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Ms. Tanya McInnis
Program Manager, Office of Certification, Compliance Monitoring and Evaluation
Community Development Financial Institutions (CDFI) Fund
U.S. Department of the Treasury
1500 Pennsylvania Ave. NW
Washington DC 20220
Submitted via the web portal at https://www.reginfo.gov/public/do/PRAMain

Re: Proposed CDFI Program–Certification Application and Annual Reporting

The Center for Responsible Lending, Self-Help Credit Union, Self-Help Federal Credit Union, and Self-Help Ventures Fund, the latter three all CDFIs and all four related to the Center for Community Self-Help (collectively, Self-Help), appreciate the opportunity to comment on the CDFI Fund's final draft of the New CDFI Certification Application ("Application"). For 40 years, Self-Help has created asset-building opportunities for low-income individuals, rural communities, women, and families of color. In total, Self-Help has provided over $10 billion in financing to nearly 200,000 homebuyers, small businesses, and nonprofit organizations and serves more than 182,000 mostly low-income families through 74 credit union branches in North Carolina, California, Florida, Illinois, South Carolina, Virginia, Washington, and Wisconsin.

We are extremely supportive of the Application, which reflects a meaningful effort to ensure that the primary mission of any CDFI is to promote community development. As discussed in detail in our comment letter filed in November 2020, too many entities have obtained CDFI status despite engaging in irresponsible lending practices. CDFI status should be reserved for only those entities that clearly practice responsible lending; it should *not* be available to companies lending at APRs approaching 200%, to lenders peddling unsustainable mortgages similar to those that helped cause the Great Recession, or to depositories that charge frequent, expensive overdraft fees.

We commend the Fund for closing many loopholes that allowed entities to become certified despite engaging in these and other abusive practices. We are especially pleased that the Fund has generally adopted bright-line standards to determine CDFI eligibility. The recent phenomenon of exploitation of CDFI status has demonstrated that entities that are not truly mission-driven will seek to take advantage of CDFI status for their own ends. To guard against such behavior, it is critical that the Fund draw clear, bright lines that are less susceptible to manipulation. We are pleased that the Fund has proposed doing so.

Given that many companies have made it their business model to take advantage of the CDFI program for their own financial ends, we expect significant industry pushback against the critical consumer protections in the Application. Below, we discuss these critical protections, none of which should be watered down in the final version. In addition, Self-Help offers several suggestions for slight changes to the CDFI Certification Agreement at the end of this comment letter.

RESPONSIBLE FINANCIAL PRACTICES ISSUES

I. We urge the Fund to prevent CDFIs from lending above a fee-inclusive 36% APR (or lower state limits under state law) but nonetheless appreciate the Fund's scrutiny of predatory loans.

Our November 2020 comment described examples of predatory lending practices by several certified CDFIs, including CDFIs lending at rates that far exceeded 36% APR (up to an astonishing 190% APR).[1] It goes almost without saying that lending at these extremely high rates is inconsistent with the mission of a CDFI, as a fee-inclusive 36% APR is broadly recognized as the dividing line between affordable and predatory small-dollar loans.[2] Although 36% APR is too high of a limit for higher-dollar small-dollar loans – which most states cap at significantly lower rates for loans of $2,000 and above – it nonetheless provides a useful bright-line rule that responsible lenders should not cross.[3]

We are disappointed that, despite this broad recognition of the importance of a 36% cap, the Fund did not adopt a categorical prohibition on CDFIs lending above 36% APR. An ironclad 36% (or less) rate cap is by far the best approach to protecting borrowers from predatory loans.[4] Rather than outright prohibit CDFIs from making these loans, the Application asks follow up questions of any applicant that lends above 36% APR. While, as discussed below, the follow up questions will prevent the worst abuses of predatory lending, they do not address the core problem with lending above 36%: credit is simply unaffordable at rates above that threshold. Thus, we urge the Fund to tackle head on the problem of predatory lending by CDFIs and categorically prohibit lending above a fee-inclusive 36% APR.

If the Fund does not adopt this bright-line restriction, the Application's approach to lending above 36% represents a significant improvement over current CDFI guidelines. We support the Fund's decision to draw clear, measurable lines and make clear that each question is, by itself, sufficient to preclude the applicant from being certified. The best approach, of course, would be for the Fund to deny certification to any entity that makes loans above 36%

[1] *See* CRL et al. letter at 4-5.

[2] *See Why Cap Interest Rates at 36%*, National Consumer Law Center (August 2021), *available at* https://www.nclc.org/wp-content/uploads/2022/09/IB_Why_36.pdf

[3] *Id.*; *see also* CRL et al. letter at 6-7.

[4] *See Why Cap Interest Rates at 36%*.

APR. If the Fund is not going to adopt that restriction, however, the bright-line approach in the Application is preferable to the current rules as well as the May 2020 draft application, which merely imposed additional, undefined scrutiny on entities lending above 36% APR.

Several of the conditions imposed on lending above 36% are essential and should not be weakened if attacked by industry. To begin with, we support the Fund's scrutiny of default rates of loans that carry predatory interest rates of greater than 36% APR. Application at PM 13.2. High default rates signal unaffordability and help unmask the worst abuses of high-cost lending, where lenders succeed even when borrowers fail – that is, lenders profit even when unacceptably high numbers of borrowers default.[5]

We also applaud the Fund for monitoring the features of applicants' loans that carry an interest rate above 36%, and excluding from certification any lender whose covered products a) have a leveraged payment mechanism; b) for loans of $1,000 or less, have a payment term of longer than one year; c) impose upfront fees on refinances; d) for installment loans, have non-refundable pro rata fees upon repayment; and e) for installment loans, include unequal payments (like a balloon payment). Application at PM13.3-13.7. Our November 2020 comment explains why these restrictions should apply to *all* loans made by CDFIs, and we urge the Fund to follow that advice and extend these requirements to all loans.[6] At a minimum, however, these restrictions should apply to CDFIs' loans that carry a predatory interest rate, so we support their inclusion as follow up questions that apply to any loans with an interest rate above 36%.

We suggest a few additional conditions to further protect borrowers from the worst abuses of high-cost loans. For the 2022 funding round, the CDFI Fund's Small Dollar Loan Program identifies several prohibited practices, which cannot be part of any loan program that receives an SDL Program Award.[7] We suggest adding questions to the Application to bar CDFIs from engaging in some of these identified prohibited practices for loan products with an interest rate above 36% APR:

- (1) Have delayed loan disbursements for borrowers who do not agree to automatic repayments, (2) charge fees for borrowers who select manual payments, or (3) require borrowers to make payments using wire transfers or other means that may result in additional fees for borrowers.
- Offer add-on insurance or credit card products, whether they are automatic or not, that require borrowers to opt-in or opt-out to decline coverage, or require the borrower to accept or opt-out of a credit card. For example, loans that automatically include insurance products such as credit, life, disability insurance or involuntary

[5] *See generally*, NCLC, *Misaligned Incentives: Why High-Rate Installment Lenders Want Borrowers Who Will Default* (July 2016), https://www.nclc.org/issues/misaligned-incentives.html

[6] CRL et al. letter at 12-13.

[7] 87 Fed. Reg. 30,000 (May 17, 2022).

unemployment insurance coverage, or loans that automatically open a credit card for the borrower.

- Charging more than one fee per late payment.[8]

The Fund sensibly prohibits these practices for *all* loans supported by SDL funds. It thus makes sense at a minimum to, at the certification stage, exclude lenders who engage in these practices from becoming a CDFI at all.

Finally, we also commend the Fund for requiring that non-bank CDFIs abide by interest rate limits in the state where the borrower resides. Application at PM 15. Importantly, this obligation to abide by state-law rate caps extends to non-depositories participating in "rent-a-bank" arrangements. In such an arrangement, non-banks partner with banks to try to take advantage of banks' preemption privileges in order to evade state laws that prohibit high interest rates.[9] Rent-a-bank schemes thus undermine the reasoned policy choices of the vast majority of states that have decided to protect their residents from predatory loans. We are pleased that the Application prevents a CDFI from engaging in such a scheme to evade state interest rate caps. *See* Application at PM 15 (CDFIs cannot "purchase interests in, offer, market, or service loans that exceed the interest limits that apply to non-depository institutions in the state where the borrower resides"). Participating in a rent-a-bank arrangement is of questionable legality and thus plainly at odds with a CDFI's mission. We applaud the Fund for excluding from certification any non-depository engaged in this sort of predatory behavior.

II. The Fund rightly requires CDFIs to lend based on the borrower's ability to repay, and should rigorously police CDFIs that do not satisfy this condition.

We strongly support the Fund's determination that CDFIs are required to lend based upon a borrower's ability to repay. Application at PM12. Lending based on a borrower's ability to repay is a fundamental tenet of responsible lending.[10] Thus, meaningful ability-to-repay analysis is required, and we commend the Fund for adopting the following crucial definition of ability to repay: whether the 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." *Id*. This holistic form of underwriting is far superior to shortcut analyses like simply considering payment-to-income ratios, and the Fund should not weaken its standard to accept anything other than the robust underwriting required in the Application.[11]

[8] *See id*.

[9] *See generally* CRL et al. letter to Acting Chairman Gruenberg, Director Chopra, and Acting Comptroller Hsu re Rent-a-Bank Lending by FDIC Supervised Institutions (Feb. 4, 2022), *available at* https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/coalition-fdic-rentabank-letter-4feb2022.pdf

[10] *See* CRL et al. letter at 10-11 (citing various authorities).

[11] *See* CRL et al. letter at 10-11.

We are concerned, however, that the Application does not make failing to underwrite an automatic basis for denial of certification. In contrast to other questions in the Application, the portion about underwriting merely states that failing to conduct meaningful ability-to-repay analysis *may* disqualify an applicant from certification. Application at PM12. We are not aware of circumstances where lending without conducting underwriting is appropriate, so we urge the Fund to make lending based upon demonstrated ability to repay a necessary condition for certification. If the Fund does not accept that approach, it must closely scrutinize explanations for not lending based on demonstrated ability to repay. In order to make the restrictions in PM12 meaningful, the Fund cannot accept specious explanations for deviating from the explicit requirement to consider whether a borrower can 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.

In particular, the Fund should not accept arguments from so-called "fintechs" that allege that "innovation" in their products removes the need for meaningful underwriting. Fintechs often portray their loans as better alternatives to existing high-cost loans, but their loans often lead to similar problems. They often carry extremely high rates and are made with little regard for the borrower's ability to repay while meeting other expenses – all part of a business model where lenders can profit despite high borrower defaults.[12]

To take one example, recent reporting raises serious questions about whether the "buy-here-pay-here" car dealer Tricolor, which markets itself as a CDFI, actually serves its Target Market consumers in a responsible manner.[13] An investigative story by Barron's revealed that nearly 20% of the company's car sales in Texas involved vehicles that Tricolor had previously sold to another customer, suggesting that Tricolor may be making unaffordable loans, repossessing vehicles upon default, and selling those vehicles again.[14] Tricolor purports to use "proprietary software" in its underwriting decisions, but the Barron's reporting raises serious questions about whether the company is in fact meaningfully assessing ability to repay.[15] And, as another example, CDFI Oportun recently announced a partnership to originate higher-dollar loans on behalf "buy-now-pay-later" provider Sezzle.[16] The CFPB (among other entities) has

[12] *See* CRL et al. letter at 7-8.

[13] *See, e.g.*, *Responsible Lending in Subprime Automotive Finance*, Tricolor (March 2021), *available at* https://www.tricolorholdings.com/pdf/Tricolor_and_Responsible_Lending.pdf (Tricolor marketing materials about its CDFI status).

[14] *See* Jacob Adelman, *A Used-Car Dealer Raised Millions From ESG Investors. The Customer Complaints Continued*, Barron's (Nov. 11, 2022), *available at* https://www.barrons.com/articles/tricolor-auto-esg-investing-complaints-expensive-cars-51668209717

[15] *Id*. The article also uncovered additional issues with Tricolor, including potentially inflated vehicle prices, interest rates that exceeded other "buy-here-pay-here" dealers, and shoddy vehicle maintenance.

[16] *Oportun and Sezzle Partnering to Give Consumers More Choice in Financing Purchases*, Oportun (Jan. 18, 2022), *available at* https://oportun.com/news/oportun-and-sezzle-partnering-to-give-consumers-more-choice-in-financing-purchases/

noted that BNPL providers do not engage in traditional underwriting, so the Fund must be alert to whether any CDFIs like Oportun that originate BNPL loans are actually complying with the Application's underwriting requirements.[17]

In sum, the Fund must closely scrutinize fintechs, including Tricolor and Oportun, to make sure they comply with the robust underwriting standards in the Application, and cannot be misled by arguments about the "innovative" nature of their business models or underwriting methods.

III. We commend the Fund's explicit requirement that Applicants abide by many important mortgage QM protections.

We fully support the Fund's decision to close the loophole in existing regulations that exempted CDFIs from essential consumer protections in the Ability to Repay/Qualified Mortgage rule (ATR/QM rule). The Fund's actions in this area are critical because, although most CDFIs truly are mission-driven lenders, some institutions appear to have pursued CDFI certification to skirt the ATR/QM rule.[18] To take an especially egregious example, one mortgage lender that touts its CDFI status in marketing materials boasts in advertisements of an "unfair advantage" based upon its ability to "close loans with page one of the bank statement" and without "income, employment, or DTI documentation."[19] The Application rightly clamps down on institutions becoming CDFIs in order to evade important consumer protections by requiring CDFIs to abide by several key QM product protections.

QM statutory product protections are important because they provide for the most transparent and sustainable mortgages. One need only look to recent history to see the importance of these protections. Abusive mortgages with attributes inconsistent with the QM protections were a major cause of the Great Recession, and because minority borrowers were disproportionately steered into such mortgages those groups suffered unequally from these toxic products.[20] Thus, it goes almost without saying that CDFIs, which must have a mission of

[17] *See Buy Now, Pay Later: Market trends and consumer impacts*, CFPB (September 2022) at 16, 63-69, *available at* https://files.consumerfinance.gov/f/documents/cfpb_buy-now-pay-later-market-trends-consumer-impacts_report_2022-09.pdf

[18] CRL et al. letter at 6. For additional information about the problems with the CDFI exemption to the QM rule, see a comment CRL and other organizations recently filed with the CFPB urging the Bureau to rescind the exemption entirely. Comment of NCLC et al. re Request for Information Regarding Mortgage Refinances and Forbearances (Nov. 28, 2022), *available at* https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl-nclc-nhlp-comment-cfpb-rfi-28nov2022.pdf. This comment provides no basis for the Fund to backtrack on its decision to require CDFIs to abide by key QM protections because, of course, it is uncertain when and if the CFPB will act on the comment's request.

[19] *See* Change Wholesale advertisements, including at https://changewholesale.com/

[20] CRL et al. letter at 13-14.

serving underserved communities, have no business offering mortgage products that violate key QM protections.

We are very pleased that the Fund, in restricting CDFIs from this abusive behavior, struck the appropriate balance by requiring CDFIs to abide by each of the ATR/QM Rule's key consumer protections while also permitting CDFIs appropriate flexibility to tailor underwriting to the unique needs of LMI borrowers.

Regarding consumer protections, the Fund rightly chose bright-line mortgage lending tests, each of which a CDFI must pass to be eligible for certification. As with limits on consumer loans' APRs and features, a bright-line standard is appropriate here because it will simplify the Fund's ability to administer the program and prevent bad actor CDFIs disguising harmful products. At the same time, the Fund rightly recognized that, if CDFIs abide by safe product protections, it is appropriate for CDFIs to be provided flexibility from the affordability limits that CFPB may apply to other lenders, such as the current strict DTI limit; applied to CDFIs, these limits may unreasonably constrict access to credit, and exempting them is consistent with the portfolio exemption for small creditors.[21] CDFIs focus on mission-based lending, have roots in the community, and know their borrowers, so it is reasonable for CDFIs to have some flexibility from the specific affordability requirements of the ATR/QM rule in order to responsibly increase access to credit.

In sum, the Application's approach to mortgage lending appropriately balances consumer protection and access to credit.

IV. The Fund's overdraft rules permit CDFIs to continue to operate high-cost overdraft programs and charge exorbitant NSF fees.

While we are supportive of the Application, we object to its treatment of overdraft loans and NSF fees. Unfortunately, here the Fund eschewed bright-line rules – such as, as previously suggested in our November 2020 comment, a cap of 6 overdraft fees per borrower, per year – in favor of undefined scrutiny of applicants' overdraft programs. While we appreciate the attention paid to the maximum dollar amount, daily and annual limits on the number of fees, and other aspects of Applicants' overdraft and NSF programs, the Application falls short by not setting benchmarks in those categories. *See* Application at PM25 & PM26.

Depository institutions' overdraft practices cause devastating, lasting harm to the customers whose financial health those institutions – and especially CDFIs – should be supporting. Overdraft fees strip billions of dollars annually from struggling consumers, leaving them less able to save to weather shortfalls, more vulnerable to predatory promises of "short-term" loans, and generally financially worse off.[22] Indeed, nine percent of account holders pay

[21] CRL et al. letter at 16 (citing 12 C.F.R. § 1026.43(e)(5)).

[22] *See*, *generally*, Peter Smith et. al, *Overdraft Fees: Banks Must Stop Gouging Consumers During the COVID-19 Crisis*, Center for Responsible Lending (June 2020), *available at*

almost 80% of the billions paid annually in these fees.[23] These consumers tend to carry low balances – averaging less than $350.[24]

In recent months there has been a significant shift in the overdraft practices of several large banks. For example, PNC has limited overdraft charges to one per day, Bank of America has greatly reduced the per transaction fee and reduced the number of fees charged per day and per year, and Capital One and Citi have eliminated overdraft fees altogether, forgoing millions in such revenue.

In light of this market shift, it is disappointing that the Fund has decided not to place bright-line, meaningful restrictions in overdraft and NSF fees at CDFIs, which must have a mission of serving underserved communities. Our November 2020 comment letter urged the Fund to establish an eligibility requirement that CDFIs charge no more than six overdraft fees in a rolling 12 months, consistent with the FDIC's 2010 guidance addressing overdraft programs.[25] We continue to urge the Fund to adopt this restriction rather than the amorphous scrutiny in the Application, which will not meaningfully protect consumers from CDFIs' harmful overdraft programs. If the Fund does not adopt this suggestion, we urge the Fund to add to its overdraft questions an examination of the concentration of overdraft fees at depository CDFIs to determine whether overdraft fees are disproportionately incurred by a small number of a CDFI's customers.

V. The Fund should expressly clarify that the Responsible Financing Practices rules apply to *all* Financial Products offered by an applicant, not just those that are directed toward a Target Market.

As explained above, we strongly support the Fund's adoption of bright-line regulations for the features of applicant's Financial Products. Although it is clear from the wording of the Responsible Financing Practices questions beginning on page 41 of the Application, the Fund could more clearly state that those restrictions apply to *all* products offered by an applicant. Absent this clarification, an applicant could believe that they apply only to the portion of the applicant's Financial Products used to satisfy the transaction test (*see* page 67 of the Application). Any such reading of the Application would seriously undermine the new critical Responsible Financing Practices regulations in the Application because it would permit an applicant to be certified despite up to 40% of its financial products having harmful features.

https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl-overdraft-covid19-jun2019.pdf

[23] CFPB Data Point: checking account overdraft (July 2014) at 12 Table 3, *available at* https://files.consumerfinance.gov/f/201407_cfpb_report_data-point_overdrafts.pdf

[24] CFPB Data Point: Frequent Overdrafters (August 2017), at 16 Table 2, *available at* https://files.consumerfinance.gov/f/documents/201708_cfpb_data-point_frequent-overdrafters.pdf

[25] Overdraft Payment Programs and Consumer Protection Final Overdraft Payment Supervisory Guidance, FDIC (2010), *available at* https://www.fdic.gov/news/financial-institution-letters/2010/fil10081.html

Thus, we recommend adding the following sentence to the discussion of the Responsible Financial Practices on pages 34-35 of the Application:

> These ineligibility rules apply to all Financial Products offered by an Applicant, not only those Financial Products directed to one or more of the Applicant's Target Markets.

VI. The Fund should incorporate the CFBP's definition of "small business" for purposes of the Application.

The Application excludes from certification CDFIs that do not abide by certain disclosure and other obligations related to small business loans. *See, e.g.*, Application at PM17. For purposes of these obligations, the Fund should incorporate the definition of "small business" in the forthcoming CFBP Small Business Lending Data Collection under the Equal Credit Opportunity Act (Regulation B).[26] Currently, the proposed regulation defines a "small business" as a business with "$5 million or less in gross annual revenue for its preceding fiscal year." The CFPB's regulation is scheduled to be released by the end of March 2023 (around the same time as the end of the Fund's blackout period), and it makes sense for the Fund and Bureau to use the same definition of "small business."

OTHER COMMENTS ON THE APPLICATION

I. The Predominance Test Should Not Penalize CDFIs for Developing Real Estate to Serve their Target Markets

In addition to lending to community-development focused real estate developers, Self-Help also directly develops real estate that serves one or more of its Target Markets. Presently, such activity does not count toward a CDFI's score on the transaction test because direct real estate development is not a Financial Product. Thus, this activity does not factor into whether a CDFI directs 60% of its Financial Products to one or more eligible Target Markets. *See* Application at 4, 67.

There is a strong argument that direct real estate development that serves a Target Market should count toward a CDFI's transaction test score. If a specific real estate project is directed at a Target Market, there is no logical reason to count that development toward the transaction test score if the CDFI supports that project through a loan but not if the CDFI develops the project itself. Such a project serves the community equally in either case, so it does not make sense to distinguish based upon the way in which the CDFI deploys its resources to support the project.

Given the late stage in the comment process and complexity involved in developing rules for including direct real estate development in the transaction test, however, Self-Help is not at this time urging the Fund to include such activity in the transaction test.

[26] *Available at* https://files.consumerfinance.gov/f/documents/cfpb_section-1071_nprm_2021-09.pdf

Instead, the Fund should exclude Target Market-directed real estate assets from the predominance test. *See* Application at 54. If such assets are not excluded from the predominance test, there will be a powerful disincentive for CDFIs like Self-Help to develop and own these assets because they could jeopardize a CDFI's status as a Financing Entity. This is a more acute issue than whether real estate development should count toward the transaction test. If real estate development is not included in the transaction test, a CDFI will simply not receive credit for its activities in that area. By contrast, including mission-focused real estate development in the predominance test actually *penalizes* CDFIs that engage in the activity. Indeed, the Fund has rightly recognized that in many cases real property should be excluded from the predominance test because it can so easily skew the results. *See* Application at 55. Similar reasons justify excluding Target Market-serving real estate assets from the formula.

The Fund's existing catchall exception to the predominance test is not sufficient to avoid the problem of penalizing CDFIs for engaging in Target Market-directed real estate development. Individual CDFIs may petition for certain assets to be excluded from the transaction test if and only if the CDFI can establish that "such assets incorrectly appear to indicate that it is not predominantly a Financing Entity, or [that] the assets are essential for it to conduct its Financial Product and/or Financial Services activity." Application at 54. But Target Market-directed real estate developments do not appear to satisfy either exception, even if – as noted above – there is no reason to distinguish between Target Market-directed developments that a CDFI supports through lending versus those that it develops itself. Thus, Self-Help suggests adding the following additional exclusion to the bullet points list of assets excluded from the predominance test on page 55 of the Application:

- Real Estate assets that predominately serve one or more of the applicant's Target Markets.

II. Self-Help continues to support the Fund's evaluation of related entities as a whole and elimination of geographic boundaries in most Target Market designations.

Self-Help is pleased that the Fund has retained the approach of applying the primary mission test as a whole to non-depository parents, affiliates, and subsidiaries engaged in financing, and has maintained its decision to eliminate geographic boundaries in most Target Market designations.[27]

COMMENTS ON THE CDFI CERTIFICATION AGREEMENT

I. Self-Help Suggests the Following Tweaks to the Certification Agreement

Self-Help urges the Fund to make the following small changes to the CDFI Certification Agreement ("Agreement"). These changes will lower the administrative burden on CDFIs without undermining the Fund's ability to monitor CDFIs or administer the program.

[27] *See* CRL et al. letter at 18.

- Failure to file a CDFI certification compliance report or to provide CDFI certification compliance information requested by the CDFI Fund should not automatically result in termination of the CDFI certification. *See* Agreement Section 7. Instead, a reasonable cure period should be provided in the event of a missed filing to the Fund.

- The Fund should not permit CDFI's Transaction Level Reports or Annual Certification and Data Collection Reports to appear on the CDFI Fund website or be disclosable pursuant to a Freedom of Information Act request. *See* Agreement Section 13. Such reports could have Personally Identifying Information ("PII") like homebuyer addresses that pose serious privacy concerns if publicly available.

- CDFIs should be required to keep certification-related records for **seven** years, not ten, so that the Fund's rules are consistent with Internal Revenue Service requirements. *See* Agreement Section 8.b.

- The Fund should be required to provide a reasonable amount of notice (e.g. 10 days) before performing a site visit of a CDFI pursuant to Section 8.c of the Agreement. *See* Agreement Section 8.c.

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We strongly support the CDFI Fund's efforts to ensure that the primary mission and activity of all CDFIs are to promote community development. Thank you for considering these comments, which we are happy to discuss further if helpful.

Contacts:

Center for Responsible Lending
Mike Calhoun, President, mike@responsiblelending.org, 202-349-1862
Andrew Kushner, Policy Counsel, andrew.kushner@responsiblelending.org, 510-379-5513

Self-Help Credit Union
Randy Chambers, President, randy.chambers@self-help.org, 919-956-4463
David Beck, Director of Policy, david.beck@self-help.org, 919-956-4495

Self-Help Federal Credit Union
Steve Zuckerman, President, steve.zuckerman@self-help.org, 510-379-5511

Self-Help Ventures Fund
Laura Benedict, President, Laura.benedict@self-help.org, 919-956-4430