EMERGENCY CAPITAL INVESTMENT PROGRAM

U.S. Department of the Treasury

Frequently Asked Questions
on Quarterly Supplemental Report (QSR)

Updated September 4, 2024[1]

The U.S. Department of the Treasury (Treasury) is issuing this document to address frequently asked questions about the Quarterly Supplemental Report (QSR) required to be submitted by institutions (Participants) participating in the Emergency Capital Investment Program (ECIP). Treasury intends to provide timely guidance to address questions concerning the QSR and may update this document periodically. Any terms not defined in this document are defined in the QSR instructions or the ECIP Securities Purchase Agreement.

Table of Contents

[1] FAQs updated on September 4, 2024, have been marked accordingly. Unless otherwise indicated, the FAQs in this document were published on July 19, 2023.

1. Report Submission and Due Dates

1.1. Section I.C of the QSR instructions state that the QSR is due concurrently with the Call Report. Can a Participant submit its QSR before or after submitting its Call Report?

The deadline for submission of the QSR is the deadline for the submission of a Participant's Call Report for the relevant quarter. Participants may submit QSRs to Treasury before or after they submit their Call Report, but the QSR must be submitted to Treasury by the applicable Call Report deadline for the quarter. Participants are not required to submit Call Reports to Treasury.

2. Lending Activity, Qualified and Deep Impact Lending

2.1. Is a newly formed entity, such as an entity that is formed to hold a real estate asset and that does not have any prior revenue, a small business?

If, based on financial projections or other information available to the Participant at the time of underwriting, a newly formed entity is expected not to meet the definition of a small business – which can be found in the Glossary of the QSR instructions – within one year of the loan origination, the newly formed entity is not considered a small business for purposes of the QSR.

2.2. How often will reference datasets used for place-based lending be updated?

Reference datasets that Participants are required to use to identify their place-based Qualified Lending will be updated periodically, consistent with the CDFI Fund's updates of datasets. Treasury will provide for transition periods to phase in the adoption of new datasets.

2.3. Are loans to special-purpose entities, single-purpose entities, or special-purpose vehicles included in Qualified Lending as loans to small businesses?

No, loans to special-purpose entities, single-purpose entities, special-purpose vehicles or other similar types of non-operating businesses or legal entities formed for a specific, narrow, or temporary purpose do not qualify as loans to small businesses for purposes of identifying a Participant's Qualified Lending or Deep Impact Lending.

2.4. Are purchases of loans from other ECIP participants included in Lending Activity?

ECIP Participants may include in Lending Activity the pro-rata share of the Participant's purchase of a participation in a loan that is: (a) originated by another ECIP Participant during the reporting period; and (b) purchased by the Participant during the reporting period. For the purposes of the Quarterly Supplemental Report, a "participation" means a loan origination or financing structure in which the ECIP Participant that is "participating" in the loan has assumed at least some credit risk of the loan on the day of origination. Participants may not include purchases of loans from other ECIP Participants in Lending Activity.

For example, if ECIP Participant A originates a $100,000 loan during the reporting period and sells a 20% participation in the loan to ECIP Participant B – that is, the loan is originated under a financing structure in which ECIP Participant B assumes 20% of the credit risk of the loan– ECIP Participant A should include $80,0000 in Lending Activity and ECIP Participant B should include $20,000 in Lending Activity. If ECIP Participant A originates a $100,000 loan during the reporting period and sells the loan to ECIP Participant B the day after the loan is originated, ECIP Participant A should include $100,000 in Lending Activity and ECIP Participant B may not include this loan in Lending Activity.

2.5. How should Participants report loans to Tribal enterprises?[2]

As noted in Section I.F of the QSR Instructions, Lending Activity categories are defined based on the instructions to the Participant's Call Report. Treasury understands that in certain circumstances, loans to Tribal enterprises may be reportable on the Call Report as "Obligations (other than securities and leases) of states and political subdivisions in the U.S." There is no equivalent reporting item in the QSR for such obligations of states and political subdivisions. However, in light of the unique characteristics of Tribal enterprises and Tribal governments, Participants may report in the QSR a loan that would be reportable on the Call Report as a "Commercial and industrial loan" but for the fact that the borrower is a corporation or similar entity owned by or affiliated with a Tribe. Specifically, Participants may, but are not required to, include such loans in the Lending Activity category for "Commercial and industrial loans," if the loans are otherwise eligible for inclusion in the QSR. Note that such loans may only be included as Qualified Lending or Deep Impact Lending if they are made to one of the Target Communities listed in the QSR instructions.

Participants are permitted, but not required, to restate any previously submitted QSRs to report loans to Tribal enterprises consistent with this FAQ. Participants that wish to restate a previously submitted QSR should e-mail ECIP@treasury.gov.

3. Demographic Data Collection

3.1. Can Participants use proxy data to supplement or in lieu of collection of race and ethnicity data from borrowers?

As noted in section I.G of the QSR instructions, in addition to demographic data that is self-reported by the borrower, Participants may use demographic data collected through methods that the Participant uses for the purposes of complying with the Home Mortgage Disclosure Act and with CDFI certification or reporting requirements. Participants may not use any other proxies or methods to determine the demographic characteristics of the borrower. For example, loans to borrowers in majority-minority census tracts are considered Qualified Lending as loans to Minority Communities, but if the Participant does not collect the demographic characteristics of those borrowers using one of the above methods, they may not be reported as loans to Other Targeted Populations. For example, a Participant that does not collect any demographic data

[2] FAQ 2.5 added on September 4, 2024.

from its borrowers and originates $100,000 in loans to borrowers in a Minority Community that is 60% Black American may not report $60,000 as loans to Other Targeted Populations in Schedules B or C. The $100,000 in loans should instead be counted in Qualified Lending as loans to a Minority Community and reported accordingly in Schedules B and D.

The ECIP statute provides a limited exemption from the Equal Credit Opportunity Act for ECIP participants, *see* 12 U.S.C. § 4703a(k), which did not apply during the period that was used for the Initial Supplemental Report. As a result, the use of proxy data was permitted for the Initial Supplemental Report but is not permitted for the QSR.

3.2. The QSR instructions state that, for purposes of collecting demographic data from customers, a Participant may use methods that the Participant uses for the purposes of complying with the Home Mortgage Disclosure Act (HMDA) and methods that the Participant uses for the purposes of complying with CDFI Fund certification or reporting requirements. How may Participants use these methods?

Treasury believes that the best method of collecting demographic data is borrower self-identification. Nonetheless, if a Participant is collecting demographic data (other than geographical proxies) from its borrowers for the purposes of, and consistent with the requirements for, compliance with HMDA or CDFI Fund certification or reporting requirements, Participants may use that demographic data for their QSRs. If a borrower does not self-report demographic data, Participants are not required to use methods, such as visual observation or surname analysis, to collect demographic data solely for the purposes of ECIP QSR reporting.

3.3. Are Participants required to collect race and ethnicity data from all loan applicants, including for loans that are not Qualified Lending?

Participants are required to collect sufficient data to enable them to complete all the fields and all the schedules in the QSR accurately. If the Participant engages in a line of business or particular transactions that it reasonably believes would not fall within any of the categories of Qualified Lending, collecting demographic data from customers in that line of business or for those transactions is not required. Note that if a loan falls within any of the categories of Qualified Lending, it must be reported in every applicable category of Qualified Lending and included in every applicable Schedule.

3.4. How should Participants complete the QSR for the grace period ending on June 30, 2024?

As noted in section I.G of the QSR instructions, for each QSR through the report for the quarter ending on June 30, 2024, Treasury will not consider the QSR to be inaccurate or incomplete solely on the basis of a lack of demographic data. For each such QSR, Participants should complete the report to the extent they have sufficient data and leave fields blank if they do not have sufficient data to complete the field. For example, if a Participant does not have demographic data on the race or ethnicity of any of its borrowers, it should not report any data in the columns for loans to Other Targeted Populations. If a Participant has demographic data for half of its borrowers, it should report that data in the applicable fields. As the QSR instructions note, if a Participant lacks sufficient demographic data, it must provide a narrative explanation of its plans to implement sufficient data-collection systems and its progress in implementing those plans.

3.5. Are Participants required to collect income data from all borrowers for the purposes of identifying loans to LMI Borrowers, Low-income Borrowers, and Underserved Small Businesses?

Participants are not required to collect income data from all borrowers if they do not do so as a normal course of making the loan solely for the purposes of identifying loans to LMI Borrowers, Low-income Borrowers, and Underserved Small Businesses. For example, if in the normal course of its business, a Participant does not collect income data from a borrower for a secured loan, they are not required to do so solely for the purposes of QSR reporting. To the extent that a Participant does not collect income data from a borrower, the loan to that borrower cannot be reported as a loan to a LMI Borrower, Low-income Borrower or Underserved Small Business.

4. ECIP and the CFPB's Small Business Data Collection Rule

4.1. How should Participants identify "Minority Businesses" for the purposes of ECIP and the CFPB's Small Business Data Collection Rule at 12 C.F.R. Part 1002, Subpart B?

As defined in the Glossary to the QSR Instructions, "Minority Business" means a business that is majority-owned by a Minority. Alternatively, Participants may use the definition of "minority-owned business" in the CFPB's Small Business Data Collection Rule at 12 C.F.R. Part 1002, Subpart B. Treasury understands that some businesses may meet the definition of a "Minority Business" for the purposes of ECIP but may not be considered a "minority-owned business" under CFPB's Small Business Data Collection Rule. In the interest of reducing burden, Participants may nonetheless use the definition under the CFPB's rules for their QSR reporting.