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CUNA

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May 12, 2023

Michael Regan, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Re: EPA Implementation Framework for the Greenhouse Gas Reduction Fund

Dear Administrator Regan:

The Credit Union National Association (CUNA) represents America's credit unions and their more than 135 million members. On behalf of our members, we are writing to provide comment in response to the U.S. Environmental Protection Agency's (EPA) recently published Implementation Framework for Greenhouse Gas Reduction Fund (GGRF or Fund).[1] CUNA applauds the EPA for its continued progress in the implementation of the GGRF and advancing its goals to reduce emissions and ensure the delivery of air pollution-reducing projects to Americans who are low-income and otherwise disadvantaged. However, CUNA also joins its voice with the multiple other requests made throughout the rulemaking process for clarity regarding credit union participation in the GGRF, and, to that end, requests a meeting with the EPA in hopes of seeking that clarity. Further, CUNA urges the EPA to reconsider the approach of severing direct investment and indirect investment into separate funds with different awardees as it will likely lead to waste and will not effectively accomplish the intentions of Congress to ensure these funds get to low-income and disadvantaged communities.

Background

Authorized by Congress in the *Inflation Reduction Act of 2022* and its embedded *Clean Air Act* (CAA), the GGRF is charged with providing competitive grants for clean energy and climate projects that reduce greenhouse gas emissions—with a special particular emphasis on projects that benefit low-income and disadvantaged communities.[2] In February, the EPA announced its Initial Program Design of the GGRF.[3] The publication of the subject Implementation Framework builds on this initial guidance by providing more detailed parameters and anticipated application components for the grant competitions that ETA expects to administer under the GGRF.[4] By statute, the EPA must complete the distribution of the grants from the Fund by September 30, 2024.[5]

[1] Implementation Framework for Greenhouse Gas Reduction Fund (Apr. 19, 2023).
[2] Public Law No. 117-169, Tit. VI, § 60103 (Aug. 16, 2022); 42 U.S.C. §7434.
[3] EPA, EPA Announces Initial Program Design of Greenhouse Gas Reduction Fund (Feb. 14, 2023), *available at* https://www.epa.gov/newsreleases/epa-announces-initial-program-design-greenhouse-gas-reduction-fund.
[4] Implementation Framework, p. 1.
[5] 42 U.S.C. §7434(a)(1)-(3).

Credit unions, particularly community development financial institution (CDFI)-certified credit unions (CDCUs) and minority depository institution (MDI)-certified credit unions (MDCUs), are ideally suited to meet this core objective of the GGRF. The American credit union movement began as a cooperative effort to serve the productive and provident credit needs of individuals of modest means.[6] As member-owned, not-for-profit financial cooperatives controlled by a democratically elected board of directors, credit unions are uniquely responsive to the needs of their membership. By nature of their structure and charter, cooperative financial institutions are perfectly suited to access low-income and disadvantaged communities and directly provide the green technology funding that the Fund seeks to prioritize. Credit unions have a demonstrated history of working collaboratively to develop products and deliver services at a scale that achieves exceptional regulatory performance, public trust, and accountability. Credit unions and CDCUs already operate under existing federal and state regulatory structures that allow the EPA to be sure of the integrity of the use of those funds.

General Comments

The Implementation Framework identifies three separate grant competitions and describes an intention to identify varying numbers of awardees for each. The National Clean Investment Fund (the Investment Fund) competition will distribute $14 billion in funding across 2-3 national nonprofits that will partner with private capital providers to deliver direct investments through the financing of qualified projects.[7] The Clean Communities Investment Accelerator (the Accelerator) competition will distribute $6 billion in funding across 2-7 "hub" nonprofits to make indirect investments through capacity building of networks of community lenders to ensure access for low-income and disadvantaged communities.[8] The Solar for All competition will award $7 billion of grants to political subdivisions and nonprofits to expand the number of low-income and disadvantaged communities for investment in solar.[9]

CUNA Seeks a Meeting with EPA to Understand How Credit Unions Might Participate in the Investment Fund

It remains unclear whether and how EPA welcomes credit union participation in the Investment Fund. As stated, the Implementation Framework refers to eligible entities that partner with "private capital providers and others," but it remains unclear what types of arrangements the EPA would consider in this context. Given the extremely large amount of funds at issue and the very small number of awardees anticipated for the Investment Fund, this lack of clarity is deeply concerning. Further, because of the severance of the direct investment by the Investment Fund from the indirect investment of the Accelerator, there is a tremendous degree of uncertainty regarding the participation of credit unions in financing qualified projects. It may well be that the EPA does not understand this confusion and based on its own understanding of the Implementation Framework, it has a clear sense that there is a range of possibilities and pathways for credit union participation in the Investment Fund. However, reading the available documentation without that internal understanding, these possibilities and pathways are not clear and apparent. CUNA requests a

[6] Pub. L. 105-219, §2, (Aug. 7, 1998), 112 Stat. 913.
[7] Implementation Framework, p. 3.
[8] *Id.*
[9] *Id.*

meeting with the EPA to obtain clarity regarding the possibilities and pathways for credit union participation. CUNA itself has no intention of applying to any of the three Funds and would seek only clarity and understanding regarding the EPA's vision for the Implementation Framework on behalf of the credit union movement as a whole.

Credit Unions Are the Key to a Bottom-Up Approach to Meeting the Needs of Low-Income and Disadvantaged Communities

Given the EPA's top-down approach of vesting no more than 3 awardees with the entire $14 billion of direct investment, CUNA would also like to echo comments from the Congressional Offices regarding the deep need for applicants to be able to offer a bottom-up approach:

> Additionally, since the Justice40 prioritization should be a floor, not a ceiling, the EPA should require applicants provide a strategy for how they will drive awareness, demand, and adoption of clean technologies in LID communities. We urge you to learn about community-level solutions that the Fund can support, especially solutions from low-income and disadvantaged communities. In addition, CDFIs and MDIs have a long track record of serving communities long ignored by the traditional banking sector, including the development of financing and financial tools that meet the needs of low-income and disadvantaged communities. Simply put, reducing emissions and lowering energy costs among those communities will be best accomplished through the use of financing tools, grant support, and effective outreach to generate demand, change behavior, and build local capacity.[10]

Credit unions are the most effective and efficient partner of the EPA in accomplishing the purposes of the GGRF, in part because of the unique relationship between credit unions and their membership. In response to CUNA's 2022 National Voter Poll, 88% of credit union members

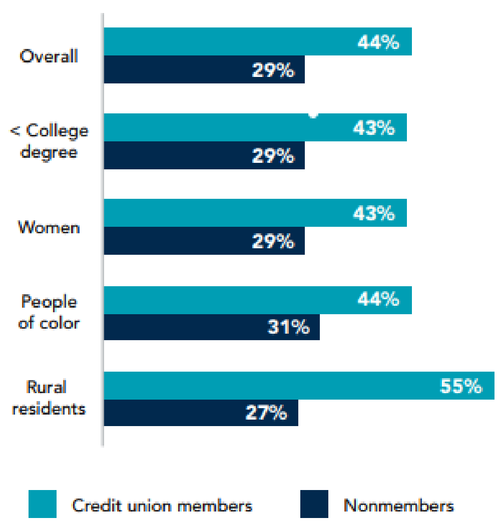

Figure 1:My Financial Institution "Has Improved My Financial Well-Being" - % "Very Positive" by Credit Union Membership Status

[10] Comments of Senators Warner, Padilla, Smith and Warnock, Ranking Member Waters, and Representatives Chu, Meeks, and Velazquez (Comments of the Congressional Offices), pp. 2-3 (May 9, 2023), *available at* https://democrats-financialservices.house.gov/uploadedfiles/5.9.2023_-_epa_ltr_lid-ghg.pdf.

reported that their credit union cares about and has improved their financial well-being.[11] Credit union members were 1.5 times as likely to state they are "very positive" about how their credit union has improved their financial well-being.[12] Rural residents and people of color report these improvements most passionately (See Figure 1).[13]

This relationship between credit unions and their members is based in multiple metrics, including the ease of access to credit—86% of credit union members say their credit union makes it easy to get loans.[14] Regarding affordability, 49% of credit union members report that their credit union provides low-cost loans, compared to 23% of bank customers.[15] Credit union members of color, without a college degree, and rural residents are all more likely to report that their credit union provides low-cost loans compared to bank customers of the same demographics.[16]

Credit union members report increased trust, responsiveness, access, and a sense of caring from their credit union. In combination, these factors result in true relationship building with communities and improved financial well-being for credit union members (See Figure 2).[17]

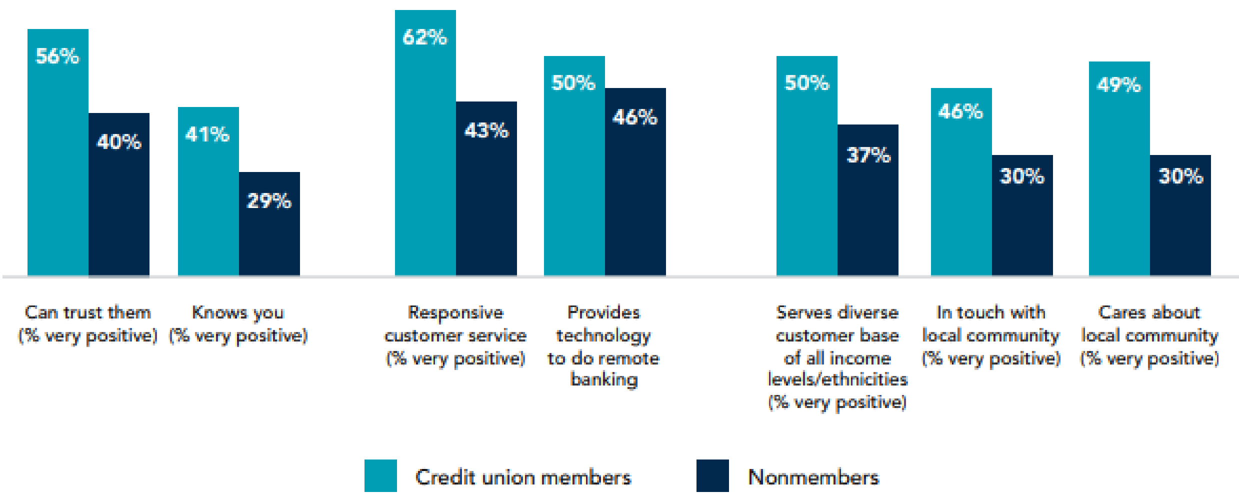

Figure 2: Trust, Service, & Community Focus - % "Very Positive" by Credit Union Membership Status.

This bottom-up approach to improving communities is why the EPA must engage the credit union movement in order to achieve the Justice40 goals and ensure that low-income and disadvantaged communities see the benefit of the GGRF. CUNA looks forward to working with the EPA in order to accomplish that goal.

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11 CUNA, Credit Unions Lead in Improving Financial Well-being for All, p.4 (May 2022), *available at* https://www.cuna.org/content/dam/cuna/advocacy/fwbfa/documents/CUNA_WP_CUs_Lead_Improving_FWBFA_May_2022.pdf.
12 *Id.*
13 *Id.*
14 *Id.* at p.7.
15 *Id.* at p. 8.
16 *Id.*
17 *Id.*

Severing Direct and Indirect Investment into Separate Funds Would Be Wasteful and Significantly Hinder the Goal of Serving Low-Income and Disadvantaged Communities

As stated by the EPA, the CAA does clearly distinguish between "direct investment" in qualified projects and "indirect investment" in entities that provide financing for direct investment.[18] Direct investment is intended to fund projects, activities, or technologies that reduce greenhouse gas emissions or air pollution, or otherwise assists communities in efforts to do so.[19] Indirect investment is intended to strengthen the capacity of financing entities to do this work. These goals are clearly interrelated, with direct investment of qualified projects making it clear what financial products should be offered, and indirect investment improving the capacity of the channels that will finance these qualified projects.

The EPA has chosen to separate direct and indirect funding into separate funds—the Investment Fund and Accelerator, respectively—with separate awardees and applications.[20] It is self-defeating for the EPA to divide these into separate funds and identify separate awardees for each. Nothing in the CAA or Congress's intentions requires severing the direct investment of funds into qualified projects from the capacity building work of indirect investment. Doing so is an extremely inefficient and ineffective approach that loses the ability to leverage the knowledge of financial institutions and lending operations that will be inherently involved in the indirect investment space towards the success and sustainability of direct investment. Essentially the EPA has divided the question of "what" financial products will be delivered and "how" these financial products will be delivered and chosen to assign these tasks to two different groups of awardees.

This inefficiency will result in more funds going to awardee operations and coordination and significantly increase the burden and resources expended by lenders on the ground. It will also result in higher lending costs for consumers, particularly in low-income and underserved communities, and ultimately reduce the effectiveness of both types of investment. As an example, a CDCU or MDCU seeking to initiate a loan program to facilitate the substitution of electric vehicles for its membership would need to first apply to an awardee under the Accelerator in order to build capacity to do so. Having received funding and conducted training, improved systems, and undertaken other efforts to establish its capacity, it then would need to separately apply to some funding entity under the Investment Fund (again this is unclear), in order to obtain the capital to operate the program. This alone doubles the credit union's application costs and burden for participation. It also means the credit union could invest the time and money to build capacity with an Accelerator awardee, only to be declined for assistance under the Investment Fund. If those distributing funds under Accelerator and Investment Fund disagree about the necessary level of capacity, the credit union may be stuck going back and forth between these two partners to resolve exactly what is necessary to get the capital to initiate the program. To avoid this, it is likely all credit unions would actively seek out Accelerator awardees who also have access to Investment Fund awardees, which would reduce the efficiency of the flow of funds. The more removed the Investment Fund awardee is from access, the more expensive that capital will be. This inefficiency,

[18] *See* 42 U.S.C. §7434(b).
[19] 42 U.S.C. §7434(c)(3).
[20] Implementation Framework, pp. 12, 25.

risk of ultimate denial, and wasted member resources would likely have a chilling effect on the number of credit unions who are willing to participate.

Credit unions are already well-practiced in delivering financial products to their membership at low-costs. Credit unions, particularly CDCUs and MDCUs, are best positioned to deliver funds to low-income and disadvantaged communities because they are already there. The EPA's top-down approach of selecting 2-3 awardees to distribute $14 billion in direct investment in opaque partnership with "private capital providers" separate and apart from the capacity building work is simply not designed to achieve the delivery of benefits to American communities or the goals of the Justice40 Initiative. The Implementation Framework appears to rely on the Accelerator to ensure that low-income and disadvantaged communities will have access to financing for qualified projects funded by the Investment Fund, but by severing direct and indirect investment, it makes this outcome far less likely. As currently designed, some of the indirect investment under the Accelerator may not actually ever get leveraged to make direct investment under the Investment Fund.

If the EPA's goal is to ensure that these Funds are deployed effectively and efficiently, it should approach this holistically – allow capacity-building indirect investment to be bundled with funds for direct investment in qualified projects through a single entity. This would result in the least amount of waste and excess cost to borrowers. It would also create the most sustainable structure for entities that will ultimately deliver the benefits of these Funds to the communities intended to be served. It would also lead to the deepest penetration of low-income and disadvantaged communities possible in the delivery of funds in support of the Justice40 goals. As explained in a comment letter from the Congressional Offices, the decision to separate direct and indirect investments "likely eliminates the possibility of cross-subsidies that would ensure continued operability for indirect investments in LID communities, which typically need a deeper subsidy."[21]

CUNA concurs with this assessment and would echo their recommendation to "give priority to applicants whose proposals fully utilize the diversity of financial institutions engaged in climate finance, including green banks, community development financial institutions (CDFIs) and minority depository institutions (MDIs), as well as center their investment approach on low income and disadvantaged (LID) communities."[22] CUNA urges the EPA to redesign the implementation framework to consider and prioritize applications from eligible entities that are able to provide a holistic approach to the deployment of both indirect and direct lending prior to issuing the Notice of Funding Opportunity (NOFO). Ideally, this would involve a single application to both funds that illustrates the applicant's ability to undertake this holistic approach.

EPA Should Consider Whether Its Definition of Priority Project Will Disfavor Low-Income and Disadvantaged Communities.

The Implementation Framework identifies "Priority Project" categories as including efforts towards distributed power generation and storage, decarbonization retrofits of existing buildings, and transportation pollution reduction.[23] It is not clear why the EPA is deprioritizing residential projects in favor of larger infrastructure projects. It also is not clear whether the EPA has

[21] Comments of the Congressional Offices, p. 2.
[22] *Id.* at p. 1.
[23] Implementation Framework, p. 16.

considered or assessed whether the prioritization of these larger projects may make it more difficult for funds to be routed to low-income and disadvantaged communities and more likely for the Justice40 goals to become a ceiling instead of a floor.
Oftentimes, these infrastructure projects are able to access other governmental funding or leverage investment structures available to political subdivisions, whereas low-income and disadvantaged individuals are left to fend for themselves. If these "Priority Project" categories have been identified due to the associated amount of reduction of emissions of greenhouse gas or other air pollutants, the EPA should consider including consumer and residential projects that are of sufficient scale or numerosity that a comparable emissions reduction would be achieved. For example, electrifying a business fleet of 20 cars used by high-level executives should not take priority over electrifying 20 cars used by individual consumers working as ride-share drivers.

The EPA Should Provide More Information Regarding Favorable Rates and Terms for Consumers.

CUNA applauds the EPA's attention to the affordability of the financial products that will ultimately end up in the hands of borrowers and the expectation that these "will involve substantially better-than-market interest rates passed through to borrowers." As previously referenced, the greater the distance between the eligible recipient under the GGRF and the ultimate lender-borrower relationship, the more expensive lending capital becomes. Therefore, the Fund must consider the directness of the relationship between an applicant and the lenders in the communities the EPA is seeking to impact.

Because the EPA has made it clear that it expects programs to offer "substantially better-than-market interest rates," it should provide expectations regarding the requirement and clarity about how it will determine "market interest rates." For example, credit union interest rates are already consistently lower than that of banks due to their not-for-profit structure (See Figure 3).[24]

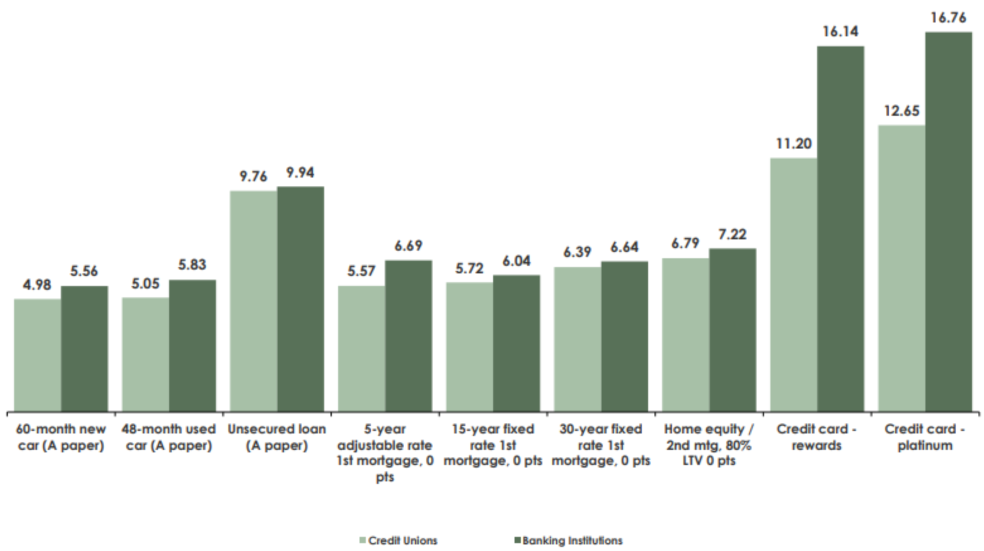

Figure 3: Loan Product Comparative Interest Rates (%) by Loan Type

[24] CUNA, U.S. Membership Benefits Report, Year-End 2022, p. 3, *available at* https://www.cuna.org/content/dam/cuna/advocacy/cu-economics-and-data/analysis-and-calculators/National_MemberBenefits.pdf.

The gap between credit union and bank rates differs based on product and margin. It is not clear whether the EPA would consider the credit union difference in rates to be better than market and substantially so. When expressed in terms of the overall financial benefit accrued by credit union members by borrowing with a credit union, the substantiality of savings is clear (See Figure 4).[25] Even given the substantial benefit credit union members derive from obtaining products and services from not-for-profit credit unions, safety and soundness considerations still require all responsible lenders to consider the relative risk of lending, and there must be room to do so.

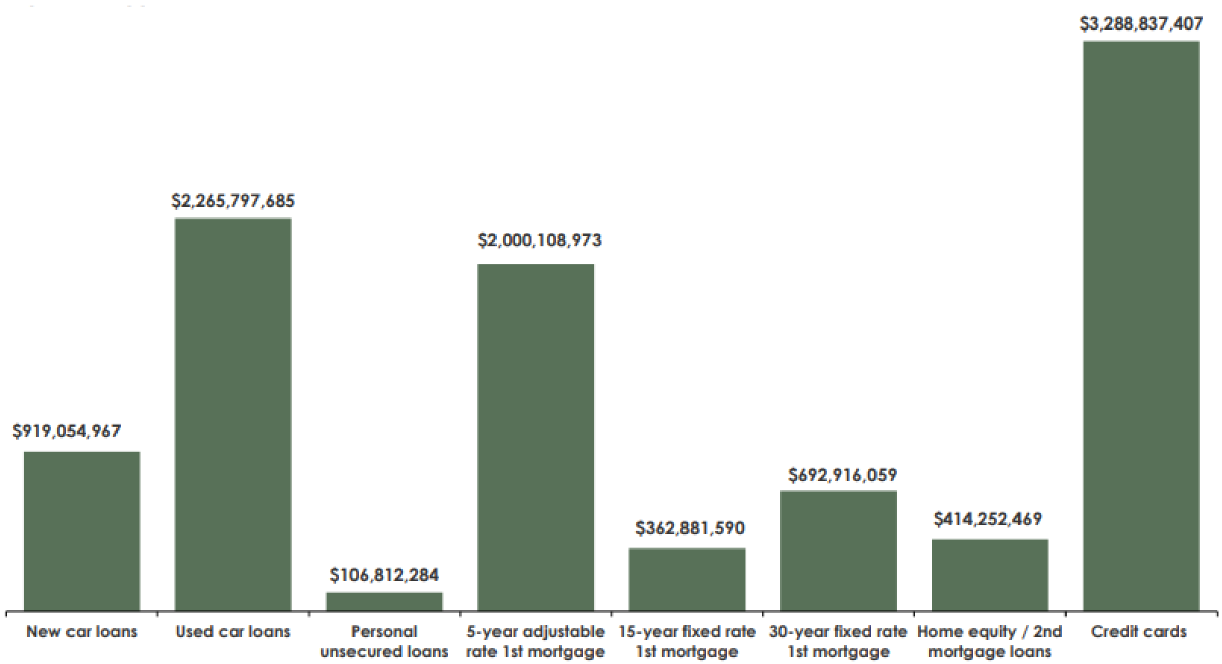

Figure 4: Estimated Credit Union Loan Rate Benefits – Compared to Banking Institutions by Loan Type

Further, the EPA should also consider and address other loan terms and features to prevent programs from offsetting artificially low rates with higher upfront fees and costs, or excessive penalty fees. Excessive penalty fees can be especially punitive for low-income and disadvantaged communities.[26] Credit unions' not-for-profit structure also results in consistently lower fees than that of banks (See Figure 5).[27] The EPA should not ignore this critical affordability data point. To this end, employing a fee cap would be a useful anti-avoidance tool and would protect consumers. CUNA supports the 50 basis point cap suggested in comments by other entities.

[25] *Id.* at 7.
[26] CFPB, CFPB Study of Overdraft Programs, p. 13 (June 2013), *available at* https://files.consumerfinance.gov/f/201306_cfpb_whitepaper_overdraft-practices.pdf.
[27] U.S. Membership Benefits Report, *supra* 24, p.5.

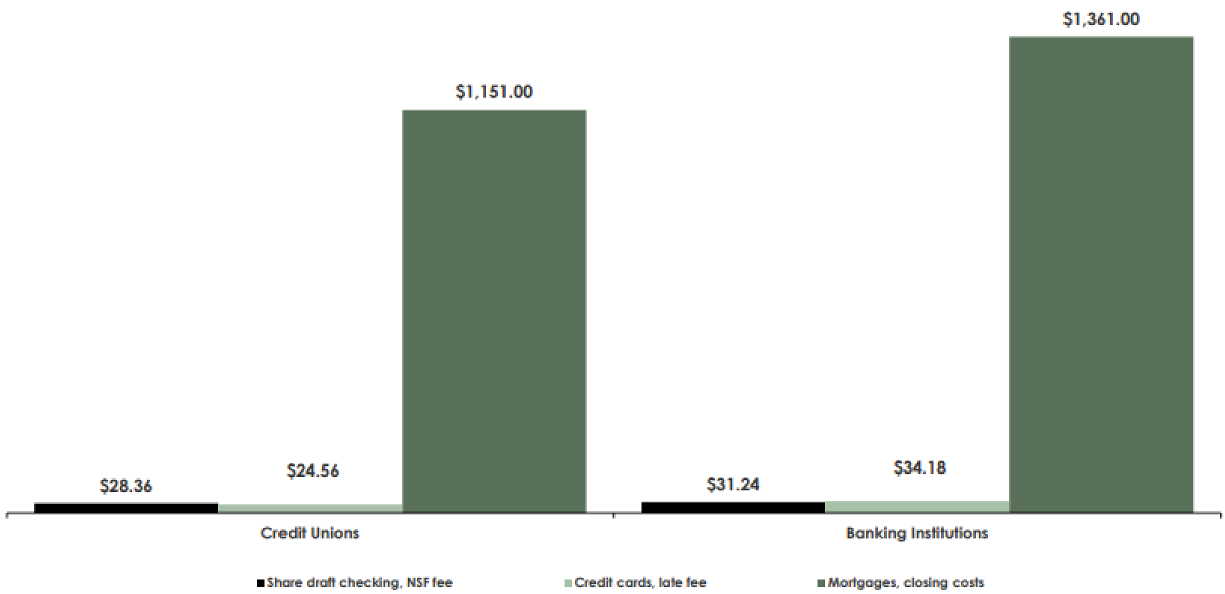

Figure 5: Comparative Fees by Type

Defining Low-Income and Disadvantaged Communities

CUNA echoes the recommendation of the Congressional Offices[28] and previous recommendations by Ecority,[29] Inclusiv,[30] the Community Builders of Color Coalition,[31] Guidehouse,[32] the African-American Credit Union Coalition,[33] and Self-Help,[34] that the EPA align the definition of "low-income and disadvantaged communities" with already existing and widely-used definitions established by Treasury. Even among comments supporting the use of the Climate and Economic Justice Screening Tool (CEJST), many identified that aligning definitions to avoid excess burden and capacity constraint is critical.[35] Taking full advantage of existing definitions used by CDFIs, particularly the "Target Market" definitions employed by the CDFI Fund which already address race and ethnicity considerations, is an effective and efficient approach. This will lower the burden of participation in the program and ensure funds are accessible to the communities who most need

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[28] Comments of the Congressional Offices, p. 3.
[29] Comments of Ecority, pp. 2-3 (Dec. 5, 2022), Comment ID EPA-HQ-OA-2022-0859-0323, *available at* https://www.regulations.gov/comment/EPA-HQ-OA-2022-0859-0323.
[30] Comments of Inclusiv, p. 2 (Dec. 5, 2022), Comment ID EPA-HQ-OA-2022-0859-0365, *available at* https://www.regulations.gov/comment/EPA-HQ-OA-2022-0859-0365.
[31] Comments of the Community Builders of Color Coalition, pp. 1-2 (Dec. 5, 2022), Comment ID EPA-HQ-OA-2022-0859-0082, *available at* https://www.regulations.gov/comment/EPA-HQ-OA-2022-0859-0082.
[32] Comments of Guidehouse, p. 2 (Dec. 5, 2022), Comment ID EPA-HQ-OA-2022-0859-0091, *available at* https://www.regulations.gov/comment/EPA-HQ-OA-2022-0859-0091.
[33] Comments of the African-American Credit Union Coalition, p. 4 (Dec. 5, 2022), Comment ID EPA-HQ-OA-2022-0859-0312, *available at* https://www.regulations.gov/comment/EPA-HQ-OA-2022-0859-0312.
[34] Comments of Self-Help, p.3 (Dec. 5, 2022), Comment ID EPA-HQ-OA-2022-0859-0221, *available at* https://www.regulations.gov/comment/EPA-HQ-OA-2022-0859-0221.
[35] *See, e.g.*, Comment of Community Reinvestment Fund, p. 4 (Dec. 5, 2022), Comment ID EPA-HQ-OA-2022-0859-0307, *available at* https://www.regulations.gov/comment/EPA-HQ-OA-2022-0859-0307; Comment of the Environmental Council of the States, p. 2 (Dec. 5, 2022), Comment ID EPA-HQ-OA-2022-0859-0137, *available at* https://www.regulations.gov/comment/EPA-HQ-OA-2022-0859-0137.

access. Further, it will also allow comparative reporting across other similar programs operated under Treasury.

Conclusion

Thank you for the opportunity to comment on the Implementation Framework. Again, CUNA requests a meeting with the EPA in order to understand the possible pathways for credit union participation in the Investment Fund. If you are willing to meet, have questions, or require additional information related to our feedback, please do not hesitate to contact me at (202) 503-7184 or esullivan@cuna.coop.

Sincerely,

E Sullivan

Elizabeth M. Sullivan
Senior Director of Advocacy & Counsel