

February 28, 2017

Ms. Mary Ann Donovan
Director, Community Development Financial Institutions Fund
U.S. Department of Treasury
1500 Pennsylvania Avenue NW.
Washington, DC 20220

RE: Request for Information: CDFI Certification

Dear Ms. Donovan:

On behalf of NeighborWorks America (statutorily the Neighborhood Reinvestment Corporation) I want to thank the CDFI Fund for the opportunity to provide comments regarding the standards and criteria for CDFI certification. Please note that these comments have not been submitted to or approved by NeighborWorks America's Board. They reflect the view of NeighborWorks America management and do not necessarily represent the views of its Board members, either collectively or as individuals.

NeighborWorks America is a Congressionally-chartered nonprofit organization established in 1978. We support a network of nearly 250 local and regional nonprofit affiliated housing and community development organizations. Among NeighborWorks America's network of affiliated organizations, 74 are currently certified as CDFIs. This certification, and the access to capital that it offers, is a key asset for these organizations and plays an important role in the work that they do to create opportunities for people to live in affordable homes and improve their communities. From 2013 to the first half of 2016, these CDFIs made loans totaling \$1.3 billion, 59% of which went to first and second mortgages, as well as down payment and closing cost assistance. Commercial lending, most of which was deployed to fund economic development projects, totaled \$548 million.

To inform the development of these comments, NeighborWorks America solicited input from CDFIs within our network. In addition to hosting a webinar to gather input from network CDFIs, NeighborWorks also sought additional feedback through other channels including direct outreach. NeighborWorks America is pleased to offer the following comments in response to the questions presented in the Federal Register notice.

- I. Certification Criteria
 - A. Legal Entity

1. NeighborWorks is concerned that setting a threshold for the minimum period of time an organization must be in existence before applying for CDFI certification may result in unintended consequences. The CDFI Fund's current practice of reviewing the organization's business history provides a more complete understanding of the organization's capacity and stability than would an arbitrary time threshold, ensuring adequate safeguards without the installation of unnecessary barriers.
2. NeighborWorks believes that the CDFI Fund's existing requirements for the organization's establishing documents are appropriate and sufficient.

B. Primary Mission

NeighborWorks would like to propose that, like Insured Credit Unions that have received a Low Income Designation from the National Credit Union Administration, organizations with a NeighborWorks charter should be deemed to have satisfied the primary mission criterion by virtue of their designation. NeighborWorks chartered organizations undergo annual assessments to review their production, resource development and organizational oversight. The assessment includes a review of the organization's mission and activities, and generates a rating using the NeighborWorks Organizational Health Tracking System.

1. A more prescriptive requirement for the documentation and narrative statement would be likely to reduce the diversity of organizations qualifying for CDFI certification, to the detriment of the CDFI Fund's mission. Maintaining broad flexibility allows the CDFI Fund to exercise discretion and adapt to the changing needs and evolving business practices of the community development field. Any definition must be broad enough to encompass mortgage lenders serving a broad market—multiple counties, states, or nation-wide—where these services further access to credit and fair housing opportunities that are not otherwise being met. A single nationwide definition risks unintentionally excluding organizations implementing creative strategies to address locally-defined needs.
2. NeighborWorks supports a higher standard of scrutiny for for-profit organizations (with the exception of those that are organized as a subsidiary of a non-profit parent) seeking CDFI certification, while recognizing that there is an appropriate role for these organizations. In addition, for-profit organizations should be required to demonstrate their need for lending capital, as well as how it will aid them in achieving their primary mission. For purposes of meeting the primary mission criterion, however, for-profit subsidiaries of a non-profit parent organization should be treated as non-profits.
3. One source of information that the CDFI Fund might employ to monitor an organization's adherence to its primary mission is the organization's policies. A comparison of the loan products against market rate products to ensure that they are designed to benefit the population being served may also be appropriate. Finally, the Fund can consider the CDFI's other investments to understand its broader community development activities.

4. Products should be reviewed to ensure that they are designed to serve the intended markets and are free of predatory features. The CDFI Fund might also review product pricing and net revenue generated, as well as the credit standards that are applied.
5. NeighborWorks supports the approach of evaluating a CDFI's adherence to its primary mission by looking holistically at all layers of the organizational structure and would support extending this approach to Non-Regulated CDFIs.

C. Financing Entity

1. NeighborWorks believes the existing flexibility around the term “predominance” should be maintained when assessing the organization’s utilization of its assets, particularly for smaller organizations. This flexibility does not create undue risk because of the safeguards provided by the primary mission test. In looking at the allocation of assets, the CDFI Fund should also consider complementary assets, such as homes under construction to be sold to target market buyers and financed by the CDFI.
2. The flexibility to certify entities that do not dedicate a plurality of their assets to Financial Products, Development Services, and/or similar financing is important for cultivating emerging CDFIs. For established CDFIs, this flexibility may be appropriately applied if an applicant can demonstrate the ability to maintain mortgage lending licensure at the state level by meeting the required standards for bonding, employment of licensed loan originators, record keeping, etc.
3. NeighborWorks is concerned that tracking staff time can become overly cumbersome for organizations involved in multiple lines of business. Often, CDFI target populations require more intensive time and effort investments to get to closing. Instead of simply looking at time, the CDFI Fund could evaluate target markets served, consumer development services delivered, REO properties handled, etc. By focusing on outputs and outcomes rather than inputs, the CDFI Fund could enhance the value of this criterion.
4. NeighborWorks believes that a broader standard for “predominance of assets” should be applied to Non-Regulated CDFIs. Alternatives could include complimentary assets or rely on state licensure and its associated oversight as a substitute for a predominance test.
5. Non-Regulated CDFIs should be given the option to have the activities of a subsidiary or affiliate CDFI included as part of their assessment. By offering this flexibility, the CDFI Fund can allow organizations to structure themselves in a manner that best meets their business needs rather than adopting non-optimal structures solely for the purpose of meeting CDFI certification criteria.
6. Non-Regulated CDFIs should be given the option to have the activities of a parent CDFI included as part of their assessment, though for-profit parent CDFIs should undergo stricter scrutiny. By offering this flexibility, the CDFI Fund can allow organizations to structure themselves in a manner that best meets their business needs

- rather than adopting non-optimal structures solely for the purpose of meeting CDFI certification criteria.
7. The imposition of a minimum requirement is unnecessary and would potentially be damaging, particularly for smaller organizations. Adequate safeguards to ensure organizational capacity exist elsewhere in the examination.
 8. Organizations that only service, but do not originate, loans should not be certified as CDFIs.
 9. CDFIs should not be required to offer loans or Equity Investments each year, though the CDFI Fund could request an explanation for any years in which these products are not offered.
 10. For recertification, the CDFI Fund should consider non-arms-length transactions when they serve a community development purpose and are offered with terms comparable to other loans. Under other circumstances, however, non-arms-length transactions should not be counted towards the predominance of assets test.
 11. NeighborWorks is skeptical that the type of short-term projection contemplated for disclosure could yield useful information for long-term certification decision.
 12. The present understanding of “similar financial activities” is sufficiently clear, and creating further guidance could risk excluding future forms of investment. Loan modifications of consumer accounts performed for the purpose of avoiding a foreclosure action and reaffirmations of debt during a bankruptcy that involve a payment agreement to cover an account arrearage should be considered under this category.

D. Serves an Investment Area or Targeted Population

1. Threshold Target Market Test
 - a. The current 60% standard is adequate in most cases. The CDFI Fund should consider allowing for exceptions in cases where the CDFI can demonstrate that a different standard will allow for a more optimal balance between the number of loans offered and the dollar value of the loans.
 - b. The same standard should be applied to all types of CDFIs.
 - c. Unless the CDFI Fund has found the self-reported summary data problematic, NeighborWorks would not recommend increasing the reporting burden. The annual audit, which is already required, provides additional safeguards.
 - e. In general, a one-year lookback should be adequate. If requested by the applicant, the Fund should allow for a three-year average of the portfolio of outstanding loans to serve as a substitute measure.
2. Investment Areas
 - a. The existing practices do not adequately encompass the geography of CDFIs serving rural communities.
 - b. In order to better serve rural areas, this definition should be expanded to allow CDFIs to serve non-contiguous tracts. The flexibility to include small portions of non-qualified tracts remains very important.
3. Targeted Populations

- a. Veterans, persons with disabilities, and new immigrants should be automatically defined as Other Targeted Populations. These populations are currently underserved by mainstream lenders.
- b. Allowing all CDFIs approved to serve Targeted Populations nationwide could have unintended negative consequences, including reducing the value of local accountability and limiting local involvement.

E. Development Services

1. NeighborWorks values the flexibility currently afforded to the term Development Services, though we recommend that services to promote financial capability should be included under this category.
2. Requiring a corresponding development service for each Financial Product or Service would add an unnecessary complication in the design of each CDFI's offerings. A given Development Service might appropriately correspond to a range of Financial Products or Services. The adequacy of the Development Services offered should be gauged holistically rather than individually.
3. Development services should be required in any year that the CDFI offers loans.

F. Accountability

1. Although NeighborWorks strongly supports a requirement for community accountability, given the various constituencies and geographies that CDFIs serve, NeighborWorks is wary of a strict percentage of board members as the only means for demonstrating accountability. Securing participation of low-income community members can be particularly difficult as a result of the irregular work schedules, long hours, and other constraints that many low-income individuals face. As a result, NeighborWorks recommends a holistic assessment of accountability, which should have the flexibility to balance board participation with other indicators of accountability to the community. To ensure accountability to the community, the NeighborWorks charter requires that residents of low-income communities, low-income residents, or individuals elected or appointed to represent them, make up at least one third of each chartered organization's board. Given this high standard, we recommend that the CDFI Fund deem any organization with a NeighborWorks charter to have met the Accountability criterion by virtue of its charter.
2. While NeighborWorks believes that advisory boards can be an important component to an accountability strategy, representation on an advisory board alone should not suffice to meet the accountability requirements. NeighborWorks encourages the CDFI Fund to allow for flexibility for representation on an advisory board to serve as a portion of a larger demonstration of accountability.
3. NeighborWorks encourages the CDFI Fund to consider allowing alternative means such as surveys and focus groups to contribute to the determination of adequate accountability, particularly in situations where an organization has made a good faith effort to recruit appropriate board members. Another way to demonstrate accountability is through the successful deployment of products to the target market. Because products that are not responsive to the target market's needs will not be utilized, NeighborWorks suggests that an analysis of a CDFI's lending can also be

used to contribute to the demonstration of accountability. Finally, NeighborWorks encourages the CDFI Fund to accept a HUD Community Housing Development Organization (CHDO) or Community Based Development Organization (CBDO), as well as a NeighborWorks charter, as acceptable alternatives.

4. While NeighborWorks does not support the use of a business plan and sample of lending as an exclusive methodology for demonstrating accountability, we are encouraged by the spirit of flexibility that such a proposal represents.
5. In keeping with a flexible approach to demonstrating accountability, NeighborWorks believes that it is appropriate to take into consideration the target markets in an analysis of accountability. For example, an organization serving a large geography may require additional flexibility in meeting its accountability requirements.
6. Flexibility in this process can create opportunities to include all stakeholders in the demonstration of accountability.

G. Non-Governmental Entity

1. The current standards are sufficient.
2. The existing questions and documentation should be sufficient to determine whether an organization is a non-governmental entity. No additional questions or documentation are needed.

II. Certification Policy and Procedures

- A. Information such as a CDFI's reason for applying and intended use should be incorporated into the narrative and do not need to be collected separately.
- B. No additional sources of data are necessary.

III. General Certification Questions for Public Comment

- A. NeighborWorks does not believe it is necessary to create a definition for “community-based.” It would be nearly impossible to craft a definition that is sufficiently broad as to include all of the various ways in which “community-based” is currently understood without losing all meaning. A specific definition may inadvertently exclude some avenues for community input or control.
- B. Native CDFIs should continue to be allowed to self-designate themselves.
- C. NeighborWorks believes that the flexibility to employ a range of organizational structures is an important feature that should be preserved.
- D. NeighborWorks believes that “bright-line” tests tend to reduce flexibility and may result in the unintended exclusion of certain types of organizations from the CDFI program. Where possible, NeighborWorks prefers a more contextualized approach that can support the goal of including a diverse range of organizations within the CDFI program, with appropriate safeguards to ensure that the designation retains its value. Where possible, however, it would be helpful for the CDFI Fund to provide additional information regarding expectations in order to give applicants greater confidence regarding their standing.
- E. NeighborWorks does not have any additional recommendations for standards that should vary based on institution type.

- F. Only those “start-up” entities that have received a Technical Assistance grant should be allowed to seek certification. In order to be certified, an organization should be able to demonstrate its capacity and audit credibility. However, an exception should be offered for new corporations that are the result of a restructure or reorganization of an existing CDFI where the assets and staff of the existing CDFI will be transferred to the new entity.

Sincerely,



Kirsten Johnson-Obey
Senior Vice President, Public Policy and Legislative Affairs