CDBA Community Development Bankers Association
1444 Eye Street, Suite 201 • Washington, D.C. 20005 • (202) 689-8935 • (202) 689-8938 (fax)

April 23, 2020

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

Re: Request that All Paycheck Protection Program (PPP) Loans be Considered to Meet CDFI Eligibility Criteria

Dear Jodie:

In this time of unprecedented national economic hardship, CDFI banks have demonstrated strong leadership in assisting small businesses and their employees through the Small Business Administration's (SBA) Paycheck Protection Program (PPP) created by the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020. I am writing to urge the CDFI Fund to ensure that all PPP loans originated by CDFI banks be considered to meet the "primary mission" and "target market" eligibility criteria for ongoing CDFI certification and compliance purposes, as these loans were originated to meet a pressing national economic security purpose.

The CARES Act and PPP guidance do not specifically direct the loans to low- and moderate-income (LMI) communities. Yet, in the hands of CDFI banks, PPP has been an effective short-term tool to stabilize businesses, mitigate economic disruption, and reduce the ranks of the unemployed. PPP is a cornerstone of Congress' efforts to mitigate the COVID-19 economic crisis. The program helps small business owners and nonprofits cover payroll and other overhead during the crisis. The policy rationale of PPP is to mitigate business disruption and to blunt a potential nationwide economic depression.

Today the nation is grappling with a certain systemic economic crisis. Conservatively, it is estimated that one in every four businesses in the US has temporarily shut down.[1] The unemployment rate has rocketed from 4.5% in the second week of March to 20% in the first week of April.[2] An estimated 22 million people have filed for employment since March.[3] The surge in unemployment should be no surprise given that 48% of all US employees work for small businesses.[4]

CDFI banks have participated in the rescue of the economy because it so strongly aligns with their missions of empowering America's economically distressed communities. In a mid-April survey of

[1] www.uschamber.com/report/special-report-coronavirus-and-small-business
[2] alexbick.weebly.com/uploads/1/0/1/3/101306056/bb_covid.pdf
[3] www.washingtonpost.com/business/2020/04/16/unemployment-claims-coronavirus/
[4] www.jpmorganchase.com/corporate/institute/small-business-economic.htm

CDBA member banks, 92% of respondents were approved SBA lenders and actively making PPP loans. An additional 6% that were not previously SBA lenders applied to be PPP lenders to help their communities respond to the crisis.

Given this dire economic crisis, we urge the CDFI Fund to ensure that *all* PPP loans originated by CDFI banks be considered to meet both the "primary mission" and "target market" eligibility criteria for ongoing CDFI certification and compliance purposes. This action is supported by facts and agency precedent outlined below.

1. CONGRESSIONAL INTENT OF THE CARES ACT AND PPP PROGRAM DESIGN

As a provision of the CARES Act, PPP is implemented in response to the President's March 13, 2020, declaration of a nationwide emergency pursuant to Sec. 501(b) of the Stafford Act. Further, per FEMA and pursuant to the President's March 13, 2020 declaration:

> *"All 50 states, the District of Columbia, and 4 territories have been approved for major disaster declarations to assist with additional needs identified under the nationwide emergency declaration for COVID-19. Additionally, 32 tribes are working directly with FEMA under the emergency declaration."*[5]

As such, PPP is intended to prevent a crippling wave of *national unemployment.* As we will unfortunately, but inevitability see, a significant and increasing portion of the nation will see (or have seen) their incomes fall below the current 80% Area Median Income (AMI) threshold which defines a LMI community – swelling the populations of the very communities CDFIs intend to serve.

2. CDFI FUND PRECEDENT FOR DISASTERS AND EMERGENCIES

The CDFI Fund has strong past precedent for adjusting CDFI target markets to accommodate declared disaster areas. To respond to the needs of communities adversely impacted by Hurricane Katrina, on September 9, 2005 Treasury Secretary Snow specifically declared that the CDFI Fund would:

> *"Modify the NMTC Program allocation application so that additional consideration (would) be given to organizations that commit to target their investment activities to counties where FEMA issued a 'major disaster declaration' as of 7/15/05*."[6]

Our nation's current situation mirrors the Katrina example – with the difference being that every state, territory, the District of Columbia and 32 tribal nations are now, per FEMA, designated disaster areas.

Furthermore, in 2012, the CDFI Fund released an Impact Assessment, "Community Development Financial Institutions Response to Superstorm Sandy," which commended New York-area CDFIs on their responses to the economic development needs of communities affected by the storm.[7] A**t that time, the CDFI Fund recognized that the overarching needs of communities affected by disasters are identical to those of communities that suffer from economic under-development in "ordinary" circumstances.** For example, the post lauded Business Outreach

---

[5] www.fema.gov/coronavirus/disaster-declarations
[6] www.cdfifund.gov/Documents/NMTChurricaneRecovery.pdf
[7] www.cdfi.org/wp-content/uploads/2017/09/cdfi_response_to_superstorm_sandy_impact_assessment.pdf

Center Capital (BOC) for designing a "disaster recovery loan program for ***any*** small business that was physically and/or financially impacted by the storm throughout the five boroughs of New York City." (Emphasis added). Just as it was important for CDFIs in 2012 to ensure storm-related impact in response to Superstorm Sandy, so it is important for CDFI banks to respond today with loans such as in the PPP.

3. COMPOSITION OF CDFIS' PRE-EXISTING CUSTOMER BASES

Like other PPP lenders, the first borrowers to approach CDFI banks have primarily been existing borrowers. CDFIs have already certified that at least 60% of their activity is directed to eligible Target Markets; it therefore follows that a strong, albeit approximate, correlation may be made between a CDFI bank's existing customer base and its PPP portfolio. This consideration is in addition to, and does not replace, the contention above that a PPP loan is a tool *de facto* serving a nationwide mandate to mitigate a sudden and crippling increase in LMI communities.

4. PPP IMPLEMENTATION CHALLENGES

The first priority of the CDFI banks under PPP was saving businesses and jobs in their local communities.
Implementation of PPP can be described as "chaotic at best." SBA implemented PPP on a "first-come, first-serve" basis until the monies ran out. Speed was urged by Congress, Treasury and the SBA. This engendered a rush that limited and compressed application preparation by all parties involved. CDFI banks working double shifts and pulling "all nighters" in good faith had neither the resources nor the mandate to slow the application process with steps to pre-geocode loans by census tract income or Target Market. Therefore, the portion of PPP loans that serve formally designated LMI communities or CDFI banks' Target Markets can only either be estimated or calculated retroactively.

As before, this consideration is in addition to, and does not replace, the contention that a PPP loan is a tool *de facto* serving a nationwide mandate to mitigate a sudden and crippling increase in LMI communities.

5. CRA AND BANK REGULATORY AGENCIES EXPLICITLY RECOGNIZE THE IMPORTANCE OF LENDING IN DECLARED DISASTER AREAS

The Community Reinvestment Act (CRA) explicitly recognizes the importance of lending in Declared Disaster Areas. CRA regulation is designed to encourage banks to respond to the needs of LMI communities. CRA's purpose is wholly consistent with the purpose of the CDFI Fund. Thus, actions undertaken by CDFI banks to introduce CRA-responsive activities should be similarly considered responsive for the purposes of CDFI certification.

The Interagency CRA Q&As, published July 25, 2016, explicitly state that loans that *"revitalize or stabilize . . . designated disaster areas" qualify as community development, and therefore, for positive CRA consideration.*[8] As noted above, every state, territory, the District of Columbia and 32 tribal nations, are now, per FEMA, designated disaster areas. PPP loans are representative of this category: PPP loans are intended to stabilize communities adversely impacted by COVID-19, and as

[8] Community Reinvestment Act; Interagency Questions and Answers Regarding Community Reinvestment; Guidance: § ll.12(g)—1: Are community development activities limited to those that promote economic development?

every community in the country is now included within a designated disaster area, these loans qualify as community development.

The bank regulatory agencies reiterated this policy in the context of COVID-19. In a "Joint Statement on CRA Consideration for Activities in Response to COVID-19" published March 19, 2020, the federal banking regulators (OCC, FDIC, Federal Reserve) urged banks to respond to the needs of LMI communities by confirming that *"efforts to modify the terms on new or existing loans for affected low- and moderate-income customers, small businesses, and small farms . . . (through the restructure of) a borrower's debt obligations due to temporary hardships resulting from COVID-19-related issues"* would receive positive CRA consideration. The statement further explains that "*[f]avorable consideration will be given to CD activities located in a broader statewide or regional area that includes a bank's CRA Assessment Area and that help to stabilize communities affected by the COVID-19, provided that such institutions are responsive to the CD needs and opportunities that exist in their own Assessment Area(s).*"
PPP loans are representative of this type of activity. PPP loans are a new loan type structured to relieve *"temporary hardships resulting from COVID-19-related issues."*

The PPP's results have already lent support for our request. The majority of PPP loans are very small, (74% of SBA approved PPP loans were in amounts less than $150,000), suggesting that they overwhelmingly represent the small- and micro-businesses that are mainstays of LMI communities and generators of recovery. During the first week of PPP deployment, CDBA's survey of its members found that the average asset size of PPP loans originated was $147,000. Over the course of the following week – before funding ran out – all reported significant reductions in the size of businesses applying and loans originated to well under $100,000. Many banks report making loans to the smallest of businesses well below $1,000.

As the loan amount is directly tied to the size of average monthly payroll, these loans overwhelmingly serve the smallest American businesses. And the smaller the business, the more likely its employees and owners are to be financially vulnerable. As Prosperity Now (f.k.a CFED) reported in 2014:

> "Approximately 92% of American businesses are microbusinesses, or businesses with 1-5 employees; the owners of these businesses, and their employees, are themselves exceptionally vulnerable to economic downturns as they tend to be financially insecure. The pursuit of entrepreneurship is an essential component of advancing economically, but in that process, for example lack of savings is a critical financial challenge for microbusiness owners at virtually all levels of income. Recent CFED research surveyed nearly 1,000 microbusiness owners with annual revenues ranging from less than $30,000 up to $2 million, and found that more than half (55%) could cover just one month or less of business expenses using current savings and 30% had no savings at all. With no cash cushion, these businesses are the first to go out of business, leaving their employees, and their owners, without income." [9]

[9] www.prosperitynow.org/files/PDFs/financial_capability_planning_guide/Entrepreneurship_policy_proposal.pdf

RECOMMENDATION

CDFIs should be lauded for their leadership in a time of economic crisis. They should not be penalized by the CDFI Fund as part of the certification or compliance reporting process. For the next two or more years PPP loans will be part of many CDFIs' portfolios and none should be excluded from the CDFI Fund's Target Market or Primary Mission criteria. These vulnerable businesses need help now, and time has not been on our side. Two weeks ago, the U.S. Chamber of Commerce reported that "among those (small businesses) who haven't shut down yet, 40% report it is likely they will shut temporarily within the next two weeks. Forty-three percent believe they have less than six months until a permanent shutdown is unavoidable."[10]

In summary, PPP loans should be considered to meet both the "primary mission" and "target market" eligibility criteria for certification because they are an effective short-term tool to prevent employees of small businesses from joining the ranks of the unemployed. This adjustment is supported through the logic of the CARES Act legislation and guidance, CDFI Fund precedent, the composition of CDFI banks' existing customer bases, the practical circumstances of implementing the program, a natural parallel with CRA guidance issued by the banking regulators before the CARES Act's passage, and the results of the program to date.

We appreciate your attention to these critically important issues. CDBA members are strongly committed to assisting the country in any way we can.

Please contact Jeannine Jacokes at (202) 207-8728 or jacokesj@pcgloanfund.org or Brian Blake at (646) 283-7929 or blakeb@pcgloanfund.org if you have questions or comments and would like to continue this important dialogue.

Thank you for your consideration.

Sincerely,

Jeannine Jacokes
Chief Executive Officer

[10] www.uschamber.com/report/special-report-coronavirus-and-small-business