OLDEN LANE

September 12, 2024

United States Department of Treasury
ecip@treasury.gov
via Electronic Mail

Re: Disposition Policy

Dear Sir/Madam,

We are pleased to offer this Comment Letter addressing the Proposed Disposition Guidelines (the "Proposed Guidelines") for the Emergency Capital Investment Program ("ECIP") published by the U.S. Department of Treasury ("Treasury") on August 13, 2024.

About Olden Lane

Olden Lane is a boutique investment bank, dedicated exclusively to credit unions. Based in Bridgewater, New Jersey, we operate a FINRA and SEC registered broker-dealer (Olden Lane Securities LLC), recognized as the leader in the market for credit union subordinated debt. Since January 2019, our firm has assisted more than 50 clients in gaining approval for subordinated debt applications worth well over $1 billion. We are proud that our subordinated debt transactions with credit union issuers include the largest, most complex and most creative structures in the market.[1] The capital we enable for our clients facilitates additional lending, often expanding credit to parts of the country that are too often underbanked.

With respect to ECIP, our firm assisted eight credit unions with applications that resulted in more than $270 million in Treasury investment. We also assist each of those credit unions with the ongoing reporting requirements under the program.

Finally, we also operate an SEC registered investment advisor (Olden Lane Advisors LLC) that assists credit unions with capital planning, balance sheet management, and mergers and acquisition (M&A) related activities. We regularly help credit unions to identify appropriate objectives for capital and to maintain safety and soundness.

[1] For a list of our firm's significant transactions, see our website at www.oldenlane.com.

Summary of the Proposal

In general, we support the Treasury's efforts to establish guidelines to define the circumstances and process under which Treasury may sell an ECIP investment in preferred stock or subordinated debt to the ECIP participant or to another qualifying entity. Of course, such a process was anticipated by the Congress at the time of the ECIP's creation and, in all cases, would be accomplished in a manner consistent with the requirements of the statute and the applicable ECIP agreements.

While there is still significant time before any credit union or other participating financial institution could qualify as an acquirer under the Proposed Guidelines, we are somewhat surprised that Treasury is turning its attention to matters of the potential disposition of investments with up to a 30-year life so quickly after establishing the program. Nonetheless, we are generally supportive.

Under the Proposed Guidelines, there are two potential paths to a disposition. An ECIP participant may request that Treasury sell its ECIP investment in that participant if the ECIP participant meets either of the following thresholds for deep impact or qualified lending (as defined in the ECIP Rate Reduction Incentive Guidelines) during the first 10 years following its ECIP closing:

- an average of 60% of its overall lending for four consecutive years is deep impact lending (the "Deep Impact Threshold"); or
- an average of 85% of its overall lending for six consecutive years is qualified lending, including deep impact lending (the "Qualified Lending Threshold").

The additional qualifications for an ECIP participant disposition and a third party disposition are described briefly below.

Path 1: Disposition to ECIP Participant

Additional Qualifications:

- The participating ECIP institution must have made all required dividend/interest payments
- The ECIP participant must be in good standing with regulatory agencies
- The ECIP participant must demonstrate continued commitment to ECIP goals

Path 2: Disposition to Third Party

Additional Qualifications:

- The third party must be an eligible Community Development Financial Institution or Minority Deposit Institution
- The third party must demonstrate commitment to serving ECIP target communities
- The third party must have sufficient capital and operational capacity

In the case of an ECIP participant that is an insured CDFI whose investment will be sold to a mission-aligned nonprofit affiliate, the purchase price will be payable in cash in an amount equal to 0.5% of the outstanding principal amount of the subordinated debt or of the aggregate liquidation preference of the preferred stock, as applicable, and will be calculated as of the date of the closing. For any other sale, including a repurchase by the issuer, the purchase price will be payable in cash in an amount equal to the present value of the expected payments on the investment, as determined by Treasury. For both paths, Treasury will evaluate the potential impact on the issuer's financial condition and ability to serve target communities before approving any disposition. The guidelines aim to ensure ECIP investments continue supporting underserved communities even if transferred to new owners.

General Observations and Suggestions Relating to the Proposal

With most ECIP investments having occurred in mid-year 2022, and a requirement that the investment season with the Treasury for at least five years, any disposition to an issuer under the Proposed Guidelines remains at least two years away, at the earliest. Similarly, the seven-year seasoning requirement for third party purchases means that a disposition under Path 2 above will not occur until 2029.

As an exercise, we examined ECIP's publicly available lending data for 2023 to better understand the likelihood that a program investment would qualify for disposition under the Proposed Guidelines. Based on our calculations, we observed the following:

- Notwithstanding the minimum holding period, 45 of 174 award recipients would meet the bar for repurchase under the Deep Impact Threshold, for a total of $2.4 billion in award amounts of the roughly $8.5 billion distributed.

- Notwithstanding the minimum holding period, 84 of 174 award recipients would meet the bar for repurchase under the Qualified Lending Threshold, for a total of $3.7 billion in award amounts of the roughly $8.5 billion distributed.

- Overall, based on available data, 90 recipients meet one of the two thresholds provided by the Proposed Guideline in the most current quarter, for a total of roughly $3.9 billion in award amounts being repurchased from Treasury. However, it must be noted that, in order to qualify, an ECIP participant will be required to average this for four or six years, as applicable, a reasonably high bar in either instance.

We are interested in continuing to monitor whether a significant number of ECIP participants will qualify under the Deep Impact Threshold or Qualified Lending Threshold into the future. If so, we anticipate working with our clients to consider the ramifications of a potential disposition to a third party or a repurchase.

Conclusion

We thank the Department of Treasury for the consideration of this Comment Letter. And we are grateful for the opportunity to share our views on the Proposed Guidelines.

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.