In response to the Request for Information (RFI) released by the Dormitory Authority of the State of New York ("DASNY"), the Cannabis Financial Industry Group (CFIG) is pleased to submit the below recommendation to support opportunities for social equity cannabis licensees under New York's regulated adult use cannabis program to successfully build regulated adult use retail cannabis dispensaries and other cannabis businesses permitted under New York's cannabis laws.

While the primary thrust of the RFI was to determine interest and solicit information from qualified parties to form a privately held debt fund to finance the establishment and development of adult use retail cannabis dispensaries (RCD) in New York to benefit social and economic equity applicants, the below recommendation seeks to introduce an alternative approach pursuant to Section II of the RFI. As requested, the below recommendation meets the objectives of Section 87 of the New York State Cannabis Law that established access to opportunities in the New York Cannabis Market for disproportionally impacted individuals and communities as defined by New York Law.

About CFIG

The Cannabis Financial Institutions Group (CFIG) was formed to coalesce financial institutions and associated services providers serving the regulated US cannabis industry. CFIG seeks: i) to shape federal and state policy, and the substantively enacted regulations; ii) to develop, implement and educate best practices and standards for all financial institutions serving the US cannabis industry; iii) to inform and achieve consistent oversight of industry standards by state and federal regulators; if) to cultivate partnerships that expand opportunities and mitigate risk among cannabis lenders. CFIG is a registered entity in the District of Columbia as a non-profit corporation – a 501(c)(6).

Background and Context for Recommendation

Although 37 states have passed medical cannabis programs and 18 states have passed programs legalizing adult use cannabis, only a small portion of these programs – 15 to be precise – have passed social equity programs. Even fewer of these cannabis social equity programs provide funding, and arguably none of these programs ensure timely access to funding at the time of licensure to support as successful program outcome.

CFIG applauds DASNY for the proposed undertaking of this fund. As is explained below, we would encourage exploring *every* possible avenue of capitalizing retail cannabis dispensary and other business that are licensed pursuant to NY Social Equity license program, including public grants and loans, private funds, access to traditional banking services, lending from banks, community development financial institutions, and minority depository institutions, access to capital markets, loans from the New York and Federal Small Business Administration and other avenues. Retail Cannabis Dispensaries should have access to the proposed fund but should also have clear pathways for financial independence and ownership structures that allow entrepreneurs to realize their full potential.

This fund is admirable, but as a narrowly tailored solution, excludes the importance of supporting additional avenues that could be introduced for licensees who may otherwise qualify under New York's social equity program are also unable to access traditional financial services.

Even under the successfully proposed debt fund that creates a "turn key" solution for these qualified license holders to commence their cannabis business, without a bank account, awardees under this fund will be unable to convert a successful grant from the state into a profitable business. Federal data suggest that 553 and 202 credit unions currently serve cannabis businesses, but the reality is less than 1/10 of these banks are actively working with the industry. Even if a bank is willing to have a relationship with a cannabis client, it does not guarantee that the same bank will be willing to do business with a social equity applicant. Longtime discrimination in our nation's financial system has resulted in challenges for minority business owners in securing capital—even despite federal protections against lending discrimination.

While the proposed fund helps with upfront costs, whether it will improve the credit willingness of our applicants in the eyes of lenders is still unclear. We all agree that the outcome of any program should support opportunities for success and momentum for these new entrepreneurs to grow their businesses. Entrepreneurs will continue to struggle to access capital if all of their bills are being paid by someone else. Creditors will work with the state instead of with the business owners. In addition to the fund proposed by DASNY, CFIG proposes expanding access to resources and private capital for social equity entrepreneurs by leveraging private bank and equity funds that could otherwise be ready to be deployed in the NY Social Equity Cannabis market.

Recommendation: Establish the ***NY Cannabis Loan Guarantor Fund*** *to Facilitate, Expand and Encourage Private Sector Lending.*

CFIG recommends the establishment of a designated **NY Cannabis Loan Guarantor Fund ("LGF")** for the purpose of guaranteeing loans extended to NY social equity license holders. Similar to a Federal SBA loan program, a fund established within the state of NY could operate as a guarantor of last resort, to collateralize and securitize loans from private sources.

A specifically established guarantor program for NY's Social Equity licensees would instigate private sector money from financial institutions around the country who are currently lending to regulated cannabis industry stakeholders, but would not able to operate in NY because the increased risk exceeds the parameters of their lending programs. By establishing a guarantor program for debt instruments, the State would support, encourage and facilitate funding and lending from the private sector that could support entrepreneurs by mitigating and sharing the risk with the state.

Having an option other the State holding exclusive authority over so many significant components of the business, further supports newer entrepreneurs without the State wholly controlling key comments of their business asset portfolio. Further, a licensee may prefer to select their business location based on where a business owner thinks their business can maximize customer engagement and foot traffic into the store. If an applicant presents a viable location and option for a retail cannabis dispensary, it is imperative that they have alternative support mechanisms beyond to the proposed fund where the state maintains complete oversight, authority and ownership of the real estate aspect of the business.

Currently, the limited bank lending extended to license cannabis business relies on real estate or comparable collateral, usually provided in the form of securities, certificates of deposit or other easily convertible asset of value. A properly structured LGF could serve as a comparable alternative for traditional collateral and facilitate a lending opportunity for the borrower who may not otherwise be able to secure the loan. Having a program designed with consistent goals and objectives of NY's overall Social Equity License could implement a series of qualifying considerations for financial institutions who seek to participate in lending under this structure, including reasonable interest rates and payment terms to ensure fair and equitable treatment under the loan conditions.

Further, the proposed guarantor program should create a mechanism for financial institutions who are currently lending or interested in lending to cannabis industry stakeholders to enter into syndicate arrangements with other like-minded financial institutions. There is realtime interest by financial institutions outside of NY who are currently servicing regulated cannabis industry stakeholders to expand their offerings, including lending products, to social equity license holders in NY. However, with the extensive regulatory burdens under existing state cannabis laws, and other limits on debt to lending ratios within specific financial institutions, cannabis financial institutions are seeking opportunities to work with similarly situated peers. These syndicate opportunities create significant benefit for the lenders and borrowers because they increase the percentage of debt available for lending and coordinate and share risk among their respective institutions. Given the nascent state of access to financial services, and in particular lending to the cannabis industry, a syndicate model encourages more participation by a larger number of institutions who are interested but may be otherwise reluctant to participate in including cannabis industry stakeholder in their portfolio.

To qualify to operate under the proposed LGF, a syndicate could be required to extend a certain number of total loans or a certain amount of total money lent. Such a requirement would ensure that institutions that seek to avail themselves of these lending opportunities share in the obligation for investing in the success NY's Social Equity program. Another benefit of funds derived from the LGF would be allowing social equity applicants to build credit histories that ultimately would be helpful in operationalizing and growing their businesses.

In support of a LGF, CFIG has interviewed over 30 banks who have all agreed and acknowledged that the type of program proposed by this recommendation would not only be helpful, but would also encourage bank participation. If it is of interest to DASNY, we are willing to coordinate conversations between financial institutions and DASNY so they can articulate why this LGF is of interest and any conditions precedent that would be needed to launch such a program.

While banks and financial institutions are most traditional vehicles for the types of lending arrangements proposed above, this proposal also contemplates private equity funds participating as well. While the DASNY proposed fund would help with initial brick and mortar, it does little to help with ongoing business operations and growth. Instead of a solely state managed fund, private equity would be motivated to extend loans due to the lower risk profile through a guarantee and provide potentially skittish investors more clarity for return on investment and a more transparent opportunity to see where their investment dollars were directed. Criteria could be further set by DASNY that guaranteed loans from minority owned equity funds or minority owned banks were at 100% while providing a lower rate of guarantee (i.e. 70%) for non-minority equity funds and financial institutions.

Finally, allowing private investors to engage in lending with social equity businesses could allow for further interest in development of funds like the one rapper Jay-Z developed with the state of California, and could encourage the infusion of capital through more types of debt instruments into these new businesses.

Conclusion

These recommendations are meant to supplement the fund proposed by DASNY. As social equity businesses are looking to launch and remain successful, we should offer them every possible avenue of capital we can—including both state and private investment. Capital available from a variety of sources will help ensure that businesses of all sizes, and all financial positions can thrive in New York. Some investors, and investment institutions may be weary to invest in a fund managed by the State, whether because of conflict of interests with state pensions or other state programs, or simply because they may not feel confident in how and where the State will allocate money. Finally, some applicants in New York may not need access to the full benefit of the DASNY fund because they already have capital or possess real estate but may need operational and ongoing assistance. Establishment of an LGF as part of this effort would leave the DASNY fund for the applicants who most need assistance in the initials costs of launching a cannabis business—and could provide businesses breathing room as they commence operations.

We appreciate the opportunity to respond to the RFI.
We stand ready to work with DASNY in any way that we can be helpful. To learn more about CFIG or to communicate further, please visit our website at www.CFIG.org or contact our lead representative Sam Richard at Sam@CFIG.org. Thank you.