



April 11, 2023

Department of The Treasury

Via Electronic Mail

Re: Comments to the Emergency Capital Investment Program (“ECIP”) Initial Supplemental Reports and Quarterly Supplemental Reports. OMB Control Number: 1505–0275

Dear Sir/Madam:

We are pleased to offer this Comment Letter to the U.S Department of Treasury (“Treasury”), which includes two proposed comments for consideration, regarding the Final Rule relating to the ECIP’s Initial Supplemental Reports and Quarterly Supplemental Reports.

About Olden Lane

Olden Lane operates an SEC registered broker-dealer (Olden Lane Securities LLC) active in the share certificate market and the market for credit union subordinated debt. We also operate an SEC registered investment advisor (Olden Lane Advisors LLC) that assists credit unions with capital planning, balance sheet management, hedging and investments. We regularly work with credit unions to properly identify appropriate objectives for capital and in connection with the proper maintenance of safety and soundness. As an advisor to many of the country’s credit unions, we assisted several participants in the first round of ECIP. We also worked with several credit unions to submit an Emergency Investment Lending Plan for consideration during the program’s ongoing second round.

At this time, we offer this Comment Letter to provide additional context and to suggest certain considerations which might strengthen the Rule as proposed. Olden Lane’s credibility on these issues is bolstered by the fact that, at the time of this letter, our firm has assisted more than 45 clients in gaining approval from the National Credit Union Administration (NCUA) for subordinated debt applications. We have also raised more than \$960 million for credit unions since 2017. This record includes 8 ECIP related applications approved for \$295 million.

The Two Proposed Minor Modifications

1. *Legal Certifications*

As a general matter, we understand Treasury's desire to have the management of each ECIP recipient provide attestations with respect to the processes and controls around the data collected and presented to the Treasury. And, we agree that such a certification is both appropriate and reasonable. As a practical matter, however, we are concerned that the current version of the Form of Process and Controls Attestation is rather inflexible. More specifically, we are concerned that the proposed version does not account for the fact that much of the information collected in connection with this program will (1) represent a new frontier for the financial institution's staff and its customers alike, and (2) will be collected into systems which might not yet be fully equipped to store such information fields. As such, we expect a certain "learning curve" at each institution participating in ECIP. Additionally, even the most prepared and best equipped financial institution will likely benefit from a revised form of the attestation which allows for some appropriate reliance on systems and processes that might be supported by third party vendors and products.

For example, we expect that most participating financial institutions will be running the collected addresses of their borrowers through professional geocoding tools. Against such a reality, the current version of the "Process and Controls Certification" seems overly conclusory. More specifically, we suggest that the Treasury consider changing the statement in paragraph 2 that "[t]he processes and controls used to generate the Supplemental Reports of the Recipient's fiscal year ending [], 20[] are satisfactory" to: **"upon my reasonable investigation and to the best of my knowledge, the processes and controls used to generate the Supplemental Reports of the Recipient's fiscal year ending [], 20[] are satisfactory"** (emphasis ours). Such a change would require the senior executive to affirmatively investigate the firm's processes but would remain flexible enough to allow for reasonable reliance on the process of expert systems beyond his/her ability to certify with absolute certainty.

2. *Timing of initial Quarterly Supplemental Reports*

In pertinent part, the Instructions for the Quarterly Supplemental Report for Credit Unions require that "[p]articipants must submit a Quarterly Supplemental Report with Schedules A and B for each quarter since their ECIP closing date by June 30, 2022" and "[p]articipants must submit Schedules C & D for the period from the Participant's ECIP closing date through December 31, 2022 by June 30, 2022."¹

As this initial filing for each financial institution is likely to include Schedules A and B for four (4) separate Quarterly Supplemental Reports (Q2, Q3, and Q4 of 2022 and Q1 of 2023) and Schedules C and D in respect of YE 2022, we respectfully request that the Treasury consider pushing the submission deadline out by a single month, to July 31, 2023.

This will allow all parties a little additional time to refine their processes and should prove beneficial in the long run.

¹ Emergency Capital Investment Program, *Instructions for the Quarterly Supplemental Report for Credit Unions*, U.S. Dept. of Treasury (Mar. 21, 2023), at 4.

Conclusion

We thank the Treasury for the consideration of this Comment Letter. And, we are grateful for the opportunity to share our views on the ECIP's Quarterly Supplemental Reports. While we look forward to the Final Rule and we are anxious to begin the process of assisting our clients manage through their reporting obligations, we respectfully request that the Treasury give serious thought to the additional improvements we have summarized above.

Should you have any questions regarding our comments, please feel free to contact the undersigned at 908 432-6819 or mmacchiarola@oldenlane.com.

All the best,

/s/ Michael C. Macchiarola

Chief Executive Officer
Olden Lane Inc.