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

April 14, 2017

The Honorable Mike Crapo
Chairman
Senate Committee on Banking, Housing
and Urban Affairs
534 Dirksen Senate Office Building
Washington, DC 2010

The Honorable Sherrod Brown
Ranking Member
Senate Committee on Banking, Housing
and Urban Affairs
534 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Crapo and Ranking Member Brown:

On behalf of the Board of Directors of Community Development Bankers Association (CDBA), I respectfully submit this response to the Committee's March 20, 2017 call for legislative proposals to "create real economic growth and jobs, and help reverse years of stagnant wages and widening inequality."

CDBA is the national trade association of banks and thrifts with a primary mission of promoting community development. There are currently 137 banks and 87 bank holding companies with the US Treasury Department's certified Community Development Financial Institutions (CDFI) designation – which means at least 60% of total lending, services and other activities must serve Low- and Moderate-Income (LMI) communities. CDFI banks work in impoverished urban neighborhoods and remote rural areas with declining economic bases. The urban, rural and Native American communities CDFI banks serve are among those that have experienced the most acutely stagnant or declining economies characterized by high unemployment and poverty, lack of real opportunity for residents, and widening inequality with the rest of the nation.

1. RIGHT SIZING OF DODD-FRANK REQUIREMENTS

CDFI banks are firmly committed to serving LMI communities and promoting financial inclusion among the unbanked and under-banked. We are concerned that many well-intended Dodd-Frank provisions are having unintended consequence of significantly reducing credit availability and access to financial services in LMI communities.

We fully appreciate the intent of Dodd-Frank to mitigate risk, ensure the soundness the financial system, and promote consumer protection. The "secret sauce" of CDFI banks, however, has always been our ability to be flexible and craft sustainable products and services to meet the needs of our unique customers. The effect of many of the Dodd Frank requirements are to reduce flexibility and increase cost; thus, making it harder for CDFI banks to serve LMI communities. CDFI banks are among the smallest regulated financial institutions with an average total assets of $341 million and the largest under $3 billion. CDFI banks pose no or marginal systemic threat to the safety of the financial services sector; thus, should not be subject to the same requirements as the largest banks.

As a nation, we have already seen what happens when low-income markets and vulnerable populations cannot access the banking system. Traditional financial institutions have abandoned these markets because of the higher costs and risks in serving the underserved people and places with declining economies. "But for" CDFIs, non-regulated predatory lenders and service providers fill the gaps further accelerating the economic hardship and decline. As the last decade has demonstrated, the consequences are dire not only for LMI families and communities, but for the economy as a whole.

"Right sizing" regulations will promote economic growth in LMI communities by enabling CDFI banks to deliver products and services tailored to the needs of residents and businesses.

RECOMMENDATION: CDBA strongly supports legislative amendments directing the regulators to streamline or "right size" regulations for financial institutions based on asset-size and relative systemic risk to the financial system. We support legislative proposals that would streamline or exempt Dodd-Frank requirements for banks under $10 billion in total assets, especially those designated as CDFIs by the U.S. Treasury.

2. RECIPROCAL DEPOSITS

CDFI banks operate in communities with modest discretionary income. We often find that income is insufficient to raise deposits needed to fund loans. Therefore, as an integral part of our strategy, we raise deposits from civic-minded corporations, philanthropies, nonprofit institutions, and other local stakeholders. Our common experience demonstrates that investors are willing to place much larger deposits in CDFI banks if they are assured those deposits are secured. Many institutional depositors often have requirements that deposits be fully insured. Reciprocal deposits provide that assurance. Without access to large institutional deposits, many of our loans could not be made. In fact, CDFI banks are four times more likely to use reciprocal deposits than their peers. The problem is that reciprocal deposits are defined by the FDIC as brokered deposits despite the fact that they are relationship-based and as stable as core deposits. Studies have shown that reciprocal deposits do not present any of the regulatory challenges that brokered deposits do.

Enabling CDFI banks to access civic and mission-focused deposits will promote economic growth in LMI communities by providing CDFIs access to deposits to fund loans that, in turn, generate economic activity.

RECOMMENDATION: CDBA recommends that reciprocal deposits be exempt from the definition of brokered deposits. See Attachment A.

3. **COMMUNITY REINVESTMENT ACT**

CDFI Banks strongly support the purposes and objectives of the Community Reinvestment Act (CRA). Enacted into law 40 years ago, the last significant regulatory overhaul of CRA was 20+ years ago. The financial services industry has radically changed in the last two decades, but CRA has not. As a result, CRA has lost some effectiveness for LMI communities. We believe that the CRA can continue to be a powerful tool to: (1) promote investment in LMI communities; and (2) support and expand the capacity of CDFI banks to serve underserved communities. With a few small changes, it could help CDFI banks expand their capacity, reach and impact.

Despite the 20+ years since CDFIs were first formally recognized by Federal policy makers and their strong performance in serving low-income markets, CDFIs are not explicitly recognized under CRA in the same manner as Minority Depository Institutions and Low Income Credit Unions. Currently any bank can get CRA credit for providing financial or other support to an MDI or Low Income Credit Union regardless of whether or not the entity is located within a bank's designated Assessment Area. By contrast, a bank providing similar support can only get CRA consideration if the CDFI is located in or substantially serving a bank's designated CRA assessment area, and even in these cases, examiners have significant discretion over treatment.

CDFI banks should be afforded the same consideration as MDIs or Low Income Credit Unions because the CDFI standard targeting service to LMI communities is far more stringent. For example, there are 157 MDIs -- of which only 36 meet the CDFI standard of targeting at least 60% of their lending into low-income communities. In recent years, the National Credit Union Administration (NCUA) has significantly revised the requirements for qualification as a Low Income Credit Union. Twenty years ago, less than 200 credit unions met this standard. Over the years, NCUA has amended the requirements and now fully one-third (2,000+) of all credit unions qualify. By contrast, only 294 credit unions (4.5% of the sector) meet the more stringent CDFI requirements.

Promoting partnerships between banks and CDFIs will promote economic growth in LMI communities. Enabling banks to receive CRA considerations for supporting all CDFIs regardless of location is a "win-win" for everyone. CDFIs have a long and proven track record of effectiveness in meeting the needs of low income communities.

RECOMMENDATION: CDBA strongly recommends that investments in CDFIs receive the same treatment under CRA as investments made in MDIs and Low Income Credit Unions. See Attachment B.

4. **LEVELING THE PLAYING FIELD FOR REGULATED CDFIs**

Authorized in 1994, the US Treasury Department's Community Development Financial Institutions (CDFI) Fund provides capital to financial institutions with a primary mission of community development as a strategy to address “critical social and economic problems arising in part from the lack of economic growth, people living in poverty, and the lack of employment and other opportunities.” Over the past 20 years, the CDFI Fund has done a highly effective job in allocating $2.44 billion to CDFIs serving distressed urban and rural communities across the nation. Such funding has enabled CDFIs to provide credit and financial services to millions of low-income people and communities that would not otherwise not have been served.

When the CDFI Fund was created, the legislative record clearly indicates that Congress intended for the CDFI Program to serve all sectors of the highly diverse CDFI industry, including regulated banks and credit unions, and unregulated nonprofit loan funds and venture capital funds. The CDFI Program’s evaluation process combines this highly diverse group of institutions into a single applicant pool. Funding decisions are based on scored and ranked applications.

The use of a single application pool in the review process has numerous elements that create unintended – but real – bias that make it difficult for regulated CDFIs to compete with unregulated CDFIs.

The industry includes strong, impactful CDFIs across all sectors. Yet, the “one-size-fits-all” evaluation process results in an imbalanced distribution of resources (see attachment). As of February 2016, there were 136 CDFI banks with 87 CDFI bank holding companies, and 294 CDFI credit unions certified by the CDFI Fund. Collectively, these institutions represent approximately 89% of the total assets of the entire CDFI sector. Over 1996-2016, CDFI banks and credit unions have only received 6% and 11%, respectively, of the total CDFI Program awards. By contrast, non-regulated loan funds received 81% of all funds (but represent only half of all CDFIs and 11% of the total assets of the industry). Regulated CDFIs are distinct because they have a greater capacity to leverage small amounts of equity to raise deposits that, in turn, supports new lending in their communities. For example, $1 of equity in a CDFI bank can leverage up to $12 of deposits for relending purposes. Non-regulated CDFIs leverage funds at significantly lower levels. To fulfill Congressional intent, it is important for the CDFI Fund to serve the entire CDFI industry – not just one subsector.

Creating a level playing field in the CDFI Program evaluation process between regulated and non-regulated CDFIs will promote economic growth in underserved communities that have not fully benefitted from the Program – particularly in rural communities – where a large portion of regulated CDFIs operate.

RECOMMENDATION: CDBA strongly recommends that the CDFI Fund’s authorizing statute be amended to empower the CDFI Fund to redesign its evaluation process such that it results in a diverse group of awardees by institutional type, including regulated and non-regulated CDFIs, that is proportional to the applicant pool for each funding round. Attachments C and D.

On behalf of the members of CDBA, I thank you for the opportunity to submit proposals to create real economic growth, promote job creation, and reverse widening inequality. CDFI banks specialize in serving the most marginalized communities and unbanked and underbanked consumers. We fully share the concerns of lawmakers about protecting the soundness of the financial system and promoting consumer protection. We believe that some modest modifications to the nation's current banking laws could make a significant difference in the economic well-being of LMI communities across the nation.

We welcome the opportunity to continue this dialogue with members of the Committee. Thank you for considering these important matters. Please contact me at 202-689-8935 ext. 222 or jacokesj@pcgloanfund.org.

Sincerely,

Jeannine Jacokes
Chief Executive Officer
On Behalf of the Membership of the Community Development Bankers Association

ABC Bank (IL)
Albina Community Bank (OR)
BankFirst Financial Services (MS)
Bank of Anguilla (MS)
Bank of Commerce (MS)
Bank of Kilmichael (MS)
Bank of Lake Village (AR)
Bank of Montgomery (LA)
Bank of Rio Vista (CA)
Bank of Vernon (AL)
Bank of Winona
BankPlus (MS)
Beneficial State Bank (CA)
Broadway Federal Bank (CA)
Carver Federal Savings Bank (NY)
Carver State Bank (GA)
Central Bank of Kansas City (MO)
Century Bank of the Ozarks (MO)
Citizens National Bank (MS)
City First Bank of D.C., N.A. (DC)
City National Bank of New Jersey (NJ)
Commercial Bank (MS)
Community Bancshares of Mississippi (MS)
Community Bank of the Bay (CA)
Farmers & Merchants Bank (MS)
First American International Bank (NY)
First Eagle Bank (IL)
First Independence Bank (MI)
First Security Bank (MS)
First SouthWest Bank (CO)
FNBC Bank (AR)
Guaranty Bank and Trust Company (MS)
Illinois Service Federal (IL)
Industrial Bank (DC)
International Bank of Chicago (IL)
Legacy Bank and Trust (MO)
Mechanics and Farmers Bank (NC)
Merchants and Planters Bank (MS)
Metro Bank (KY)
Mission National Bank (CA)
Mission Valley Bank (CA)
Native American Bank, N.A. (CO)
Neighborhood National Bank (CA)
NOAH Bank (PA)
Northern Hancock Bank & Trust (WV)
OneUnited Bank (MA)
Pan American Bank (IL)
Peoples Bank (MS)

Planters Bank (MS)
PriorityOne Bank (MS)
Richland State Bank (LA)
RiverHills Bank (MS)
Security Federal Bank (SC)
Southern Bancorp, Inc. (AR)
Spring Bank (NY)
Start Community Bank (CT)
State Bank & Trust Company (MS)
Sunrise Banks (MN)
Sycamore Bank
The First, A National Banking Assoc. (MS)
The Jefferson Bank (MS)
United Bank (AL)
Urban Partnership Bank (IL)
Virginia Community Capital (VA)

Attachment A

PROPOSAL FOR PROMOTING ECONOMIC GROWTH

RECOMMENDATIONS FOR SUPPORTING CDFI AND MINORITY DEPOSITS IN RAISING MISSION DEPOSITS

CDFI banks operate in communities with modest discretionary income. They often find that income is insufficient to raise deposits needed to fund loans. Therefore, an integral part of many CDFI banks' strategy is to raise deposits from civic-minded corporations, nonprofit institutions, and other local stakeholders. Their common experience demonstrates that investors are willing to place much larger deposits in CDFI banks if those deposits are insured. Many institutional depositors often have requirements that deposits be fully-insured. Reciprocal deposits provide that assurance. Without access to large institutional deposits, many of our loans could not be made.

Reciprocal deposits are deposits that banks receive through a deposit placement network in return for placing the same amount of deposits with other banks in the network. For example, Bank A might have a customer -- a local foundation or government, for example -- that wishes to deposit $500,000 in a local bank to help fund local lending, but wants it all FDIC insured. The FDIC insurance limit is $250,000. Bank A would use the deposit network to place $250,000 in Bank B for the customer, but at the same time would also receive a $250,000 deposit from Bank C, which is also in the network. Note that Bank A's customer does this entirely with the local bank, which has the full $500,000 in deposits with which to make loans and investments in the local community. Such a deposit is a core deposit to the bank: it is a local customer and the deposit interest rate paid is the local rate of that bank.

Reciprocal deposits are covered by the definition of brokered deposits in Section 29 of the Federal Deposit Insurance Act, which was enacted before reciprocal deposits were invented, and therefore by the restrictions on brokered deposits in that law. Under Section 29, when a bank falls from well-capitalized to adequately capitalized the bank must stop taking reciprocals and, unless it receives a waiver from the FDIC, let its existing reciprocal deposits run off as they mature. The waiver is not automatic and is time consuming. Section 29 has a chilling effect on banks' use of reciprocal deposits and therefore on their ability to fund economic growth in their communities.

H.R. 4116 was introduced on November 19, 2015, by Rep. Gwen Moore and Rep. Tom Emmer. It was co-sponsored by 16 other House members: eight Democrats including House Financial Services Committee Ranking Member Maxine Waters (CA), and eight Republicans. It was the subject of a House Financial Institutions Subcommittee hearing on September 9, 2016.

A companion bill, S. 3373, was introduced on September 21, 2016 by Sen. Mark Warner and Sen. Jerry Moran. It was co-sponsored by Sen. Mike Crapo, Sen. John Boozman, and Sen. Heidi Heitkamp.

These legislative proposals would create a limited exception from the Section 29 definition of brokered deposits for reciprocal deposits. The legislation would simply allow banks to maintain the level of reciprocal deposits they have on their books if they become adequately capitalized. It would not enable banks to increase them. In effect, the legislation would create the functional equivalent of an automatic waiver. However, the total amount of reciprocal deposits at a bank covered by this limited exception could not exceed the lesser of $10 billion or an amount equal to 20 percent of the total liabilities of the bank. In effect, these limits would target the legislation to benefit community and regional banks. Community and regional banks hold the overwhelming majority of reciprocal deposits, about 94 percent of the total. Reciprocal deposits enable community and regional banks to compete more equally with the largest national and global institutions.

<u>Impact on Economic Growth and on the Ability of Consumers, Market Participants, and Financial Companies to Participate in the Economy</u>

Small businesses support economic growth and community banks support small businesses. According to the U.S. Small Business Administration, small businesses provide 55 percent of all jobs and they have provided 66 percent of all net new jobs since the 1970s. Since 1990, as big business eliminated four million jobs, small businesses added eight million new jobs. Today, small businesses account for 54 percent of all U.S. sales.

As the Independent Community Bankers of America summarizes, community banks make more than 50 percent of the loans to the small businesses that create two out of three of all new jobs in America even though community banks hold less that 20 percent of banking industry assets. (And community banks also make 82 percent of all agricultural loans.)

In 2016, according to the Federal Deposit Insurance Corporation, community banks expanded loans to small businesses by $6.4 billion, more than twice the rate of non-community banks ($3.1 billion).

Deposits, however, have increasingly flowed to the largest financial institutions in recent years and national capital markets have long met the financial needs of large institutions. The big have gotten bigger and the banking industry has become more concentrated. Large institutions focus on large borrowers and standardized loans, such as lines of credit and credit cards, because large banks can most efficiently make loans where the transaction costs per dollar are small. Or, as Scott Shane, professor of entrepreneurial studies at Case Western Reserve University, noted: “Many big banks avoid extending credit to small companies because small business loans are time intensive, hard to automate, tough to securitize and expensive to underwrite and service.” A significant consequence of this transformation to national credit markets is its effect on local credit markets.

To make money on non-standard loans, such as financing a small business, requires knowledge of the borrower and the local market, as well as close monitoring. Community bankers have such knowledge and proximity.

To make loans, however, community banks need deposits. Reciprocal deposits keep local deposits in local banks instead of the funds flowing to non-banks or to large institutions in money centers. In doing so, reciprocal deposits enable community banks to make more loans available to local businesses and for local community development. Reciprocal deposits are especially of value to local governments, which want their money kept in their communities, but want, or are required, to have it insured. That is why all fifty states and the District of Columbia have enacted laws or, in a few cases, issued administrative rulings, to enable their local governments to place funds in reciprocal deposits.

Reciprocal deposits are especially important to Community Development Banks and Minority Depository Institutions (MDIs) – which are all specialized community banks. These types of institutions often serve low and moderate income communities that do not contain significant sources of deposits. Institutional depositors, such as foundations and local governments, are willing to invest significant deposits in Community Development Banks and MDIs if they are assured those deposits are secured. Further, many of these depositors often have requirements that their deposits be fully insured. Reciprocal deposits provide that assurance. Without access to large institutional deposits, Community Development Banks and MDIs would not have been able to make many of the loans we have made. Community Development Banks use reciprocal deposits at a rate *four times* the national average, while MDIs use reciprocal deposits at *six times* the average rate.

To better understand the scope of the issue, in 2015 the Community Development Bankers Association (CDBA) and the National Bankers Association (NBA) undertook a joint survey of 126 institutions. Fifty-five – or 43.6 percent – responded, a very high response rate. Of the respondents, 78 percent said that they currently use reciprocal deposits or have in the past. More than 75 percent, however, said they have limited their use of reciprocal deposits due to perceived stigma, regulatory pressure, or concerns about their availability if the institution became less than well capitalized. Almost 95 percent said that there was a need to exempt reciprocal deposits from the definition of brokered deposits to settle any uncertainty as to their status. Lastly, 87 percent said they would expand their use of reciprocal deposits if they were exempted from the definition of brokered deposit.

In conclusion, more reciprocal deposits would result in more loans at community banks, the chief source of financing for America's small businesses -- the engines that drive our economy today --and more loans in the communities that need loans the most. That is why S. 3373 was supported by the CDBA, the NBA, ICBA and ABA.

<u>Proposed Legislative Language (Text of S.3373):</u>

114th CONGRESS
2d Session

S. 3373

To amend the Federal Deposit Insurance Act to ensure that the reciprocal deposits of an insured depository institution are not considered to be funds obtained by or through a deposit broker, and for other purposes.

IN THE SENATE OF THE UNITED STATES
September 21, 2016

Mr. Warner (for himself and Mr. Moran) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend the Federal Deposit Insurance Act to ensure that the reciprocal deposits of an insured depository institution are not considered to be funds obtained by or through a deposit broker, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Limited exception for reciprocal deposits.

(a) In general.—Section 29 of the Federal Deposit Insurance Act (12 U.S.C. 1831f) is amended by adding at the end the following:

"(i) Limited exception for reciprocal deposits.—

"(1) DEFINITIONS.—In this subsection:

"(A) AGENT INSTITUTION.—The term 'agent institution' means an insured depository institution that places a covered deposit through a deposit placement network at other insured depository institutions in amounts that are less than or equal to the standard maximum deposit insurance amount, specifying the interest rate to be paid for such amounts, if the agent institution—

"(i) (I) when most recently examined under section 10(d) was found to have a composite condition of outstanding or good; and

“(II) is well capitalized (as defined in section 38(b));

“(ii) has obtained a waiver pursuant to subsection (c); or

“(iii) does not receive an amount of reciprocal deposits that causes the total amount of reciprocal deposits held by the agent institution to be greater than the average of the total amount of reciprocal deposits held by the agent institution on the last day of each of the 4 calendar quarters preceding the calendar quarter in which the agent institution was found not to have a composite condition of outstanding or good or was determined to be not well capitalized.

“(B) COVERED DEPOSIT.—The term ‘covered deposit’ means a deposit that—

“(i) is submitted for placement through a deposit placement network by an agent institution; and

“(ii) does not consist of funds that were obtained for the agent institution, directly or indirectly, by or through a deposit broker before submission for placement through a deposit placement network.

“(C) DEPOSIT PLACEMENT NETWORK.—The term ‘deposit placement network’ means a network in which an insured depository institution participates, together with other insured depository institutions, for the processing and receipt of reciprocal deposits.

“(D) NETWORK MEMBER BANK.—The term ‘network member bank’ means an insured depository institution that is a member of a deposit placement network.

“(E) RECIPROCAL DEPOSITS.—The term ‘reciprocal deposits’ means deposits received by an agent institution through a deposit placement network with the same maturity (if any) and in the same aggregate amount as covered deposits placed by the agent institution in other network member banks.

“(2) CONSIDERATION OF RECIPROCAL DEPOSITS.—Reciprocal deposits of an insured depository institution shall not be considered to be funds obtained, directly or indirectly, by or through a deposit broker to the extent that the total amount of such reciprocal deposits does not exceed the lesser of—

“(A) $10,000,000,000; or

“(B) an amount equal to 20 percent of the total liabilities of the insured depository institution.

“(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to limit the authority of the corporation to require, on a case-by-case basis, that an agent institution that is less than adequately capitalized (as defined in section 38(b)) not accept particular types of deposits upon finding that the acceptance of such deposits constitutes an unsafe or unsound practice with respect to such institution.".

(b) Applicability.—Nothing in the amendments made by this Act shall be construed to limit the application of any provision of the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), other than section 29 of that Act (12 U.S.C. 1831f), to an insured depository institution (as defined in section 3 of that Act (12 U.S.C. 1813)).

Attachment B

PROPOSAL FOR PROMOTING ECONOMIC GROWTH

CLARIFYING CRA TREATMENT FOR BANKS SUPPORTING CDFIS

Community Development Financial Institutions (CDFIs) were first formally recognized by Federal policy makers in 1994 with passage of the Riegle Community Development and Regulatory Improvement Act 1994 (PL 103-325; Codified to 12 USC 4701) that created the Community Development Financial Institutions (CDFI) Fund. The CDFI Fund is part of the U.S. Department of the Treasury. The CDFI sector has grown from less than 200 CFDIs in 1996 to 1,088 as of February 2017. The CDFI sector is highly diverse and includes 137 banks, 87 bank holding companies, 294 credit unions, 554 loan funds, and 16 venture capital funds. An entity must meet multiple tests to be certified as a CDFI, including demonstrating that at least 60% of its total activities are targeted to low income communities or low income or other underserved populations. Annually, CDFIs must file a report on their activities to maintain their certification status.

Despite 20+ years of strong performance and effectiveness in serving low income markets, CDFIs are not explicitly recognized under Community Reinvestment Act (CRA) in the same manner as Minority Depository Institutions (MDI) and Low Income Credit Unions. Today a bank is assured that providing support to an MDI or Low Income Credit Union will qualify for CRA consideration as part of an examination whether or not the entity is located within a bank's designated Assessment Area. By contrast, a bank providing similar support can only get CRA consideration if the CDFI is located in or substantially serving a bank's designated CRA assessment area. Further, field examiners have discretion on whether to count these activities or not; thus, creating uncertainty for banks about whether such activities are under consideration. This outcome is frustrating for both banks and CDFIs.

CDFI banks should be afforded the same consideration as MDIs or Low Income Credit Unions because the CDFI standard targeting service to LMI communities is far more stringent. For example, there are 157 MDIs -- of which only 36 meet the CDFI standard of targeting at least 60% of their lending into low income communities. In recent years, the National Credit Union Administration (NCUA) has significantly revised and relaxed the requirements for qualification as a Low Income Credit Union. Twenty years ago, less than 200 credit unions met this standard. Over the past few years, NCUA has changed the requirements and now fully one-third (2,000+) of all credit unions qualify. By contrast, only 294 credit unions (4.5% of the sector) meet the more stringent CDFI requirements.

RECOMMENDATION: CDBA strongly recommends that investments in CDFIs receive the same treatment under CRA as those investments made in Minority Depository Institutions (MDIs) and Low Income Credit Unions.

Proposed Legislative Language:

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1977 (TITLE VIII):

Section 804 of 12 U.S.C. 2901 is amended in subsection (b) by:

(1) striking "and" after "women-women-owned financial institutions" and adding ","
(2) inserting "and Community Development Financial Institutions as that term is defined in 12 USC 4701(5)" after "low income credit unions"

Proposed Change as it would appear (changes italicized):

(b) MAJORITY-OWNED INSTITUTIONS.--In assessing and taking into account, under subsection (a), the record of a nonminority-owned and nonwomen-owned financial institution, the appropriate Federal financial supervisory agency may consider as a factor capital investment, loan participation, and other ventures undertaken by the institution in cooperation with minority- and women-owned financial institutions and low-income credit unions *and Community Development Financial Institutions as that term is defined in 12 USC 4701(5)* provided that these activities help meet the credit needs of local communities in which such institutions and credit unions are chartered.

Attachment C

PROPOSAL FOR PROMOTING ECONOMIC GROWTH

LEVELING THE PLAYING FIELD FOR REGULATED CDFIs
& DIVERSIFYING THE CDFI FUND'S AWARD PROCESS

Background: Authorized in 1994, the US Treasury Department's Community Development Financial Institutions (CDFI) Fund provides capital to financial institutions with a primary mission of community development as a strategy to address "critical social and economic problems arising in part from the lack of economic growth, people living in poverty, and the lack of employment and other opportunities. Over the past 20 years, the CDFI Fund has done a highly effective job in allocating $2.44 billion to Community Development Financial Institutions (CDFIs) serving distressed urban and rural communities across the nation. Such funding has enabled CDFIs to provide access to capital and financial services to millions that will not otherwise be served.

Problem: When the CDFI Fund was created, the legislative record clearly indicates that Congress intended for the CDFI Program to serve all sectors of the highly diverse CDFI industry, including regulated banks and credit unions, and unregulated nonprofit loan funds and venture capital funds. The CDFI Program's evaluation process combines this highly diverse group of institutions into a single applicant pool. Funding decisions are based on scored and ranked applications.

The application and review process have numerous elements that create unintended – but real – bias that plays to the strengths of the unregulated CDFIs. Placing the highly diverse organizations with different operating environments into a single applicant pool elevates the bias. The industry includes strong, impactful CDFIs across all sectors. Yet, over two decades, the "one-size-fits-all" evaluation process results in an imbalanced distribution of resources as illustrated in Chart 1. CDFI Fund officials acknowledge this challenge, yet report they cannot change the evaluation process to accommodate the CDFI subsector differences without a clearer legislative directive from Congress.

Many distressed communities across the United States do not have CDFIs – most notably rural communities. Organizing a de novo CDFI is challenging and requires resources that many low-income communities do not have. Most of these communities, however, do have community banks and/or credit unions that are deeply committed to their communities and may be able to qualify and/or become a CDFI. The CDFI Program's evaluation process discourages these regulated institutions from seeking certification or participating in its programs because the prospects for successfully competing for resources is low.

As of February 2016, there were 137 CDFI banks with 87 CDFI bank holding companies, and 294 CDFI credit unions certified by the CDFI Fund. Collectively, these institutions represent approximately 89% of the total assets of the entire CDFI sector. Over 1996-2016, CDFI banks and credit unions have only received 6% and 11%, respectively, of the total CDFI Program awards. By contrast, nonregulated loan funds received 81% of all funds (but represent only half of all CDFIs and 11% of the total assets of the industry). To fulfill Congressional intent, it is important for the CDFI Fund to serve the entire CDFI industry – not just one subsector.

CDFI Program Awards By CDFI Sector						
Chart 1	**CDFI Industry by Number**		**CDFI Industry by Sector Share**		**CDFI Program Awards** *(Note 2)*	
CDFI by Type	**Number @2/28/2017**	**% of CDFIs**	**Total Assets** *(note 1)*	**% of CDFI Assets**	**Total awards 1996-2016**	**% of CDFI Program Awards**
Bank & Bank Holding Company	244 (136 banks; 87 bank holding companies	21%	$46.6 billion	33%	$122.8 million	6%
Credit Union	294	27%	$80.4 billion	57%	$250 million	11%
Loan Fund	554	51%	$14.2 billion	10%	$1.8 billion	81%
Venture Fund	16	1%	$208 million	Less than 1%	38 million	2%
Total	1,088	100%	$141.4 billion	100%	$2.44 billion	100%

Note 1: Data for banks and credit unions based on Q4 2016 actual data as reported by FDIC and NCUA. No standardized or publicly available reporting system available for nonregulated CDFIs; January 2016 estimates provided by the CDFI Fund.

Note 2: Source is CDFI Fund. Chart above reflects funding for only CDFI Program because only CDFIs are eligible to apply. Congress intended for this program to build the capacity of the entire CDFI sector, including CDFI banks and credit unions. The chart does not include the New Market Tax Credit (NMTC) Program, Bank Enterprise Awards (BEA) Program and Capital Magnet Programs because these initiatives are designed to achieve different program goals and eligibility includes CDFIs and non-CDFIs.

Proposed Legislative Language Amendment

12 USC 4706(b) is amended by:

“(1) inserting “and Institutional” after “Geographic”
“(2) striking the period after “areas” and adding “and diverse applicants by institution type, which shall include all types of Insured Community Development Financial Institutions as defined by 12 USC 4702(c((13) and non-insured Community Development Financial Institutions*.”*

Proposed Change *(changes italicized)*

(b) Geographic and *Institutional D*iversity

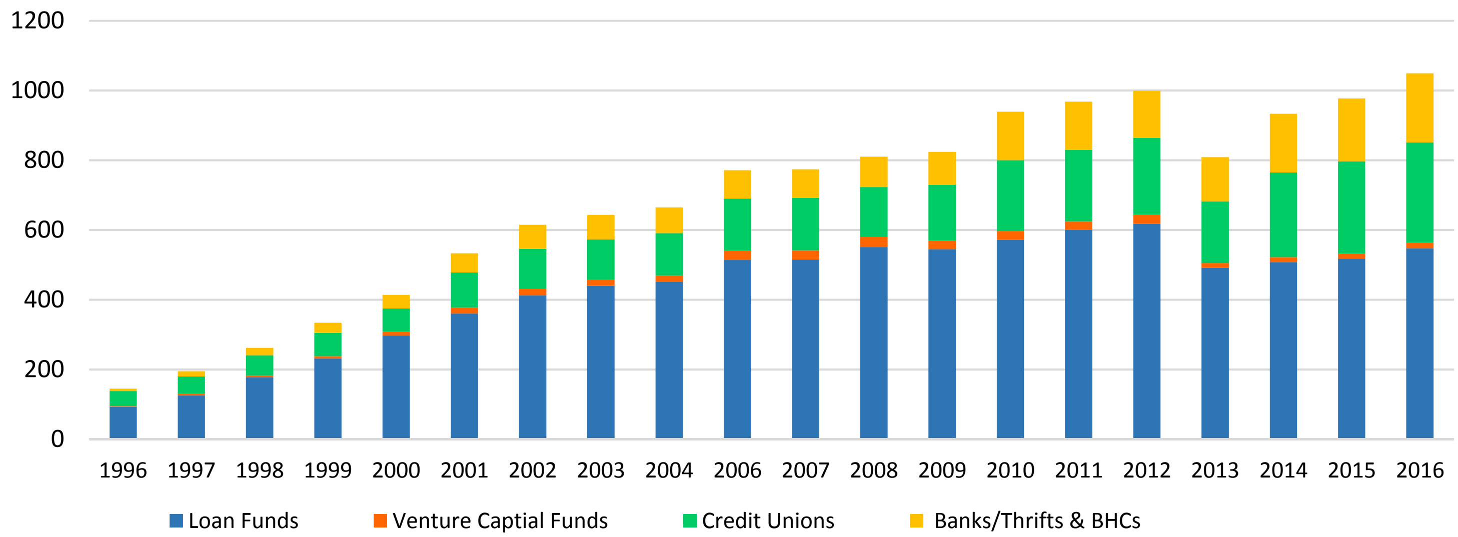
In selecting applicants for assistance, the Fund shall seek to fund a geographically diverse group of applicants, which shall include applicants from metropolitan, nonmetropolitan, and rural areas *, and diverse applicants by institution type, including all types Insured Community Development Financial Institutions as defined 12 USC 4702(c)(13) and non-insured Community Development Financial Institutions in proportion to their participation in each application funding round”.*

<u>Recommended Accompanying Report Language</u>: Congress directs the CDFI Fund to ensure that its CDFI Program evaluation process results in a diverse group of awardees by institutional type, including Insured Community Development Financial Institutions that are banks and credit unions and non-insured CDFIs that is proportional to the applicant pool for each funding round.

ATTACHMENT D

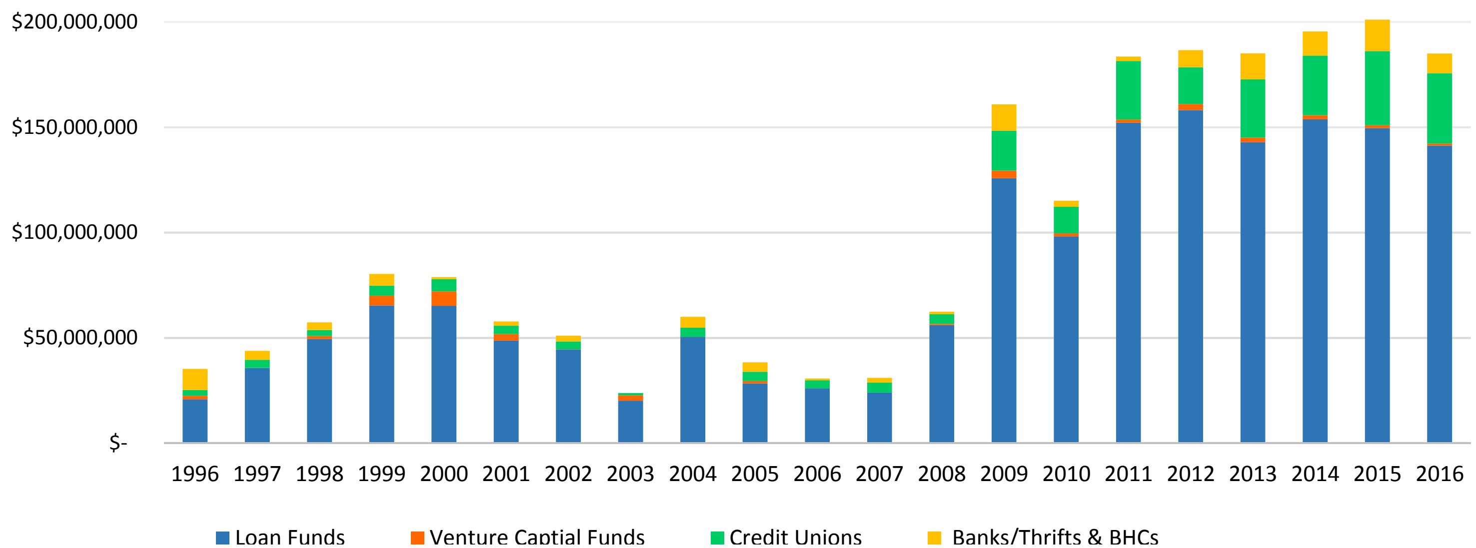
*Note 1

CDFI Certification History by Industry 1996-2006

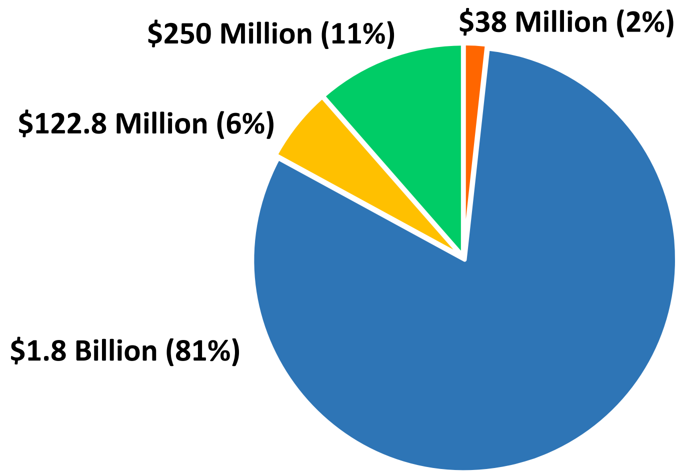


* Note 2

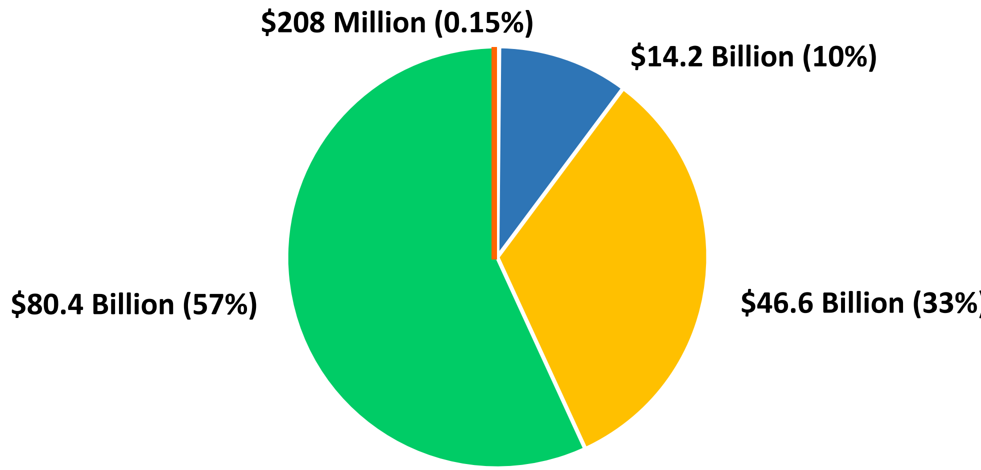
CDFI Program Allocation by Industry 1996-2006



CDFI Program Awards by Type 1996-2016

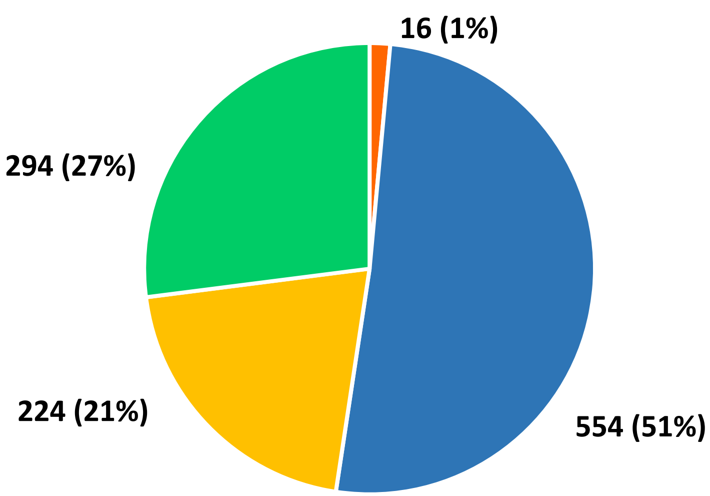


CDFIs by Total Asset as of Q4 2016 *3

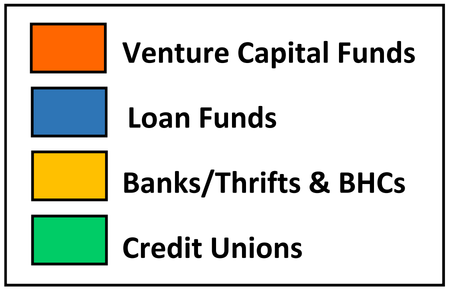


Total Industry: $141.4 Billion

Number of CDFIs by Type as of February 2017



Total Certified CDFIs: 1088



*1. Source: CDFI Fund (CDFI Program Awards include the CORE, FA, TA, SECA, HFFI-FA, NACA-FA & NACA-TA programs).

*2. In 2013, the CDFI Fund instituted new procedures for recertification of CDFIs.

*3. Source: Federal Deposit Insurance Corporation (12/31/2016 Call Report) National Credit Union Administration (12/31/2016 Form 5300 data), January 2016 estimate for Loan Funds and Venture Capital Funds provided by the CDFI Fund (Snap Stat published June 2016).

*4. This analysis focuses on the CDFI Program only. The CDFI Program was designed by Congress to build the capacity of all CDFIs including regulated and non-regulated CDFIs. This analysis does not include the Bank Enterprise Award Program, the New Market Tax Credit Award Program, and Capital Magnet Program because such programs are designed to achieve different program goals and both CDFIs and non-CDFIs are eligible to apply.