OPPORTUNITYFINANCE NETWORK

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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 the Advance Notice of Proposed Rulemaking concerning Encouraging New Markets Tax Credit (NMTC) 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. We commend the CDFI Fund and the Internal Revenue Service for taking a modest step toward advancing both those goals in this proposed rule.

Changes that would facilitate investment in operating businesses through "second-tier CDEs," which are often Community Development Financial Institutions (CDFIs), could increase the use of the NMTC for such financing. CDFIs respond nimbly and innovatively to the demand in their market, 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.

The IRS correctly notes that the substantiation requirement "has placed constraints on the ability of a primary CDE to invest funds in a second CDE." Streamlining the substantiation requirements could provide additional support for CDFIs partnering with NMTC allocatees to finance operating businesses.

Key strengths of CDFIs are their commitment to mission and the flexibility of their financing strategies. In its Financial Assistance program, the CDFI Fund has recognized the value of these strengths by providing capital that supports a CDFI's overall strategy, rather than specific targeted products. While the NMTC has a different program design, steps to increase NMTC investment in CDFIs should recognize and build on the unique strengths of the CDFI industry. The proposed regulations could go further in this regard. Rule changes that impose stringent conditions on the size of loans or that impose unduly burdensome documentation requirements will not maximize a CDFI's ability to use the NMTC program to increase loans to non-real-estate businesses.

In addition, we urge Treasury to consider the needs of all "operating businesses" and not just "small businesses". We suggest this refinement in part because there is no agreed upon definition of "small business" but also so CDEs, consistent with their flexible financing strategies, can respond to the full range of businesses needing capital whether it be a $250,000 loan to a timber mill in rural West Virginia to purchase equipment or a $5,000,000 line of credit to a specialty foods venture in Portland, Maine that had its bank credit line cancelled and is unable to finance inventory. A cap of $250,000 on the initial loan size is too small.

Opportunity Finance Network commends the IRS and Treasury Department for taking steps to expand the use of the NMTC across a spectrum of lending activity, and through second-tier CDEs that are likely to be CDFIs while noting that the modesty of the change will limit its positive impact.

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.

Sincerely,

Mark Pinsky
President & CEO