defined through a narrow lens of Target Market characteristics.

³ The Pathways financial counseling and coaching model, developed by Inclusiv and Neighborhood Trust Financial Partners and currently in use by more than 30 CDFI credit unions, is specifically designed to integrate the delivery of counseling and coaching with appropriate credit union products and services.

While the CDFI Fund has focused on a limited set of proxy indicators for Target Market accountability, the proposed application makes no mention of diversity, equity and inclusion (DEI). Since the inception of certification CDFIs have been deemed fully accountable to their Target Markets, whether or not their boards are at all representative of the racial, ethnic and gender diversity of the communities they serve. While the status quo in corporate board rooms – and even among many high-performing CDFIs – is less than fully representative, this is a reason to elevate the discussion of DEI, not ignore it. Inclusiv is concerned that the absence of any consideration of DEI in CDFI certification reduces the concept of accountability to a narrow technical question and diminishes the power of CDFIs as agents of meaningful, positive change.

b) Better Alternative

Inclusiv believes the Accountability test should have two components: (i) Target Market Accountability test; and, (ii) Plan to Promote Diversity, Equity and Inclusion.

(i) Target Market Accountability:

- Any CDFI that has a governing board that is democratically elected by the people they serve should be deemed accountable to any Target Markets that meet the Target Market test for certification. Credit unions should be automatically recognized as democratically governed financial institutions; other types of CDFIs would need to demonstrate to their democratic governance to qualify for the special provision.
- CDFIs that are not democratically governed would be evaluated based on the CDFI Fund's proxy indicators of accountability for governing and advisory boards. Inclusiv will defer to our CDFI partners for specific recommendations on evaluating non-credit union Accountability.

(ii) Plan for Diversity, Equity and Inclusion: Inclusiv understands that the CDFI Fund cannot suddenly require all CDFIs to have fully representative governing boards, but we do believe that all CDFIs can be asked to have a plan. A redesigned Accountability section could ask CDFIs for two pieces of information:

- the degree to which governing and advisory boards reflect the characteristics of the communities they serve; and,
- their plan to move towards and/or maintain diversity, equity and inclusion in their financial institution.

Conclusion

The Request for Public Comment listed five policy objectives for the revised certification policies and objectives, but the proposed revisions fall far short on all fronts. Instead, as shown in the examples provided above, the proposed revisions are far more likely to:

1. **Reduce the diversity of CDFI Types, activities and geographies** by generating an exodus of credit unions from the CDFI field due to increased cost of basic compliance, inconsistency with regulatory

standards and incompatibility with business practices -- with severe impacts on larger mortgage lenders as well as with small and minority-designated credit unions;

2. **Stifle growth, reach and innovation among CDFIs** by requiring a bureaucratic “approval” process for every new financial product or financial service added by individual CDFIs, with no clearly defined purpose for these approvals;
3. **Weaken the CDFI Brand** by discouraging participation of regulated institutions and increasing the compliance costs of legitimate CDFIs while still allowing the entry of questionable actors that can exploit loopholes in the process;
4. **Maximize burden on CDFIs by imposing costly collection of data with little utility**, including the exhaustive descriptions of every financial product and service, demand for historic organizational documentation, onerous requirements for Development Services and unnecessarily detailed collection of transaction-level data on millions of loans; and,
5. **Reduce efficiency of CDFI Fund staff in rendering CDFI Certification determinations** due to the increased volume and complexity of applicant data that would need to be reviewed, increased likelihood of technical delays in processing of transaction data, incompatibility with regulatory standards, and lack of integration with existing systems for due diligence (i.e., SAM.GOV) and financial regulation (e.g., NCUA, FDIC, CFPB).

Inclusiv is proud of our status as a certified CDFI and representative of CDFI credit unions across the country. We strongly support the continuing efforts of the CDFI Fund to develop a certification application that strengthens our field and hope that our comments will contribute to that goal.

Thank you again for this opportunity to comment. As always, we would welcome the opportunity to discuss any of our comments or recommendations at your convenience.

Many thanks for your consideration.

Sincerely,



Terry Ratigan
Senior CDFI Specialist
Inclusiv

Copies: Jodie Harris, Director, CDFI Fund
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Pablo DeFilippi, SVP, Membership and Network Engagement, Inclusiv
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Clarissa Ritter, Vice President, Marketing & Communications, Inclusiv
Jules Epstein-Hebert, Director of Membership, Inclusiv

Annex

Responses to Specific Questions from the CDFI Fund

1. ***Is the information that will be collected by the revised application necessary and appropriate for the CDFI Fund to consider for the purpose of CDFI certification?***

Response: No. As explained in the body of our comment letter, above, the revised application would collect a significant amount of documentation and data that is irrelevant, inappropriate and unnecessary for the CDFI Fund to determine if an applicant meets threshold requirements for the Legal Entity, Primary Mission, Target Market, Development Services, and Accountability tests. Inclusiv is concerned that the volume of unnecessary information would impose a costly burden on CDFIs and the CDFI Fund itself, which already has difficulty completing timely reviews and determinations of much more concise certification applications, target market modifications, CLR/TLR grant reports and annual recertification reports.

2. ***Are certain questions or tables redundant or unnecessary?***

Response: As noted in our comment letter, Inclusiv has noted 96 specific areas that require substantial modification, extensive restructuring or simple deletion within just 44 pages of the revised application. For this reason we recommend a substantial redesign of the proposed application.

3. ***Should any questions or tables be added to ensure collection of relevant information?***

Response: Most of our recommendations would remove or reduce the number of questions and tables, such as the needless and repetitive descriptions of every financial product and financial service. But as noted in our comment letter, Inclusiv also recommends that the CDFI Fund add questions on Diversity, Equity and Inclusion to the Accountability section of a redesigned application.

4. ***Are there questions where the intent or the purpose of the question is not clear? If so, which questions, and what needs to be clarified in order to provide a comprehensive response?***

Response: There are numerous questions for which the purpose is unclear. For example, it is not clear how the CDFI Fund will use the exhaustive (yet still significantly incomplete and misleading) data and information requested on every financial product and service to divine the Primary Mission of applicants. There also is no clear purpose for the CDFI Fund's proposed "approval" of financial products and services that are not listed in the limited menu of options on the revised application, or what would be the basis for approval or disapproval of such products. The CDFI Fund also has not described how the review of historic organizational documentation establishes its current Legal Entity status, nor how the number of new deposit accounts is a meaningful measure of financial services. Inclusiv believes the large number of needed revisions or simple deletions of questions is due to fundamental structural or strategic

elements that miss the mark. For this reason, Inclusiv has recommended a significant redesign of the proposed application.

- 5. *Are there questions that would require additional guidance to respond adequately? If so, which questions, and what type of instructions would be helpful in order to be able to provide a response?***

Response: It would be a mistake to focus on the need for additional guidance for questions that need to be extensively revised or removed altogether.

- 6. *What is a reasonable grace period for currently certified CDFIs to come into compliance with the new certification criteria?***

Response: We believe existing CDFIs should be provided 24 months to come into compliance with any new certification criteria.

- 7. *Should the CDFI Fund transition to a quarterly CDFI Certification Application cycle?***

Response: If a quarterly application cycle would increase efficiency at the CDFI Fund, then Inclusiv would be supportive as any costs to the field would be offset by the increased efficiency and predictability of the process.

- 8. *Are the questions in the revised application appropriate to determine an entity's community development intent?***

Response: No. See the Primary Mission session of our comment letter and response to questions 1, 2 and 4, above.

- 9. *Are there other practices related to the provision of Financial Products and/or Financial Services that should be considered indicators of an entity's community development intent?***

Response: No. As noted in our comment letter, it is not possible for the CDFI Fund to make a meaningful determination of an entity's community development intent through a desk review of applicant data and information about financial products and services. Instead, the CDFI Fund should ask CDFIs to identify and discuss only those with characteristics that fall outside of established consumer protection parameters. The CDFI Fund's due diligence process using publicly available information can then be used to determine whether the applicant's performance reflects a primary mission of community development.

- 10. *Should any of the questions in the application related to responsible financing practices be used as a basis to automatically disqualify an Applicant from eligibility for CDFI Certification, or are there alternative criteria that should be met or used in such a manner?***

Response: No. Most of the questions are inappropriate for regulated entities and would not yield useful information for unregulated entities on which to base such a clear-cut determination by the CDFI Fund. As noted in our comment letter, a better alternative is to focus

only on products that exceed existing consumer protection parameters and conduct due diligence with cognizant reporting agencies and the applicants themselves.

- 11. *If there are practices that should be considered either disqualifying or a prerequisite for CDFI Certification, should there be exceptions for any entities that engage or fail to engage, respectively, in such practices and, if so, under what circumstances?***

Response: There are certainly predatory practices that should be considered disqualifying, but it would be surpassingly difficult to draw a stable set of bright lines to determine CDFI eligibility. As noted above, products, services and features continue to evolve in consequential ways and there is no practical way to eliminate the grey area where an otherwise responsible product may be tweaked in a new way that puts consumers at risk. The CDFI Fund should monitor consumer protection standards as they continue to evolve and focus attention on products, services and features that exceed those standards.

- 12. *Are there any other practices related to the responsible provision of Financial Products, especially those related to mortgage or other real estate lending, and to equity investments, for which either the presence or absence of which should be considered for purposes of CDFI Certification?***

Response: See previous comment.

- 13. *For purposes of CDFI Certification, should an entity be required to indicate that it offers or engages in at least one or more of the types of Financial Services and practices identified in the questions on “Responsible Financing Practices – Financial Services?”***

Response: It does not seem that this question would yield useful information.

- 14. *Are there any practices related to the provision of Financial Services for which either the presence or absence of which should be considered disqualifying for purposes of CDFI Certification?***

Response: See answer to question 11.

- 15. *(RE Primary Mission – Affiliates) Are there circumstances that the CDFI Fund should consider as an exception to this rule?***

Response: No comment.

- 16. *Are there other circumstances under which the CDFI Fund should continue to require entities to map their Target Markets and, by implication, limit eligible Target Market activity to such geographic areas?***

Response: The CDFI Fund should not require any CDFI to limit their activities in any eligible Target Markets. CDFIs should continue to have the option of designating a custom Investment

Area if they so choose, but they should not be required to do so. There should be no requirement to map LITP, OTP or non-contiguous (i.e., non-custom) CDFI Investment Areas.

- 17. *Are there other Financial Services that the CDFI Fund should consider measuring toward the Target Market test? If so, how should they be incorporated into a single measure, with depository accounts, of an entity's Financial Services activity?***

Response: As noted above, there is no practical way to count Financial Services activities and the CDFI Fund's proposed proxy measure fails on a number of fronts. If the CDFI Fund wants to assess Target Market access to Financial Services, then a better measure would be based on the number of unique credit union members or unique account holders.

- 18. *Are the proposed thresholds for Financial Product and Financial Services activity appropriate when both are used to meet the Target Market test?***

Response: No. As noted above, more appropriate thresholds would be 60% Target Market deployment of financial products by number and 50% Target Market deployment of financial products by dollar amount. As noted above, there is no practical way to "count" financial services activities, but a better proxy would be based on unique members or unique account holders.

- 19. *Are any of the revised accountability requirements unduly burdensome?***

Response: Yes. As noted in our comment letter, the CDFI Fund places undue burdens on itself and on credit unions by trying to apply abstract tests of Accountability to democratically governed cooperatives.

- 20. *Are there alternative ways an entity can demonstrate decision-making accountability to its Target Market(s) that the CDFI Fund should consider?***

Response: Yes. The CDFI Fund should consider any CDFI to be accountable if it has a board of directors that is democratically elected by account holders on the basis of one person, one vote. The CDFI Fund should also consider the CDFI's plan to promote or maintain diversity, equity and inclusion.

- 21. *Should the methods to demonstrate accountability differ based on type of CDFI (e.g., regulated, non-profit, private sector)?***

Response: No comment.