



RESPONSIBLE BUSINESS LENDING COALITION

December 5, 2022

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

RE: Public Comments on CDFI Certification Application (OMB Control Number: 1559-0028)

Dear Director Harris:

The Responsible Business Lending Coalition (RBLC)¹ appreciates the opportunity to comment on proposed revisions to the Community Development Financial Institutions (CDFI) Fund certification application. Our comments focus solely on revisions that seek to promote responsible and transparent small business financing as a core tenet of a CDFI's primary mission and the RBLC encourages the Fund to confirm an applicant's responsible small business financing practices as a prerequisite to CDFI certification.

The RBLC is a network of nonprofit and for-profit lenders, investors, and small business advocates who organized in 2015 around a shared commitment to innovation in small business lending and concerns about the rise of irresponsible small business lending. The mission of the RBLC is to drive responsible practices in the small business lending sector and promote a small business financing landscape built on transparency, fairness, and putting the rights of borrowers at the center of the lending process.

The RBLC created the Small Business Borrowers' Bill of Rights (BBoR) as the first cross-sector consensus on the rights that small business owners deserve and the practices that financing providers, brokers, and lead generators should employ to uphold those rights. Since the release of the BBoR, more than 100 institutions have committed to uphold the BBoR and key elements of the BBoR have been enacted into law in New York and California.

¹ Responsible Business Lending Coalition member organizations include: Accion Opportunity Fund, Aspen Institute, Camino Financial, Community Investment Management, Funding Circle, LendingClub, National Association for Latino Community Asset Builders, Opportunity Finance Network, and Small Business Majority.

We were pleased to see that the CDFI Fund incorporated elements of the BBoR in the revised CDFI certification application. For example, the certification application seeks to uphold a business borrowers “Right to Transparent Pricing and Terms” by asking applicants that provide small business loan products whether they disclose, in writing, the total loan amount, the “periodic” payment due, total finance charges over the life of the loan; and the annual percentage rate (APR) of the loan to a potential borrower. If an applicant answers “NO” to any of the disclosure questions, they are deemed ineligible for CDFI certification.

The certification application also seeks to uphold a business borrower’s “Right to Responsible Underwriting” by asking applicants if their underwriting standards include “measures to ensure the (business) borrower has an ability to repay the loan according to the terms of the loan, meet any of the borrower’s other major financial obligations, and still pay basic expenses, without having to reborrow or refinance.” If the applicant does not have a process in place, they have an opportunity to submit a written explanation to the Fund regarding their underwriting practices and procedures, but an applicant that does not adequately consider a borrower’s ability to repay may be denied CDFI certification.

The RBLC has not advocated for rate caps as a means of ensuring responsible small business financing products because we recognize that small business lending is extremely challenging and there are some cases where higher-cost small business financing can be consistent with responsible lending practices. However, we recognize that the Fund is looking to provide some flexibility for providers that offer a business loan product with an APR that exceeds 36% Military Annual Percentage Rate (MAPR) cap if a provider can justify pricing a loan that exceeds the cap. If an applicant is unable to justify a loan product with an APR in excess of 36% or if the loan product’s annual default rate exceeds 5% - the applicant will be denied CDFI certification.

The RBLC is pleased that the Fund has added questions to the CDFI certification application that drive transparency and promote responsible lending practices and we encourage the Fund to consider incorporating other practices from the BBoR. We suggest amending the certification application to allow for the disclosure of “Estimated APR” to accommodate CDFIs offering financing products that do not have a fixed term. In addition, the certification application asks providers whether they report consumer loans to a major credit bureau and we encourage the Fund to ask small business loan providers the same question. The BBoR calls on providers to uphold a borrower's right to responsible credit reporting in order to help a borrower build a credit profile that may facilitate access to more affordable loans in the future and responsible reporting also enables other lenders to responsibly underwrite business borrowers. The RBLC team would welcome the opportunity to speak with the Fund and discuss how we might collaborate to further promote and support responsible small business financing practices within the CDFI industry.

We have attached a copy of the BBoR (see Attachment A), as well as a copy of the BBoR lender attestation form (see Attachment B). The BBoR attestation form includes guidance for calculating APR and estimated APR for financing products that do not have a fixed term and we encourage the CDFI Fund to make similar guidance documents available within the CDFI certification application.

If knowledge is power, then this initiative will empower borrowers to make informed decisions about their businesses and livelihoods. While the RBLC is encouraging all providers to offer transparent disclosures of loan pricing and terms, we applaud the CDFI Fund for taking a critical first step towards a more just and transparent commercial financing marketplace. We encourage product transparency by requiring entities seeking certification to disclose rates and terms of their small business financing products. This effort would secure strong, consistent protections for the small business borrower. It would also ensure that a transparent financing process, in line with a CDFI's mission of providing capital to underserved communities, is in place.

The RBLC believes that our recommendations will strengthen the CDFI certification application and ensure that the programs and products supported by CDFIs are responsibly reaching the most vulnerable small entrepreneurs, including businesses owned by socially and economically disadvantaged individuals and/or very small businesses. Thank you for your commitment to maximizing the impact of this important initiative. We look forward to collaborating with you for the benefit of America's small businesses.

Sincerely,

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