May 9, 2023

Via Electronic Submission

The Honorable Michael Regan
Administrator
US Environmental Protection Agency
Office of the Administrator, Mail Code 1101A
1200 Pennsylvania Avenue, NW
Washington, DC 20460

RE: EPA's Implementation Framework for the Greenhouse Gas Reduction Fund

Dear Administrator Regan:

The members of the Community Development Bankers Association (CDBA) and National Bankers Association (NBA) respectfully submit the enclosed recommendations in response to the April 19, 2023, release of EPA's Implementation Framework for the Greenhouse Gas Reduction Fund (GGRF). Our members have the capacity to leverage private capital and deploy funds at greater scale and efficiency than most types of lenders.

CDBA is the national trade association for community development banks with missions to promote economic justice, racial equity, and a sustainable world for future generations. The large majority of our members are banks that are certified as Community Development Financial Institutions (CDFIs). As CDFIs, they have a primary mission of promoting community development and target at least 60% of their total lending and activities to low- income communities and customers that are underserved by traditional financial service providers. The work of these institutions is in total alignment with the Justice 40 Initiative. Currently (April 2023) there are 191 CDFI banks and 155 CDFI bank holding companies, of which 32 are also Minority Depository Institutions (MDI)[1]. In addition, we represent a small, but growing cadre of mission-focused banks specifically focused on environmental finance. Collectively we refer to these banks as "mission-focused banks."

NBA is the leading trade association for the country's MDIs. Our members include Black, Hispanic, Asian, Pacific Islander, Native American, and women-owned and operated banks across the country who are on the front lines of closing the racial wealth gap by providing access to credit to low- and moderate-income (LMI), minority, and underserved communities. Many of our members are also CDFIs.

The CDFI industry is very diverse and includes regulated depository banks and credit unions, non-regulated non-depository nonprofit and for-profit loan funds, and venture capital funds. Each type of CDFI is important because it provides a unique mix of financial products and services to underserved, low-income, and minority markets. Collectively, they comprise 1,422 institutions (April 2023) and manage approximately $340 billion in total assets. The CDFI banks total 191, and with their 155 affiliated bank holding companies represent 25% of the total CDFIs, and approximately 30% of the total assets of the entire CDFI sector (extrapolating from 2021 data). The MDIs (excluding those that are also CDFIs)

[11] Minority Depository Institutions (MDIs) is a designation made by Federal bank (Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, Board of Governors of the Federal Reserve System) and credit union (National Credit Union Administration) regulatory agencies based on whether an institution is owned, governed and/or principally serves minority communities. Generally, MDIs have a strong track record of serving minority populations, which are often underserved by the traditional financial services sector.

number 116 with $309 billion in total assets. Both CDFI and MDI banks are regulated depository institutions and are required by law and regulation to be structured as for-profit institutions.

Definition of Eligible Recipient of Indirect Investments

RECOMMENDATION: CDBA and NBA strongly recommend the EPA explicitly define the eligible recipients of Indirect Investments to include banks that are federally-designated CDFIs or MDIs. In addition, we recommend that the EPA develop a certification to recognize environmental-focused banks as potential recipients of Indirect Investments.

Our comments focus specifically on our grave concerns that the Implementation Framework risks inadvertently excluding CDFI, MDI and environmental banks from participation in the Clean Communities Investment Accelerator. While Congress intended that Eligible Recipients be restricted to non-depository nonprofit organizations, it did <u>not</u> exclude other depository community lenders from participating as recipients of Indirect Investments. Specifically, the language of the Implementation Framework for the $6 billion Clean Communities Investment Accelerator is internally inconsistent. The Implementation Framework also does not recognize the small, but growing group of banks principally focused on promoting environmentally sustainable outcomes.

Specifically, page 25 of the Implementation Framework states:

> *"The $6 billion Clean Communities Investment Accelerator competition will fund 2-7 hub nonprofits with the plans and capabilities to rapidly build the capacity of specific networks of public, quasi-public, and nonprofit lenders – such as* ***community development financial institutions (including Native CDFIs),*** *credit unions, green banks, housing finance agencies,* ***minority depository institutions,*** *and others – to ensure that households, small businesses, schools, and community institutions in low-income and disadvantaged communities have access to financing for cost-savings and pollution-reducing clean technology projects." [emphasis added]*

On one hand, the Implementation Framework as currently drafted appears to want to be inclusive of all CDFI and MDI banks (see emphasis). Conversely, by inserting the phrase "specific networks of public, quasi-public, and non-profit community lenders" without specific language including for-profit depositories before the illustrative list of community lenders, it narrows who can participate in the Clean Communities Investment Accelerator. In a similar manner, the definition of Community Lender on page 27 is narrower than the statute. Specifically, we note the text of the Implementation Framework <u>diverges</u> from the statute by reordering a portion of the text to define a narrower of set of participants. The statutory language includes the phrase "**community- and low-income-focused lenders and capital providers**" which makes it clear that lenders engaging in these activities could be recipients of "Indirect Investment" notwithstanding the "public, quasi-public, and non-profit" language.

Within the financial services sector, the term "community lender" is synonymous with small banks, and "low-income focused lender" is synonymous with CDFI. Yet, CDFI, MDI, and environmental banks are not structured as public or nonprofit organizations. It would be a sorely missed opportunity for EPA to leave these important players in the community development finance ecosystem out of the program. Had Congress intended to leave depository CDFI and MDI banks out of consideration as recipients of "Indirect Investments" it could have – yet it chose not to. Depositories are only excluded as Eligible

Recipients. We wish for these mission-focused banks to receive GGRF funding as Indirect Investments from an intermediary nonprofit organization that is an Eligible Recipient.

Our request is consistent with the recommendation of EPA's Environmental Financial Advisory Board (EFAB). The EFAB recommendations to EPA recognized CDFIs as important partners in reaching LIDCs: The EFAB itself called out "*community development banks,*"[2] as well as MDIs in particular as being eligible and desirable "Indirect Participants" within the statutory definitions.[3] The EFAB's report also cited an independent commentator's observation that approvingly noted, "*In addition, even the depository CDFIs could still receive money indirectly from these programs.*"[4] We strongly urge the EPA to reconsider the interpretation of the language.

The mission-focused banks are active and deeply committed to the goals of the GGRF and/or promoting racial equity and economic justice. They are in a strong position to leverage private capital to advance Section 60103 of the Inflation Reduction Act of 2022 and provide financial and technical assistance to projects achieving environmental sustainability goals with specific benefits for low-income and disadvantaged communities. It is also noteworthy that inclusion of the mission-focused banks will allow the GGRF to truly be a national program as they are headquartered in and serve many communities that are not served by other CDFIs or green banks.

Definition of Quasi-Public Entity

RECOMMENDATION: CDBA and NBA strongly recommend the EPA amend the definition of quasi-public entity to explicitly recognize CDFI, MDI and environmental banks.

CDBA and NBA recommend explicitly amending the definition of "quasi-public entity" to clarify the eligibility of the mission-focused bank sector on the basis of their "close association" with public entities. The definition on page 28 currently states:

> *"A quasi-public entity must either (1) have a close association with a public entity but not be a public entity, (2) be created by a public entity but be exempt from certain legal and administrative requirements, or (3) not have been created by a public entity but perform a public purpose and be significantly supported financially by a public entity."*

Per definitions (1) and (3), CDFI and MDI banks are clearly "closely associated" with "public entities", "perform public purposes," and receive "significant financial support" from public entities. They certainly merit inclusion in the GGRF as "quasi-public entity" Indirect Investment recipients under either definition (1), (3) or both.

The modern banking industry is integrally entwined (and arguably could not function) without the support of public entities. **This is particularly the case for the CDFI and MDI bank sector, which receives significant financial support to perform public purposes**. For example, in 2022, Treasury invested $6.3 billion of long-term equity and subordinate-debt capital in both CDFI and MDI banks based on their status as either CDFIs or MDIs, and their commitment to carry out the public purposes of the Emergency Capital Investment Program (ECIP). Today, the US Treasury Department is the largest single shareholder of the CDFI and MDI bank sectors, as well as many of the individual institutions in which it is invested.

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[2] Environmental Financial Advisory Board (EFAB) "Guidance and Considerations" letter, guidance, page 33, January 3, 2023
[3] Environmental Financial Advisory Board (EFAB) "Guidance and Considerations" letter, guidance, page 35, January 3, 2023
[4] Environmental Financial Advisory Board (EFAB) "guidance and considerations" letter, comment from "Center For American Progress," report page 96, letter dated November 10, 2022

Further, the CDFI bank sector, including many MDIs, has enjoyed significant and long-term financial support distinct from ECIP. In fact, since 1996, the CDFI Fund has provided over $1.7 billion dollars in the form of grants to CDFI banks alone. Without this support, it was be difficult for most CDFI and MDI banks to carry out their public purpose of promoting financial inclusion, reducing the racial wealth gap or promoting economic justice and community revitalization.

While the general public may generally view the banking sector as private sector entities, a deeper and more informed understanding reveals the highly interconnected set of "close association" relationships between the industry and the public entities that support it. The backbone of the banking system lies in the willingness of the Federal government, via the Federal Deposit Insurance Corporation (FDIC), to insure customer deposits. The Federal government's guarantee of deposits creates confidence among customers that their money is safe when deposited at a bank. In exchange for deposit insurance, banks have obligations to the Federal government that advance other public interests – such as fair lending, consumer protection, community reinvestment, anti-money laundering, and a long list of other mandates – that non-regulated institutions are not required to meet. Banks must agree to be regularly examined for "safety and soundness" by Federal and state banking regulatory agencies to ensure the soundness of the national economy. Banks also have special access to public or publicly-sponsored liquidity sources including the Federal Reserve System (which provides capital via the "discount window"), Federal Home Loan Banks (lines of credit, grants) and Federal Housing agencies, and government-sponsored enterprises (Federal Housing Administration, Fannie Mae, Freddie Mac). Finally, as regulated entities, banks can access public agency resources and tools to meet the credit needs of difficult to serve markets, such as the Small Business Administration (loan guarantees, facilitation of secondary markets) in support of entrepreneurship, and the United States Department of Agriculture (guarantee programs) to support rural development, small farmers, and the agricultural sector.

While we believe the above definitions of "close association," "public purpose" and "significant financial support" clearly encompass and argue for the inclusion of CDFI, MDI and mission-focused banks, we recommend adding an additional, clarifying option:

> *"(4) not have been created by a public entity and is a Community Development Financial Institutions, as defined in section 103 of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 USC 4701), a Minority Depository Institution, as defined in section 308 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 USC 1463), or such other standards as the agency may establish for financial institutions with a primary mission of facilitating positive environmental outcomes consistent with the purposes of the Inflation Reduction Act."*

Each of the groups included in the recommended option are regulated financial institutions that carry out a public purpose of promoting economic justice, racial equity and/or environmental justice with regular reporting to Federal agencies.

Definition of Qualified Projects

RECOMMENDATION: CDBA and NBA recommend that the definition of a "Qualified Project" be expansive and allow nonprofit Eligible Recipients to disburse monies to an intermediary nonprofit(s) for the purpose of providing capital or facilitating Qualified Projects that are financed by CDFI, MDI, and environmental banks.

The statutory definition of Qualified Project is very broad. It affords the EPA maximum flexibility to define activities and to allow many types of entities to access resources provided they advance the purposes of the GGRF. The statute states:

> *''(3) QUALIFIED PROJECT.—The term 'qualified project' includes* ***<u>any</u>*** ***project, activity, or technology*** *that— ''(A) reduces or avoids greenhouse gas emissions and other forms of air pollution in partnership with, and by leveraging investment from, the private sector; or (B) assists communities in the efforts of those communities to reduce or avoid greenhouse gas emissions and other forms of air pollution."* ***[emphasis added]***

The common use of the word "any" is instructive in this context. Provided the funding for the "Qualified Project" passes through an intermediary that is an Eligible Recipient and the activity meets the conditions of (3)(A) or (B), it is eligible. A plain reading of Section 60103 concludes that all mission focused, depositories should be eligible for GGRF as "Indirect Investments" and/or as a "Qualified Project" and may receive GGRF monies *through* an "Eligible Recipient" provided they engage in activities outlined in (3)(A) or (B).

National Clean Investment Fund

RECOMMENDATION: We recommend that Eligible Recipients under the National Clean Investment Fund (NCIF) should be <u>mandated</u> to partner with CDFI, MDI and/or environmental banks to deliver financing on 50% of all Qualified Projects-funded GGRF monies.

NCIF is intended to use scarce public monies to leverage significant private capital towards the goals of GGRF and the Inflation Reduction Act. Yet, the Implementation Framework for NCIF does not mandate or otherwise articulate how Eligible Recipients should engage finance partners outside of the nonprofit, government or community-based sectors. Without a clear set of requirements for private leverage, NCIF risks falling short of its transformational promises. Requiring private capital partnership will leverage new money toward achievement of GGRF goals and develop new models to mainstream climate financing within the financial services sector. NCIF monies can be used to provide interest rate subsidies, guarantees, or other product features that will make individual Qualified Projects feasible. NCIF recipients could also meet this requirement by engaging mission focus banks as project lenders, in loan participations on Qualified Projects, or placing idle Federal monies on deposit at these institutions until deployed.

Conclusion

CDFI, MDI, and environmental banks are strongly committed to the purposes of GGRF and the Justice 40 Initiative. We have collective strong track records of promoting economic justice, racial equity, and environmental sustainability. It is vitally important that the GGRF be inclusive, diverse, accountable, and fully deployed. GGRF money will struggle to reach low-income and disadvantaged communities and borrowers unless EPA directs funds to *all* of the community lenders that specialize in serving them. Working through the existing network of mission-focused community lenders, including CDFI, MDI, and environmental banks, is by far the most efficient way to ensure funds are deployed into projects, activities and technologies that advance GGRF goals across a diverse ecosystem and reach deep into low income, minority and distressed communities.

On behalf of all CDBA and NBA members, we sincerely thank you for the opportunity to comment on this critically important Federal initiative to invest in technologies and projects that will reduce or avoid greenhouse gas emissions, air pollution, and promote environmental sustainability. We look forward to continuing to work with you to implement the GGRF.

If you have any questions, please contact Jeannine Jacokes, CDBA Chief Executive Officer, or Nicole Elam, NBA President & CEO at (202) 590-6880 or nelam@nationalbankers.org.

Thank you for considering our recommendations.

Sincerely,

Jeanine Jacokes
Chief Executive Officer
Community Development Bankers Association

Nicole Elam
President & CEO
National Bankers Association