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September 13, 2024

Jeffrey Stout
Emergency Capital Investment Program
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, D.C. 20220

RE: ECIP Disposition Policy

Dear Mr. Stout:

Thank you for the opportunity to comment on the proposed Disposition Guidelines for the Emergency Capital Investment Program (ECIP). ECIP is a transformative investment in Community Development Financial Institutions (CDFIs) and Minority Depository Institutions (MDIs). The Program has produced impressive results, empowering community lenders to expand services in financially underserved communities and build stronger local economies in a short period of time. The Disposition Guidelines, if designed properly, can build on these results, advancing impact lending in distressed communities and incentivizing institutions to deepen that impact even further. The Guidelines should simultaneously enable small institutions (often with the deepest reach in their low-income communities) and institutions that serve more diffuse low-income households and businesses to use and benefit from disposition. The option to purchase, or have an affiliate purchase, ECIP debt at the prices proposed in the Guidelines would significantly increase the capacity of successful ECIP recipients to lend in their communities, making the impact of the program permanent. Inclusiv provides the recommendations below for using ECIP disposition as an opportunity to continue to transform local markets and communities.

About Inclusiv

Inclusiv is the national network of community development credit unions committed to promoting financial inclusion and equity through credit unions. The Inclusiv network represents more than 500 credit unions and cooperativas serving more than 20 million people in predominantly low-income urban, rural, and reservation-based communities across the United States, including Puerto Rico, Guam, and the U.S. Virgin Islands. Inclusiv channels capital to and builds the capacity of these institutions that are dedicated to serving low-income people and redlined and disinvested communities that mainstream financial institutions fail to serve.

ECIP Impact

More than 75% of the credit unions participating in ECIP are active in the Inclusiv credit union network, and Inclusiv's staff has provided extensive technical assistance on the program. Through deep engagement with Inclusiv members participating in ECIP, we have acquired considerable firsthand knowledge and insights about the impact ECIP investments have helped them achieve in their communities. The following examples are just a small sample of this impact:

- River City Federal Credit Union, a CDFI and MDI credit union in San Antonio, Texas, put its $14 million ECIP investment to work to support its financial inclusion and asset-building initiatives for under-resourced members of the San Antonio community, with a focus on recent immigrants who are often targeted by predatory lenders. With ECIP capital, River City FCU has already more than quadrupled its small business lending and deepened its community partnerships using a microbranching model.
- Northeast Community Federal Credit Union is a CDFI and MDI credit union serving San Francisco’s Chinatown, Tenderloin and SoMa neighborhoods. More than half of Northeast Community FCU’s members were unbanked or underbanked before joining the credit union, and many residents of the neighborhoods the CU serves have incomes below the federal poverty line. With their $1.5 million ECIP investment, Northeast Community FCU has been able to develop new products and services that enhance financial inclusion for the diverse communities they serve. Among these products is a trilingual, culturally nuanced mobile app offering services in English, Chinese and Spanish to meet the needs of their multi-racial membership. Providing member services in multiple languages ensures trusted, culturally aligned financial access to their members and expands services to community partners who are also serving underbanked, limited English language proficient communities.
- Tongass Federal Credit Union is a CDFI credit union rooted in the heart of the Tongass National Forest that has grown to serve Southeast Alaska with 8 branches and 5 community microsites, providing essential financial services and education to even the most remote villages and towns. With ECIP funding, they have expanded their financial services and education in five community microsites in remote, coastal, and island communities that previously lacked any financial services. They also opened three branches in similar, but larger, communities that did not previously have credit union services. With ECIP funds, they were able to make services more accessible by lowering fees, establishing access to up to $1000 in emergency funds for just $10 and enabling cash-strapped consumers to avoid high-cost payday loans. ECIP funds were also used to enhance educational efforts, including classes in schools and partnerships with local organizations to teach about credit, home buying, and more. These classes were specifically designed to incorporate and understand the unique challenges faced by people in Southeast Alaska, such as managing seasonal income or owning a home on leased land.

These stories provide a small glimpse into the profound impact our members have been able to achieve with the support of ECIP funding. We appreciate Treasury’s engagement with Inclusiv and our members during ECIP’s rollout and look forward to continuing this critical work together. We recommend that Treasury adopt the changes outlined below to ensure that the work of mission-driven CDFIs and MDIs continues to be uplifted, and all ECIP participants are incentivized to strive for high-impact lending in the communities ECIP is intended to serve.

Offer Early Disposition Agreements to All ECIP Recipients

The proposed Guidelines would permit ECIP recipients that have met the 60% Deep Impact lending threshold for two consecutive years to enter into an early disposition agreement with Treasury, and the sale of their debt would be contingent on meeting the Deep Impact lending threshold for four consecutive years. This option reduces uncertainty regarding disposition and is a strong incentive to achieve the Deep Impact standard. We recommend Treasury offer early disposition agreements to all ECIP recipients, with sale contingent on recipients meeting any of Treasury's early disposition standards. Doing so would provide an effective incentive for all ECIP recipients to strive to achieve the standards, since they could set their lending strategy knowing that the standards will remain consistent under future administrations and they will be able to benefit from early disposition if they meet the standards.

Since Treasury did not publish the standards in advance of applying them, lenders have not had the opportunity to shape their outreach and lending strategies to focus on meeting the 60% Deep Impact lending threshold. Rather, lenders have focused on meeting the rate reduction standards, a published benchmark for success that is not currently reflected in the early disposition standards. Offering early disposition agreements, with sale contingent on achieving the standards laid out in Treasury's Guidelines, to all recipients would provide a clear and stable set of goals for lenders to work toward in the coming years.

Should Treasury not adopt the recommendation to offer early disposition agreements to all ECIP recipients, the agency should, at a minimum, allow ECIP recipients that have achieved 2 years of successful performance under any early disposition standard to enter into these agreements, with sale contingent on meeting the applicable thresholds.

Awardees that Received $1 Million or Less in ECIP Should Be Permitted to Acquire their Debt for No Consideration

ECIP awardees that received investments of $1 million or less should be permitted to acquire their debt for no consideration and should automatically qualify for early disposition. By permitting this special disposition for small ECIP recipients, Treasury can help small MDIs permanently increase their capacity for impact lending through ECIP. In our analysis of credit union ECIP participants, we found that setting the cutoff at $1 million would benefit only lenders with less than $100 million in assets, predominantly MDIs, with an average asset size of just $28 million. Further, the amount of debt forgiven in this scenario would total less than $10 million, a de minimis amount in the overall scope of ECIP.

Hill District Federal Credit Union, an MDI and CDFI based in Pittsburgh, PA, exemplifies how a smaller ECIP awardee can make remarkable strides with ECIP funding, even without being on track to meet Treasury's proposed early disposition thresholds. With just over $10 million in assets, Hill District has leveraged their $247,000 ECIP investment to expand their small business line of credit program. Initially, they offered lines of credit up to $10,000 based on a business owner's personal credit background. Challenges around risk exposure prevented them from increasing this limit. However, their ECIP award catalyzed additional investments from First National Bank and Urban Redevelopment Authority to amplify the impact of the program. As a result, Hill District has been able to increase their small business line of credit offering to $40,000, reaching 72 local businesses. Their success highlights the program's effectiveness in community revitalization and demonstrates how a modest initial investment can multiply resources for small businesses.

Awardees Should Be Offered an Alternative Path to Qualify for Disposition by Meeting the 0.5% Rate Reduction Standard for 4 Consecutive Years

The definitions of Deep Impact and Qualified Lending include place-based standards, like lending in CDFI Investment Areas. Qualifying places are not evenly distributed across the country even though there is significant unmet need for impact lending in most communities. Because of this uneven distribution, some lenders have greater market opportunity to meet the 85% Qualified Lending or 60% Deep Impact thresholds based on place-based measures that are straightforward to collect and report on. Other lenders serving geographies with few qualifying places have fewer opportunities to meet the impact thresholds despite being committed to growing their high-impact lending to low- and moderate-income people and people of color.

Introducing an alternative path to qualify for disposition by meeting the rate reduction standard for a 0.5% rate for 4 consecutive years would recognize institutions doing meaningful work that may not be fully reflected in their Qualified Lending and Deep Impact percentages, while still upholding the rigor of the Guidelines. Rewarding substantial improvements in impact lending would both incentivize its growth and reward those institutions that are utilizing ECIP dollars effectively. This approach would also build on an existing standard which financial institutions are already familiar with and have been working toward. In contrast, the percentage thresholds require ECIP participants to pursue new benchmarks they were not made aware of at the outset of the Program.

Add Flexibility to the Deep Impact and Qualified Lending Standards

The proposed Guidelines require either 4 consecutive years of 60% Deep Impact lending or 6 consecutive years of 85% Qualified Lending to achieve early disposition. But lending opportunities change over time, and for smaller lenders, a single mortgage can change whether they might achieve or fall short of the Deep Impact standard in a given year. To help make the standards more responsive to the realities of community-based lenders, we recommend Treasury permit lenders to achieve early disposition by meeting either of the lending thresholds interchangeably over a 4-year period. Each threshold already represents a rigorous standard to maintain and having a single timeline rather than 4-year and 6-year timelines would minimize confusion around the different ways to achieve disposition.

Treasury should also permit lenders to participate in early disposition if they meet either the 60% Deep Impact or 85% Qualified Lending threshold in 3 out of 4 years and achieve an overall 4-year average of either 60% Deep Impact or 85% Qualified Lending. Given that the ECIP performance period is only 10 years, there are few opportunities to reset and achieve 4 consecutive years of strong lending after one weaker year, so it is important the early disposition standards are structured to reward consistently strong performance while being realistic about variation in market conditions for lenders.

To restate more succinctly, we suggest the following alternatives to the proposed thresholds:

1. Meet the 60% Deep Impact threshold for 4 consecutive years;
2. Meet the 85% Qualified Lending threshold for 4 consecutive years;

3. Meet either the 60% Deep Impact or 85% Qualified Lending for 4 consecutive years—achieving different thresholds in different years; or
4. Meet any of options 1, 2 or 3 above for 3 out of 4 consecutive years and achieve a 4-year average of 60% Deep Impact lending or 85% Qualified Lending; and
5. Treasury should either offer early disposition agreements to all ECIP participants, with sale contingent on meeting any of the four options or the interest rate reduction standard laid out above, or, at a minimum, offer early disposition agreements to any ECIP participants that have achieved two consecutive years of performance toward any of the standards, with sale contingent on achieving 4 years of successful performance.

Finally, we recommend that Treasury count 2023 and 2024 lending performance toward the achievement of early disposition standards but begin the 10-year ECIP performance period when the final early disposition Guidelines are published. Lenders should have the full 10 years to work toward meeting the goals as many have not, to date, focused on achieving the standards Treasury laid out in the proposed Guidelines and will need to adjust their marketing and business plans to achieve them.

Broaden the Definition of Non-Profit Affiliates to Reduce Administrative Burden on Small CDFIs

The proposed definition of "Affiliate" is based on "controlling influence," which may exclude small CDFIs that lack the capacity to create and oversee a non-profit affiliate. We recommend modifying this definition to offer a fourth affiliate criterion, which would allow ECIP credit unions with assets of less than $100 million to direct a mission-aligned nonprofit organization that is a CDFI, such as Inclusiv, to purchase their collective ECIP obligations for 0.5% of the outstanding principal amount of the subordinated debt. While many of our ECIP-participating members are not directly represented on the Inclusiv Board of Directors, the Board is elected from Inclusiv's full membership, more than half of which are small credit unions. In effect, small credit unions constitute a collective controlling influence within Inclusiv. As Inclusiv is a mission-aligned non-profit organization governed by its credit union membership, this fourth affiliate criterion would still satisfy the intent behind the proposed Guidelines while increasing the accessibility of the most favorable ECIP disposition option for small CDFIs. In this scenario, Inclusiv would also establish a management committee dedicated to governing and controlling assets acquired through ECIP disposition to ensure that these assets are managed effectively and in alignment with the Program's goals.

We additionally recommend that Treasury expand the indicia of "controlling influence" to include an additional indicium: (iii) for credit unions, whether the affiliate was created by the credit union to provide mission-aligned services to its members, including but not limited to financial coaching and free tax preparation to low- and moderate-income members. This addition would better capture the diverse forms that credit union-affiliated nonprofit relationships take. Interlocking management and credit union sponsorship are strong indictors of affiliation, as are interlocking directors, but the NCUA has in some cases limited director interlocks between credit unions and their affiliated non-profits, so additional indicia are required to capture the full scope of these relationships.

Issue Guidelines for Disposition After the Ten-Year Period, based on a Tiered Price System Tied to Impact Measurements

Under the proposed Guidelines, any participant may request that Treasury sell their ECIP investment at the applicable sale price after the ten-year ECIP period. While this structure makes the benefits of disposition available to all ECIP participants, it may also reward institutions that have not demonstrated meaningful impact or appropriately fulfilled the Program's mission of uplifting low- and moderate-income communities. To encourage accountability from participants, we recommend that Treasury issue further Guidelines on disposition after the ten-year period that is structured around a tiered price system tied to impact measurements.

We support maintaining the well-designed early disposition pricing structure for those meeting the impact standards after the ten-year period. This pricing will provide meaningful benefits for high-impact CDFIs and MDIs, enabling them to retain critical capital that they can continue to reinvest in communities, permanently increasing capacity. Maintaining this pricing for high-performing participants after the ten-year period will help CDFIs and MDIs maximize the long-term benefits of ECIP.

However, for participants still falling short of the early disposition thresholds after ten years, we recommend setting additional, more attainable thresholds that correspond to higher, but still advantageous pricing. This approach would ensure Treasury's generous disposition pricing remains accessible but is reserved for institutions that continue to deliver on ECIP's goals. It would also prevent windfalls for those that have not effectively served their communities and create a long-term incentive for participants to maintain a focus on community impact.

Clarify Ineligibility Criteria

Most of Treasury's proposed ineligibility criteria are straightforward and appropriate to ensure strong program performance and standards from ECIP recipients seeking early disposition. Two of the criteria would benefit from additional clarification.

First, the second criterion requires ECIP recipients to maintain their CDFI or MDI designation to participate in early disposition. Requiring an applicant to be a CDFI or MDI when finalizing disposition is a reasonable safeguard to ensure only institutions that are performing strongly under the Guidelines may take advantage of early disposition. However, Treasury should clarify that institutions that lose their CDFI or MDI certification during the ECIP period but regain and, following the standard laid out in the Determination of Sale Price section of the Guidelines, maintain or commit to maintain that certification, should be able to participate in early disposition. This clarification is especially important given that the CDFI Fund is currently recertifying all CDFIs under new certification standards and some well-qualified institutions may be temporarily decertified as they work to adapt to the new standards.

Second, Treasury specifies that "During the preceding three years, the participant has been determined by a federal agency or court to have violated the requirements of a federal grant or financial assistance program, including any program administered by the CDFI Fund." In most instances, this is a critical standard, especially when evaluating whether an institution may enjoy advantaged pricing, like that offered by the Guidelines. It would be helpful, however, to clarify that information requests and successfully resolved cure notices from federal agencies do not constitute a violation that would disqualify an ECIP recipient from participating in early disposition.

Thank you for the opportunity to comment on these thoughtful proposed Guidelines. We look forward to continuing to work with Treasury on balancing rigorous impact standards for ECIP participants while ensuring disposition is accessible to mission-driven small institutions and those serving broad markets. We appreciate Treasury's continued commitment to this transformational program. For any questions regarding these comments, please contact Alexis Iwanisziw, SVP Policy & Communications, Inclusiv (aiwanisziw@inclusiv.org).

Sincerely,

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CEO/President, Inclusiv