# COMMUNITY DEVELOPMENT AVISORY BOARD

Community Development Financial Institutions (CDFI) Fund
United States Department of the Treasury

## Minutes

**Date:** Wednesday, January 17, 2024

**Place:** Meeting conducted via video teleconference

**Presiding:** Marla Bilonick, Chair, Community Development Advisory Board; President and CEO, National Association for Latino Community Asset Builders

**Board Members in Attendance:**

Seema Agnani, CEO, National Coalition for Asian Pacific American Community Development (National CAPACD)

Dennis Alvord, Deputy Assistant Secretary for Economic Development and Chief Operating Officer, U.S. Economic Development Administration

Marla Bilonick, Chair, Community Development Advisory Board; President and CEO, National Association for Latino Community Asset Builders

David Glaser, Vice Chair, Community Development Advisory Board; President and CEO, MoFi

Harold Pettigrew, CEO, Opportunity Finance Network (OFN)

Mia Pittman, Deputy Assistant Secretary for Risk Management and Regulatory Affairs, Federal Housing Administration, U.S. Department of Housing and Urban Development

Michael Swack, Chair, CDFI Certification Subcommittee; Director of the Center for Impact Finance, Carsey School of Public Finance, University of New Hampshire

Darrin Williams, CEO, Southern Bank Corporation

**Also Present:**

Christopher Allison, Manager, New Markets Tax Credit Program, CDFI Fund, U.S. Department of the Treasury

Michelle Dickens, Manager, Certification Policy & Evaluation, CDFI Fund, U.S. Department of the Treasury

William Luecht, Designated Federal Official, Community Development Advisory Board; Senior Advisor, Legislative and External Affairs, CDFI Fund, U.S. Department of the Treasury

Jeff Merkowitz, Senior Advisor to the Director, CDFI Fund, U.S. Department of the Treasury

Marcia Sigal, Acting Director, CDFI Fund, U.S. Department of the Treasury

**Welcome, Overview of the Agenda, and Roll Call by Marla Bilonick and David Glaser**

At 2 p.m. Eastern Time, CDFI Fund Chair of the Advisory Board, Marla Bilonick, introduced herself and welcomed everyone to this virtual meeting of the CDFI Fund's Community Development Advisory Board (CDAB). Board Chair Bilonick extended a warm welcome and thank you to everyone on the call. Board Chair Bilonick reviewed the agenda for the meeting.

Vice Chair, David Glaser, also extended a warm welcome and thanked the CDFI Fund staff for their work on updated certification and successful rollout.

Chair Marla Bilonick then conducted Roll Call and formally convened the meeting.

**New Markets Tax Credit Native Initiative Update by Christopher Allison, Manager, New Markets Tax Credit Program**

Christopher Allison gave a presentation on the CDFI Fund's efforts to increase New Markets Tax Credit (NMTC) investment in native areas through the NMTC Native Initiative. As of fiscal year 2021, there have been approximately $1.8 billion[1] in NMTC investments in Indian Country. In April 2022, the CDFI Fund launched the NMTC Native Initiative with an overall goal of increasing NMTC investment in native areas and three specific objectives: to increase Native Community Development Entities (CDE), Native CDFI, and tribal participation in the program; to improve Native CDE's ability to receive allocations; and to increase NMTC investments in Indian Country through partnerships and access to information.

Mr. Allison stated that through Big Water Consulting, the NMTC Native Initiative developed six key deliverables. The first deliverable was an analysis report of past NMTC investments in Indian Country. The analysis report found $1.8 billion in new markets representing 225 investments and 149 businesses and projects.  This investment, provided by 51 unique CDEs and NMTC investments represented 2.6% of all NMTC investments.

Mr. Allison stated that the second deliverable developed were technical workshops and individual training sessions. The CDFI Fund hosted two technical workshops over multiple days, for native organizations interested in participating in new markets. The first workshop, held in September 2022, hosted 15 participants from nine organizations. This workshop was intended to assist participants in determining if the NMTC program can help achieve their community economic development goals.

[1] Includes all NMTC investments made in NMTC Native Areas, Oklahoma Tribal Statistical Areas, State Designated Tribal Statistical Areas, and Tribal Designated Statistical Areas from Fiscal Year 2004 to 2020, adjusted to 2021 dollars.

Mr. Allison stated that the second workshop, held in February 2023, hosted 27 participants from 18 organizations. It concerned how to access and use New Market Tax Credits, and highlighted the application process, the development of an NMTC specific business plan, the technical information necessary to be competitive, and the compliance-related responsibilities associated with receiving an allocation. After the two workshops, 74 hours of direct technical assistance were provided to six native organizations that were interested in learning more about utilizing the tax credit.

Mr. Allison stated that the third deliverable was a market research report to better understand community economic development in Indian Country. The purpose of the report was to identify and review existing research and data on the unique history, challenges, industries, actors, and available funding and capital sources that shape community economic development in native communities. The report was used to identify community and economic development strategies that have attracted capital to native areas in the last 10 to 20 years.

Mr. Allison stated that the fourth deliverable was a case study report based on NMTC data analysis. The case study report includes recommendations and best practices gathered from case studies from past NMTC transactions in Indian Country. For the methodology, the research team developed a list of projects that would illustrate varied, successful, and replicable approaches with specific, on-the-ground examples. The researchers worked closely with the CDFI Fund to curate a list of nine representative projects.

Mr. Allison stated that the researchers intended to reach representatives of the community development entity, the business that received financing, the investor, the tribe (if that was different from the business), and the leveraged lender in the transaction. Due to turnover within the organization and constraints around the number of organizations that could be contacted, the response rates among non-CDE entities were relatively low. However, the conversations were valuable.

Mr. Allison stated that the two-thirds of the responding CDEs had over 10 years of experience lending or investing in Indian Country prior to the transaction. More than half of these CDEs stated they encountered tribal, cultural, or legal matters that had to be addressed as part of the project process. About one-fifth of the CDEs had a pre-existing relationship with a tribe or project sponsor involved in the case project. Two-thirds of responding CDEs stated they would request future allocations to finance other new markets transactions in Indian Country.

Mr. Allison stated that the fifth deliverable was a self-assessment guide to provide a tool to tribal entities interested in participating in the program. This guide was created to help native entities determine how they can best take advantage of the New Markets Tax Credit Program. It outlines the application and allocation process, and it also includes questions designed to help native organizations assess their capacity to participate in various roles in the NMTC program.

Mr. Allison stated that the sixth deliverable developed were best practices workshops. Mr. Allison stated that the team is currently in the process of sharing the findings from the research and analysis performed during the Native Initiative with a broad array of stakeholders. This deliverable includes both in-person and virtual events, two events about specific issues related to Hawaii and Alaska, and a briefing for federal agency partners on the findings. Mr. Allison and his team have held several events focused on Native CDFI convenings and are also facilitating a workshop at an NMTC industry conference with the goal of building partnerships between Native and non-Native stakeholders.

Mr. Allison stated that his team has published all the Native Initiative materials, including reports, training materials, and the self-assessment guide on the CDFI Fund's website for the public to access. An Advisory Board member asked when the best practices workshops will be occurring and how they can learn more about the recommendations for all stakeholders involved. Mr. Allison stated that a couple of events have passed, but his team is planning a federal agency briefing. Mr. Allison stated that CDFI Fund will announce any future events on its website.

**CDFI Certification Implementation by Marcia Sigal, Jeff Merkowitz, and Michelle Dickens**

Marcia Sigal introduced Dennis Nolan, Deputy Director for Finance and Operations for the CDFI Fund. He has been leading the approach to revamping certification. Ms. Sigal also introduced Shannon McKay, the Program Manager of Financial Strategies and Research, along with Michelle Dickens, the Program Manager for Certification and Policy Evaluation, and Jeff Merkowitz, Senior Advisor. Ms. Dickens, Mr. Merkowitz, and Ms. McKay are responsible for the new certification application, the Annual Certification Report (ACR) and the Transaction Level Report (TLR).

Mr. Merkowitz stated that he and Ms. Dickens will cover the key issues raised by the Advisory Board in its recommendations letter dated July 31, 2023. The Advisory Board had supported the principles in the primary mission section that reflect the new standards for CDFI certification related to mortgage lending inspired by the Ability-to-Repay/Qualified Mortgage Rule (ATR-QM Rule) but also supported allowing for exceptions with a “legitimate community development purpose.” The revised Application now provides additional flexibility and in some cases allows Applicants to offer an explanation in the Application of how an Applicant’s engagement in an otherwise disqualifying practice is consistent with a community development mission.

Mr. Merkowitz stated that the scope of questions related to mortgage lending has narrowed significantly from what was originally proposed and commented on in November 2022. Mr. Merkowitz stated that when he mentions “mortgage,” it refers specifically to a consumer credit transaction that is secured by a lien on a single-family, owner-occupied residence. Mr. Merkowitz stated that the revised application identifies a number of exceptions to the mortgages covered by the standards, such as certain bridge loans or those used to avoid foreclosure that might serve a legitimate community development purpose.

Mr. Merkowitz stated that there are certain application questions that allow for further explanation, to demonstrate how a practice is consistent with a community development mission. One important thing to note about the scope of the responsible financing questions that cover mortgage funding, he explained, is that the scope of the questions includes some important differences. For example, the question on evaluating a mortgage borrower's ability to pay back a loan includes subordinate loans, while the other product protection questions apply only to non-subordinate mortgages.

Mr. Merkowitz stated that applicants engaged in financing activities that do not meet current responsible financing practice standards can still take action – if an applicants' activities serve a community development purpose and align with a community development mission, the applicant can seek an amendment to the standards that allows for that activity.

Mr. Merkowitz stated that if the CDFI Fund believes a specific activity under certain circumstances is consistent with a community development mission, there will be amendments to these standards and the amendments will be made available to all CDFIs and future applicants. If the CDFI Fund denies the request to amend the standards, the applicant will be prohibited from engaging in the practices in order to remain eligible for CDFI certification.

Mr. Merkowitz stated that the Advisory Board noted concerns raised by banks that an interest rate threshold of 36% Military Annual Percentage Rate (MAPR) could result in the reduction of banks offering alternatives to payday lending, and that the use of the MAPR standard would create unnecessary burdens on banks infrastructure. Mr. Merkowitz stated that lending above 36% MAPR for consumer loans does not by itself automatically disqualify under the final standards; it would only disqualify if in combination with any of a number of additional listed practices or characteristics associated with those loans, such as high default rates or a lack of certain protections associated with the fees charged on such loans, or during a re-finance.

Mr. Merkowitz stated that the final standard uses the MAPR methodology and that applicants in CDFIs are not required to calculate, disclose, or report the MAPR for their consumer loans. For certification purposes, applicants are required only to attest as to whether any of their consumer loans allow for a rate exceeding 36% MAPR, and the CDFI Fund's FAQs provide guidance on alternatives to calculating the MAPR that still would allow an applicant to make such an attestation.

Mr. Merkowitz stated that the Advisory Board highlighted several concerns related to the target market test that were more specific to the initial proposed list of pre-approved target market assessment methodologies, as opposed to the target market test itself. The final list of pre-approved target markets assessment methodologies reflects changes and new methodologies that were incorporated based on feedback and recommendations received from stakeholders. These include the opportunity for native populations to self-report as members of a native-targeted population without the need for additional verification.

Mr. Merkowitz explained that financial products provided to for-profit entities can be considered target market loans. This is possible if the ultimate beneficiaries of the loan or investment are members of a target market. Additionally, there are approved proxies and methodologies. These tools help demonstrate that the service is aimed at a low-income targeted population. The final list of pre-approved methodologies is a misnomer, as applicants with CDFIs will still be able to propose new assessment methodologies for consideration. Mr. Merkowitz stated that the CDFI Fund has also made this process more structured and transparent, and any new methodology that is approved will be added to the list and made available to all other applicants and CDFIs.

Mr. Merkowitz stated that the Advisory Board highlighted the banks' concerns over the challenges of meeting new standards associated with customized Investment Areas as well as county-wide and parish-wide Investment Areas. The final application maintains the condition for counting an applicant's financing activities in the non-qualifying census tracts of a customized Investment Area if the applicant focuses at least 85% of their total financing efforts in the customized Investment Area within the individually qualifying census tracts of that customized Investment Area.

Mr. Merkowitz stated that this standard will apply to countywide and parish-wide investment areas as well, which by regulation can only be in non-metro areas. Mr. Merkowitz stated that the CDFI Fund recognizes that rural lenders serving a non-metro customized investment area, county, or parish, may need additional time to reach this threshold. Until October 1, 2026, the standard for applicants serving such areas will be that they must direct at least 75% of their financing activity within the individually qualifying census tracts of the respective non-metro geography, in order for the activity in the non-qualifying tracts of that non-metro geography to count toward the 60% target market benchmark.

Mr. Merkowitz stated that beginning October 1, 2026, all applicants and CDFIs, whether operating in a metro or non-metro geographical area, will need to meet the 85% standard highlighted above. This new standard ensures that an applicant serving a customized investment area, or countywide or parish-wide investment area, still directs at least 51% of its financing activity within qualifying census tracts. The applicant's financing activity outside of its investment geographical area still may be directed entirely to non-qualifying census tracts.

Ms. Dickens stated that when it comes to adding new other targeted populations (OTPs) target markets, the CDFI Fund will continue to review data that would allow for additional targeted populations to count as allowed OTPs. The CDFI Fund have included Filipino and Vietnamese populations as pre-approved OTPs and is available to every applicant.

Ms. Dickens stated that when it comes to allowing development services to count towards financing entity activity, the requirement is to have both asset and staff time dedicated to the provision of financial products and/or financial services to be the predominant business activity of the CDFI. Development services, as per the regulation, are not allowed to be counted towards staff time or assets.

Ms. Dickens said the CDFI Fund will accommodate organizations active in significant financial products or services. If such organizations have major use of assets or use of staff time in ways that make them seem less focused on financing activities, they can ask for these assets or staff time to be disregarded from the evaluations. This ensures they're still recognized as primarily finance-oriented entities. These organizations will need to provide an explanation as to why such assets appear incorrectly, which might indicate that they are not a predominantly financing entity or explain why the assets are essential for what it does to conduct its financial products and or financial services activities.

Ms. Dickens stated that the CDFI Fund has clarified the description of "eligible financial services" as: a structured training, counseling, or technical assistance service that promotes access to and/or success with an entity's financial products and financial services. A structured development service is defined by the following: it would be offered regularly to eligible clients; it has a defined curriculum or written set of goals or objectives; and the outcomes of success may be the completion of specific steps that prepare the current or potential customers to achieve or increase their knowledge about CDFI financial products and financial services.

Ms. Dickens stated that the CDFI Fund will allow financial education for youth to count towards development services if it promotes opening a depository account or building savings in an account with the applicant. Ms. Dickens stated that the CDFI Fund had decided to reduce the record-retention requirement from 10 years to five years to be more reasonable and aligned with other federal regulations or requirements in the CDFI Certification Agreement.

Mr. Dickens stated that to assist with implementation of the revised CDFI Certification Application, on Dec. 10, 2023, the CDFI Fund previewed the Microsoft Word version of the CDFI Certification Application. In it were guidance materials, a FAQ document, and a timeline for the application that included when it would be available to applicants, the timeline for when currently certified CDFIs can become re-certified, and the dates when the CDFI Fund would host webinars and conference calls for applicants.

Ms. Dickens stated that the CDFI Fund provided a webinar with a question-and-answer segment. The webinar was held on Dec. 13, 2023, and highlighted the changes and the requirements to become certified. The second step was to make the online version of the CDFI Certification Application and the Abbreviated Transaction Level Report, or TLR, available to new applicants. This was available on Dec. 20, 2023. Since deploying the CDFI Certification Application, the team has been focused on the post-implementation phase.

Ms. Dickens stated that the certification team, along with the financial strategies and research business unit, have been managing the queue of calls and questions that come in via email, phone, and the AMS service request portal. The team monitors these methods of communication daily and provides timely responses. They are also tracking the questions received to identify what questions could become FAQs and are identifying items that may become impediments for applicants or for the CDFI Fund during the review process.

Ms. Dickens stated that the plan is to continue to provide some clarifying updates to the guidance materials and the FAQs as frequently as necessary. There will be a call to go over those materials every third Thursday of every month, beginning Feb. 15, 2024. There was another general CDFI certification webinar on Jan. 31, 2024, the details will be posted on the CDFI Fund website.

Ms. Dickens stated that the CDFI Fund will resume quarterly Annual Certification and Data Collection Report (ACR) calls, which is an hour-long live conference call, beginning March 7, 2024. The ACR calls are intended to assist certified CDFIs with the reporting requirements. Ms. Dickens stated that it is important for CDFIs to file their ACRs annually because it helps the CDFI Fund improve the view of the industry, and it provides the CDFI Fund with confirmation that organizations are regularly reviewing their own ability to adhere to the certification requirements and provides data for the CDFI Fund to confirm their attestation.

Ms. Dickens stated that new organizations can apply for CDFI Certification as of Dec. 20, 2023. CDFIs currently certified under the prior standards are allowed a grace period to come into compliance with the updated policies. The CDFI Fund has asked CDFIs to notify them by Feb. 1, 2024, whether they want to recertify early or by the deadline for all currently certified CDFIs, which will be Dec. 20, 2024.

Ms. Dickens stated that the CDFI Fund has given themselves 12 months to get through all the recertification applications. Ms. Dickens stated that there have been previous conversations about allowing flexibility for financial products, financial services, target markets, target market assessment methodologies, and responsible lending standards that are not currently allowed to be considered. As part of the application process, applicants will propose their items to be considered, and the CDFI Fund will vet that information. Ms. Dickens stated that if approved, they will make that available to all applicants and CDFIs.

Ms. Dickens stated that the CDFI Fund has the revised ACR that is currently active in their system and ready to go as soon as they are ready to accept the first ACR under the revised application policies as early as this spring. Ms. Dickens stated that the timeline is to wait for the first CDFI to be certified and then the CDFI will come in for its annual review. Ms. Dickens stated that the CDFI Fund will continue to review and update the CDFI certification policies and make necessary adjustments as needed. The certification team will provide ongoing compliance reviews via site visits and/or desk audits to ensure that the CDFIs are adhering to the standards as required.

After the presentations, Board Chair Bilonick asked the Advisory Board if anyone had questions. Mr. Swack and Mr. Williams both commended the CDFI Fund staff for their efforts to revise the CDFI Certification Application and for listening to their recommendations. Mr. Glaser asked about future reviews of the CDFI Certification Application. Deputy Director Nolan responded that staff would review questions and feedback they receive and that there would be future cyclical analysis and the Advisory Board's feedback would be welcomed.

**Election of New Chair by Marla Bilonick**

Board Chair Bilonick stated that the Regal Community Development and Regulatory Improvement Act of 1994, which created the CDFI Fund and this Advisory Board, states that the members of the board specified shall select by majority vote a Chairperson of the board who shall serve for a term of two years.

Board Chair Bilonick stated that her term ended with the January 17 meeting and thanked the members of the Advisory Board and those that served on the CDFI Certification Subcommittee.

Board Member Michael Swack nominated Vice Chair Glaser to be chair of the Advisory Board. The majority of the vote was in the affirmative.

Vice Chair Glaser stated that the vice chair is now open and will be discussed at the next meeting.

David Glaser moved to adjourn the meeting. Board Member Williams moved and Board Member Pettigrew second the motion.

**4:30 Adjournment of Meeting**

Respectfully submitted,

Marla Bilonick, Chair
Community Development Advisory Board