



CDFI with history of Deep Impact Forced to Repay Millions to CDFI Fund Without Full Review of Evidence

Inclusiv is shocked and saddened by the most recent legal setback for OnPath Federal Credit Union as it challenges a CDFI Fund decision to claw back millions of dollars in grants made to this high impact community development financial institution (CDFI) in New Orleans. We are deeply concerned about the potential impact of this case on low-income communities in Louisiana and the chilling effect it will have on CDFIs across the country.

Earlier this month, a federal judge ruled the CDFI Fund had the right under the Administrative Procedure Act to order OnPath FCU to repay more than \$12 million in CDFI grants without allowing the credit union the opportunity to present the merits of its case. This decision, deprives the credit union of an opportunity to present comprehensive research that exposes fundamental errors in an audit report that motivated the CDFI Fund's action.

The ruling allows the CDFI Fund to ignore all evidence of OnPath's actual eligibility for CDFI certification from 2005 to 2012 and instead focuses on the absence of complete administrative records to back up a certification application submitted in December 2005, right in the aftermath of Hurricane Katrina. The CDFI Fund is not seeking recovery because of OnPath's quality and performance as a CDFI, but rather based on the quality of their historic record keeping.

OnPath is a 61-year-old community development credit union originally formed to serve the workers at the Avondale Shipyards Inc (ASI), which at one point was the largest commercial employer in the state of Louisiana. Throughout the 1990s, this credit union grew to take on a community charter merging with other small credit unions to serve as the primary community development financial institution for low-income consumers in some of New Orleans and Jefferson Parish's poorest communities. The credit union supported members as the ASI shipyards closed and a large segment of their membership struggled with periods of unemployment, displacement and shifting economic opportunities. By expanding its charter to serve the entire community, OnPath became a lifeline for financially underserved consumers throughout the city including the New Orleans Ninth Ward, gaining national recognition for its impact and contribution to the post-Katrina rebuilding process.

The CDFI Fund's case hinges on recent and unprecedented scrutiny by the Department of Investigation of a certification application prepared by OnPath in December 2005, a period of intense upheaval in the Gulf Region. In August 2005, Hurricane Katrina devastated New Orleans and surrounding communities. OnPath responded immediately to support its members to get the help they needed in one of the worst natural disasters in US history. The credit union extended loan repayments and restructured loan terms to give people time and relief from their debt payments to deal with their immediate needs and those of their families. Throughout 2005-2006, OnPath experienced a rapid and significant drop in capital, fueled by an influx of FEMA insurance deposits that negatively impacted its net worth ratio. The credit union was simultaneously managing initial losses that resulted from its decision to help its members remain solvent by refusing to cut off people from accessing cash through its ATM network. They instead increased offline ATM limits from \$100 to \$300 per member, enabling people – including many who were trapped in the Superdome -- to access funds during that incredibly challenging time. OnPath also continued



lending, even to members who were forced to relocate throughout a multi-state area, some of whom never returned to New Orleans but who remained members and borrowers of the credit union as they worked to re-establish themselves elsewhere. Throughout 2007-2009, the credit union worked with regulators to right the financials and bring the credit union back to solvency enabling it to live on and grow to serve the New Orleans community.

The audit report used by the CDFI Fund did not find that OnPath misused or misappropriated any federal funds, nor did it find OnPath to be ineligible for CDFI certification – in fact, they never asked the question. The CDFI Fund continues to fight a legal battle to prevent any consideration of evidence of OnPath’s eligibility. A recent CDFI Fund audit of OnPath’s 2013 certification and funding applications conducted by the CDFI Fund itself found the credit union to be fully eligible and compliant in all respects.

OnPath remains CDFI certified to this very day and continues to have deep impact in New Orleans. This past year the credit union originated \$15.4 million in affordable loans to 4,876 non-prime borrowers (<650 credit score) saving millions of dollars in fees and interest from financial predators. OnPath has consciously expanded the ways that members can access credit union support and services when and how they need it. OnPath has helped members to move \$1.2 billion to pay bills, make purchases and take care of their families through ongoing access to their funds. And they increased their digitally funded loans 275% to ensure that borrowers can access loans safely and remotely. Following the most recent climate disaster, Hurricane IDA, OnPath provided more than 1,200 emergency loans for nearly \$3 million dollars to members with an average credit score of 553.

As a founding member of the CDFI Coalition, Inclusiv is only too aware of the challenges faced by CDFIs and the CDFI Fund in the first decade of the certification process. Any review of CDFI applications from that period would certainly uncover countless errors committed by well-intentioned applicants and reviewers alike, but the public record indicates that neither the CDFI Fund nor its auditors reviewed any other certification applications from that period to provide a basis for comparison. Systems in place now to monitor CDFI certification eligibility on an annual basis did not exist – and the credit union was perhaps only responsible for its failure to inform the CDFI Fund the extent to which its membership had been displaced in the chaotic years while New Orleans was rebuilding.

The CDFI Fund has offered no opportunity for dialogue or in-depth review of this credit union or reconsideration of their decision. OnPath has sought many times and in multiple ways to open this discussion, correct errors in the record, and arrive to a mutually agreeable solution and reasonable pathway to resolve outstanding issues, but all efforts have been rebuffed and ignored. Inclusiv stands by OnPath both on the merits and for the implications for 1,335 certified CDFIs that find it difficult to align the static and complex systems of the Fund with the dynamic growth and changes in the Target Markets that they serve. Inclusiv has voiced our concerns regarding the difficult and contradictory Target Market standards used by the CDFI Fund and the cumbersome application process required for Target Market modifications and delays and consistent backlogs at the CDFI Fund that result. These factors continue to limit the ability of community based financial institutions to be responsive to their evolving community needs.



At a moment when leaders of Congress and the Administration are making historic commitments to address the nation's racial equity gap, it is unfortunate that OnPath, a CDFI, a minority and low income designated credit union -with a strong CDFI track record- has been uniquely targeted. Inclusiv continues to support the efforts of the US Treasury Department and the CDFI Fund to channel critically needed resources to CDFIs, particularly those serving communities of color. The continued pursuit of repayment from OnPath badly damages these efforts.