



May 8, 2023

Delivered Electronically

Spencer W. Clark
Treasury PRA Clerk
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

Subject: Emergency Capital Investment Program – Initial Supplemental Report and Quarterly Supplemental Report for Credit Unions

Dear Mr. Clark,

On Monday, March 27, 2023, the U.S. Department of the Treasury published in the Federal Register a Notice of Information Collection, Comment Request. The changes proposed would update the Initial Supplemental Report and Quarterly Supplemental Report, for the Emergency Capital Investment Program (ECIP) of the U.S. Department of the Treasury's Community Development Financial Institution Fund. The proposed Quarterly Supplemental Report asks for substantive information that could result in hardship for many credit unions. Serving 300+ Credit Unions across our six-state footprint, the GoWest Credit Union Association (GoWest) welcomes the opportunity to provide comments.

Credit Union Background

Credit unions' rise to prominence in the U.S. came during the Great Depression as farmers pooled financial resources to purchase shared equipment, or a group of businesses came together pooling resources to create access to capital. To this day, credit unions remain a consumer-friendly alternative providing access to capital to their members who may still be ineligible for credit at traditional financial institutions. In fact, in the Federal Credit Union Act, Congress designated federally chartered credit unions as 501(c)(1), chartering them as instrumentalities of the United States. Credit unions, unlike many other participants in the financial services market, are exempt from Federal and most State taxes because they are member-owned, democratically operated, not-for-profit organizations. This is because credit unions are generally managed by volunteer boards of directors who have the specified mission of meeting the credit and savings needs of consumers, especially persons of modest means.

Credit unions have not strayed from their original mission and to this day continue to provide their individual members with an alternative model. A model where credit unions utilize deposits to better the financial lives of members by investing in them with the intent of creating opportunity. This model has resulted in a system that is resilient and has withstood numerous economic cycles relatively unharmed. By design credit unions are not motivated to take excessive risks, which is in stark contrast to profit driven institutions where shareholders demand returns that drives a culture driven to take risks and increase returns to shareholders.

GoWest is pleased to be able to offer our comments on the Notice of Information Collection related to updates on the initial Supplemental Report and Quarterly Supplemental Report, for the ECIP program. In order to assist the effort, we sought input from numerous credit union members throughout our six-state footprint.

Exposure to legal ramifications

These new reporting requirements, specifically the requirements to report demographic information that is not based on proxies in Schedule C will expose credit unions to potential legal ramifications.

It would be challenging and time-consuming to develop the documentation and the systems needed to collect demographic information about the recipients of ECIP funds while adhering to Regulation B., as issued by the Bureau of Consumer Financial Protection (Bureau). This is all the more risky without appropriate safe harbors and interagency communication and agreement on how this should be done.

Treasury should work with the Bureau to make available instructions for collecting and reporting so that lenders can collect and store this information without violating fair lending laws. Further, Treasury should consult with the National Credit Union Administration (NCUA) to establish clear examiner expectations around these processes.

Process

Treasury should follow a more thorough rulemaking process for making substantive policy changes to grants, awards, and reporting. Public input processes under the Administrative Procedure Act (APA) are essential to understanding the landscape and the impacts a potential rule or change could have on the financial services community. Especially, how new requirements will impact small financial institutions like credit unions. We recommend that Treasury does not proceed with a policy change with such

significant consequences without first going through a full rulemaking public comment process and fully considering the impacts of the proposed rule. If Treasury does move forward with changes to the current reporting, there must be reasonable time given to stakeholders to adequately respond. As this comment letter has detailed, any requests for information covered by Regulation Z without cross departmental safe harbors could have serious implications for credit unions.

Reporting Time

Treasury has provided insufficient time to begin reporting on these new quarterly reports, given the complexity of the requirements. Lenders need to have the time to build the necessary frameworks and systems to report this information. For institutions that used proxy data, changing the expectations of reporting detail after the award has been given ignores the additional work and time it will take to aggregate this data.

These new reporting requirements should be implemented this year on a volunteer basis and become the expectation for all ECIP recipients in the following round of awards so that everyone understand the expectations and work before applying for the grant itself. At the very least, Treasury can address this issue by extending the due date or delinquent date for reporting after consulting with the Bureau and NCUA regarding reasonable timelines.

Conclusion

The Association appreciates the opportunity to provide comments and recommends the following:

- The Treasury should work with the CFPB to develop an interagency framework with appropriate safe harbors for the implementation of systems to collect, store, and report this information in a way that does not violate Regulation B.
- Changes should adhere to the established process of the APA to understand and appreciate the impacts of a proposed rule.
- Treasury should either extend the time given to the lenders awarded ECIP grants to report or implement Schedule C on a volunteer basis this year. It can become the expectation for all ECIP recipients in the following year or round of awards. In this scenario every institution applying will understand the reporting expectations and work before applying for the grant itself.

Respectfully,

Adelle Pomeroy

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