



January 8, 2021

The Honorable Steven Mnuchin
Secretary
United States Department of the Treasury
1500 Pennsylvania Avenue
Washington, D.C. 20220

Re: CDFI and MDI Emergency Capital Investment Fund (ECIF)

Dear Secretary Mnuchin:

Since the NBA was founded in 1927, we have served as a voice for Black and other minority-owned banks (MDI Banks). Now, with membership that includes Hispanic-American, Asian-American, Native-American, and women-owned banks, our reach extends across the country. We believe strongly in advocating for not only our member banks, but also the communities they serve. Our members help low and moderate-income communities in twenty-two states, and they are committed to providing economic revitalization to families in those neighborhoods. The Emergency Capital Investment Fund (ECIF) has the potential to bring long-term, sustainable COVID-19 financial relief to millions of small businesses, underserved communities and underbanked individuals and increase the overall fairness of the relief programs. MDI Banks are a discreet group of institutions that have demonstrated decades'-long commitments to the very communities Congress is targeting with the ECIF.

Unfortunately, we fear some of our member institutions may be excluded from participating in the program due to potentially conflicting language in the statute. In Section 104A(i), it states that: "An institution shall be ineligible to participate in the Program if such institution is designated in Troubled Condition by the appropriate Federal banking agency or the National Credit Union Administration, as applicable, or is subject to a formal enforcement action with its primary Federal regulator that addresses unsafe or unsound lending practices." Twenty five percent of the remaining Black-owned banks are eliminated by this provision. We believe this is unduly restrictive and in conflict with Section 104(A)(d)(2) which simply requires the Secretary to consult with regulators to determine eligibility.

While the potential conflict posed by the dueling sections of the law is a challenge, we believe there is sufficient discretion for the Treasury Department to decide, in consultation with prudential regulators, how it will implement the program. We believe this "consultation" would allow the regulator to work with a bank in troubled condition or under a formal enforcement action around lending practices to put guard rails in place to allow the bank to gain access to the desperately needed capital, while at the same time protecting the government's interests. For example, the bank could show, in its application and deployment plan, how it would not only use the capital to

make additional loans in the community but would also use a portion of it to afford more talent or technology to address underlying challenges in compliance or lending practices. In our experience as bankers, access to additional capital usually solves regulatory issues, because minority banks, working in the most chronically underserved communities, often need additional capital to access the resources necessary to address safety and soundness concerns.

We also strongly encourage Treasury and the regulators consider their obligations under Section 308 of FIRREA in the implementation of this program. As you know, Congress has mandated that the Department and the agencies must preserve and promote MDIs. Since this provision was enacted into federal law in 1989, Congress has never provided the Executive Branch with a financial tool that can be used in service of the mandate. Without taking any undue risk, or in any way risking safety and soundness, an injection of capital from the ECIF program can have the dual impacts of helping MDIs make more credit available to the low-income and minority communities that are hardest hit by COVID-19 and preserving and promoting these institutions, so they are able to provide critical financial services to these communities for years to come.

We have an opportunity to avert an economic collapse and allow communities to rebuild if the necessary steps are taken now to provide diverse small businesses, nonprofits, and LMI communities the emergency relief they need. Providing capital to the nation's MDIs and CDFIs is vital if our efforts are to ensure that every community in the country can take part in our nation's post COVID-19 economic recovery, thus benefiting the economy as a whole. We appreciate the opportunity to share our views with you and look forward to serving as a resource to you to ensure both a robust and inclusive response to and recovery from the COVID-19 pandemic.

Sincerely,

A handwritten signature in blue ink that reads "Robert James II". The signature is written in a cursive style with a double underline under the name.

Robert James II
Carver State Bank
Chairman, National Bankers Association

CC: The Honorable Jerome Powell, Chairman of the Board of Governors of the Federal Reserve System
The Honorable Jelena McWilliams, Chairman Federal Deposit Insurance Corporation
The Honorable Brain Brooks, Comptroller of the Currency (Acting)