Federation
Credit Unions United to Serve the Underserved

May 5, 2010

Mr. Scott Berman, Acting COO
CDFI Fund
U.S. Department of the Treasury
601 13th Street, NW – Suite 200 South
Washington, DC 20005

Dear Mr. Berman:

The National Federation of Community Development Credit Unions ("Federation") represents more than 200 credit unions serving predominantly low-income urban, rural, and reservation-based communities across the United States.

The Federation recognizes the extraordinary efforts and accomplishments of the CDFI Fund in providing much-needed capital to institutions serving low-income communities. In particular, we commend the leadership of Director Gambrell and her staff, who have made major improvements in the operations of the Fund.

We welcome the opportunity to comment on the Fund's authorizing statute and operations. Before addressing the specific questions posed by the Fund, the Federation wishes to express our concern with several related issues that are of the greatest importance to our membership.

- The Federation believes that the CDFI Fund's application and award process do not adequately recognize and credit the provision of financial services to low- and moderate-income consumers, including provision of small to medium loans, savings, and transactions. One dimension of the continuing financial crisis is the contraction of consumer credit and sharp increases in credit card and banking fees. Disposable income and access to credit for low-income communities are integral to the sustainability of community development efforts. We do not believe that the CDFI Fund's award priorities adequately reflect the role of community development depositories in addressing this problem.
- Accordingly, CDCUs are highly disadvantaged in competing for CDFI Fund awards. As evidence, in the last announced round (October, 2009), credit unions received only 2% of the awards, totaling $850,000 out of a total of $52.7 million. For all of 2009, credit union awards received 9% of total awards.
- Furthermore, the unfavorable success rate of credit unions has resulted in only a small portion of eligible credit unions seeking and maintaining CDFI certification. Only about half of the Federation's members have seen fit to become certified,

even though they perform precisely the same work as those that are certified. The recent Community Development Capital Initiative (CDCI) has produced a moderate influx of additional applications for certification. But the Federation believes that more can and should be done to increase the number of certified credit unions. Currently, CDFI Fund data only captures a portion of the financing work done in and for low-income communities. A much fuller picture could be achieved if low-income credit unions, which number over 1,000, were represented more extensively in the ranks of the Fund-certified CDFIs.

- Finally, the Federation's analysis indicates that the Fund has departed from its previous practice of making relatively small, numerous technical assistance and capacity-building awards under SECA, the Small and Emerging CDFI window. By our analysis, over the period 2005-2009, the number of technical assistance awards averaged 26.2 a year, compared to an average of 61.6 awards annually over 2000-04. We urge the Fund to increase its award activity, especially in amounts of up to $100,000. We believe this will both enhance the field's capacity, and contribute to institutional diversity.

Along with this letter, I have attached the Federation's letter of December 14, 2010 to Director Gambrell, which provides additional detail on our analysis and recommendations.

Responses to Request for Comments

1. Community Development Advisory Board

(a) Is the current composition of the Advisory Board adequate to represent the needs of CDFIs?

> **The Advisory Board could benefit from increased, regular input from CDFI leaders and experts**

(b) Are there other regulatory or government agencies that should be represented on the Advisory Board?

> **Credit union and banking regulators should be represented, including the National Credit Union Administration (NCUA).**

(c) Is the current national geographic representation and racial, ethnic and gender diversity requirement for Advisory Board membership adequate?

> **Yes, the current requirements for diversity in these categories satisfactory. However, it would be beneficial to engage more representatives of CDFIs, including particularly smaller institutions, as well as funders or researchers directly involved in the CDFI field.**

(d) Should there be term limits for the private citizens appointed to the Advisory Board?

A term of three years is appropriate, in order to promote diversity of views. To our knowledge, three years is the term for the Federal Reserve Consumer Advisory Council. This would be appropriate for the CDFI Fund Advisory Board.

(e) Should there be baseline requirements related to the knowledge private citizens appointed to the Advisory Board have about CDFIs and/ or community development finance?

The Federation concurs with the comment of the CDFI Coalition.

(f) Is the requirement to meet at least annually sufficient?

Semi-annual meetings would be preferable.

(g) Currently the statute requires that two individuals who are officers of national consumer or public interest organizations (12 U.S.C. 4703(d)(2)(G)(iii)) be on the Advisory Board. Should this requirement be more specific regarding what types of organizations fulfill the requirement?

It is not necessary to be more specific about the type of organization, but it would be desirable to specify that the representatives be actively involved in the CDFI field. The number of private-citizen appointed seats should equal the number of public board members.

B. Community Development Financial Institutions (CDFI) Awards

1. Definitions

(a) Are the definitions for low-income and targeted populations still viable? If not, what alternative definitions might be considered?

The definitions currently in use generally are adequate. In addition, if not already in the Fund's priorities, persons with disabilities should qualify as a "targeted population."

(b) Should other definitions be added to the statute to ensure that CDFI awards target areas of ''high'' economic distress? If so, what criteria should be utilized?

We do not support statutory change if the Fund has the discretion on an annual basis to indicate areas of especially high economic distress, such as

areas affected by extensive foreclosure, disaster areas, and so forth. We do think that in scoring applications, a relatively small bonus could be given to applicants that serve high-distress areas.

(d) The Federal Housing Finance Agency (FHFA) has issued its final rule regarding CDFI eligibility for membership in the Federal Home Loan Bank System. In its final rule, the FHFA provided several financial definitions (*e.g.*, net asset ratio, operating liquidity ratio, gross revenues, operating expenses, restricted assets, unrestricted cash and cash equivalents). Should the CDFI Fund adopt any or all of these definitions?

The Coalition should NOT adopt FHFA rules. It is a different institution with a different mandate and membership. In particular, the indicators cited above are inappropriate for depository institutions, including credit unions.

(e) Should the CDFI Fund align its definitions for consistency across all CDFI Fund programs?

We do not believe it is necessary or desirable to align definitions across all CDFI programs.

2. Certification

(a) Is the criteria established for CDFI certification adequate to ensure that only highly-qualified CDFIs obtain the certification? Should the CDFI Fund seek to only certify highly-qualified CDFIs?

The CDFI Fund should certify all institutions that meet its basic criteria. The Fund should not attempt to define "highly qualified," if for no other reason that this may imply a judgment about safety, soundness, and impact that the Fund is not equipped to make.

We recommend that the Fund amend its certification application and materials to make them specific to the various types of CDFIs , including banks and thrifts, credit unions, and both non and for-profit loan funds, and venture funds. The regulatory requirements of depository institutions and the financial statement differences among all these types makes it difficult to use a one-size-fits-all certification application. .

(b) Are there types of CDFIs that are prohibited from certification because of the criteria; if so, what changes are needed?

Groups that are in the process of forming low-income credit unions are not eligible to be certified, unless they are Native American. Groups working to

organize credit unions should be eligible for certification and technical assistance awards pending receipt of their credit union charter If such groups are not incorporated, then a sponsor organization or fiscal agent could receive the funds for the specific purpose of organizing the credit union.

The Fund, through its certification procedure and other mechanisms, should exercise due diligence ensure that predatory lenders cannot become certified as CDFIs, even if they serve a target market or investment area.

(c) Should the CDFI Fund more closely align its certification with the FHFA rule requiring a CDFI to submit with its application an independent audit conducted within the prior year, more recent quarterly statements (if available) and financial statements for two years prior to the audited statement?

No, in the case of federal or state credit unions, the CDFI Fund should look to call reports submitted by the credit union applicant to its supervising agency. Small credit unions, especially those under $10 million in assets, are not generally required by regulators to have a certified public audit, nor should the Fund require this.

(d) Should CDFIs be re-certified on a regular basis and, if so, how often?

We recommend recertification on a 3 to 5-year schedule. As certification is a pre-condition to applying for the Financial Assistance and Technical Assistance Programs, continued use of the Certification of Material Events form between recertifications is appropriate.

(e) Presently, the CDFI Fund only requires a CDFI to notify it of material events when applying for an award. Should such notification be required from all certified CDFIs on a regular basis (*e.g.*, every year; every three years)?

Notification of material events on a three-year schedule is sufficient. We do not support additional data gathering of certified CDFIs unless they are current awardees.

(f) Currently, CDFI certification review does not entail an assessment of an organization's underlying financial soundness. Should the CDFI Fund require any or all of the following financial documentation as a condition of certification?

The Federation strongly opposes the Fund establishing safety and soundness conditions on applicants. Regulatory agencies, including the National Credit Union Administration, are responsible for safety

and soundness determinations. The Federation does not believe the CDFI Fund should independently assess financial soundness.

(h) Should the CDFI Fund require certified CDFIs to annually submit current information on financial viability and other data necessary to assess the financial condition and social performance of the CDFI industry?

Any data gathering efforts should only include current awardees. The Federation does not believe that certified institutions that have not received funding should be required to submit data. In this context, we wish to point out that the CDFI Fund currently serves only a portion of institutions that function as CDFIs, whether certified or not. In particular, the majority of low-income credit unions are not, and have not sought, certification even though they perform comparably to certified credit unions. Consequently, at best, any data or conclusions reached by the CDFI Fund are necessarily incomplete and, possibly, misleading about the "CDFI industry" as a whole; the Fund can only analyze and describe the universe of certified institutions.

3. Holding Companies, Subsidiaries and Affiliates

(b) Should holding companies, subsidiaries and affiliates of depository institutions be extended separate CDFI certifications, regardless of whether the entities can collectively satisfy the certification requirements?

The Federation believes that on a case by case basis, depending on the characteristics of the respective industry sector, it may be appropriate to extend separate CDFI certifications. In the case of credit unions, more detailed study of this question is required.

4. Geographic and Institutional Diversity

(h) Are there other underserved areas that should be considered for purposes of geographic diversity?

Limited bonus points could be awarded to institutions that serve areas including the Colonias, the Delta, and Appalachia.

The CDFI Fund invites and encourages comments regarding institutional diversity as well, including:

(a) Should institutional diversity be a priority of the CDFI Fund?

Institutional priority should absolutely be a priority of the Fund. The Fund has drastically underfunded credit unions as well as certain other sectors in recent years. The Federation believes that achieving satisfactory institutional diversity will require action in several areas.

1. **We recommend that like institutions be ranked against like institutions in their respective sectors, and the highest performers in each sector receive awards.**

2. **It is vital that reviewers have substantial and current knowledge of the sector that they are reviewing. That is, reviewers of credit union applications should have demonstrated credit union experience, and reviewers of venture funds should have demonstrated venture experience.**

3. **The application content, format, and review criteria should be appropriate for the respective sectors. As currently constructed, the application process does not adequately allow credit unions to describe their range of products or the impacts they make in the area of consumer finance, savings, and transactions. Either these categories should be applied across the board to all sectors, or, more plausibly, the Fund's application should be modified to ensure that credit unions can make their case in these areas and be properly credited accordingly.**

(b) Should the CDFI Fund designate a specific amount of funding for regulated depository institutions separately from loan funds and venture capital funds? If so, what proportion of the funding should be designated for CDFI banks and CDFI credit unions?

Whether through the changes recommended above or through other means, the Fund's goal should be to achieve a roughly proportionate funding of the various sectors. We do not believe that a specific dollar amount can be specified in advance. We do believe that a range of 15 – 25% of awards to credit unions (by number of institutions, rather than dollar amount) would be more appropriate than the results recently achieved by the Fund.

(d) If a special amount is not designated, what can the CDFI Fund do to achieve institutional diversity?

Please see comments above

5. Financial Assistance

(a) Is there a point at which a CDFI should be considered to have ‘‘graduated’’ from and no longer be eligible for CDFI awards? If so, what should be the criteria (*e.g.*, successful award history, asset size, national reach, *etc.*)?

The Federation does not believe that such institutions should be considered to have "graduated." They may be able to offer new products or enter new markets for which additional CDFI funding is appropriate. However, the CDFI Fund should redouble its efforts to assist smaller institutions, which may otherwise suffer if the greatest proportion of funding goes to the largest CDFIs.

(b) If a CDFI were to ‘‘graduate’’ from CDFI award eligibility, should another program be developed for such an institution; if so, what type of financial assistance should those institutions receive?

Adding programs and types of financial assistance for "graduated" institutions would mean additional complexity and excessive programmatic segmentation to the CDFI Fund.

(c) Under the CDFI Fund's authorizing statute, the CDFI Fund has the authority to make long-term, low-interest loans to CDFIs, dependent on matching funds. Is there a need for a loan product in addition to the CDFI financial and technical assistance awards and its lending authority? If so, please describe the product, *e.g.*, terms and conditions, matching funds requirement, etc.

Any expansion of this activity should not come at the expense of CDFI Fund equity grants, which are the key and most indispensable product offered by the Fund. If an additional loan product were created, it should look something like 1%, 30-year unsecured or subordinate debt; however, these loans may be unwieldy to administer.

(d) Is there a need for a CDFI federal loan guarantee and if so how would it be structured?

A long-term federally guaranteed loan program would be desirable

(e) Should a category be created specifically for CDFIs that serve a national market or are intermediaries? If so, what proportion of the appropriation should be allocated for such applicants?

The Fund has previously provided funding to national and other intermediaries, and it is important that it continue to do so – especially for

national CDFIs which invest in smaller local and regional CDFIs, which otherwise may have difficulty accessing the Fund directly. It is important that the CDFI Fund's application structure be appropriate and flexible enough for national intermediaries, such as trade association-based CDFIs, to make their case. This has not necessarily been the case in the past.

(g) Should the CDFI Fund provide a technical assistance award to an organization (***i.e.***, a community development corporation) that proposes to create a new CDFI, even if that organization is not a CDFI itself?

Community groups working to establish new low-income credit unions cannot currently receive technical assistance support, unlike Native CDFI groups. The Federation believes that the CDFI Fund could play a very helpful role in making technical assistance funds available to these "emerging" CDFIs, if they have a nonprofit sponsor which is willing to take expenditure responsibility.

(h) Should CDFIs be required to provide financial education to their customers; if so should there be a minimum level of education?

This does not make sense, given the diversity of CDFI types. National intermediaries, venture funds, and funds that finance developers or community facilities surely do not need to be required to provide financial education to their customers.

6. Award Cap

(a) Should CDFI Fund award amounts have a cap or should award amounts be based on merit and availability?

The Fund should have the flexibility to raise the cap, based on availability of funds and emerging needs.

(b) Should subsidiaries and affiliates have a funding cap that is separate from their parent CDFI?

No.

(c) Should the CDFI Fund make an award to only one affiliated organization during the same funding round?

Yes.

(d) Is ‘‘$5 million of assistance in total during any three-year period’’ too restrictive? If so, what are the alternatives, if any?

The Fund should have the flexibility to raise the three-year cap, based on availability of funds and emerging needs

7. Matching Fund Requirements

(a) Does the dollar-for-dollar matching funds requirement restrict a CDFI's ability to apply for a financial assistance award? If so, what should be the matching funds requirement?

In times of economic distress, dollar-for-dollar requirements are too restrictive. The Fund should have flexibility to adjust the requirement as circumstances dictate.

(b) Should the matching funds continue to be restricted to comparable form and value or should any type and source of funding be allowed as matching funds?

The Federation concurs with the CDFI Coalition's comment.

(c) The statute provides certain exceptions to the matching funds requirement and provides the CDFI Fund the flexibility to reduce the match requirement by 50 percent in certain circumstances. Is this appropriate?

It is appropriate for the Fund to have the flexibility to reduce the match, or alter the form of the match.

(d) The statute allows the applicant to provide matching funds in a different form if the applicant has total assets of less than $100,000; serves nonmetropolitan or rural areas; and is not requesting more than $25,000 in assistance. Should this provision apply to all applicants? Should the asset size and assistance request be increased?

The asset size for this provision should be increased, preferably to $1 million. The amount of assistance potentially offered should increase from $25,000 to $75,000.

C. CDFI Training

(a) Will the Capacity-Building Initiative, as currently structured, provide the training that CDFIs need to deliver financial products and services to underserved communities nationwide?

The CDFI Fund has not announced its initial awards, so it is impossible to say whether its structure is appropriate or not. The application process was confusing, making it highly uncertain what the outcome will be of this initial round. The Federation believes that the categories set forth in the original request did not correspond to the most pressing needs of the CDFI industry, and the credit union sector in particular.

(b) The first training products that will be offered by the Capacity-Building Initiative will include affordable housing and business lending, portfolio management, risk assessment, foreclosure prevention, training in CDFI business processes, and assistance with liquidity and capitalization challenges. What other topics should this initiative provide in the future?

(c) Are other technical assistance and training resources needed?

The CDFI Fund should provide multi-year grants to help build long-term training capacity. The transaction-by-transaction approach that has apparently been adopted is not a promising one. It may make control easier for the Fund, but it is not conducive to strategic engagement with CDFIs.

D. Capitalization Assistance To Enhance Liquidity

(a) Do CDFIs have a liquidity need?

The Federation concurs with the comment by the CDFI Coalition.

(b) Would the LE Program, as structured, help address CDFIs' liquidity needs?

The Federation concurs with the CDFI Coalition's comment.

Should the restrictions related to the award cap and/or matching funds be removed as a means to create larger impacts?

The Federation concurs with the CDFI Coalition's comment.

(d) What changes are needed to make this a viable initiative?

The Federation agrees with the CDFI Coalition's comments.

(e) Are there other program ideas better suited to providing liquidity for CDFIs?

The Federation agrees with the CDFI Coalition's comments.

F. Bank Enterprise Awards (BEA)

The purpose of BEA is to provide an incentive for insured depository institutions to increase their activities in distressed communities and provide financial assistance to CDFIs. The CDFI Fund welcomes comments on issues relating to the eligibility of certain activities, qualifications and general program structure, particularly with respect to the following questions:

(2) Should only banks and thrifts certified by the CDFI Fund be eligible to apply for BEA? Should federally insured, certified CDFI credit unions be eligible for BEA?

Credit unions, whether CDFI-certified or not, should be eligible to apply for BEA funding and receive BEA credit for expanding their community development activity, including but not restricted to investing in CDFI certified and/or low-income designated credit unions.

In conclusion, I want to reiterate the Federation's strong support for the CDFI Fund, especially as its work has expanded and gained greater visibility over the last several years. It is indispensable to the advancement of the entire CDFI field.

Sincerely yours,

Clifford Rosenthal

Clifford N. Rosenthal
President and CEO