

July 30, 2025

Via Electronic Submission

Ms. Heather Hunt  
Program Manager  
Office of Compliance Monitoring and Evaluation (OCME)  
Community Development Financial Institutions Fund  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue NW  
Washington, DC 20220

RE: CDFI Certification of Material Events Form, Federal Register / Vol. 90, No. 119, OMB Number: 1559–0037.

Dear Ms. Hunt:

On behalf of the members of the Community Development Bankers Association (CDBA), I am writing to submit comments on the proposed amendment to the CDFI Fund's certification standards for depository CDFIs proposed in the recently published Certification of Material Events Form. The proposed requirement for depository CDFIs to submit particular Material Events information is not only unnecessary for the proper performance of the functions of the CDFI Fund, it will be actively detrimental to the performance of those functions.

If implemented, this change will make it unlikely that depositories, especially FDIC insured banks, will be able to attain or retain CDFI certification. The change will severely disrupt the important work of CDFI banks and harm the economies of the low- and moderate income (LMI), rural and Native communities they serve. *We respectfully request that the CDFI Fund remove the provisions discussed below from the Material Events Form. Under no circumstances should a finalized Material Events Form be published that includes these provisions.*

CDBA is the national trade association of Federal and State chartered banks, thrifts, and their holding companies that are certified by the CDFI Fund as CDFIs. CDBA leads the growth and development of the CDFI bank sector, building healthy institutions with the capacity to promote access to capital and financial services in distressed and underserved communities.

## **Background**

At issue are two new "Material Events" provisions which are extremely consequential to depository CDFIs.<sup>1</sup> Failure to meet the new standards poses an immediate threat, subject to the CDFI Fund's discretion, to a bank's status as a certified CDFI. Per the CDFI Fund:

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<sup>1</sup> CDFI Form 0036, OMB Approval No. 1559-0037, "Certification Material Events Form For All CDFI Fund Programs," Table B. "Material Events", "CDFI Certification Only," Item 41, page 9

*“Once the CDFI Fund has been notified of a Material Event related to Certification, the CDFI Fund, in its sole discretion, may determine that the Certified CDFI no longer meets the CDFI Certification requirements described in this agreement, resulting in termination of the Certified CDFI’s certification, or require an amendment to this agreement.”<sup>2</sup> (Emphasis added.)*

In short, the change requires regulated CDFIs to meet new, previously undisclosed safety and soundness regulatory standards.

Proposed new Material Events:

1. A depository CDFI must file a notice of Material Event if the CDFI receives a “CAMELS Composite Rating of 3, 4, or 5.”

*In other words, a bank CDFI receiving a CAMELS rating less than “2” risks losing its CDFI certification.*

2. The second provision requires a depository CDFI to file a notice of “any negative or adverse finding by the Appropriate Federal Banking Agency related to the Certified CDFI.” (Emphasis added).

*In other words, a bank CDFI that receives even a minor recommendation (e.g., the bank must refile a single SAR) risks losing its CDFI certification.*

Apart from the serious challenges this change brings, it is also unjustified and exposes banks and their employees to enforcement actions on behalf of their prudential regulators.

### **Lack of Authority**

The CDFI Fund’s authorizing statute clearly outlines the criteria for CDFI eligibility at 12 USC 4702. The criteria include: (1) having a primary mission of promoting community development; (2) serving an eligible investment area or targeted population; (3) providing development services in conjunction with financial products and/or services; (4) maintaining accountability to their investment area or targeted population; and (5) being a nongovernmental entity. The specifics of these requirements are codified in regulation at 12 CFR 1805. **Neither the statute nor the regulation gives the agency the authority to deem an entity as ineligible to be a CDFI on the basis of safety and soundness.** Only when providing financial assistance does the agency have the authority to consider the financial condition and/or safety and soundness of an applicant per 12 USC 4707. In the case of insured depository institution CDFIs, the CDFI Fund is required to consult with the appropriate Federal regulatory agencies about the ability of the entity to carry out the business plan discussed in the funding application in light of any regulatory concerns. But, the CDFI Fund is explicitly prohibited from regulating or determining the soundness of insured CDFIs per 12 USC 4707, which says:

**“(h) NO AUTHORITY TO LIMIT SUPERVISION AND REGULATION.- Nothing in this subtitle shall affect any authority of the appropriate Federal banking agency to supervise and regulate any institution or company”**

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<sup>2</sup> Certification Application (Rev. 9-2024), CDFI Certification Agreement, Article V, “General Terms and Conditions of the Application”, 5.1 Material Events, (b), page 9

The proposed change to the Material Events requirements constitutes an overreach by the CDFI Fund that places the agency in a regulatory or supervisory role which is in direct conflict with its authorizing statute. The CDFI Fund has no authority to receive CAMELS ratings or require ratings disclosure.

### **Violation of Confidential Information**

*The CAMELS ratings are part of the supervisory process and are considered confidential information. Institutions that disclose this non-public information are subject to criminal penalties.<sup>3</sup> Even private insurance companies are prohibited from requesting this information.<sup>4</sup> The confidentiality of CAMELS ratings is intended to prevent a loss of public confidence, potential bank runs, and to allow banks time to address weaknesses identified in the rating. The requirement to maintain confidentiality raises the serious question of how a bank could possibly disclose the requested information to the CDFI Fund in a regulatorily compliant manner, since the CDFI Fund does not have the authority to receive this information.*

### **Regulatory Inconsistency with CAMELS Ratings**

*CAMELS ratings are driven by technical or operational issues and often applied inconsistently across agencies, teams, and time. As bank regulatory agencies can confirm, a “3” CAMELS rating can result from technical deficiencies, compliance issues, or operational weaknesses, rather than serious threats to solvency or stability. Different exam teams or supervisory agencies (OCC, FDIC, Federal Reserve) may apply standards with varying degrees of strictness or tolerance; thus, resulting in inconsistency across banks or across time. CAMELS ratings of “3” or “4” do not necessarily mean the bank is unsafe or unsound and certainly do not mean that the bank cannot meet the CDFI Fund’s standard for delivery of products and service in low- and moderate-income communities.*

*Regulatory findings such as Matters Requiring Attention (MRAs) or Matters Requiring Immediate Attention (MRIAs), which are noted in bank examinations and serve as the foundation for CAMELS ratings, are shaped by examiner judgment, agency practices, and shifting priorities, leading to variability and subjectivity in their application. Findings can range from minor recommendations to serious legal violations or unsafe banking practices. Their issuance involves significant examiner judgment and subjectivity. While regulators follow formal guidelines, how findings are identified, interpreted, and documented can vary by examiner, agency, and context. These findings often reflect an examiner’s risk assessment rather than a clear rule violation. Different agencies (OCC, FDIC, Federal Reserve) and even teams within the same agency may emphasize different issues, apply inconsistent benchmarks, and vary scrutiny based on institution size, history, or geography. Findings also often reflect shifting priorities in Washington or regional offices. As above, a single, minor finding does not necessarily indicate a deficiency in delivering on the CDFI’s primary mission and serving its community.*

### **Consequences**

If enacted, this set of changes will introduce unacceptable uncertainty and unfairness into the certification of countless depository CDFIs. The consequences for the broader banking sector will also be

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<sup>3</sup> Federal Reserve Board: “FRB issues enforcement action and fines the Industrial and Commercial Bank of China Ltd. and its New York branch approximately \$2.4 million for their unauthorized use and disclosure of confidential supervisory information,” [www.federalreserve.gov/newsevents/pressreleases/enforcement20240119a.htm](http://www.federalreserve.gov/newsevents/pressreleases/enforcement20240119a.htm)

<sup>4</sup> FDIC: “Non-Public Supervisory Information Interagency Advisory on Confidentiality of CAMELS Ratings and Other Non-Public Supervisory Information,” [www.fdic.gov/news/financial-institution-letters/2005/fil1305.html#body](http://www.fdic.gov/news/financial-institution-letters/2005/fil1305.html#body)

extremely serious, extending well beyond CDFI banks' ability to access and leverage Federal funding, tax credit allocations, and technical assistance.

*In fact, the threat of decertification will cripple depository CDFIs' ability to attract and retain capital, deposits and other resources from both public and private sources. Here are just a few examples:*

- Substantial deposits, equity investments and other services are provided by traditional banks incented by Community Reinvestment Act (CRA) compliance, as well as private non-bank entities that view CDFI certification as a "gold standard" for supporting mission-driven finance.
- Treasury's own investment (in the form of equity and subordinated debt) via the Emergency Capital Investment Program (ECIP) would be immediately compromised, as retaining CDFI certification is an obligation for CDFI banks participating in the program.
- Local municipalities and states look to CDFI certification as a standard to determine eligibility for placing municipal deposits.

There is a very real risk the proposals would cause precipitous, whole-sale divestment from depository CDFIs. This would be catastrophic for the regulated institutions themselves, as well as the low-income, rural, small town and Native communities they serve.

In consideration of the concerns expressed in this letter, we respectfully request that your office eliminate these provisions from the Form before any "final" version is published. Under no circumstances should a finalized Material Events Form be published that includes these provisions.

Thank you for the opportunity to comment. We look forward to continuing to work with you on this important matter.

If you have questions, please contact me, Jeannine Jacokes, Chief Executive Officer, Community Development Bankers Association, at 202-689-8935 ext. 222 or [jacokesj@pcgloanfund.org](mailto:jacokesj@pcgloanfund.org); or Brian Blake, Chief Public Policy Officer, 202-689-8935 ext. 225 or [blakeb@pcgloanfund.org](mailto:blakeb@pcgloanfund.org).

Sincerely,



Jeannine Jacokes  
CEO