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Ms. Linda Davenport
Deputy Director for Policy and Programs
Community Development Financial Institutions Fund
U.S. Department of the Treasury
601 13th Street, NW, Suite 200 South,
Washington, DC 20005

VIA Fax: (202) 622-7754

July 29, 2008

Dear Ms. Davenport:

Opportunity Finance Network (OFN)¹ appreciates the chance to comment on the draft Application for CDFI Certification. We appreciate the more than a decade of collaboration between the CDFI industry and the Fund to bring clarity and tangible benefit to the certification process.

When the Fund solicited comments on potential changes to the certification process, OFN strongly urged you² to refrain from considering detailed information about a CDFI's products and services for CDFI certification. The draft application's "Primary Mission" section does just that.

Though the Fund has rightly refrained from plans to assess the "affordability" or "appropriateness" of particular products and services, detailed discussion of a CDFI's offerings should not be part of determining whether it has a community development mission. CDFIs' strategies change with market conditions. However, it is entirely appropriate for the Fund to review specific products and services, and their appropriateness for a given market, when a CDFI applies for funding.

It also appears that the resources the Fund would need to devote to the certification process to conduct the kind of review of each CDFI's products and services that it would need to make these determinations would far outstrip the staff time available, possibly causing a delay in certifying CDFIs. We would not support putting more resources into a process that could produce substantially less value for the CDFI industry.

As the Fund rightly emphasizes, certification is designation that a CDFI meets certain criteria—not how well it meets its mission, or the soundness of its financial management, or similar assessments of quality. Reviewing specific products and services in a certification application crosses that line, making judgments not only that a CDFI is serving a particular market, but attempting to discern how well it is doing so. A detailed assessment of a CDFI's products and services, as the Fund seems to be considering, would run counter to the market-focused character of the CDFI industry.

¹ Opportunity Finance Network, the national network of more than 160 financial institutions creates growth that is good for communities, investors, individuals, and the economy. Its members include Community Development Financial Institutions (CDFIs) and other opportunity finance institutions that work just outside the margins of conventional finance to bring those markets into the economic mainstream and to help the economic mainstream flow into those markets. CDFI financing has resulted in significant numbers of new jobs, jobs preserved, quality, affordable housing units, and new commercial and community facility space in all 50 states. Over the past 30 years, the Opportunity Finance industry has provided more than \$23 billion in financing that would not otherwise have happened in markets that conventional finance would not otherwise reach.

² See OFN's letter to Christopher Stever, Certification and Training manager, dated March 1, 2008, in response to FR Doc. E8-2008, published February 4, 2008.

It is not clear from the draft application whether the Fund plans additional changes to the certification process. The Request for Comments issued earlier this year indicated that the Fund seems to be considering changes in the way it applies and assesses the certification criteria. Any change in that process, beyond the consideration of products and services in the "Primary Mission" criterion, is not immediately evident from the draft application. If the Fund plans additional changes to the process of certifying and recertifying organizations, other than those obvious from the changes in this application, it should issue those changes with a request for comment before implementing them. The Fund should also provide clear documentation of any changes in its processes and criteria.

In addition, OFN has three concerns that remain unaddressed by the certification application and process in its current form:

- OFN feels strongly that the current "financing entity" test does not accurately reflect the finance-driven strategy of CDFIs and allows organizations that are not financing entities to be certified. The first set of regulations the Fund issued in October 1995 called for an institution's "predominant business activity" to be the provision of loans and investments (Sec. 1805.200(3)(d) of the Interim Rule published in Vol. 60, no. 202 of the Federal Register). We object particularly to the way the Fund considers "provision of Financial Products, Development Services, and/or other similar financing" (Sec. 1805.201(b)(2)) rather than only financial products; *and* requires that these activities constitute only a plurality of an organization's activities (as outlined in the preamble to the 1999 Interim Rule making these changes, published in the Federal Register, Vol. 64, no. 210, page 59078). Instead, provision of financial products and services should constitute a majority of the CDFI's activities and financing should be an integral part of the CDFI's strategy.
- In earlier comments to the Fund on the "primary mission" criteria, OFN expressed concern with a 2006 change to the regulations that eliminated the requirement that an applicant and all its affiliates be devoted to community development. We understand that portfolio companies of a community development venture capital firm, because of the structure of such investments, may disqualify a community development venture capital organization. We recommend that the Fund return to a requirement that all affiliates be devoted to community development, possibly with a specific and narrow exception for venture capital CDFIs; or require that a parent of any applicant be devoted to community development.
- The application for certification and recertification appear to be the same. Though a recertification process should consider the same criteria as an initial certification process, the application for recertification should be less comprehensive. An expanded version of the Fund's "certification of material event" form, which asks CDFIs to elaborate on changes that affect the certification criteria, may be an appropriate model for a recertification application.

In addition, CDFIs that have been rated by OFN's CDFI Assessment and Ratings System (CARSTM) have undergone a rigorous analysis of their mission, financial capacity, and governance.³ The Fund should use a current satisfactory CARSTM rating as evidence of meeting appropriate certification criteria. OFN welcomes the opportunity to discuss the elements of a CARSTM rating that are substantially similar to certification criteria.

As we noted in our earlier letter, OFN believes that CDFIs should be recertified no more frequently than every five years. We urge the Fund to make the certification period clear in the application.

³ For more on CARSTM, see "CARSTM on the Road—Edition 3," available at http://opportunityfinance.net/store/Downloads/CARS_On_The_Road_edition3.pdf.

Conclusion

Opportunity Finance Network believes that the current certification process has served the industry well. We are pleased to see that the Fund has generally maintained the existing certification application, but have concerns that the proposed changes would inappropriately assess the operations of individual CDFIs. We urge the Fund not to adopt these changes to the Application for Certification/Recertification.

The Fund should also clarify whether it has made additional changes to the certification process and criteria that are not evident from the application, and release those changes for comment prior to implementation.

We welcome to opportunity to discuss our comments and the Fund's plans further. Please do not hesitate to contact me at 215.320.4304 or mpinsky@opportunityfinance.net if you have questions or concerns.

Thank you again for the opportunity to comment.

Sincerely,

A handwritten signature in black ink that reads "Mark Pinsky". The signature is written in a cursive, flowing style.

Mark Pinsky
President and CEO