

# EMERGENCY CAPITAL INVESTMENT PROGRAM

## U.S. Department of the Treasury

### Second-Round Application Frequently Asked Questions

The U.S. Department of the Treasury (Treasury) is issuing this document to address frequently asked questions about the second round of the Emergency Capital Investment Program (ECIP), which was established by Section 104A of the Community Development Banking and Financial Institutions Act of 1994 (added by the Consolidated Appropriations Act, 2021). Treasury intends to provide timely guidance to address questions concerning all aspects of the ECIP and may update this document periodically.<sup>1</sup>

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<sup>1</sup> This document is relevant for the second round of the ECIP. It does not displace or modify the FAQs applicable to the initial round of the ECIP, which were updated on August 11, 2021.

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# 1. Eligibility

## 1.1 What types of institutions are eligible to participate in the ECIP?

To be eligible for the ECIP, an institution must be either a certified community development financial institution (CDFI) or a minority depository institution (MDI). In addition, every eligible institution must be:

- a federally insured depository institution that is not controlled by a bank holding company (BHC) or savings and loan holding company (SLHC) that is also eligible for the ECIP;
- a BHC;
- an SLHC; or
- a federally insured credit union.

Financial institutions that are not banking institutions and depository institutions that are not federally insured are not eligible to participate in the ECIP. For example, the following types of financial institutions are ineligible: CDFIs that are not banking institutions; *cooperativas* based in Puerto Rico; and privately insured credit unions.

## 1.2 Is any credit union that has a low-income designation eligible to participate in the ECIP?

To be eligible to participate in the ECIP, a credit union must be federally insured and must be either a CDFI or an MDI. Therefore, a credit union that has a low-income designation, is federally insured, and is either a CDFI or an MDI may be eligible to participate in the ECIP.

## 1.3 What are the criteria to be an MDI for purposes of participation in the ECIP?

An MDI is an institution that is any of the following:

- A “minority depository institution,” as defined in section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1463 note). A depository institution satisfies this definition if it is (1) a privately owned institution, 51 percent of which is owned by one or more socially and economically disadvantaged individuals; (2) a publicly owned institution, 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; or (3) a mutual institution of which the majority of the board of directors, account holders, and the community which it services is predominantly minority (defined by statute as Black American, Native American, Hispanic American, or Asian American).
- An institution considered to be an MDI by the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), the Board of Governors of the Federal Reserve System (Federal Reserve), or the National Credit Union Administration (NCUA), as applicable.
- An institution listed in the FDIC’s MDIs List published for the third quarter of 2020, available at [FDIC Third Quarter 2020 MDI List](#) and credit unions listed on the NCUA’s

Minority Depository Institutions Annual Report to Congress list of MDIs for 2020<sup>2</sup> are considered to be MDIs by those agencies and are therefore eligible to participate in the ECIP.

#### 1.4 Is a de novo bank or credit union eligible to participate in the ECIP?

A bank or credit union's de novo status does not impact its eligibility for the ECIP, provided the institution meets all the eligibility requirements of the ECIP. De novo financial institutions must have sufficient historical financial data to complete the ECIP application and emergency investment lending plan, which, among other information, requires lending data for the past two fiscal years (see Question 3.3).

#### 1.5 Is a BHC or SLHC that has not yet been certified as a CDFI or designated as an MDI eligible to participate in the ECIP?

If a BHC or SLHC is not a CDFI or designated as an MDI, it is ineligible to participate in the ECIP. However, if an ineligible BHC or SLHC has a subsidiary depository institution that is a CDFI or designated as an MDI and that is FDIC insured, that subsidiary is eligible to participate in the ECIP.

#### 1.6 Can more than one affiliate of a BHC or SLHC separately apply to the ECIP?

If a BHC or SLHC is eligible to participate in the ECIP, no insured depository institution that is controlled by that BHC or SLHC is eligible. However, if a BHC or SLHC is ineligible to participate in the ECIP, each insured depository institution that it controls may be eligible and may apply separately.

#### 1.7 As of what date must an ECIP applicant be a CDFI or MDI to be eligible to participate in the ECIP?

An institution relying on CDFI status for eligibility must (1) be certified by Treasury's Community Development Financial Institutions Fund (CDFI Fund) as of the date the institution's ECIP application is submitted and (2) must have submitted its application for CDFI certification no later than September 30, 2022. Any institution that submitted an application for CDFI certification after September 30, 2022, will not be considered.

An institution relying on MDI status must have such designation as of the date it submits its ECIP application.

If an institution ceases to be a CDFI or an MDI after it submits its ECIP application but before Treasury acquires preferred stock or subordinated debt from the institution under the ECIP, Treasury may determine, in its discretion, that the institution is no longer eligible to participate in the ECIP.

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<sup>2</sup> See [2020 Minority Depository Institutions Annual Report to Congress \(ncua.gov\)](https://www.ncua.gov/About-us/Pages/Minority-Depository-Institutions-Annual-Report-to-Congress.aspx)

1.8 May an institution that is designated in Troubled Condition by its federal regulator obtain a waiver from its primary federal regulator allowing it to participate in the ECIP? Similarly, if an institution is currently designated in Troubled Condition but may have the designation removed soon, is the institution eligible for the ECIP?

All institutions that are designated in Troubled Condition by the appropriate federal banking agency or the National Credit Union Administration, as applicable, at the time Treasury makes its decision on whether to approve an investment in the applicant are ineligible to participate in the ECIP.

1.9 If an institution is subject to a formal enforcement action arising solely from Bank Secrecy Act program deficiencies, is the institution eligible for the ECIP?

An institution is ineligible to participate in the ECIP if it is subject to a formal enforcement action with its primary federal regulator that addresses unsafe or unsound lending practices at the time of application, or if it becomes subject to such an enforcement action after submitting an application but before receiving an ECIP investment. However, an institution's eligibility to participate in the ECIP will not be affected by a formal enforcement action that does not address unsafe or unsound lending practices, such as an action that solely addresses Bank Secrecy Act program deficiencies.

1.10 How should an institution determine which of its affiliates should be listed as the ECIP applicant on the program application?

As described in FAQ 1.1, to be eligible for the ECIP, an institution must be either a CDFI or an MDI. In addition, every eligible institution must be (1) a federally insured depository institution that is not controlled by a BHC or SLHC that is also eligible for the ECIP; (2) a BHC; (3) an SLHC; or (4) a federally insured credit union.

A federally insured depository institution (IDI) may apply to the ECIP if it meets the eligibility criteria and is not controlled by a BHC or SLHC that is also eligible for the ECIP. If the IDI's BHC or SLHC is a CDFI or MDI and is therefore eligible for the ECIP, then the BHC or SLHC (not the IDI) should apply to the ECIP. Note that a BHC or SLHC is eligible for the ECIP only if it is a CDFI or MDI at the time of its application to the ECIP; a pending CDFI certification does not qualify an institution for the ECIP.

For an IDI that is otherwise eligible for the ECIP (including that it is a CDFI or MDI and is not designated in Troubled Condition by its primary federal regulator or subject to a formal enforcement action that addresses unsafe or unsound lending practices) and that is controlled by a BHC or SLHC, the following steps can be used to determine whether the IDI, or its BHC or SLHC, should apply to the ECIP:

- a) Is the BHC or SLHC designated in Troubled Condition or subject to a formal enforcement action that addresses unsafe or unsound lending practices?
  - If yes: The BHC or SLHC is ineligible for the ECIP; the IDI may apply unless it is also designated in Troubled Condition or subject to a formal enforcement action

that addresses unsafe or unsound lending practices.

- If no: Continue to (b)
- b) Is the BHC or SLHC a CDFI?
- If yes: The BHC or SLHC is the appropriate ECIP applicant; the IDI should not apply.
  - If no: Continue to (c)
- c) Is an IDI subsidiary of the BHC or SLHC considered to be an MDI by the IDI's primary federal regulator?
- If yes: The institution may elect for either its BHC or SLHC, or its IDI, to apply.
  - If no: The BHC or SLHC is ineligible for the ECIP; the IDI may apply.

Treasury will consult the appropriate federal banking agency to confirm that the agency considers a financial institution to be an MDI.

An applicant that is a BHC or SLHC whose primary IDI subsidiary is in Troubled Condition or subject to a formal enforcement action that addresses unsafe or unsound lending practices at the time of application will not be considered for an investment, even if the BHC or SLHC applicant is itself not in Troubled Condition or subject to a formal enforcement action.

#### 1.11 The CDFI Fund places limits on which programs CDFI institutions or their holding companies can apply to in the same year. Do these rules apply to the ECIP?

No. CDFI Fund rules that limit which programs CDFIs and their holding companies can apply to in the same year do not apply to the ECIP, because the ECIP is not administered by the CDFI Fund.

#### 1.12 If a CDFI has a compliance issue with a prior CDFI Fund award or is in a CDFI Fund certification or program cure period, does it affect ECIP eligibility?

Treasury will consider an ECIP application submitted by an applicant that has pending noncompliance issues with the CDFI Fund if the CDFI Fund has not yet made a final compliance determination. If a certified CDFI loses its certification at any point before the ECIP investment determination, the application will no longer be considered by Treasury. An applicant on the federal government's Do Not Pay list may also submit an application but will not be eligible for the ECIP if it is on the list at the time Treasury makes its investment determination.

#### 1.13 If an applicant received an offer of investment from the ECIP in the initial round of funding, may it apply for additional funding?

No, an applicant that was offered an investment from ECIP in the initial round of funding will not be considered for the second round, regardless of whether the applicant accepted or declined the prior offer of funds or if the applicant accepted a lower investment than Treasury offered. Affiliates of applicants that were offered an investment in the first round will also not be considered for the second round.



1.14 If an applicant did not apply in the initial round of funding, may it apply for the second round?

Yes, an applicant that did not apply in the first round of funding may apply for the second round.

1.15 If an applicant applied for the first round of funding and was not offered an investment, may it apply for the second round?

Applicants that applied in the first round but were not offered an investment may reapply if they are otherwise eligible for the Program.

## **2. Application and Emergency Investment Lending Plan**

2.1 How do I submit an ECIP application and emergency investment lending plan?

All applicants for the ECIP must submit an application and emergency investment lending plan through the ECIP application portal, available on [the ECIP website](#). Click on the ECIP Program Portal link under the “Resources” section of the website to access the electronic application.

2.2 The ECIP application requires applicants to submit an Incumbency Certificate; what is the certificate required to state?

An Incumbency Certificate should (1) list the names of the applicant’s chief executive and chief financial officers who certified the applicant’s ECIP application; (2) certify that such officers are authorized to enter into binding commitments and transactions with Treasury with respect to the ECIP; and (3) be signed by the certifying officers and corporate secretary (or person fulfilling a similar function) of the applicant.

2.3 Will Treasury provide an applicant’s primary federal financial regulator with a copy of the applicant’s Emergency Investment Lending Plan that is submitted together with the ECIP application?

Yes. Treasury will share the Emergency Investment Lending Plan with the OCC, FDIC, Federal Reserve, or NCUA, as applicable, and consult with them, as required by statute, to determine whether the institution may receive an investment in the ECIP. However, determinations regarding whether to approve an institution to participate in the ECIP will be made by Treasury.

2.4 For purposes of the ECIP application and the Emergency Investment Lending Plan, what does “fiscal year” mean?

References to “fiscal year” in the ECIP application and in the Emergency Investment Lending Plan mean the fiscal year used by the applicant for financial reporting purposes.

2.5 Is an institution eligible to participate in the ECIP if its Emergency Investment Lending Plan does not definitively prove that at least 30 percent of the institution’s lending over the past two fiscal years, both by total number and dollar amount, was made directly to low- and moderate-income (LMI) borrowers (as defined in the ECIP application), to borrowers that create direct benefits for LMI populations, to Other Targeted Populations (as defined in the application form), or to any combination thereof?

ECIP applicants are statutorily required to submit, with their application, a lending plan that “demonstrates that not less than 30 percent of the lending of the applicant over the past 2 fiscal years was made directly to [LMI] borrowers, to borrowers that create direct benefits for [LMI] populations, to other targeted populations as defined by the [CDFI] Fund, or any combination thereof, as measured by the total number and dollar amount of loans.” This information is important to promote Treasury’s ability to assess an applicant’s record of meeting the needs of LMI and minority borrowers. An applicant that does not complete and submit the Emergency Investment Lending Plan together with its application will not be considered for participation in the ECIP.

An applicant should use all feasible efforts to collect and report definitive evidence that it meets this 30 percent threshold, as requested by Question 1(a) of the Emergency Investment Lending Plan. In the event that an applicant is unable to provide the requested data, the applicant must, in Question 1(c) of the Emergency Investment Lending Plan, describe in detail why the data is unavailable or would be unduly burdensome to collect. In those cases, the applicant may complete Question 1(a) of its Emergency Investment Lending Plan by applying one of the two methodologies described below to reasonably estimate the number and amount of loans to LMI and minority borrowers; however, as noted in Question 3.1 below, the use of these methodologies may result in a less favorable rating of the Emergency Lending Plan, which could in turn result in a reduction in the amount of the investment an applicant is eligible for under the ECIP.

The first methodology is to use data or information that indicates a reasonable probability regarding the LMI or minority status of the borrower or beneficiary. Some examples include:

- If the applicant does not have data about minority status of a borrower, the applicant may apply reasonable methods to use borrower addresses as a proxy for minority status, based on available data regarding minority populations. For example, if the borrower’s address is in a census tract that is majority minority, the applicant may, if applicable, include such borrower’s loan in row 5 of Question 1(a) of the Emergency Investment Lending Plan (“Applicant’s lending made to borrowers in census tracts that are majority Other Targeted Populations not already included 2, 3, and 4”).
- If the applicant does not have data on the income of a sole proprietor, the applicant may reasonably estimate such income based on the sole proprietor’s revenue or net income.

The second methodology is for the applicant to use documentation submitted by it to the CDFI

Fund in connection with its CDFI certification or CDFI awards as a proxy for LMI or minority borrower status. Documentation in connection with CDFI certification should include the applicant's annual certification reports for the previous two years; documentation in connection with CDFI awards should include the applicant's transaction level reports for the previous two years.

If an applicant has data about the characteristics of some borrowers but applies one of the two alternative methodologies described above with respect to other borrowers, the applicant should complete Questions 1(a) and 1(c) in the Emergency Investment Lending Plan.

## 2.6 For purposes of Question 1(a) in the Emergency Investment Lending Plan, what are the standards for determining whether loans are to borrowers or projects that “create direct benefits for LMI populations?”

Question 1(a) of the Emergency Investment Lending Plan requests information on an applicant's total loans and lending in the following categories:

- Applicant's total loans
- Applicant's lending made directly to LMI borrowers
- Applicant's lending made directly to “Other Targeted Populations” not already included above
- Applicant's lending made to borrowers or projects that create direct benefits for LMI populations not already included above
- Applicant's lending made to borrowers in census tracts that are majority “Other Targeted Populations” not already included above

Question (1)(a) is designed to identify each loan made by an applicant that falls within one of the four specific lending categories listed above. No loan should be reported in more than one lending category; each loan should be included in the table only once.

An applicant should report on row 4 of Question 1(a) of the Emergency Investment Lending Plan “lending made to borrowers or projects that create direct benefits for LMI populations.”

Footnote 3 in the Emergency Investment Lending Plan states that “borrowers that create direct benefits for LMI populations” refers to borrower financing that is underwritten on the basis of primarily serving low-income households; applicants may also report on row 4 of Question 1(a) borrower financing that is underwritten on the basis of primarily serving moderate-income households. A loan falls within this category if (1) more than 50% of the beneficiaries of the financing are LMI individuals or (2) the financing was made with an express, bona fide intent to serve LMI individuals as beneficiaries, the activity was structured to achieve this purpose, and the activity accomplishes or is reasonably designed to accomplish the purpose. Beneficiaries mean occupants of housing units or commercial tenants in a real estate financing; employees of a business; and board members, staff, clients, or customers in a nonprofit financing. For lending in which less than 50% of the beneficiaries are LMI individuals, applicants may include the pro rata portion of the financing attributable to LMI individuals.

2.7 For purposes of rows 2 and 3 in Question 1(a) in the Emergency Investment Lending Plan, are loans to businesses majority owned by LMI individuals or by Other Targeted Populations considered “lending made directly to” LMI borrowers or Other Targeted Populations?

Yes, loans to businesses that are majority owned by LMI individuals should be counted in row 2 of Question 1(a) of the Emergency Investment Lending Plan as loans made “directly to LMI borrowers.” Similarly, loans made to businesses that are majority owned by individuals who are in Other Targeted Populations should be counted in row 3 of Question 1 of the Emergency Investment Lending Plan as loans made “directly to Other Targeted Populations.”

2.8 For purposes of Question 1 in the Emergency Investment Lending Plan, may an applicant include loans originated under the Small Business Administration’s Paycheck Protection Program (PPP)?

A borrower may elect whether to include the loans it originated under the PPP for purposes of Question 1 in the Emergency Lending Investment Plan. If a borrower includes any PPP loans for this purpose, it must include all PPP loans it made.

2.9 For Purposes of Question 1(a) rows 3 and 5 in the Emergency Investment Lending Plan, may an applicant include all lending made in “investment areas,” as defined in CDFI regulations (12 CFR 1805.201(b)(3)(ii)), as lending made directly to “Other Targeted Populations”?

No. The Application Instructions for Emergency Capital Investment Program define “Other Targeted Population” based on the characteristics of the borrower, not the borrower’s location. This approach to defining “Other Targeted Population” is consistent with the CDFI Fund’s definition of this term, which currently includes the following: Black Americans, Hispanics, Native Americans, Native Alaskans residing in Alaska, Native Hawaiians residing in Hawaii, and Other Pacific Islanders residing in Other Pacific Islands.<sup>3</sup>

2.10 Can the applicant’s chief executive officer or chief financial officer delegate the authority to sign the ECIP application?

No. The applicant’s chief executive officer and chief financial officer (or one of these officers and another authorized representative who performs a similar function) are responsible for making the certifications and signing the application.

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<sup>3</sup> Asian Americans are considered an Other Targeted Population for a CDFI if the CDFI Fund has previously made such a determination for that CDFI.

2.11 The ECIP application asks whether an applicant may issue preferred stock to Treasury. Should an applicant reply “yes” even if it must obtain shareholder approval to issue preferred stock?

Yes.

2.12 How should an applicant report total assets on the ECIP application?

The total assets reported is based on the applicant’s most recently filed Call Report (for an IDI or federally insured credit union) or Form FR Y-9 (for a BHC or SLHC).

A BHC or SLHC applicant that reports total consolidated assets on Form FR Y-9 should report in application Question 10 its total consolidated assets and separately report in application Question 11 the total assets of each of its IDI subsidiaries.

A BHC or SLHC that does not report total consolidated assets on Form FR Y-9 should report in application Question 10 only the total assets of its parent company and separately report in application Question 11 the total assets of each of its IDI subsidiaries.

2.13 The Emergency Investment Lending Plan instructions state that “the Applicant must provide documentation that supports its responses to questions 1 through 4 of the Emergency Investment Lending Plan.” What types of documentation are required, and how should they be submitted?

Supporting documentation might include Call Report data, Forms FR Y-9, other financial report data, internal loan file data, or other information. This documentation may be uploaded in pdf format in the upload fields in the application. If an applicant provides internal loan data, it should only provide aggregate information, not individual loan data that might include personally identifiable information.

2.14 Question 1(a) in the Emergency Investment Lending Plan requires data for Fiscal Years 2019, 2020 and 2021. May an applicant elect to report activity for calendar years 2019, 2020 and 2021 instead?

No. All applicants must provide data for the specified fiscal years.

2.15 Row 5 in Question 1(a) of the Emergency Investment Lending Plan requires applicants to specify their lending made to borrowers in census tracts that are “majority Other Targeted Populations” not reported in rows 2, 3, and 4 of the table. How should this amount be calculated?

The statute requires each applicant to demonstrate that not less than 30 percent of its lending over the past two fiscal years was made directly to low- and moderate-income borrowers, to borrowers that create direct benefits for low- and moderate-income populations, to other targeted populations as defined by the CDFI Fund, or any combination thereof, as measured by the total

number and dollar amount of loans. Applicants should use all feasible efforts to collect and report definitive evidence that they meet the 30 percent threshold. If an applicant does not have data about the minority status of a borrower required by rows 2, 3, and 4 in Question 1(a), the applicant may report in row 5 loans to borrowers in majority-minority census tracts as a proxy for loans to minority borrowers. (Question 1(c) also provides applicants an alternative method to demonstrate that they meet the 30 percent threshold, as described in FAQ 2.5.) However, definitive data about the minority status of a borrower will receive a more favorable rating than a proxy in Treasury’s underwriting and allocation process.

In the case of a real estate loan, an applicant could use this type of proxy if the borrower’s residential address is in a majority-minority census tract or if the business that owns the real estate is majority owned by individuals who have a residential address in a majority-minority census tract. The address of the real estate would not be considered.

#### 2.16 Question 2 of the Emergency Investment Lending Plan requires examples of certain types of business activities. What types of examples are most helpful?

The ECIP Rate Reduction Incentive Guidelines, which are available on the Treasury website, provide illustrative examples.

#### 2.17 Questions 2, 3, and 4 of the Emergency Investment Lending Plan refer to various target populations, such as “communities that may be disproportionately impacted by the economic effects of COVID-19” and “low-income and underserved communities, including persistent poverty counties, that may be disproportionately impacted by the economic effects of COVID-19.” Are these differences intentional?

Yes. These questions refer to different groups because they are for different purposes. Applicants should provide the information and data requested by each item.

#### 2.18 In Question 3(b) of the Emergency Investment Lending Plan, what is the meaning of “LMI Minority communities”?

LMI Minority communities are census tracts that are both (1) majority LMI individuals and (2) Minority Communities (as such terms are defined in the ECIP application instructions).

#### 2.19 If the applicant is a BHC or SLHC that does not report lending, what lending information should it report in its Emergency Investment Lending Plan?

Eligible BHCs and SLHCs that do not report lending at the holding-company level should report in their Emergency Investment Lending Plan the aggregate lending activities of their subsidiary IDIs.

2.20 Is it acceptable for the primary contact listed in the ECIP application to be a third party?

Yes. A third party acting on behalf of the applicant may be listed as the primary contact in the ECIP application.

2.21 The chief executive officer and chief financial officer certifications in the ECIP application require the submission of the applicant's most recent fiscal-year-end audited financial statements. How should those financial statements be attached?

The applicant should upload the requested financial statements on the "Certification and Submission" page under the item for attaching "information not provided elsewhere in this application."

### 3. Investment Decisions

3.1 How will Treasury decide how to allocate the available capital among applicants that meet the thresholds for eligibility?

The amount of capital available for investment in the second round of funding is limited, so some eligible applicants may not receive investments. For the second round of funding, Treasury will prioritize applicants that (i) were ineligible to apply in the first round of funding but later became eligible to participate in ECIP; or (ii) serve geographies that are relatively underserved by recipients in the first round of funding; and (iii) show a strong track record demonstrating the capacity to execute the lending plan, including the quality of the data provided in Question 1 of the ECIP application related to lending to LMI or minority individuals. Among prioritized applicants, Treasury intends to allocate funding to institutions that are assessed to have a higher capacity to execute its Emergency Investment Lending Plan and are more responsive to community needs, as determined using the factors outlined in the [Application and Lending Plan Evaluation Form](#).

To determine investment amounts for eligible applicants, Treasury will use information submitted in ECIP applications (including in Emergency Investment Lending Plans) and information made available to Treasury by applicants' regulators to assess three key factors: (1) the suitability of the requested investment amount; (2) the applicant's capacity to implement the operating goals in its Emergency Investment Lending Plan; and (3) the applicant's responsiveness to community needs. Treasury may verify the information provided by applicants using publicly available information or information provided by regulators and may make investment decisions based on the data and information available to it.

Information relevant to the assessment of the suitability of the requested investment amount will include the applicant's capital, asset quality, management, earnings, and liquidity, together with comparisons to the applicant's CDFI or MDI peer group. In addition, Treasury will assess an applicant's viability as a going concern and its expected ability to pay dividends and interest in

the amounts contemplated by the terms of the preferred stock or subordinated debt to be issued by the applicant under the ECIP.

To evaluate an applicant's capacity to implement the operating goals in its Emergency Investment Lending Plan, Treasury will assess the applicant's responses in all four parts of the Emergency Investment Lending Plan. This may include information about the applicant's internal capacity (such as staffing levels and networks), reasonable projections based on the size of the market, and track record of lending and investing in targeted communities identified in the Emergency Investment Lending Plan. An applicant's ability to provide precise and robust data to demonstrate that it satisfies or exceeds the 30 percent threshold described in question 2.5 above will also indicate the applicant's capacity to invest in the target markets.

Treasury's evaluation of an applicant's responsiveness to community needs will involve an assessment of how well the applicant has tailored its Emergency Investment Lending Plan to historical and future community needs, especially those needs that have arisen as a result of the COVID-19 pandemic. An applicant should provide quantitative and qualitative data in the Emergency Investment Lending Plan that demonstrates how its lending will provide access to capital to address community needs and opportunities, including in response to the impacts of the COVID-19 pandemic, and any previous or proposed consultations or partnerships in targeted communities to identify community needs. Each applicant should include available documentation supporting this information with its application. For example, applicants are encouraged to submit community benefits agreements or other evidence of partnerships or meaningful engagement (past and present) with organizations, businesses, and individuals that work to benefit or strengthen minority, LMI, or rural communities. In addition, if applicable, information showing an applicant's responsiveness to community needs may include the extent to which the applicant has made loans that qualify as "deep impact lending" under the ECIP, as described at [Rate Reduction Incentive Guidelines](#). An applicant's ability to provide loan data that aligns with the deep impact lending metrics will be viewed as a strong indication of capacity.

In addition to these factors, Treasury may also take applicants' locations, target markets, and sizes into account to determine the final investment amount. Treasury will review the list of potential investment recipients to determine whether the pool of recipients collectively meets the following objectives:

- potential recipients' proposed target markets represent broad geographic coverage throughout the United States, including urban and rural areas;
- potential recipients demonstrate the capacity to invest in a diversity of Other Targeted Populations;
- the distribution of investments under the ECIP are consistent with statutory asset-based set-asides for ECIP participants.

Treasury may modify investment amounts or the potential recipient pool if necessary or appropriate to achieve these objectives.



### 3.2 When will Treasury begin making investment decisions?

Treasury currently expects to begin approving second-round ECIP applications beginning in early 2023.

### 3.3 Is an applicant required to request the statutory maximum investment amount based on the institution's asset size, or can it request a smaller investment?

Applicants are not required to request the maximum investment amount set forth in the statute. Each applicant may determine the amount of ECIP investment to request, up to the statutory maximum.

### 3.4 Could an applicant be approved for less than the full amount of ECIP investment for which it applies?

Yes. In determining the investment amount for any ECIP applicant, Treasury may take into account the information provided by the applicant in its Emergency Investment Lending Plan, as well as publicly available information. In addition, Treasury may approve an applicant for less than the full amount it requests if the applicant does not meet the minimum dividend or interest coverage ratio of 1 to 1, in order to comply with statutory asset-based set-asides for ECIP participants, or if the program is oversubscribed.

### 3.5 What is the role of the bank regulatory agencies in reviewing ECIP applications?

The federal banking regulators, including the NCUA, will review ECIP applications and provide information to Treasury about the financial condition of the applicants. The agencies will also notify Treasury if an applicant is in Troubled Condition or subject to an enforcement action that addresses unsafe and unsound lending practices. However, all ECIP investment decisions will be made by Treasury. Treasury may also use publicly available data, including regulatory filings, in its review.

### 3.6 How does an applicant's dividend or interest coverage ratio affect Treasury's review of an application?

The dividend or interest coverage ratio, measured as the ratio of an applicant's available cash flow to the amount of dividends or interest the applicant would pay under the ECIP, reflects an applicant's capacity to pay the dividends or interest. An applicant must have a minimum ratio of 1 to 1. For this purpose, the available cash flow will be determined based on the applicant's historical profitability and information in its Emergency Investment Lending Plan. Applicants should explain in the "Business Strategy and Operating Goals" and "Growth Strategy" sections of the Emergency Investment Lending Plan how they intend to make the dividend and interest payments. If an applicant's ratio would otherwise be less than 1 to 1, the ECIP investment amount will be decreased to an amount that results in the ratio being 1 to 1.

## 4. Terms of Preferred Stock and Subordinated Debt

### 4.1 Can an institution choose whether to issue preferred stock or subordinated debt in the ECIP?

No. In general, institutions will issue preferred stock to Treasury in the ECIP. However, if Treasury determines that an institution cannot feasibly issue preferred stock, the institution may instead issue subordinated debt to Treasury in the ECIP. For example, mutual institutions, subchapter S corporations, and federally insured credit unions generally cannot issue preferred stock and may apply to issue a subordinated debt instrument in the ECIP.

### 4.2 What are the terms for the preferred stock and subordinated debt to be issued by institutions participating in the ECIP?

Term sheets and other materials relating to the terms of the preferred stock and subordinated debt to be issued in the ECIP, including the agreements participating institutions will be required to execute, are available at [ECIP homepage](#).

### 4.3 What are the dividend or interest rates for preferred stock and subordinated debt issued in the ECIP?

The dividend and interest rates for preferred stock and subordinated debt are described in the financial instrument term sheets and other agreements, available at [ECIP homepage](#). The dividend or interest rate may be reduced if a participating institution achieves certain levels of qualified lending. Further dividend or interest rate reductions are available based on an institution's "deep impact lending," which is a subset of qualified lending. Lists of the types of lending that meet the standards for qualified lending and deep impact lending are available at [Rate Reduction Incentive Guidelines](#). Additional guidance on qualified lending and deep impact lending will be published as it becomes available.

### 4.4 Are ECIP participants allowed to declare and pay dividends?

An ECIP participant that is current on its payment obligations to Treasury may declare dividends or capital distributions consistent with Treasury's interim final rule, Restrictions on Executive Compensation, Share Buybacks, and Dividends (86 Fed. Reg. 13449 (March 9, 2021)) (or any successor thereto), and any requirements established by its federal and state regulators.

- 4.5 If an ECIP participant achieves a dividend or interest rate in a year of 0.5 percent based on an increase in qualified lending, will that rate remain unchanged in subsequent years, or could it increase?

The dividend or interest rate is reset each year based on the ECIP participant's amount of qualified lending or deep impact lending during the previous year. The dividend or interest rate on an ECIP participant's preferred stock or subordinated debt may increase or decrease in each of years 3 through 10 after the instrument is issued. Dividends and interest do not accrue and are not payable during the first two years after the instrument is issued.

- 4.6 What will be the dividend or interest rate on the preferred stock or subordinated debt after the tenth anniversary of issuance?

After the initial ten-year period, the dividend or interest rate will become fixed, until maturity, redemption, or repayment, at a rate determined by Treasury. The rate will be determined as of the tenth anniversary of issuance of the preferred stock or subordinated debt based on the average annual increase over the baseline in the ECIP participant's aggregate amount of qualified lending in the preceding nine years. The dividend or interest rate after the tenth year will be: (i) 0.5 percent for an average annual increase greater than 400 percent; (ii) 1.25 percent for an average annual increase between 200 percent and 400 percent; and (iii) 2 percent for an average annual increase less than 200 percent.

- 4.7 What are the reference periods for Treasury's determination of the dividend or interest rate on preferred stock or subordinated debt? How will loans originated in the first two years after issuance be taken into account in determining the amount of qualified lending and deep impact lending?

Loans originated in the first year after issuance of the preferred stock or subordinated debt will not be included in the calculation of dividend or interest rate reductions. Qualified lending or deep impact lending during the second year after issuance will be used to calculate the dividend or interest rate reduction for the third year after issuance. Qualified lending or deep impact lending during each of the third through ninth years after issuance will be used to calculate the dividend or interest rate reduction for the subsequent year. Qualified lending or deep impact lending during the second through tenth years after issuance will be used to calculate the average annual increase in qualified lending or deep impact lending over the baseline, which will be used to fix the dividend or interest rate starting on the tenth anniversary after issuance of the preferred stock or subordinated debt.

- 4.8 Do dividends or interest accrue during the first two years after the preferred stock or subordinated debt?

No. Dividends or interest will not begin to accrue until the second anniversary of the ECIP investment.

#### 4.9 If a credit union has a longstanding practice of paying a patronage dividend, would the credit union need approval from Treasury to continue paying the dividend?

Treasury's interim final rule, Restrictions on Executive Compensation, Share Buybacks, and Dividends (86 Fed. Reg. 13449 (March 9, 2021)), restricts "capital distributions," which, for a credit union, excludes payments of dividends and interest (as defined by 12 CFR 707.2(h) and (o)) on accounts held by their members. This exclusion does not apply to any extraordinary or special dividend.

## 5. Compliance and Reporting

### 5.1 Are there additional requirements that apply to the ECIP?

As required by law, Treasury issued a rule to set restrictions on executive compensation, share buybacks, and dividend payments for recipients of investments under the ECIP, available at <https://home.treasury.gov/system/files/136/ECIP-interim-final-rule.pdf> or 31 C.F.R. Part 35, Subpart B.

In addition, all participants in the ECIP will enter into certain agreements with Treasury that will set forth additional requirements, such as compliance and reporting obligations. See the ECIP website for additional information regarding the agreements and reporting obligations.

### 5.2 What type of loan data will institutions be required to collect and report? Will collection of customer demographic data be mandatory?

Yes. Treasury will require collection of customer demographic data through the Quarterly Supplemental Report. Reporting requirements are set forth in the ECIP investment term sheets and investment agreements. To qualify for a reduced dividend or interest rate, an ECIP participant will need to report the information found in the ECIP Rate Reduction Incentive Guidelines, which are available on the Treasury website.

### 5.3 How often will ECIP participants be required to submit reports to Treasury?

ECIP participants will report on lending on a quarterly basis, with more detailed reporting due annually.

### 5.4 Treasury's interim final rule on executive compensation, share buybacks, and dividends requires ECIP participants to adopt a policy on excessive or luxury expenditures. How should institutions determine if they are in compliance with this requirement?

Treasury's interim final rule, Restrictions on Executive Compensation, Share Buybacks, and Dividends (86 Fed. Reg. 13449 (March 9, 2021)), requires an ECIP participant to adopt and maintain an "excessive or luxury expenditures policy" that sets forth written standards applicable

to the ECIP recipient and its employees that are reasonably designed to eliminate excessive and luxury expenditures, as described in the interim final rule. The definition in the rule of “excessive or luxury expenditures” sets forth five categories of such expenditures. An ECIP recipient may use existing policies relating to excessive or luxury expenditures to satisfy this requirement in the interim final rule if the existing policies satisfy all of the rule’s requirements. Treasury will not issue approvals of individual excessive or luxury expenditure policies. However, ECIP participants must submit a copy of their policies to Treasury, as required under the interim final rule.

5.5 May an ECIP applicant that is not currently an S corporation but intends to elect to be treated as an S corporation for federal income tax purposes in 2022 or 2023 issue subordinated debt to Treasury before making the election?

An institution can issue subordinated debt to Treasury under the ECIP only if Treasury determines that the institution cannot feasibly issue preferred stock at the time of the investment. An applicant that is not an S corporation before the time of Treasury’s investment and is not subject to other existing limitations on its ability to issue preferred stock generally will not be able to issue subordinated debt under the ECIP.

5.6 Is an ECIP participant that is not an S corporation at the time it issues preferred stock to Treasury under the ECIP, but subsequently elects to be treated as an S corporation, required to redeem the preferred stock?

An ECIP participant that first elects to be treated as an S corporation after issuing preferred stock to Treasury under the ECIP will have the option to exchange the outstanding preferred stock for subordinated debt. The maturity date of the subordinated debt instruments would be 30 years after the date of the original preferred stock issuance, and the dates for compliance with Treasury’s interim final rule would not change.

5.7 When is a loan or line of credit accounted for in the calculation of the dividend or interest rate reduction calculation? How much credit for qualified lending will an issuer receive for sold loan participations or sold loans?

Lending activity is attributable to qualified lending in the period in which it would first be reportable in the Call Report or equivalent regulatory report. Qualified lending and deep impact lending are based on loan originations, so an ECIP recipient will receive full credit for loans that it originates except for the portion of any loan held by the ECIP recipient for which the risk is assumed by a third party other than certain U.S. government entities, as described in the term sheets for the preferred stock and subordinated debt. For example, the portion of loans that have been participated are excluded from qualified lending. However, qualified lending and deep impact lending are determined as of the date of the relevant reporting to Treasury, so an ECIP participant is not required to restate its qualified lending if it sells a loan participation after the origination of the underlying loan has been reported to Treasury.

## 6. Other Information

6.1 How can I contact Treasury to ask questions regarding the ECIP or to ask to receive updates regarding the ECIP?

For questions about the ECIP and to be informed about ECIP updates, please contact Treasury at [ECIP@treasury.gov](mailto:ECIP@treasury.gov).

6.2 Where can I find more information on ECIP?

Information regarding ECIP is available at: [ECIP homepage](#).

6.3 Will PPP loans be included in the baseline for purposes of calculating an ECIP participant's increase in qualified lending or deep impact lending?

PPP loans will not be included in the baseline for purposes of calculating an ECIP participant's increase in qualified lending or deep impact lending, because they were a one-time event that may not reflect an ECIP participant's typical activities. However, PPP loans may be included in responses to Question 1(a) and (b) on the Emergency Investment Lending Plan to demonstrate an applicant's track record of lending to LMI and minority individuals.

6.4 How is deep impact lending taken into account in calculating an ECIP participant's baseline qualified lending or deep impact lending?

In establishing the baseline, both qualified lending and deep impact lending will be counted only once. Deep impact lending will receive double credit only for purposes of calculating any annual increases in lending under the ECIP Rate Reduction Incentive Guidelines.