OPPORTUNITYFINANCE NETWORK

September 8, 2011

CC:PA:LPD:PR (REG-101826-11)
Room 5023
Internal Revenue Service
PO Box 7604
Ben Franklin Station
Washington, DC 20044

To whom it may concern:

Opportunity Finance Network appreciates the opportunity to comment on RIN 1545-BK0, the Notice of Proposed Rulemaking concerning New Markets Tax Credit Non-Real Estate Investments.

The NMTC and the communities it targets are best served when the NMTC is directed to projects and activities that are most in need of the subsidy and would not happen absent the credit. OFN has long advocated for more stringent application of the mission focus of the NMTC, as well as for its application to a broader use of financing strategies including those supporting non-real estate investments or operating businesses. We commend the CDFI Fund and the Internal Revenue Service for taking any step that addresses these important goals.

Changes that would facilitate NMTC investment in community development entities (CDEs) that are unrelated community development financial institutions (CDFIs) are very welcome and will increase the program's investments in low-wealth markets. CDFIs respond nimbly and innovatively to the demand in their markets, and leverage scarce public resources as few, if any, other industries can. Just as CDFIs' own capital comes from a blend of public and private sources, the projects their work supports combine CDFI investment, private-sector funds, and public dollars to amplify the results beyond what any one partner could produce alone.

Furthermore, many CDFIs have significant experience in financing businesses, managing revolving funds and deploying and re-deploying capital into operating businesses. CDFIs consistently report a strong pipeline of demand from operating businesses seeking flexible capital but they are limited in their ability to finance these businesses using the NMTC because of the credit's seven year term and the "substantially all" requirement.

While OFN supports the proposed rules that would allow for reinvestment in CDFIs as non-real-estate qualified active low-income community businesses (QALICBs), the proposed change is very limited and therefore unlikely to have a significant impact. The mismatch between the terms of most business lending and the seven-year term of the NMTC means that uncertainty about return on investment, rate, and other risks are obstacles to expanded investments in CDFIs in even the narrow circumstances envisioned in the proposed change. A NMTC allocatee that hopes to use some or all of its investment in the manner proposed would have to plan at the inception of a project to reinvest the returns in a CDFI. Such an allocatee would have difficulty determining whether it could reinvest in a CDFI at a rate and term that made sense for its lending and investment practices and was consistent with its overall NMTC strategy. At the same time, a CDFI would have to determine whether it could enter into a potential future partnership with an allocatee on those terms. These uncertainties suggest that any increase in NMTC investment in non-real-estate businesses would be modest.

Instead of limiting the use of NMTC investment in CDFIs to reinvestment, the proposed rule should use the same authority to designate investments in unrelated CDFIs as investments

in QALICBs in all circumstances. Such a change would allow for the flow of capital into people, communities, and projects targeted by the NMTC without the uncertainties that could create hurdles to reinvestment.

Thank you for the opportunity to comment. Please do not hesitate to contact me with any questions or for clarification of any positions in this letter. We look forward to working with you to enhance the use of the NMTC in a variety of ways for a spectrum of investments.

Sincerely,

Mark Pinsky
President & CEO