



January 7, 2022

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

Re: MDI and CDFI Emergency Capital Investment Program (ECIP)

Dear Secretary Yellen:

Since its founding in 1927, the National Bankers Association (NBA) has served as a voice for Black and other minority-owned and -operated banks (MDIs). Now, with membership that includes Hispanic American, Asian American, Native American, and women-owned and -operated 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 the District of Columbia, and they are committed to providing economic revitalization to families in those neighborhoods. The Emergency Capital Investment Program (ECIP) has the potential to bring long-term, sustainable financial relief to millions of small businesses, underserved communities, and underbanked individuals and to increase the overall fairness of relief programs. MDIs are a discreet group of financial institutions that have demonstrated decades-long commitments to the very communities Congress is targeting with the ECIP.

The NBA is thankful for the effort and time the Treasury Department put into designing and implementing the ECIP. The release of \$8.7 billion late last year will help support MDIs and CDFIs in their efforts to help minority-owned businesses and low- to moderate-income communities. Unfortunately, while we are pleased that 57 MDIs will receive \$3.1 billion, all of our member institutions were not able to participate in the program. This was due in large part to the interpretation of conflicting language in the authorizing statute regarding “troubled institutions.” Some of our member banks were discouraged from applying for ECIP funding by prudential regulators who interpreted the authorizing language one way, while others who did apply were denied funds because of their so called “troubled” status. The NBA expressed concerns early last year regarding this potential outcome and unfortunately our worst fears were borne out.

We readily support the notion that the prudential regulators have an important gatekeeping role to play in assuring that ECIP funds are not placed at risk in unsafe institutions. However, we believe the Treasury Department and the regulators must also submit to the statutory obligation presented by Section 308 of FIRREA: to preserve and promote MDIs. To our knowledge, neither the Department nor the agencies have ever had an opportunity to direct the flow of capital in support of this mandate. The NBA does not believe that the mandates of the ECIP and FIRREA are at cross-purposes. As we have communicated to you, other Treasury officials, and all the prudential regulators, we believe that so-called “troubled” institutions can collaborate with regulators to maintain safety and soundness while simultaneously receiving much-needed capital injections from ECIP and other programs—capital which will both greatly deepen the impact of these banks in the communities hardest-hit by COVID-19 and fundamentally strengthen the institutions for the long-run.

We are writing to ask you to consider offering relief to those MDIs who did not apply for ECIP funding because they were discouraged from doing so and for those who simply were denied because of an overly restrictive interpretation of the statutes reference to “troubled institutions.” We believe the remaining \$300 million held in reserve for appeals should be prioritized for distribution to these institutions. In addition, we would ask you to consider utilizing some of the remaining \$1.75 billion in the CDFI Fund to provide these institutions with much needed capital that they were unable to get through the ECIP. By prioritizing these institutions, we believe that Treasury and the regulators can balance their obligations to protect Treasury funds and at the same time insist that institutions operate in a safe and sound manner. We remain convinced about the need to act now to preserve and promote MDIs and direct much-needed capital into banks that have a strong track record of serving the communities Congress intended to target for the ECIP investment.

We have an opportunity to help communities build back better 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 entire economy. We appreciate the opportunity to share our views with you and look forward to serving as a resource to you.

Respectfully,



Nicole A. Elam  
President and CEO  
National Bankers Association