December 5, 2022

Jodie Harris, Director
CDFI Fund
Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

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

Dear Director Harris:

The Michigan Credit Union League (MCUL) is a statewide trade association representing 100% of the 199 state- and federally-chartered credit unions located in Michigan and their 5.8 million members. As of the most recent published list1 (11/14/22), the state of Michigan is home to 26 CDFI-certified credit unions, accounting for 13% of credit unions located in the state and representing over 20% of all state credit union members2. On behalf of our members, in particular our CDFI members, we thank you for the opportunity to comment on the Notice and Request for Public Comment regarding the Certified Community Development Financial Institutions (CDFIs) Certification Application.

As mission-driven entities, our member credit unions appreciate much of the proposed updates, especially as it relates to ensuring a commitment to community development missions: credit unions have been consistently strong in this arena. However, some proposed changes will introduce challenges to recertification and will increase compliance costs to maintain certifications. In these concerns, we largely echo comments made by both the Credit Union National Association (CUNA) and Inclusiv, including:

- Enhancing communication between CDFI credit unions and the Fund instead of relying solely on communications facilitated via AMIS Service Requests. CUNA provided an anecdote detailing one credit unions’ difficulty in communicating with the Fund. We have likewise received additional anecdotes from CDFI credit unions across the state – one credit union noted they were not told their certification status was at risk until two years after the first signs of a cure were identified.

- In all facets of their operations and product offerings, credit unions are limited by statute, subject to strict multi-agency regulatory regimes, and their products and services offered undergo scrutiny through regular examination processes. Given this, subjecting regulated depository institutions such as credit unions to a Financial Products and Services approval


2 Approx. 1.2 million members
process is moot – the Fund should consider approving all products and services offered by insured, regulated depositories. We strongly encourage the Fund to recognize the unique characteristics and differences in structure that depository institutions, in particular credit unions, are subject to. This would also be consistent with the spirit of the Riegle Act’s direction to coordinate with the federal regulators of depository institutions and avoid duplicative burdens.³

• The Fund should reevaluate several of the proposed implementations, such as the imposition of mortgage loan standards based on the strict, multi-agency regulatory regimes credit unions are already subject to. For example, all mortgages offered are subject to Regulation Z as promulgated by the CFPB and as examined by either the NCUA (for Federal credit unions) or by the Michigan Department of Insurance and Financial Institutions (for state-chartered credit unions). If mortgages offered by credit unions are compliant with the applicable state and federal regulations, there should be no additional barriers imposed by the Fund that would limit their ability to serve their communities effectively. Additionally, the proposed application asks depositories to describe their overdraft and non-sufficient funds practices; however, this ask is absent any clear guidance on what the Fund would deem acceptable. Credit unions are subject to multiple regulations in relation to overdraft services, including the Truth in Savings Act, Regulation Z and Regulation E. As such, credit union’s overdraft offerings are subject to examination scrutiny, just as their other products and services offered. If the Fund plans to evaluate these programs in a manner that is separate from the existent regulatory structures, it should ensure that its standards are available for review so that depositories can assess their programs against Fund standards.

• Regarding the application of the Military Annual Percentage Rate standard as a measure of eligibility, we echo CUNA’s concerns surrounding regulatorily endorsed small-dollar loan programs, such as NCUA’s PAL program. This program, for instance, was created as an answer to predatory payday loan products and have been constructed as safe and responsible alternatives that benefit both consumer and creditor. These small-dollar loan products are capped at 28% APR. The Federal Credit Union Act also allows for reasonable loan processing fees up to $20 that is not included in the 28% APR rate cap. Consider, also, alternative loan products offered under state statutory regimes offered by state-chartered credit unions. Given the variability in size and term of these payday alternative loan products, there is a potential that some highly beneficial programs may exceed the 36% cap based on the small scale of many of these loans. If the Fund were to proceed with the MAPR standard, credit unions that offer these PAL products – products created, endorsed and regulated by the NCUA – or other state-permissible alternatives would become ineligible for certification. This result seems highly contradictory to the overall mission of both credit unions and the Fund, as these payday alternative products were designed explicitly to serve communities often taken advantage of by predatory lending practices. At a minimum, the Fund should consider exempting small dollar loans from the MAPR standard.

• Regarding development services, both CUNA and Inclusiv offered robust, salient points which we include here by reference. In particular, we note the rigidity and narrowness of

³ 12 U.S.C. 4701
the Fund’s Development Service requirement. Credit unions, as mission-oriented institutions, take a vested interest in the financial health of their members and financial education is often baked into the products and services on offer. For example, many credit unions have certified financial counselors on staff to support their membership and to provide ad-hoc financial coaching when the opportunity presents itself. Moreover, many credit unions take advantage of “teachable moments” at multiple member touch points, from account opening, to loan application, to the opening of a checking share, etc. Point being, credit unions take a holistic approach to financial education as opposed to formalized programs. Requiring formalization has an adverse effect when assessing financial development programs already on offer at credit unions.

In addition to these primary concerns, we also echo the following comments made by CUNA. The Fund should:

• Develop an Ombuds office as a mechanism of increased transparency and as mediators in service to Fund participants.

• The Fund should provide a longer review period regarding Proposed Agreements. Given the governance structure and risk management programs required of credit unions, ten days is insufficient. The Fund should allow for a 90-day review period.

• Reassess record retention requirements, in particular regarding transaction-level records already subject to regulatory retention timeframes. Requiring a 10-year retention period for transaction-level records presents enormous privacy and security risks that only compound as timeframes are increased. To ensure proper risk exposure levels are maintained, records already subject to regulatory retention should be deferred to the requirements imposed by their applicable regulation.

We greatly appreciate the programs the Fund offers, and we thank you for the opportunity to comment on the proposed changes. We urge the fund to consider the comments provided by both CUNA and Inclusiv, as well as our own, to make appropriate alterations that ensure credit unions are not disproportionately affected in their capacity to serve their communities.

Sincerely,

Patty Corkery
President & CEO, MCUL