

Department of the Treasury
Information Collection Request – Supporting Statement

Emergency Capital Investment Program
OMB No. – 1505-0267

A. Justification

1. Circumstances necessitating the collection of information

Justification for Emergency Processing:

Pursuant to the Office of Management and Budget (OMB) procedures established at 5 C.F.R. §1320.13, the Department of the Treasury (Treasury) requests emergency processing for an Emergency Capital Investment Program (“ECIP” or the “Program”) information collection request.

The Consolidated Appropriations Act, 2021, signed into law on December 27, 2020, added Section 104A of the Community Development Banking and Financial Institutions Act of 1994 (the “Act”). Section 104A authorizes the Secretary of the Treasury to establish the Program 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.

Treasury seeks approval for an application form and associated documents which are necessary to open a small second round of funding and to close investments. The Act appropriated \$9 billion in funding for the Program, for Treasury to make investments to the greatest extent possible, less administrative expenses, during the national emergency related to the COVID-19 pandemic. Treasury opened an initial application round in March 2021, with an application deadline of September 1, 2021. Treasury made decisions on the submitted applications in December 2021 and closed and funded approximately \$8.34 billion in investments between April and November 2022 out of a total of \$8.73 billion in total planned investments. Some approved applicants chose not to accept an investment, and others chose to accept less than they were offered. As a result, Treasury now has up to approximately \$350 million in remaining funding, pending some additional anticipated closings. The Program has determined to open a small second round of applications to disburse this remaining funding amount. Treasury views it essential to the Treasury mission to invest the remaining ECIP funding authority as quickly as possible and to the maximum amount authorized, to provide support to communities disproportionately impacted by COVID-19

Under the Act, Treasury’s authority to make new investments under the Program terminates “on the date that is 6 months after the date on which the national emergency concerning the novel

coronavirus disease (COVID–19) outbreak declared by the President on March 13, 2020 under the National Emergencies Act (50 U.S.C. 1601 et seq.) terminates.” 12 U.S.C. § 4703a(j)(1). In order to complete a second round, Treasury will need to: (i) open the application process and provide potential applicants with sufficient time to apply; (ii) review and make decisions on the submitted applications, including consulting with the federal banking regulators and NCUA as required under the Act; (iii) notify applicants about Treasury’s determinations; (iv) prepare for closing, including providing applicants with sufficient time to prepare all the relevant documentation; and (v) close and fund the investments. As noted, for the initial round, it took approximately eight months between the application deadline and the completion of the majority of closings. Treasury understands that discussions are ongoing regarding the termination of the COVID-19 national emergency. Given the length of time required to complete a second round, any delay in opening a second round might jeopardize the Program’s ability to disburse the remaining funds prior to the expiration of Treasury’s investment authority. This would result in up to \$350 million in taxpayer funding being uninvested, resulting in a significant opportunity cost for the financial institutions who could receive this funding and the underserved communities that could benefit. Thus, public harm is reasonably likely to result from compliance with the normal clearance procedures, which would delay the opening of a second round.

Treasury has limited public engagement regarding the application and forms associated with a possible second round, due to the need to keep the existence of a possible second round confidential until Treasury was ready to publicly announce the second round. Treasury has had meetings with each of the federal banking agencies and the National Credit Union Administration. The application form is anticipated to be virtually identical to the application used for the first round. During the initial round, Treasury conducted a substantial number of outreach sessions regarding the investment opportunity. It also released the application and provided additional guidance regarding completion of the application in response to feedback during the open application period. Treasury provided term sheets, along with an application FAQ document in response to such engagements. Treasury plans for both resources, as well as forms of the legal agreements to be available again. Treasury has not formally solicited comments on the burden estimate previously provided by Treasury.

Due to the need to make additional investments under the Program as soon as possible and before the expiration of Treasury investment authority under the Act, Treasury requests emergency processing and approval by November 25, 2022, for the Emergency Capital Investment Program Application Form and associated documents for round two of the investments. Treasury anticipates that the form will only need to be in use for a six-month period. The Application Form is completed by the applicant seeking to receive an investment. Responses to the Application may be used to determine investment amounts or prioritization of investments. Given the inability to seek public comments during such a short timeframe, Treasury requests a waiver from the requirement to publish notice in the Federal Register.

2. Use of the data

The information reported in the application will allow Treasury to determine whether an applicant is eligible to receive a capital investment under the Program, as well as to comply with any reporting, recordkeeping, and transparency requirements under the Act. During the application review process, using a standard form, Treasury will seek the views of federal bank and credit union regulators and also invite comments from state regulators¹. After approving applicants for investment, Treasury uses a brief confirmation of participation and closing questionnaire to provide information necessary to start the closing process. Finally, Treasury will utilize letter agreements to close investments.

3. Use of information technology

Treasury will manage the submission process with the use of existing and widely available technology such as a web portal and e-mail.

4. Efforts to identify duplication

The information collections are under new statutory mandates. The information is not known to overlap with any other data collected under any other information collections at Treasury. Furthermore, the information collection is tailored to leverage data that already exists and require only additional data that is necessary.

5. Impact on small entities

This collection of information will minimally affect small entities. However, Treasury will attempt to minimize burden on small entities to the greatest extent practicable.

6. Consequences of less frequent collection and obstacles to burden reduction

Treasury will collect only the information required to determine whether an applicant is eligible to receive a capital investment under the Program and to close investments. Treasury cannot meet its statutory requirement to make funding decisions without each of the forms.

7. Circumstances requiring special information collection

There are no special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

¹ Based on the implementation plan for the second round, Treasury anticipates only a subset of all applicants will be referred to federal bank and credit union regulators. In the initial application period, state banking and credit union regulatory agencies generally declined the opportunity to provide views on applicant suitability for investment

8. Solicitation of comments on information collection and justification for expedited processing pursuant to 5 C.F.R. § 1320.13

This application is being submitted under emergency clearance procedures to expedite application for investment during the government’s response to the Covid-19 national emergency, as detailed further above. As such, advance public notice and comment is not possible.

9. Provision of payments to respondents

No payments or gifts are provided to respondents.

10. Assurance of confidentiality

Information collected will be kept confidential to the extent appropriate and consistent with the Freedom of Information Act and other applicable laws.

11. Justification of sensitive questions

An applicant is ineligible to participate in the Program if it 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. Determining such ineligibility necessitates sensitive questions be asked of the applicant. In addition, evaluation of the applicant requires commercial information regarding the applicant’s historical and planned lending.

12. Estimate of the hour burden of information collection.

The Emergency Capital Investment Program Burden Table

Information Collection	Number of Respondents	# Responses Per Respondent	Total Responses	Hours per response	Total Burden in Hours	Cost to Respondent
Second Round Application Form	25	1	25	0.333 hours (20 minutes)	8	\$428*
Lending Plans and associated recordkeeping	25	1	25	41 hours	1025	\$48,688*
Expenditure Policies	25	1	25	40 hours	1000	\$47,500*
State Regulatory Response	2	1	2	30 Minutes	1	\$48**

Form						
Confirmation Participation Letter	10	1	10	10 Minutes	2	\$109*
Letter Agreements	10	1	10	8	80	\$6308*
TOTAL			97		2,116	\$103,081

* Bureau of Labor Statistics (BLS), U.S. Department of Labor, Occupational Outlook Handbook, Accountants and Auditors, on the Internet at <https://www.bls.gov/ooh/business-and-financial/accountants-and-auditors.htm> (visited December 30, 2020). In 2019, the median pay for accounts and auditors was \$34.40/hour. To account for the fully-loaded employer cost of employee compensation, the median pay is increased by 38%, resulting in a fully-loaded wage rate of \$47.50. According to BLS’s Employer Cost for Employee Compensation from September 2020 (released on December 17, 2020: <https://www.bls.gov/news.release/pdf/ecec.pdf>), employers provided 38% of total employee compensation in the form of non-wage compensation (i.e., benefits such as paid leave, health insurance, etc.) for state and local government workers.

** Bureau of Labor Statistics (BLS), U.S. Department of Labor, Occupational Outlook Handbook, Lawyers, on the Internet at <https://www.bls.gov/ooh/legal/lawyers.htm> (visited December 21, 2021). In 2020, the median pay for lawyers was \$61.03/hour. To account for the fully-loaded employer cost of employee compensation, the median pay is increased by 29.2%, resulting in a fully-loaded wage rate of \$78.85. According to BLS’s Employer Cost for Employee Compensation from September 2021 (released on December 17, 2020: <https://www.bls.gov/news.release/pdf/ecec.pdf>), private sector employers provided 29.2% of total employee compensation in the form of non-wage compensation (i.e., benefits such as paid leave, health insurance, etc.).

13. Estimated total annual cost burden to respondents

No purchase of equipment or services will need to be made by respondents for this information collection other than as required as a part of customary and usual business practices.

14. Estimated cost to the federal government.

Treasury will utilize existing technology and resources to collect this application. As such, total costs of development and deployment of the application will be less than \$10,000.

15. Reasons for change in burden

Treasury has reduced the total number of Respondents based on prior program experience. Plans for tabulation, statistical analysis and publication

Treasury has no current plans to publish confidential or proprietary information collected through this information collection.

16. Display of the expiration date for OMB approval

Treasury plans to display the expiration date for OMB approval of the information collection on all instruments.

17. Exceptions to submission requirements

There are no exceptions to the submission requirements.

Part B. Describe the use of statistical methods such as sampling or imputation

This collection does not employ statistical methods.