National Bankers Association

September 13, 2024

SENT VIA EMAIL: ecip@treasury.gov

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

Re: ECIP Disposition Guidelines: National Bankers Association Comments

Dear Secretary Yellen:

Since its founding in 1927, the National Bankers Association ("NBA") has served as the voice for the nation's Minority Depository Institutions ("MDIs") and the only organization focused solely on the survival and strengthening of MDIs. Our members include Black, Hispanic, Asian, Pacific Islander, Native American, and women-owned and -operated banks across the country, all working to help minority and low- and moderate-income communities who are underserved by traditional banks and financial services providers. MDIs are located in 32 states and territories. We believe strongly in advocating for not only our member banks, but also the communities they serve. The Emergency Capital Investment Program ("ECIP") has brought, and has the potential to continue to bring, long-term, sustainable financial relief to millions of underserved and underbanked communities, small businesses, and individuals who were disproportionately harmed by the COVID-19 pandemic. MDIs are a diverse group of financial institutions that have a demonstrated century-long commitment to the very communities Congress targeted with ECIP.

The NBA is thankful for the effort and time Treasury put into designing, implementing, and refining the ECIP, and the prior opportunities extended to the NBA to consult with Treasury on the implementation of ECIP. We also appreciate Treasury's consideration of the concepts included in our letter dated July 31, 2024. The release of approximately $8.57 billion in Treasury investments since the program's inception has helped, and will continue to help, support MDIs and Community Development Financial Institutions ("CDFIs") in their efforts to serve the ECIP target communities. We have included several success stories in Appendix A that highlight the positive community impacts of Treasury's ECIP investments in NBA member banks.

On August 13, 2024, Treasury released the ECIP Proposed Disposition Guidelines (the "Guidelines"), and while we are grateful and appreciate that many of the substantive terms of the Guidelines are consistent with, and build on, some of the concerns previously expressed in our March 4, 2022 comment letter to Treasury, we have a number of challenges, reservations, and need for clarity regarding the Guidelines. We request deliberate and thoughtful consideration of the comments provided in this letter as they are particularly supportive of the nation's MDIs. Our request for review is rooted in the express purpose of ECIP and the Secretary of the Treasury's authorization (as codified in 12 CFR § 4703a(b)(2)) to establish ECIP "to support the efforts of low- and moderate-income community financial institutions to, among other things, provide loans, grants, and forbearance for small businesses, minority-owned businesses, and consumers, especially in low-income and underserved communities, including persistent poverty counties, that may be disproportionately impacted by the economic effects of the COVID–19 pandemic, by providing direct and indirect capital investments in low- and moderate-income community financial institutions consistent with [the statute]."

Our request for review and consideration is further supported by Section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (commonly referred to as "FIRREA") which obligates the Secretary of Treasury to consult with the federal banking agencies on methods for best achieving several goals related to MDIs, including: (1) preserving the number of MDIs; (2) preserving the minority character of institutions in cases involving mergers or acquisition; (3) providing technical assistance to prevent insolvency of institutions; (4) promoting and encouraging creation of new MDIs; and (5) providing for training, technical assistance, and educational programs to MDIs.

Most MDIs that are participating in the ECIP started with extremely high baselines for deep impact and qualified lending as a percentage of their total lending. This is a testament to MDIs' longstanding commitment to serving the communities that were most vulnerable to the effects of the COVID 19 pandemic: minority and low- to moderate-income communities. As MDIs use the ECIP capital to grow and expand their missions by increasing their lending to those communities, the percentage of total lending that meets deep impact or qualified standards may nevertheless shrink because of these high baselines, especially as the banks grow in a safe and sound manner. For example, if prior to ECIP, an MDI was generating $80 million in qualified loans out of $100 million in total loans, its qualified lending would have constituted 80% of its lending. With ECIP, the MDI may have been able to generate an additional $160 million in qualified loans and $220 million in total loans. While ECIP would have facilitated an increase of $80 million in qualified lending (a 100% increase), the institution's qualified lending as a percentage of total lending would have fallen to 73%. We hope Treasury will consider our recommendations in light of the longstanding, ongoing, and deep commitment of MDIs to the communities ECIP was designed to target.

Overview

We agree with the fundamental principle of the Guidelines that ECIP participants who lend in deep impact or qualified lending categories should earn certainty regarding disposition of these securities. However, we are concerned that the Guidelines promote lending thresholds that are too high for safe and sound lending over time and offer disposition certainty to only a fraction of ECIP participants. Fundamentally, the entire banking industry works best with stable conditions and expectations. We therefore invite Treasury to offer this stability to ECIP participants.

Safety & Soundness Concerns. As financial institutions, all ECIP participants must be cognizant of the business and lending risks associated with the institution's operations. As proposed, the Guidelines may increase lending risks by creating concentrations risk and discouraging the evolution of business activities that respond to changes in the broader economic environment.

Embedded in the business model of all mission-focused regulated depository institutions is the need to balance social impact and financial performance. The standards proposed by the Guidelines threaten to upset this balance by creating an incentive for the institutions not to employ additional "non-mission" lending, even though doing so may be prudent to manage the risks and often lower margins associated with high impact "mission" lending. The high proposed thresholds for qualified lending and deep impact lending may have the unintended consequence of undermining the long-term financial sustainability of the very institutions that ECIP has sought to support. To best serve their missions, financial institutions need to be in a position to offset the potentially higher risk profiles and lower margins offered by qualified lending and deep impact lending.

Timing Requirement Concerns. These risks are magnified by the duration of the thresholds proposed in the Guidelines. As many of our members recognized during the Great Recession and its aftermath, low- to moderate-income communities continued to struggle for years following the official end of the Great Recession. The proposed Guidelines would necessitate institutions maintaining a balance sheet of concentrated risk (in communities of enhanced risk) for extended periods of time. The proposed timelines of four to six years further serve to compound this risk.

Diversity of Local Market Conditions. The thresholds proposed in the Guidelines also fail to recognize the diverse market conditions in which ECIP participants operate. While some institutions may be surrounded by qualified and deep impact lending opportunities based on their geography, where essentially all local lending activities are likely to qualify for favorable treatment, those institutions operating in other geographic markets may face further challenges in balancing qualified and deep impact lending opportunities with ensuring that they may remain active participants in other vibrant local business activity.

Other Concerns. We believe a third threshold should be added as an alternative path that takes into consideration the needs of ECIP participants to balance long-term financial stability with short-term service to mission-centric lending that considers the different geographic market contexts of ECIP participants, and that considers the fluctuating economic circumstances that affect all financial institutions.

We believe the changes recommended below will further the goals of ECIP, providing greater support for the efforts of MDIs and CDFIs to disburse a greater overall amount of deep impact and qualified lending in low-income and underserved communities, consistent with the ECIP objectives.

Detailed Comments to the Proposed ECIP Early Disposition Guidelines

1. <u>Early Disposition Thresholds</u>.

The Guidelines include two minimum thresholds, either of which must be met for an ECIP participant to request the sale of securities in advance of the 10-year ECIP period: (1) 60% of overall lending for four consecutive years is categorized as deep impact lending or (2) 85% of overall lending for six consecutive years is categorized as qualified lending. These early disposition eligibility thresholds for lending present several concerns for ECIP participants.

***Reduce Minimum Eligibility Thresholds*.** **We request** that Treasury revise the early disposition eligibility thresholds to minimums reflecting more realistic and equitable goals. Specifically, we request revisions that deep impact lending percentages be reduced to 40%, and the qualified lending percentages be reduced to 70%. As discussed in the overview and preceding sections above, higher thresholds present opportunities for concentration risks. These minimums are materially more equitable and, as such, a broader span of ECIP participants would be able take advantage of early disposition opportunities. More ECIP recipients will be able to leverage reallocated capital (which is even further expanded when an affiliated nonprofit purchases at the 0.5% purchase price) to deploy new community investments or loans, gain flexibility to manage balance sheets, and be able to promote loan growth in a safe and sound manner for the benefit of their customers. In addition, these ECIP recipients will not be tempted to overextend or expose their banks to concentration risks driven by an effort to ramp up deep impact lending in an unbalanced manner.

Increasing lending to achieve the goals of the ECIP takes time, requiring significant investments in people, processes, and systems. Since the implementation of ECIP, ECIP participants have set forth to implement these procedures in an environment of low unemployment, high interest rates, and unprecedented concerns regarding bank liquidity. Despite these economic headwinds, ECIP participants have hit a home run in achieving the goals of the program. According to Treasury's own annual report on ECIP, from May 2022 through December 2023, ECIP participants have originated over $58 billion in loans, with 73% classified as qualified lending and 35% as deep impact lending. As ECIP participants have continued to build out their capacity, the amount of qualified and deep impact lending continues to grow, with qualified lending increasing to 76% in the fourth quarter of 2023, and deep impact lending increasing to 39%. However, based on analysis of publicly available data for 2022 and 2023, we estimate only 42 (24%) of the 175 program participants currently meet the 60% deep impact threshold – only 30 of which are banks. In fact, only one of the top 10 performing ECIP banks highlighted by Treasury met the 60% threshold as measured by total dollar amount of deep impact lending.

As stated by Treasury in its 2023 annual report, "[t]he Qualified Lending and Deep Impact Lending categories illustrate how ECIP participants are advancing the statutory goals of the program and provide a data-driven method for understanding their impact on communities." But the 2023 annual report also demonstrates that, on average, ECIP participants have not achieved either of the heightened proposed qualified lending or deep impact lending thresholds needed to obtain the benefits proposed in the Guidelines. In addition to the metrics presented by Treasury for all ECIP recipients, we believe that the metrics for NBA members would present similar outcomes, with only a third of NBA member ECIP participants' historical performance qualifying for early disposition based on the deep impact lending threshold and less than two-thirds qualifying for early disposition based on the proposed qualified lending threshold.

While mission-aligned lending has long been a practice of our members, ECIP has introduced a new set of criteria that the sector must adjust to. The Guidelines introduce yet additional standards and expectations.

***Add Alternative Rate Reduction Threshold*.** **We further request** that Treasury revise the Guidelines to include an additional alternative early disposition eligibility threshold based on achieving compliance with the Rate Reduction Incentive Guidelines. For example, once an ECIP recipient achieves the 1.25% or 0.50% dividend rate for four consecutive years, or the 0.50% dividend rate for two consecutive years, the ECIP participant should be eligible for early disposition in accordance with the Guidelines. The Guidelines should also make clear that achieving compliance with the Rate Reduction Incentive Guidelines represents an alternative path to being eligible for early disposition of ECIP securities and is not a prerequisite for early disposition for those institutions qualifying for early disposition based on achieving other early disposition eligibility thresholds (e.g., deep impact and qualified lending).

We note that many ECIP participants have developed and begun implementing lending plans structured around the Rate Reduction Incentive Guidelines Treasury published on August 11, 2021, which incentivized ECIP participants to increase their levels of deep impact and qualified lending over their historical levels. As the Guidelines utilize a different metric for establishing eligibility for early disposition of the ECIP securities, we are concerned that while an ECIP participant may be performing very well under the Rate Reduction Incentive Guidelines, they may not achieve the early disposition eligibility thresholds. We believe this is both unfair and not in line with the goals of ECIP, and that ECIP participants that are achieving rate reductions should also be eligible for early disposition.

2. <u>Early Disposition Timing Requirements</u>.

We request that Treasury revise the Guidelines to shorten the time requirements for achieving the early disposition eligibility thresholds. Specifically, we request that the deep impact lending threshold be measured based on the average amount of deep impact lending over two consecutive years (rather than four), and the qualified lending threshold be measured based on the average amount of qualified lending over four consecutive years (rather than six). This revision will not only further the goals of the program, but it will also enable more of the participants to take advantage of early disposition opportunities while mitigating overconcentration risks and the risks of higher default rates in their deep impact and qualified lending portfolios.

As noted above, the timelines associated with the proposed early disposition eligibility thresholds further compound the risks associated with efforts to meet the thresholds and impose another barrier to achieving ECIP's intended successes.

The length of time required by each early disposition eligibility threshold (four consecutive years for the deep impact threshold and six consecutive years for the qualified lending threshold) is too long of a time period to require institutions to maintain elevated deep impact and qualified lending levels. As has been demonstrated in recent years, broad-scale economic and financial market conditions have a direct connection to consumers' ability to borrow and spend. This is certainly so for those consumers that are categorized as low-income or LMI borrowers, as well as the local businesses that serve them. Price sensitivity and times of economic uncertainty or turmoil cause consumers to proceed particularly cautiously (or not at all) with financial decisions, leading to fewer opportunities for ECIP participants to make deep impact and qualified loans that are also safe and sound. This is particularly exasperated by MDIs that started with extremely high baselines.

We believe creating an incentive (e.g., early disposition) for ECIP participants to achieve the deep impact or qualified lending metrics for four or six consecutive years regardless of the then-current economic conditions or loan demands is inappropriate. This incentive will increase an institution's concentration risk and increase the risk of higher default rates because the institution may feel a need to stretch (or feel motivated) to make enough deep impact and qualified loans to meet the early disposition eligibility thresholds during difficult economic times.

3. <u>Binding Disposition Agreements for More ECIP Participants</u>.

We request that Treasury revise the Guidelines to permit **<u>all</u>** ECIP participants to execute binding agreements for early disposition conditioned on meeting certain lending thresholds and conditions. Alternatively, at a minimum, we recommend that Treasury make the binding agreements available to ECIP participants that, for the prior two years, meet *any* of the final threshold percentages. Either of these approaches will give more ECIP participants the certainty of a qualifying sale if they meet the thresholds and conditions in the binding agreement. We believe that ECIP participants expecting to achieve *any* of the thresholds set forth in the final Guidelines (including the deep impact, qualified lending, or the recommended rate reduction threshold) should be provided an equal opportunity to enter into binding agreements with Treasury to consummate proposed transactions. By implementing this revision, Treasury will further the outcome of the goals set forth in the Guidelines, and ECIP as a whole, and will incentivize ECIP participants to commit to meeting the final thresholds.

Under the proposed Guidelines, only ECIP participants that averaged at least 60% of their overall lending in deep impact categories for the first two years of ECIP would be in a position to enter into a binding disposition agreement with Treasury. As indicated by offering the prospect for a binding agreement in the Guidelines, Treasury's disposition policies remain open to modification - including as a result of an administration change.

Applying the reduced thresholds and time frames and making the binding agreements available to a broader set of ECIP participants also introduces standardization in the decision-making process. This allows for efficiencies to be observed by both Treasury and ECIP participants, and locks-in certainty regarding how a sale can occur, regardless of administration or potential policy changes.

4. <u>Eligibility for Transfers by "insured CDFIs."</u>

We request that Treasury revise the Guidelines to clarify that any ECIP participant that is itself an insured CDFI, a bank holding company that is a CDFI, or a bank holding company with an insured CDFI subsidiary, may be eligible to transfer the ECIP securities to a mission-aligned nonprofit affiliate.

A very strict reading of the proposed Guidelines could lead to the conclusion that any ECIP participant which issued ECIP securities through its holding company would not be eligible to transfer its ECIP securities to a mission-aligned nonprofit affiliate at the preferential purchase price (0.5%). Instead, only an ECIP participant which itself is an "insured CDFI" would be eligible for a transfer at this price. We believe this strict interpretation would be inconsistent with Treasury's goals and was not intended, particularly given that a significant number of ECIP participants are bank holding companies and Treasury's own rules required that the ECIP securities be issued by the holding company in some situations (e.g., if the holding company itself is a CDFI).

5. <u>Bank Holding Company Act ("BHCA") Implications</u>.

We request that Treasury confirm whether it has received guidance from the Federal Reserve to address "control" concerns in connection with potential transfers and, if not, that Treasury recommend to the Federal Reserve that affiliated entities that acquire ECIP securities not be treated as Bank Holding Companies.

Alternatively, in connection with a sale to a mission-aligned nonprofit affiliate or any other sale, we request Treasury revise the Guidelines to reflect that Treasury will consider, with approval by the purchaser of the ECIP securities, amending the terms of the ECIP securities to reduce the liquidation value of the ECIP securities to their present value at the time of the transfer, perhaps with a corresponding change in dividend rates to maintain the expected cash flows of the ECIP securities for all parties. Importantly, this revision allows for the direct reduction of the amount of ownership of total equity held by the nonprofit affiliate such that BHCA implications can be averted.

Under 12 CFR 225.32(c), the Federal Reserve establishes a presumption of control whenever one entity owns one-third or more of the total equity of another entity. Under 12 CFR 225.34, total equity is calculated based on U.S. Generally Accepted Accounting Principles, which, with respect to the preferred stock issued under ECIP, considers the liquidation value of the preferred stock. The liquidation value of the ECIP preferred stock of many ECIP recipients represents more than one-third of the total equity of the ECIP recipient, and, accordingly, under existing Federal Reserve regulations a nonprofit affiliate purchasing all of the ECIP preferred stock may be deemed to "control" the ECIP participant, likely requiring registration, ongoing supervision, and the burdens of regulation as a bank holding company, notwithstanding the contemplated 0.5% purchase price. If a mission-aligned nonprofit affiliate were to be deemed a bank holding company, the cost of complying with the BHCA supervisory framework would effectively drain the resources of the nonprofit, significantly impacting its ability to fulfill its mission.

However, if the liquidation value is reduced, the total equity held by the nonprofit affiliate will be reduced, which can help avert BHCA control issues. In light of the non-voting nature of the ECIP preferred stock, and the proposed transfer prices, determining that "control" would exist based on the liquidation value of the preferred stock seems inappropriate. The special nature of the ECIP preferred shares (including the modest dividend rate and the noncumulative nature of the preferred stock) and the mission-aligned nonprofit status of the holder (including the significant restrictions placed on its operation by the Internal Revenue Code and IRS Regulations) more than adequately protect the public and the banking system. There is no (or at most, minimal) benefit to be gained in applying the supervisory oversight of the BHCA to nonprofit affiliates that acquire ECIP securities.

6. <u>Preserving Benefits for ECIP Participants</u>.

We appreciate Treasury's recognition of the present value of the ECIP securities and willingness to consider repurchases at present value. We further appreciate the opportunity to facilitate even greater mission benefit by contemplating sales to mission-aligned nonprofits at 0.5% of liquidation value. We make the following request to ensure that the ECIP participants fully recognize the benefits of Treasury's early disposition while also being mindful of the Federal Reserve's control requirements addressed above.

We request that Treasury confirm that an ECIP participant and a transferee, in connection with any transfer other than a repurchase by the ECIP participant, may, if the ECIP participant desires, revise the terms of the ECIP securities in connection with such a transfer to reduce the liquidation value of the ECIP securities to the then-present value of the expected payments on the instrument.

This approach would ensure, regardless of future actions by the recipient of the ECIP securities, that the ECIP participants could, with appropriate regulatory approvals, redeem the ECIP securities at their current market value rather than requiring redemption at $1,000 per share. In doing so, the interest rates could be adjusted accordingly so that the economic cash flows are not changed.

For example, assume an institution received $50 million in ECIP funds, issuing 50,000 shares with a liquidation value of $1,000 per share. Assume further that based on qualified lending activities, the ECIP participant has reduced its dividend rate to 1.25% per annum. Currently, the ECIP participant would be paying $625,000 per year in dividends, or $12.50 per share. Were Treasury to calculate that the present value of future payments resulted in a purchase price of 20% of the outstanding principal amount, this would represent a per share price of $200 (or 1/5 the original principal amount). If Treasury would agree to reduce the liquidation amount to $200 per share and increase the dividend rate to 6.25% (or 5 times the original amount), then the annual dividends would still be $12.50 per share, or $625,000 in the aggregate. However, it would then (a) allow the ECIP participant to effectively convert 80% of the ECIP capital from Tier 1 Capital into Common Equity Tier 1 Capital and (b) preserve the ability of the ECIP participant, down the road, to force the redemption of the outstanding ECIP securities for the agreed upon current value.

The Guidelines appropriately consider the desires of the ECIP participant as to whom the transfer of ECIP securities should be made, but organizations evolve over time. While the ECIP participant may be comfortable with the proposed purchaser at this time, this modification would ensure that, even if that situation changed, the ECIP participant (rather than the transferee) would receive the benefit of Treasury's actions in disposing of the ECIP securities.

In addition, nonprofit affiliates will remain subject to IRS regulations that may limit (or even prohibit) discretionary transactions with the ECIP participants and affiliates. Preserving the ability of the ECIP participants to liquidate the ECIP securities at the reduced liquidation valuation would protect the ECIP participants and may facilitate the willingness and desire to support the nonprofit affiliate with such a transfer.

7. <u>Ability to Sell to a Mission-Aligned Nonprofit Affiliate After the ECIP Period</u>.

We request that Treasury confirm that the purchase price of 0.5% for a sale of a participant's securities to a mission-aligned nonprofit affiliate will be available to all ECIP participants selling to a mission-aligned nonprofit affiliate after the 10-year ECIP period, even if the ECIP participant does not achieve the early disposition eligibility thresholds set forth in Section 2 of the Guidelines.

We believe the 0.5% purchase price should apply to any qualifying sale following the 10-year ECIP period, and that meeting the early disposition eligibility thresholds only affects the ability of

ECIP participants to consummate a transaction prior to the end of the 10-year ECIP period, but we believe the language in the Guidelines does not make this clear.

8. Purchase Price Considerations Involving "Any Other Sale."

We request that Treasury revise the Guidelines to provide more certainty regarding the calculation of the purchase price, providing ECIP participants the ability to calculate the repurchase price in advance and a time period during which the ECIP participant can rely on a proposed purchase price.

The Guidelines provide that the purchase price "for any other sale, including a repurchase by the issuer" will be calculated by Treasury as of the date of closing, with Treasury estimating that as of March 2024 the purchase price would have been between 7% and 28% of the aggregate liquidation preference of the preferred stock. The Guidelines provide that the purchase price will depend on factors at the time of the proposed sale, including the projected interest or dividend rate, then-prevailing interest rates, and the remaining time to maturity of the subordinated debt. We ask that Treasury provide more certainty regarding the calculation of the purchase price to enable ECIP participants the ability to plan for a purchase.

9. Treatment of a Portion of a Sale as a Public Grant.

We request that Treasury describe its sale to a nonprofit affiliate as a sale with respect to the 0.5% purchase price as a public grant of the difference between that 0.5% purchase price and the fair market value of the ECIP securities so sold. This is important since some of the nonprofit affiliates of ECIP participants may otherwise be considered "private foundations" instead of "public charities." By characterizing the sale in this way, Treasury will enable the nonprofit affiliate to exercise control in how it manages and distributes its assets in compliance with tax laws governing nonprofit public charities.

We understand that public charities can engage in transactions with affiliates so long as they are at market terms and that private foundations cannot engage in transactions with affiliates. Restrictions on sales to private foundations present an issue for ECIP participants. If the ECIP securities are sold to a private foundation, the participant's ability to repurchase those securities at a future time will be limited or precluded, particularly with respect to any discount to the price at which the participant is allowed to redeem the securities.

Further, private foundations are obligated to spend 5% of their assets annually to preserve their tax status. If the ECIP securities are the nonprofit affiliate's only assets and there are insufficient dividends being paid to the nonprofit affiliate to cover that 5% obligation, then the nonprofit affiliate will likely have to sell some of the ECIP securities to a third party to generate cash or donate some of the ECIP securities to a third party. This adds burdensome complexity in the management of an ECIP participant's securities and may make it more difficult to ensure that the ECIP securities are held by parties which share similar mission-aligned objectives as the ECIP participant or its nonprofit affiliate.

Thus, we believe there are direct and reasonable benefits in establishing mission-driven nonprofit affiliates as public charities. Recognizing that public charities must raise a material percentage of their funds from the public and that Treasury can qualify as the public for purposes of meeting this requirement, we seek confirmation of a nonprofit affiliate's ability to claim that a public grant occurred in its purchase of the ECIP securities.

10. Clarifications.

The following are additional questions which the NBA members would appreciate further clarity and direction on regarding compliance thresholds, post-disposition treatment of the securities, terms of the securities, the parties, and ongoing requirements.

a. We request that Treasury provide clarity as to whether the early disposition eligibility thresholds will be measured based on originations or outstanding loans. We believe the Guidelines are unclear as to Treasury's intentions. Depending on Treasury's intent, the NBA and its members may have further comments.

b. Please confirm whether the ECIP participant will be requested to enter into a new agreement with Treasury for impact performance reporting or other reporting requirements.

c. Please confirm what obligations, if any, the ECIP participant would have to Treasury based on the original Securities Purchase Agreement, once the disposition occurs.

d. Please confirm what obligations, if any, the mission-aligned nonprofit affiliate would have to Treasury once the disposition occurs.

e. Please confirm that Treasury would have no objection to the ECIP participant and the mission-aligned nonprofit affiliate amending the terms of the ECIP securities after the disposition.

Conclusion

Thank you for your careful consideration of our suggested revisions and clarifying questions. We appreciate the opportunity to share our views with you and look forward to serving as a resource.

Respectfully,

Nicole A. Elam, Esq.
President & CEO

Appendix A – Impact Stories

In addition to the above comments, we believe it is important to highlight some of the great successes and community impacts that are a direct result of ECIP, regardless of ECIP participants meeting the initial thresholds for sale at the preferential purchase price. It is our desire to demonstrate that the goals of ECIP are certainly being achieved and expanding access to disposition options on favorable terms by the ECIP participants directly supports enhanced reach for continued community development and economic success.

1. <u>Banesco USA</u>

Banesco USA is an MDI headquartered in Miami, Florida, with locations across Florida and Puerto Rico and Q2 2024 assets of $4.2 billion. Below are examples of Banesco USA's impact on its local community leveraging ECIP investments.

- In March 2024, Banesco USA closed on various loans totaling $10.5 million used to finance different projects for a Hispanic-owned business which operates two grocery stores in the towns of Toa Baja and Cataño in Puerto Rico. Both supermarkets serve urban low-income communities, underserved communities, minority communities, and persistent poverty counties. In fact, Cataño's supermarket is located within 400 yards of three government-operated public housing projects. Surrounding areas and communities would be severely underserved in the absence of these two supermarkets, thus resulting in food insecurity for many citizens. Approximately 90% of the stores' employees falls within lower income levels. Energy efficiency projects financed include the acquisition, installation and permitting of a solar energy system for the Toa Baja supermarket, and capital expenditures for the acquisition of a new energy efficient refrigeration compressor bank in order to replace old and energy-inefficient machinery and equipment in the Cataño supermarket.

- In March 2024, Banesco USA provided a $5.3 million loan to a Hispanic-owned business which is a maintenance, repair and operations shop that specializes in auxiliary power units and landing gear for commercial aircraft. The loan will support the growth of the company which employs more than 25 employees and is located in Miami in a minority community, urban low-income community, and underserved community.

- In April 2023, Banesco USA closed on four loans totaling $5.6 million for a leading manufacturer of flexible and industrial plastic packaging for FDA-regulated sectors and the general market, located in Corozal, Puerto Rico. The business is Hispanic-owned and is in an urban low-income community, underserved community, minority community, and persistent poverty county. The loan recipient, an underserved business, is now Corozal's largest employer, providing jobs for 5% of the working population in a community with a 48% poverty rate.

- In November 2022, Banesco USA funded a new $1.0 million revolving line of credit to support the conversion cycle of accounts receivable, inventory and other short-term needs for a company offering expert roofing, repair and maintenance solutions for homes and infrastructure in Puerto Rico, a critical necessity following island-wide disasters. The Hispanic-owned business is located in an urban low-income community, underserved community, minority community, and persistent poverty county.

- In June 2022, Banesco USA closed on a $500,000 term loan to a vocational institution in Puerto Rico to finance the purchase of new equipment and materials, covering up to 90% of invoice prices for welding and refrigeration courses and other essentials. The vocational institution is addressing the need for skilled automotive mechanics in response to the island's evolving mechanized landscape. The institution primarily serves students from low- to moderate-income backgrounds. The Hispanic-owned business is located in an urban low-income community, underserved community, minority community, and persistent poverty county.

2. **Carver State Bank**

Carver State Bank is an MDI headquartered and operating in Savannah, Georgia, with Q2 2024 assets of $87.7 million. Below are examples of Carver's impact on its local community leveraging ECIP investments.

- **HBCU**
  Carver's vision of "Financial Freedom For All" is rooted in the understanding that a solid education is the foundation for economic empowerment. This belief drives the bank's commitment to partnering with institutions that serve underrepresented communities, particularly historically Black colleges and universities focused on low-income students.

  Carver's partnership with a small HBCU exemplifies this commitment. This private HBCU in southeast Georgia offers undergraduate degrees in liberal arts, business administration, and education through various programs. The college primarily serves low-income students, with nearly 90% historically receiving federal student loans—about twice the national average. The college has recently faced challenges threatening its future, but is now on the mend. Carver established a letter of credit to the Department of Education, enabling the school to manage financial obligations including student refunds, potential fines, and funding for a teach-out program. This partnership demonstrates Carver's dedication to preserving vital educational institutions and pathways to financial freedom for underserved communities.

- **Habitat for Humanity**
  Carver's relationship with Coastal Empire Habitat for Humanity stands out as uniquely supportive and mission-aligned among financial institutions. Since 2015, Carver has been the sole FDIC-insured institution in Savannah willing to service Habitat's mortgage loans. Carver's commitment extends beyond traditional banking services: Carver provides essential lines of credit for their operations and leverages its Federal Home Loan Bank (FHLB) membership to secure grant funding for affordable housing projects. To date, this partnership has facilitated $170,000 in FHLB grants for Habitat, with Carver being the only local bank willing to sponsor these crucial applications. This extraordinary level of support

reflects the shared missions of both Carver and Habitat for Humanity, setting the partnership apart in the banking industry.

- **Minority-Woman Owned Single Family Developer**
  The single-family development affiliate of a Black-owned development firm headquartered in Atlanta, Georgia is dedicated to increasing homeownership and wealth-building opportunities in Black and brown communities. While its parent company is renowned for developing mixed-income multifamily housing communities nationwide, this Black woman-owned affiliate focuses on market-rate single-family homeownership projects. In 2023, Carver provided a crucial loan to the firm for a significant housing development project. This loan enabled the purchase of 6.4 acres of vacant land in Southwest Atlanta which is slated for residential development.

3. Citizens Trust Bank

Citizens Trust Bank ("CTB") is an MDI headquartered in Atlanta, Georgia, with locations in Georgia and Alabama and Q2 2024 assets of $757.0 million. Below are examples of CTB's impact on its local community leveraging ECIP investments.

- In 2023, over 95% of the number of loans CTB originated were to low-to-moderate income and minority households and businesses.

- CTB acted as the lead bank and originator of a $23.7 million multifamily renovation/construction project. CTB participated $17.2 million with other MDIs to mitigate concentration risk. The property is in a developing, low-to-moderate-income area in Decatur, GA.

- CTB provided working capital totaling $2.125 million to a private HBCU (Historically Black College and University) in Alabama, established in 1867. The working capital aids the college in meeting its educational obligation to its 839 undergraduate students enrolled at the college, and year-round enrollment of 1,237 students.

- CTB provided a $1.2 million credit facility to purchase a commercial retail building in the historic low-to-moderate district of downtown Atlanta, GA. The owner/operator is an African American female, and the facility allowed the owner to expand her operations. The building will be used as corporate headquarters, storage, and to launch additional food retail concepts.

- CTB takes pride in its partnership and positive impact on its local communities through small business lending initiatives. CTB's support has benefited various companies and organizations, such as the Sickle Cell Foundation of Georgia, by providing a $400,000 line of credit to support their day-to-day operations. Additionally, CTB assisted a local owner of an African-American dental practice in downtown Atlanta with a $100,000 loan to acquire essential dental equipment and expand his staff.

- With access to the $1.5 million financing CTB provided, a builder started the initial phase of providing affordable housing in a BIPOC community. The loan financed affordable townhomes in Southwest Atlanta. CTB also financed $800,000 to buyers to purchase four of the townhomes constructed. Similarly, CTB is the exclusive lender for a leading African-American home builder in its market area. CTB has provided over $450,000 to purchase two affordable homes for young Black families and is anticipating more financing within the subdivision as it develops.

- CTB is incredibly proud of its new Down Payment Assistant Program, which provides a grant of up to $2,000 for a down payment or to cover closing costs, supporting its community in homeownership, combating home insecurity, and developing wealth.

4. <u>City First Bank</u>

City First Bank is an MDI headquartered and operating in Minnetonka, Minnesota, with Q2 2024 assets of $242.4 million. Below are examples of City First Bank's impact on its local community leveraging ECIP investments.

- **Education Impact – Achievement Prep**
  $15,000,000 in capital deployed by City First Bank

  Achievement Prep opened in 2008 as a community school, working with families and community members to achieve its mission of preparing students to excel as high-achieving scholars and leaders in high school, college, and beyond.

  The school is committed to "three-generational work" – changing the lives of scholars, their parents, and their future children.

  Achievement Prep serves 321 scholars in PreK-5th grades. 95% of the scholars are Black, 2% are Hispanic/ Latino, and 3% are two or more races. The school has one of the highest percentages of at-risk students in the DC charter sector with 84% of scholars considered at risk. The school is strategically located east of the river in Ward 8 in the Congress Heights neighborhood of the District of Columbia; most Achievement Prep scholars reside in the Ward 8 community.

- **Healthcare Impact – Los Banos Camarena Health Center**
  $10,500,000 in capital deployed by City First Bank

  Camarena Health is a Federally Qualified Health Center committed to enhancing quality of life by providing culturally competent, holistic, and patient-centered healthcare in Merced County, California. Camarena is the largest provider of primary care services in Madera County and the greater Central Valley region operating 18 health facilities in the cities of Madera, Chowchilla, Coarsegold, Oakhurst, and Fresno. Annually, it serves over 59,525 patients (74% minority, 89% Low Income), employs 498 staff (89% Minority), working collaboratively with community leaders and stakeholders to ensure communities have the health resources needed to thrive and stay well.

On May 23, 2023, City First Bank closed a transaction with Community Three Grimke, LLC. The company is building a 38-unit apartment building to help support subsidized rents and affordable housing units. This transaction is also a DC PACE (Property Assessed Clean Energy) Loan which support its Green Financing efforts. A link to an article on this project is here: https://commercialobserver.com/2023/05/17m-in-financing-aimed-at-phase-two-of-grimke-school-transformation/

5. First Independence Bank

First Independence Bank is an MDI headquartered in Detroit, Michigan, with locations in Michigan and Minnesota and Q2 2024 assets of $609.1 million. Below are examples of First Independence Bank's impact on its local community leveraging ECIP investments.

- "On behalf of First Independence Bank, we are so very appreciative to have received more than $45 million of ECIP funding. This funding has been a vital level of support that allows our institution to continue enhancing the breadth and depth of services available to our customers, including greater lending capacity, better loan/deposit rates, expanded product offerings, financial education, and increased avenues for investing, all of which serves to enrich the financial well-being of our customers. Over the past few years, First Independence Bank has created partnerships with other financial institutions, coupled with the ECIP funding support. The result of those partnerships has grown our financial assets to nearly $600 million. Collectively, this infusion of support has provided a lift not just to one bank, but the everyday customers and community that First Independence Bank aims to serve within our banking ecosystem." - Kenneth Kelly, Chairman & CEO, First Independence Bank

- First Independence Bank began tracking and reporting to the US Treasury, the results from ECIP lending commencing Q2 2022 to the present. Over this period of time, First Independence Bank has made loans to low- to moderate-income Borrowers, urban low-income communities, underserved communities, persistent poverty counties, underserved business loans, and minority communities. In 2022, loans to LMI Borrowers total $1.025 million. In 2023, Underserved Business Loans totaled $940 thousand; Small Business Loans total $5.5 million.

- First Independence Bank, through Q2 2024, made small business loans totaling $316,000 and loans to underserved businesses totaling $236,000. The bank extended term loans to East Coast Food Management, a local Twin Cities concession company that serves food to large and small-scale events; Wow Me Web Design, a leading company in authentic website development, graphic design, mobile app design, print media, and marketing packages; and made an equipment loan to Quest Diagnostic Nichols Institute, Inc. Quest offers routine tests, including blood chemistries, blood cholesterol levels, complete blood cell counts, urinalysis, pregnancy tests and alcohol and other substance abuse tests.

6. <u>Liberty Bank and Trust</u>

Liberty Bank and Trust is an MDI headquartered in New Orleans, Louisiana, with locations in Louisiana, Texas, Michigan, Mississippi, Alabama, Illinois, Missouri, Kentucky, Tennessee, Kansas, and Georgia and Q2 2024 assets of $1.1 billion. Below are examples of Liberty Bank and Trust's impact on its local community leveraging ECIP investments.

- **Maryland-based Financial Services Corporation**
  Liberty Bank provided $2 million to a Maryland-based financial service institution, through a warehouse line of credit. This funding supports small businesses by facilitating SBA Community Advantage Loans, ensuring vital capital reaches underserved communities.

- **Houston, Texas Affordable Housing Developer**
  Liberty Bank provided a $2.5 million loan to an African American-owned home builder to fund the construction of 40 affordable single-family homes near downtown Houston, meeting the growing need for affordable housing in Houston's Greater Third Ward area.

- **Behavioral Health & Education Lending**
  Liberty Bank provided a $1.24 million loan to support an organization in Kentucky, which provides therapy for children with autism. The funding helps create jobs and enhances community support services in an underserved area, enriching the community.

- **New Orleans Retired Disabled Veteran Housing Developer**
  Liberty Bank provided a $300,000 loan to a retired disabled veteran to restore a residential property in the New Orleans St. Roch area. This project aims to revitalize a previously dilapidated property, driving further development in the community.

- **Persistent Poverty County Small Business Lending**
  Liberty Bank provided a $312,000 loan, enabling an African American family to acquire a 2-unit commercial property in New Orleans. This fast-tracked loan facilitated the transfer of ownership between two family-run businesses, helping the new owners expand their insurance agency.

- **Tuskegee Airmen Flight Academy of New Orleans**
  Liberty Bank provided a $232,000 loan to this nonprofit organization, which trains New Orleans high school students for careers in aviation. The funding supports flight training scholarships and career development opportunities, fostering future workforce growth.

7. <u>Mechanics & Farmers Bank</u>

Mechanics & Farmers Bank ("M&F") is an MDI headquartered in Durham, North Carolina, with locations across North Carolina and Q2 2024 assets of $450.6 million. Below are examples of M&F's impact on its local community leveraging ECIP investments.

- **Historically Black College**
  M&F Bank provided $6,500,000 in debt financing to an North Carolina based HBCU (historically black college or university), secured by commercial real estate owned by the university. The loan funds were used to facilitate debt restructuring and yielded the university considerable additional available cash flow and put the university in a better financial condition. The borrower has provided higher education since 1865 when it was founded and boasts many firsts to include being the first college in the nation to offer a four-year medical program and the first HBCU in the nation to open its doors to women.

- **IT Company**
  M&F Bank provided $791,100 in SBA 504 financing to provide expansion and renovation to real estate owned and occupied by a local IT company. The principal owner of the company is an African American male. The renovation of the space will allow the building to serve as a main campus for the operating company. The expansion will allow the company to provide additional server support, security, and storage of IT equipment.

- **Real Estate Investor**
  M&F Bank provided $1,700,000 in the acquisition financing of a 9-acre mobile home park. This property provides affordable housing to Lee County residents. M&F Bank also provided an additional $700,000 to finance the renovation of several income producing properties in Lee County NC. These properties are also occupied by low- to moderate-income individuals. Both loans combined totaled $2.4 million.

- **Recent Accolades**
  - M&F Bank was nominated and voted as one of the "Best Banks in Durham" in Durham Magazine's 2022,2023 and 2024 "Best of" annual contest.
  - M&F was nominated and voted to be one of the "Best Banks in Raleigh" in Raleigh Magazine's 2023 "Best of" annual contest.
  - M&F was nominated and voted one of the "Best Banks in Charlotte" in Charlotte Magazine's 2024 "Best of" annual contest.
  - M&F was nominated and voted one of the "Best Banks in Greensboro" in Greensboro Magazine's 2024 "Best of" annual contest.
  - In August 2024, M&F was recognized as the "Best Community Bank in North Carolina" by Business Insider in its 2024 "Best of" annual contest.

8. Texas National Bank

Texas National Bank is an MDI headquartered in Sweetwater, Texas, with locations in Texas and Q2 2024 assets of $146.6 million. Below are examples of Texas National Bank's impact on its local community leveraging ECIP investments.

- Key achievements (June 2022 - June 2024):
  - Over $470MM in new capital deployed to support underserved communities.
  - 98% "Deep Impact Lending".
  - Halfway to $1 Billion commitment over 10 years – demonstrates significant progress in capital deployment in just 2 years.

- The following highlights from Treasury's 2023 Investing for Impact Report demonstrate Texas National Bank's substantial achievements and the positive impacts of this funding:
    - Top 25 ECIP participants by dollar amount of deep impact lending as a percentage of total originations
    - Top 25 ECIP participants by dollar amount of deep impact lending
    - Top ECIP participants by dollar amount of lending to specific targeted communities
        - Lending to other targeted populations (as a % of total originations and by $s)
    - Top ECIP participants by dollar amount of lending to underserved businesses
    - Lending to Hispanic-owned businesses (as a % of total originations and by $s)
        - Lending to businesses with less than $100,000 in annual revenue (as a % of total originations)
    - Top ECIP participants by dollar amount of place-based lending
        - Lending to persistent poverty counties (as a % of total originations and by $s)