

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220



TO: Mancini, Acting Administrator, Office of Information and Regulatory

FROM: Ryan Law, Deputy Assistant Secretary for Privacy, Transparency, and Records

SUBJECT: Justification for Emergency Processing: ECIP Application - Round Two

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. 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.