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Strategies for Successfully Obtaining New Market Tax Credit Financing

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This article is the first of a series intended to provide developers with an overview of the life cycle of New Markets Tax Credit (NMTC) transactions. In this series, we will examine (i) strategies for obtaining NMTC financing; (ii) the NMTC financing closing process; (iii) compliance and reporting issues during the NMTC compliance period; and (iv) issues relating to the wind-up of a NMTC financing transaction. This article focuses on strategies for successfully obtaining NMTC financing.

In light of the unprecedented extension of the NMTC program through 2019, with \$3.5 billion in allocation authority for each of 2017, 2018, and 2019, it is a good time to consider whether NMTC financing could benefit your real estate development project or operating business.

The NMTC program is administered by the federal government through the Community Development Financial Institutions (CDFI) Fund. Generally, Congress specifies the amount of NMTCs that the CDFI Fund may award for each taxable year. Community Development Entities (CDEs) then submit applications to the CDFI Fund to be awarded an allocation of NMTCs for such year. The process of allocating NMTCs among applicant CDEs by the CDFI Fund is highly competitive, and typically occurs on an annual basis. A CDE that is awarded an allocation of NMTCs then selects projects to fund with its allocation.

Notwithstanding the competitiveness and complexities associated with NMTC financing, utilizing the NMTC program may offer debt (or, less likely, equity) on advantageous terms, with an opportunity for the borrower to retain the bulk of the value of the NMTCs at the end of the seven-year NMTC compliance period.

How are NMTCs impacted by tax reform?

The NMTC program was left intact by the Tax Cuts and Jobs Act of 2017; however, the NMTC program will be subject to renewal in 2020. Notwithstanding the foregoing, the reduction in the corporate tax rate and the introduction of the Base Erosion and Anti-Abuse Tax (BEAT Tax) (a minimum tax due if a corporation's so-called BEAT Tax exceeds its regular corporate tax liability for a year) may reduce the overall investment in the tax credit markets, including NMTCs.

Does your project qualify for NMTC financing?

The first step in pursuing NMTC financing is determining whether a project is eligible for NMTCs. Among other requirements, a project must generally be located in a census tract that qualifies as a "low-income community." The [CDFI Fund website](#) includes a [mapping tool](#) that indicates which census tracts qualify for this purpose. (NMTC consultants have helpful mapping tools as well.)

What types of projects are good candidates for NMTC financing?

The purpose of the NMTC program is to attract private investment to communities lacking adequate access to capital and experiencing vacant commercial properties, outdated manufacturing facilities and/or inadequate access to education, health care, healthy food and other basic social services.

Different CDEs will focus on different types of investments and geographic areas. In its application for NMTCs, a CDE is required to describe to the CDFI Fund among other things: (a) whether its funds will be deployed for real estate versus operating businesses; (b) the geographic areas it will serve (i.e., federal, multi-state, state or local areas); (c) whether it will have a rural and/or an urban focus; and (d) specific types of projects in which the CDE intends to invest (e.g., health care, food deserts, education, green energy).

As a practical matter, projects that further the goals of the NMTC program, such as job creation or catalyzing development in low-income communities, will be more attractive to CDEs. In addition, projects that meet the individualized mission of a particular CDE, such as providing access to health care or capitalizing a project in a rural area, will be particularly attractive to a CDE specifically seeking projects with those attributes. Finding the right CDE for a particular project is an important part of successfully obtaining NMTC financing. For example, if a developer is looking for funding for a health care facility in rural Ohio, the developer should look for CDEs with a national or Ohio focus on rural investments and/or on health care facilities.

Transaction Size and Complexity

As we will discuss further in subsequent articles, closing a NMTC transaction and satisfying reporting and other compliance obligations is time consuming and complicated. Larger projects (e.g., at least \$10-\$15 million) are better capable of withstanding the complexity and cost associated with a NMTC transaction.

What can I do to better position my project to be successful in obtaining NMTC financing?

Once you decide to pursue NMTC financing, it may be advisable to reach out to an accounting firm or consultant specializing in NMTCs to assist with the preparation of NMTC oriented financial projections and assist with completing intake forms and other documents that CDEs and their investors will require when reviewing a project.

How do I find a CDE and/or an Investor?

The CDFI Fund publishes a NMTC Program Award Book (the Award Book) in connection with each NMTC allocation round describing the name, location and service area of each CDE receiving an allocation along with the amount of the allocation awarded to each CDE. A PDF of the 2017 Award Book is available [here](#). The Award Book may help familiarize a developer/owner with the who's who of CDEs.

However, given that CDEs have typically already identified a number of projects to fund by the time they submit their applications for NMTC allocations and often have a queue of projects to fund, by the time allocations are awarded to CDEs for a particular year it may already be too late to get NMTC financing from a CDE out of that award, unless a project is particularly compelling or a CDE loses a deal in its pipeline. Thus, developers/owners interested in NMTC financing should start reaching out to CDEs to discuss funding as soon as possible after a project is identified.

Developers and business owners may wish to reach out to a CDE directly to gauge interest in a particular project. In addition, given that many investors in CDEs are banking institutions and many banking institutions have their own CDEs, a developer or business owner may wish to contact their banking relationships to inquire about NMTC financing.

There are also consultants that can help make strategic introductions between developers/owners interested in NMTC financing and CDEs/investors looking for projects. A list of CDEs that have obtained allocations in the past can be found [here](#). Consultants can help match projects with CDEs that are a good fit for the project, and to structure the project on the front end so that it is desirable for CDEs.