



ISSUE BRIEF

## Credit Union community development financial institutions (CDFIs)

### BACKGROUND

NAFCU has long heard from credit unions about issues at the CDFI Fund. These issues range from a lack of clear and prompt communication to long wait times on applications and an ongoing blackout period on new applications while the CDFI Fund updates its application process for CDFIs.

The blackout period, in particular, has caused issues as it has been ongoing for almost a year. This long gap in accepting new applications disadvantages potential applicants, decreasing the amount of assistance available for low-income communities, and leads to uncertainty about future compliance requirements for existing CDFIs. NAFCU has consistently advocated with the Fund and on Capitol Hill for greater communication with CDFIs and stakeholders and for the new application to not disadvantage credit unions.

Through comment letters to the Fund, NAFCU has highlighted specific portions of the proposed “draft” application that are problematic including:

**Extremely Short Effective Date.** The CDFI Fund proposed a one-year effective date for existing CDFIs to come into compliance with the proposed certification standards. NAFCU does not support this effective date as the majority of the revisions are burdensome on CDFIs, especially smaller institutions.

**Burdens on Low-Income Designated Credit Unions.** The primary mission section of the proposed application eliminates the use of the NCUA’s Low Income Designation (LID) as an automatic qualifier for membership but allows the CDFI Fund to consider other documentation for a holistic picture of the applicant’s dedication to community development. NAFCU supports the review of the overall picture of the applicant but does not support the removal of LID as an automatic qualifier.

**Parity with Banks.** All applicants other than depository institution holding companies (DIHCs), affiliates of DIHCs, and subsidiaries of insured depository institutions (IDIs) are required to demonstrate that any affiliate meets all primary mission requirements. Because the term “IDI” only includes banks and thrifts with deposits insured by the FDIC, credit unions insured by the NCUA are not included in the exemption. NAFCU does not support this exclusion of credit unions from the exemption.

**Ability to Repay Requirements Conflict with Existing Law.** Under the proposed certification standards, an applicant that does not consider a borrower’s ability to repay (ATR) a loan may be determined ineligible for CDFI certification if an acceptable justification is not offered. NAFCU opposes this because it is contrary to Regulation Z, which explicitly excludes CDFIs from the ATR requirements. For example, this would jeopardize, among

other products, safe and affordable payday alternative loan (PAL) programs offered by credit unions.

**CDFI Fund Lacks Authority to Regulate Fees.** The proposed CDFI certification application asks a number of questions related to fees charged by depository institutions. NAFCU discourages the CDFI Fund from regulating fees as it does not have the statutory authority to do so. The NCUA, FCC, OCC, FDIC and Federal Reserve System are the appropriate regulators for fees for financial institutions.

**Board Members and Accountability to Target Market.** NAFCU does not support the proposed elimination of the existing option of utilizing an applicant's board

member's participation on the governing or advisory board of an unconnected organization as a means of demonstrating accountability to a Target Market. Credit unions are not able to change board members with ease because they are democratically elected by their membership serving defined terms, as required by statute.

**The Need for Simplified Attestation Forms.** The proposal requires certification applicants to verify the income of each board member whose means of accountability is a Low-Income Targeted Population. NAFCU recommends that this verification take the form of an attestation from the board member.

## LEGISLATIVE DEVELOPMENTS

*Appropriations* - The CDFI Fund received \$324 million in appropriations last year, and report language was included in the omnibus spending legislation directing the Fund to do a better job of engaging with member institutions and stakeholders. This year NAFCU is advocating for the Fund's funding to be increased, and for additional report language to be included urging the Fund to finalize the application and communicate with its members.

*Oversight* - Legislation has been introduced to help bring more transparency to the CDFI Fund in both the House and Senate. Both bills would require yearly testimony on the CDFI Fund in the House and Senate.

### ***H.R. 3161 and S. 2674, the CDFI Fund Transparency Act***

This legislation would require annual testimony from the Treasury Secretary or the CDFI Fund Director on the Fund before both the House and Senate. The House version was introduced by Representatives John Rose (R-TN) and Brittany Pettersen (D-CO) and the Senate version was introduced by Senators Steve Daines (R-MT), Mark Warner (D-VA), Mike Crapo (R-ID), and Raphael Warnock (D-GA).

## OUTLOOK AND ASK

NAFCU urges Members of Congress to cosponsor these bills to bring transparency to the CDFI Fund. Both could see action yet this year. Attaching this legislation to the appropriations process would be one way to ensure its passage this year, which would allow for a hearing next year with the Fund. We also encourage Members of Congress to weigh in with Appropriations Committee members and push for report language to be included encouraging the Fund to finalize the application changes and better communicate with its members.