



November 25, 2022

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

RE: Request for Public Comment – Minority Lending Institution Designation Criteria

Dear Ms. Harris,

On behalf of NeighborWorks America (statutorily the Neighborhood Reinvestment Corporation) I want to thank the CDFI Fund (“the Fund”) for the opportunity to provide comments regarding the Minority Lending Institution (MLI) Designation. These comments were developed with significant consultation and input from representatives of NeighborWorks network organizations, including a subset of organizations – including Native CDFIs – particularly focused on lending initiatives serving a range of minority communities. 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, including 81 certified Community Development Financial Institutions that provide first and second mortgages, down payment assistance for homebuyers, and rehabilitation loans. They also support the broader community development industry by offering commercial loans for economic development, real estate development, and community facilities, as well as consumer and small dollar loans.

NeighborWorks network CDFIs specialize in channeling capital to communities and borrowers who are not well served by the traditional finance system. By establishing deep ties to local communities, CDFIs are able to offer financial products and services tailored to meeting community needs. In 2020, 55% of the homeownership clients served by NeighborWorks network CDFIs identified as people of color, as compared with only 34% of borrowers receiving residential mortgage loans in the general market (of those who provided race/ethnicity data), according to NeighborWorks tabulations of HMDA and NeighborWorks network data.

As NeighborWorks noted in our [letter](#) to you of November 30, 2021, on the CDFI Equitable Recovery Fund, the manner in which the term “Minority Lending Institution” was defined had the power to determine program participation eligibility and, ultimately, the communities that would

benefit from those funds. That letter offered recommendations on how to ensure that Congress's true intention was actualized, by truly targeting funds to the "low- or moderate-income minority communities" and "minorities that have significant unmet capital or financial services needs" specified in the statute. Furthermore, NeighborWorks recommended that the Fund also consider past performance as demonstrated through lending track record, development services, and other factors that show commitment to meeting the needs of the target market. NeighborWorks also highlighted the importance of inclusion of Native CDFIs in this work. We are pleased to see these considerations reflected in the current request for comment.

At its core, the purpose of designating certain institutions as MLIs must be about identifying CDFIs that can effectively direct capital to places where it historically has not flowed. Historical factors, including the redlining, legal and illegal discrimination in lending, and other structural forms of exclusion have effectively marginalized minority communities and kept them out of the financial mainstream. An MLI designation should be a tool to help both public and private sector investors to identify institutions with an intentional focus on expanding access to capital for minority borrowers and driving resources to minority communities.

To maximize the potency of the MLI designation, the qualifying parameters must be set narrowly. A high bar for qualification will help ensure that designation as an MLI will carry significant weight. NeighborWorks supports the Fund's approach to creating a designation based both on accountability and demonstrated service to minority borrowers and communities.

Service

NeighborWorks believes the Fund's proposal to require that a majority of an MLI's financial products be directed to minorities sets an unnecessarily low threshold. Instead, NeighborWorks recommends utilizing a 60 percent threshold, both for the number of financial products as well as the total dollar volume of financing products. This standard is in line with the Fund's requirements that CDFIs direct 60 percent of their financial products to their designated target markets, providing evidence of a deep commitment to the intended beneficiaries. NeighborWorks is supportive of the Fund's proposal to use a three-year rolling average to allow for variation in activity over time (Question B1).

When considering which transactions should count, NeighborWorks opposes broadening the definition to include financial products that support projects such as affordable housing/community facilities, without regard to the minority status of the sponsor entity. Put simply, the MLI designation is about ensuring that capital flows to minorities. While these are certainly laudable projects, and minority persons and communities may well benefit from them, they are not the equivalent of the of the minority persons and communities contemplated by the statute. These types of projects and sponsors have much more ready access to traditional sources of capital (Question B2). At its core, the MLI designation is intended to identify CDFIs that can get capital to flow to places where it typically does not go.

Accountability

For purposes of demonstrating accountability, NeighborWorks strongly believes that the Fund should focus on factors that demonstrate meaningful control of the entity. A standard that is vulnerable to manipulation or “gaming” through figurehead or token appointments could jeopardize the value of the MLI designation. For this reason, NeighborWorks urges the Fund to limit the pathways for meeting the accountability threshold to the governance board/ownership and executive staff (Question C1-C3). NeighborWorks recommends that the Fund adopt the following test for demonstrating accountability to Minority communities.

To be designated as an MLI, an organization must show that:

1) a majority of seats on the governance board/majority ownership stake is held by Minority persons

OR

2) At least a third of the seats on the governance board/ownership stake is held by Minority persons AND a majority of the organization’s executive staff are Minority persons

When considering an organization’s executive staff, the Fund should take a broader view and assess the totality of the executive staff rather than differentiating between the executive director and the other executives (Question C5). Making determinations on the basis of a single individual (i.e., the executive director) insufficiently accounts for the ways in which decision-making authority is distributed throughout many organizations and may result in unintended consequences. For example, as is the case for some organizations within the NeighborWorks network, the chief lending officer or chief operating officer may be the executive directly responsible for setting the direction of the organization with respect to lending. By assessing the entire executive staff, the Fund can capture the full “hands on” leadership of the organization.

When convened and utilized in good faith, advisory boards and loan committees can be powerful tools to guide an organization. However, these types of boards and committees are too easily stacked or manipulated and do not have the power or authority to consistently ensure true accountability. Because of the wide variation in their construction and role, NeighborWorks opposes consideration of advisory boards and loan committees for purposes of meeting the accountability test. According to CFPB policies, it is individual lending officers and their employer institutions – not loan committees – that are responsible for lending decisions. Unlike governance boards and executive staff, they are not sufficient as means by which to demonstrate accountability and do not guarantee meaningful control over the lending policies and practices of an organization (Question C7).

NeighborWorks encourages the Fund to include all entities certified as Native CDFIs in the definition of MLIs, though official MLI designation should remain at the option of the individual entity (Question C9). The strong track record of success of Native CDFIs demonstrates their

ability to direct capital to Native communities, notwithstanding the unique complexities of lending on tribal lands. However, due to historical and geographical circumstances, the needs and conditions of Native communities are often different than those of other minority communities. Native CDFIs frequently serve very rural populations, with relatively small communities dispersed over large geographic areas. Additionally, Native Americans make up by far the smallest of the Other Targeted Populations (OTP) delineated by the Fund. Finally, Native Americans are far underrepresented in financial services and other professions that foster similar skillsets. As a result, it is particularly challenging for Native CDFIs to recruit Native Americans to serve on their boards and at the most senior levels of their staffing. With these circumstances in mind, NeighborWorks affirms the appropriateness of maintaining an alternative qualification standard for Native CDFIs.

Use Recommendations

Although NeighborWorks recognizes that there are no federal funds currently associated with the MLI designation, we urge the Fund to think broadly about ways such a designation can be leveraged to further the goal of driving capital to underserved communities.

One primary way this could occur is through targeted technical assistance and capacity building initiatives on the part of the Fund. NeighborWorks appreciates the Fund's recognition that there may be unique "barriers such CDFIs experience in providing access to capital." Identification of a cohort of MLIs will provide the Fund with critical information on how to best serve and support these institutions. From 2011-2016, NeighborWorks, as part of the CDFI Fund Capacity Building Initiative, delivered specialized training, technical assistance, and peer learning opportunities to Native CDFIs in order to foster their growth and sustainability and to enhance their ability to deliver financial services and financial products to Native communities. This initiative should serve as a model for additional capacity building efforts targeted to MLIs.

To meet the needs of minority borrowers and communities, CDFIs need access to specialized lending capital. NeighborWorks encourages the Fund to consider regulatory and administrative measures such as permitting MLIs to spend a greater percentage of their awards on marketing and outreach to support deeper efforts to establish relationships and build the pathways needed to reach harder-to-serve populations. Existing flexibilities around the use of FA and TA awards for loan loss reserves are very helpful, and NeighborWorks encourages the Fund to explore additional such flexibilities. NeighborWorks also notes the uncertainty of the impact of the CECIL FASB rules on both regulated and unregulated lenders' loan loss reserve requirements and how the rules will impact these kinds of loans.

NeighborWorks also encourages the Fund to consider ways to leverage its role as an ambassador at the federal level. By partnering and strengthening relationships with other federal agencies and entities, the Fund can support MLIs by working with FHFA and the Federal Home Loan Bank System to look at issues around access for MLIs. Additionally, the Fund should work with Community Reinvestment Act regulators at the FDIC, Federal Reserve, and OCC to ensure they understand the MLI designation and can appropriately credit financial institutions' activities with

MLIs in their examinations. We encourage the Fund to also continue working with the NCUA and their member institutions that are striving to serve Native and other minority populations to build wealth and pursue homeownership opportunities. Additionally, NeighborWorks is hopeful that private sector funding partners will find value in the MLI designation.

Conclusion

NeighborWorks shares the Fund's interest in expanding access to capital for minority borrowers and communities. A robust, meaningful standard for designation as an MLI has the potential to drive both public and private sector entities to target their resources and support to these institutions.

We look forward to continuing to partner with the CDFI Fund to promote the work of CDFIs and others to meet the needs of minority and underserved communities. The economic shocks accompanying the Covid-19 pandemic underscored the unfortunate truth that we have long known – that minority communities are the first to experience economic crises and the last to recover. By identifying, strengthening, and resourcing those institutions that most deeply and effectively serve minority communities, we can channel investment towards their resilience and prosperity.

Please do not hesitate to reach out to me if I can provide additional information.

Sincerely,

A handwritten signature in black ink that reads "Marietta Rodriguez". The signature is written in a cursive, flowing style.

Marietta Rodriguez
President & CEO, NeighborWorks America