

United States House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, D.C. 20515

May 29, 2020

Memorandum

To: Members, Committee on Financial Services
From: FSC Majority Staff
Subject: June 3, 2020, “Promoting Inclusive Lending During the Pandemic: Community Development Financial Institutions and Minority Depository Institutions”

The Subcommittee on Consumer Protection and Financial Institutions will hold a virtual hearing entitled, “Promoting Inclusive Lending During the Pandemic: Community Development Financial Institutions and Minority Depository Institutions” on Wednesday, June 3, 2020, at 12:00 p.m., on the virtual meeting platform Cisco Webex. This single-panel hearing will have the following witnesses:

- **Lisa Mensah**, President and CEO, Opportunity Finance Network
- **Michael T. Pugh**, President, CEO, and Board Member, Carver Federal Savings Bank
- **Samuel C. Scott**, Chairman, Black Chicago Tomorrow, and Co-Chair, American Business Immigration Coalition (ABIC)
- **James H. Sills, III**, President and CEO, M&F Bank, representing the Independent Community Bankers of America (ICBA)

Overview

During the COVID-19 pandemic, Community Development Financial Institutions (CDFIs) and minority depository institutions (MDIs) have delivered much needed capital and relief to underserved communities, many of which have borne a disproportionate impact of the COVID-19 pandemic. For example, CDFIs and MDIs have provided more than \$15.8 billion in Paycheck Protection Program (PPP) loans to small businesses through May 23, with a smaller median loan size of about \$85,000 compared to the overall program median loan size of \$116,000.¹ In addition to establishing relief funds and services for local businesses and individuals experiencing loss of income, CDFIs and MDIs have provided mortgage forbearances, loan deferments, and modifications to help address the needs of their borrowers. The hearing will explore these efforts, existing challenges faced by CDFIs and MDIs, and proposals to enhance the work of CDFIs and MDIs to ensure underserved communities and minority-owned businesses are supported during this critical time.

Community Development Financial Institutions

The Community Development Financial Institutions (CDFI) Fund is an agency of the U.S. Treasury Department and was established by the Riegle Community Development and Regulatory Improvement Act of 1994.² The mission of the CDFI Fund is “to expand economic opportunity for underserved people and communities by supporting the growth and capacity of a national network of community development lenders, investors, and financial service providers.”³ The CDFI Fund certifies CDFIs and Community

¹ SBA, Paycheck Protection Program (PPP) Report (May 23, 2020), https://www.sba.gov/sites/default/files/2020-05/PPP_200523.pdf

² P.L. 103-325

³ CDFI Fund website, available at <https://www.cdfifund.gov/Pages/default.aspx>.

Development Entities (CDE). A CDFI's certification is “the U.S. Department of the Treasury's recognition of specialized financial institutions serving low-income communities,”⁴ while a CDE is “a domestic corporation or partnership that is an intermediary vehicle for the provision of loans, investments, or financial counseling in low-income communities.”⁵ Becoming a certified CDFI or CDE allows organizations to participate in various CDFI Fund programs, as authorized by several statutes,⁶ as follows:

- **CDFI Program:** financial assistance (FA) and technical assistance (TA) awards for CDFIs to invest in, and build their capacity, including product development and loan loss reserves.
- **Bank Enterprise Award (BEA Program):** awards to FDIC-insured depository institutions for a demonstrated increase in lending and investments in distressed communities and CDFIs.
- **Native American CDFI Assistance Program (NACA Program):** FA and TA awards for CDFIs and Sponsoring Entities to increase lending, and grow the number and build capacity of Native CDFIs
- **Capital Magnet Fund:** awards to CDFIs and non-profit affordable housing organizations to finance affordable housing solutions and related economic development activities.
- **Bond Guarantee Program (BGP):** a source of long-term, patient capital for CDFIs to expand lending and investment capacity for community and economic development purposes.
- **Small Dollar Program:** financial assistance for the creation of loan loss reserves to support small dollar loan offerings among CDFIs, including certified banks and credit unions.
- **New Market Tax Credit:** tax credits for making equity investments in CDEs that stimulate capital investments in low-income communities.
- **Qualified Opportunity Funds:** certain tax incentives if the investments meet defined criteria, and are held typically for a minimum period of 5 to 10 years. The CDFI Fund certifies Qualified Opportunity Funds.

CDFI Key Financial and Performance Metrics

As of May 14, 2020, there were 1142 certified CDFIs. The composition of CDFIs consists predominantly of nonbank lenders (loan funds), banks, and credit unions. This total number included 68 Native CDFIs. CDFIs have a national footprint, with certified CDFIs in all 50 states, D.C., Guam, and Puerto Rico.⁷

Congress appropriates funds annually to the CDFI Fund, with specific appropriations for each program and for CDFI Fund operations. New Market Tax Credits are authorized separately, and the bond guarantee program is authorized but does not require an appropriation as it is run at no cost to the taxpayer. Since its founding, the CDFI Fund has awarded over \$3.6 billion to CDFIs and CDEs, and allocated \$57.5 billion in tax credits and \$1.51 billion in bond guarantees.⁸ CDFI Fund investments are also leveraged with private capital. For instance, in FY2019, the Bank Enterprise Award achieved a leverage ratio of 32:1, with \$799 million in

Certified CDFIs by Type	
Source: CDFI Fund (May 14, 2020)	
Financial Institution Types	Number of Certified CDFIs
Bank or Thrift	148
Credit Union	324
Depository Institution Holding Company	106
Loan Fund	549
Venture Capital Fund	15
Total	1142

⁴ *Id*

⁵ *Id*

⁶ See Riegle Community Development and Regulatory Improvement Act of 1994 (P.L. 103-325), Community Renewal Tax Relief Act of 2000 (P.L. 106-554), Housing and Economic Recovery Act of 2008 (PL 110-289), Small Business Jobs Act of 2010 (P.L. 111-240), Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203), and the 2017 Tax Revision (PL 115-97).

⁷ See <https://www.cdfifund.gov/Documents/CDFI%20Cert%20List%202005-14-2020%20Final.xlsx>.

⁸ CDFI Fund, “An Introduction to the CDFI Fund”, 2019.

total qualified recipient activities in eligible distressed communities, for \$25 million in CDFI awards.⁹ According to the CDFI Fund FY2019 Annual Report, the “CDFI Program Award Recipients reported originating more than 772,000 loans and investments in excess of \$21.5 billion—an increase of more than 93% from FY 2018 reported activity. These loans and investments were used to finance more than 51,300 units of affordable housing and nearly 19,200 businesses in distressed and underserved communities lacking access to traditional lending and banking institutions.”¹⁰

Recent Appropriations for CDFI Fund		
Source: Treasury Department (FY21 Budget)		
CDFI Programs	FY 2019	FY 2020
CDFI Program	\$160 million	\$165.5 million
BEA Program	\$25 million	\$25 million
NACA Program	\$16 million	\$16 million
Healthy Food Financing Initiative	\$22 million	\$22 million
Small Dollar Loan Program	\$0	\$5 million
Administration	\$27 million	\$28.5 million
Total	\$250 million	\$265 million

In recent years, the Trump Administration has proposed steep cuts to the CDFI Fund’s budget. For example, the Trump Administration’s FY 2021 budget requested \$14 million for administration costs (a 50.9% cut from FY2020) and called for “eliminat[ing] funding for the CDFI Fund’s five discretionary grant and direct loan programs (i.e. the CDFI Program, the BEA Program, the NACA Program, HFFI and the SDL Program) and includes a proposal to eliminate new funding for Capital Magnet Fund (CMF).”¹¹ However, Congress has

sustained and increased CDFI Fund appropriations, and in FY20, appropriated \$5 million for the CDFI small dollar loan guarantee program for the first time since the program’s authorization in the Dodd-Frank Wall Street Reform and Consumer Protection Act.¹²

Minority Banks and Credit Unions

The FDIC Policy Statement defines MDIs as “any Federally insured depository institution where 51 percent or more of the voting stock is owned by minority individuals” or any such institution where “a majority of the Board of Directors is minority and the community that the institution serves is predominantly minority.”¹³ The terms “minority” means any “Black American, Asian American, Hispanic American, or Native American”.¹⁴ The composition of MDIs has changed dramatically over the past 2 decades, with a notable near-disappearance of black MDIs over this period. Today, MDIs represent 2.8% of FDIC insured banking charters, 1.3% of assets, and 1.7% of banking offices¹⁵. By comparison, MDI credit unions represent a 10% of all federally insured credit unions, although they tend to be smaller than their peers, with 87% of MDI credit unions reporting total assets of \$100 million or less.¹⁶

⁹ CDFI Fund, “The CDFI Fund’s FY 2019 Year in Review”, available at https://www.cdfifund.gov/Documents/CDFI_Annual%20Report%202019_Final%203.30.20_508_FINAL.pdf

¹⁰ *Id*

¹¹ U.S. Department of the Treasury, “Community Development Financial Institutions Fund Congressional Budget Justification and Annual Performance Report and Plan, Fiscal Year 2019”, available at <https://www.treasury.gov/about/budget-performance/CJ19/13.%20CDFI%20FY%202019%20CJ.pdf>

¹² *Id*

¹³ FDIC, “2019 Minority Depository Institutions: Structure, Performance, and Social Impact,” 2019, available at <https://www.fdic.gov/regulations/resources/minority/2019-mdi-study/full.pdf>

¹⁴ *Id*

¹⁵ *Id*

¹⁶ NCUA, “2018 Minority Depository Institutions Annual Report to Congress” available at <https://www.ncua.gov/files/publications/2018-mdi-congressional-report.pdf>

Extensive research confirms that MDIs and CDFIs play an active role in addressing persistent discrimination in banking and lending, as they are far more likely to serve underbanked communities of color and LMI communities than both large banks, and non-minority community banks. MDIs are far more likely to be located in LMI communities with high representation of minorities, and loan data confirms that MDIs lend to minorities at dramatically higher rates. Indeed, per the FDIC, the median share of estimated service area population living in LMI census tracts is 69% for African American MDIs, 45% for Asian American MDIs, and 30% for Hispanic American MDIs, compared to 26% for non-MDI noncommunity banks, and 21% for non-MDI metro-area nonfarm community banks.¹⁷ Mortgage and small business lending disparities are similar across banks types.

PPP and Challenges Facing Small Businesses in Underbanked Communities

The Paycheck Protection Program (PPP) was established in the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) that Congress passed into law on March 27, 2020. Small businesses apply for a PPP loan through banks, credit unions, or nonbanks that have been approved to be PPP lenders. The CARES Act includes provisions for small businesses with fewer than 500 employees (though there are some exceptions) and certain non-profit organizations to receive a forgivable loan for up to \$10 million to cover payroll, rent, utility, and other costs. The initial \$349 billion of funds for PPP were exhausted on April 16, 2020. Congress passed the Paycheck Protection Program and Health Care Enhancement Act (Enhancement Act) to provide an additional \$310 billion to the PPP. The Enhancement Act included a \$60 billion set-aside for community lenders.¹⁸ The set-aside is divided into two buckets: (1) \$30 billion reserved for community banks and credit unions, including minority depository institutions (MDIs), with more than \$10 billion in assets but less than \$50 billion in assets; and (2) \$30 billion for banks and credit

Paycheck Protection Program (PPP) Lending Data			
Source: SBA (as of May 23, 2020)			
Lender Type	Lenders	Loans	Net Dollars
CDFIs	305	94,843	\$7,180,070,444
MDIs	171	105,063	\$10,149,555,611
<i>- minus CDFI/MDIs identified in both groups</i>	<i>50</i>	<i>13,749</i>	<i>\$1,460,163,966</i>
Total	426	186,157	\$15,869,462,088

unions with less than \$10 billion in assets, as well as Community Development Financial Institutions (CDFIs), MDIs, certified development companies (CDCs), and microlenders.

There have been several implementation issues with the PPP, and questions raised about the program's lack of focus on reaching communities most affected by the COVID-19 pandemic. For example, in the initial rollout,

PPP loan applications did request certain borrower information, including racial and gender diversity data. Recently, the SBA and Treasury included a request for voluntary submission of such information in the loan forgiveness application form. In the absence of this data being gathered across the program, it will be difficult to assess if minority small businesses are disproportionately unable to access PPP funds. Following calls by Members of Congress for a further set aside solely for CDFIs and MDIs,¹⁹ the Small Business Administration (SBA) and Treasury Department announced on May 28, 2020 that \$10 billion of remaining PPP funds would be set-aside to be lent exclusively by CDFIs.²⁰

¹⁷ *Id*

¹⁸ https://financialservices.house.gov/uploadedfiles/fsc_summary_of_ppp_and_health_care_enhancement_act.pdf

¹⁹ For example, see Committee Press Release, "Chairwoman Waters, Top Democrats Call on Treasury, Small Business Administration to Expand Paycheck Protection Program Opportunities for CDFIs and MDIs," (Apr. 26, 2010), <https://financialservices.house.gov/news/documentsingle.aspx?DocumentID=406516>.

²⁰ Treasury and SBA, "Small Business Administration and Treasury Department Announce \$10 Billion for CDFIs to Participate in the Paycheck Protection Program," <https://home.treasury.gov/news/press-releases/sm1020>.

Furthermore, the House recently passed H.R. 6800, the Heroes Act, which would, among other things, provide a \$1 billion emergency appropriation to the CDFI Fund and establish a further set aside of either 25% of remaining PPP funds (if remaining funds total less than \$40 billion at the time of enactment) or \$10 billion (if remaining funds total more than \$40 billion) specifically for community financial institutions, including CDFIs and MDIs. The House also passed H.R. 7010, the Payroll Protection Program Flexibility Act, which would extend the program from June 30 to December 31, and extends loan terms from two to five years. The bill would allow loan forgiveness for expenses beyond the 8-week covered period to 24 weeks, and it would increase the limitation of loan proceeds for nonpayroll expenses from 25 percent to 40 percent.

Legislative Proposals

- **H.R. 5315, Expanding Opportunity for MDIs Act** (Beatty): This bill would codify the Financial Agent Mentor-Protégé Program within the Department of the Treasury. The program provides participating minority depository institutions and small financial institutions with mentorship regarding becoming a financial agent for Treasury and improving service capacity.
- **H.R. 5322, Ensuring Diversity in Community Banking Act** (Meeks): This bill would strengthen MDIs through partnerships, technical assistance, federal government contracts, and deposits.
- **H.R. 6476** (Green): This bill would provide liquidity advances to eligible lenders (CDFIs, small MDIs with less than \$250 million assets, and rural banks) for the purpose of providing PPP loans.
- **H.R. 6775, Community Impact Financial Institutions Inclusion Act** (Meeks): This bill would require at least 25 percent of Federal Reserve lending programs to finance loans originated by community financial institutions, specifically 20 percent allocated by community lenders with less than \$10 billion in assets; and 5 percent for MDIs and CDFIs with assets under \$10 billion in assets. The bill also requires weekly reports to Congress providing data on this lending activity.
- **H.R. 6830** (Phillips): The bill would reduce the CDFI Bond Guarantee Program minimum issuance threshold from \$100 million to \$25 million for FY 2020, then \$50 million for future fiscal years.
- **H.R. 6868** (Green): This bill would establish a Community Capital Investment Program to provide capital and interest-free loans to MDIs, CDFIs, impact banks and credit unions serving low-income communities.
- **H.R. 6892** (Beatty): This bill would mandate that the Federal Reserve's Main Street Lending Program (MSLP) support nonprofits and public universities through a low-cost loan option with deferred payments without accruing interest, with a forgivable loan option for nonprofits that predominantly serve low-income communities. The bill would eliminate MSLP's minimum loan threshold for small business and small nonprofits. Furthermore, the bill would open access for all CDFIs to be MSLP lenders, in addition to requiring the Fed provide support to participating MDI and CDFI lenders.
- **H.R. _____, Strengthening Minority Community Development Financial Institutions Act** (Waters). This bill would require 40 percent of all CDFI Fund appropriations be reserved for award, guarantee, and grant programs for minority lending institutions, and require reporting on such activities. It would establish an Office of Minority Community Development Financial Institutions to administer these funds led by a new Deputy Director of Minority Community Development Financial Institutions.
- **H.R. _____** (Adams): This bill would authorize \$5 billion to be appropriated to the CDFI Fund, reserving \$2 billion for minority lending institutions.