Opportunity Zones Program
An Early Overview of Program Details and What’s Ahead

February 7, 2018
Agenda

- **Program Overview**
  - Background
  - Opportunity Funds
  - Opportunity Zones
  - Types of Investment
  - Tax Incentives for Investors

- **Steps Toward Implementation**
  - Rulemaking Process to Finalize the Law
  - Designating Opportunity Zones
  - Guidance on Certifying Opportunity Funds

- **State Mapping Tools**
  - Opportunity Zones: Census Tract Eligibility
  - Demonstration

- **Additional Resources**

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Background

- Originally introduced in the Investing in Opportunity Act
  - Bipartisan public policy organization, Economic Innovation Group, developed the Opportunity Zones concept in 2015
  - Introduced in the 114th and 115th Congress
    - Senators Tim Scott and Cory Booker, Congressmen Pat Tiberi and Ron Kind

- Enacted as part of 2017 tax reform
  - Tax Cuts and Jobs Act

- Designed to promote economic recovery by driving long-term investment capital to rural and low-income urban communities throughout the nation

- Uses tax incentives to encourage private investment in impact funds that connect investors with community investing opportunities.
Opportunity Funds

- New class of investment vehicle authorized to aggregate and deploy private investment to support Opportunity Zone Property located in Opportunity Zones.
  - Certified by Treasury
  - Optimized for flexibility

- Tap $2+ trillion in unrealized capital gains
  - Alternative to ~23.8% capital gains tax
  - Solution for investors who lack the information and ability to execute investments in rural and low-income urban communities
  - Pooling capital through a fund structure lowers barrier to community investing
  - Responsive to market demand

- Fund Managers
  - Private entities
    - Community Development Financial Institutions, asset managers, etc.
  - Potentially government and quasi-government entities
Opportunity Zones

- Census tract designated to receive private investment through Opportunity Funds
  - 10-year designation

- Governors authorized to offer recommendations for Zone designations (March 21, 2018)
  - Missouri has issued RFP
  - No guidance on what happens if governors do not submit recommendations

- Strategic, informed decision-making is key
Types of Investment

- Opportunity Funds are authorized to invest in Opportunity Zone Property:
  - Stock in a domestic corporation
  - Capital or profits interest in a domestic partnership
  - Tangible property used in a trade or business of the Opportunity Fund that substantially improves the property

- Fund Flexibility
  - Multiple investments across asset classes and geographies, or singular investment.

- Type of Capital
  - Equity
  - Market will determine preferred return and risk tolerance, as well as where capital is invested and which asset types are supported.
Tax Incentives for Investors

- U.S. investors are eligible to receive tiered tax benefits associated with capital gains reinvested in Opportunity Funds.
  - Temporary tax deferral
    - Recognized at exit or 12/31/2026
    - Whichever comes first
  - Step-up in basis
    - 5-year min. = Increased by 10%
    - 7-year min. = Increased by 15%
  - Gains accrued on investment in Opportunity Fund permanently excluded from taxable income
    - 10-year minimum

The Tax Benefits of Investing in Opportunity Zones
Implementation: Finalizing the Law

- Treasury must follow formal administrative procedures to finalize the rule.

- Anticipated process:
  - Treasury will propose a structure for implementing the new rule.
  - Treasury will issue a notice of proposed rulemaking and will request public comments on the proposal.
  - Stakeholders will provide comments and recommendations for structuring the program.
  - Treasury will review the comments and issue a final rule that formalizes the program.

- The timeline for finalizing the rule is not clear.
Governors must submit Opportunity Zone nominations to Treasury by March 21, 2018.
  - Treasury has not yet provided guidance on submitting nominations.

Treasury must approve or provide feedback within 30 days of the governor’s submission.

Both governors and Treasury can request a 30-day extension.
Implementation: Certifying Opportunity Funds

- Treasury will certify Opportunity Funds.
  - Existing Community Development Entities may provide the structure for certifying Opportunity Funds.

- The statute outlines two requirements of the Opportunity Funds:
  1. Must be organized as a corporation or a partnership, and
  2. Must invest a minimum of 90% of assets in Opportunity Zones.

- It is unclear whether additional qualifications will be considered.
Opportunity Zones: Census Tract Eligibility

- Low-Income Communities
  - Section 45D(e) - New Market Tax Credit program
  - Poverty Rate
  - Median Family Income Comparison
    - Metropolitan Area?
    - High Migration Rural County?

- Tracts Contiguous to Low-Income Communities
  - Contiguity
  - Median Family Income Comparison
Opportunity Zones: Census Tract Eligibility

- Each state can designate up to 25% of eligible census tracts
  - Based on Low-Income Community definition

- Exemption: Up to 5% of the tracts designated could be contiguous instead of Low-Income Community tracts

Example:
- A state has 400 Low-Income Community tracts
- This state can designate up to 100 Opportunity Zones
- As many as 5 of these could be eligible due to contiguity; the other 95 would have to be Low-Income Community tracts
Opportunity Zones: Census Tract Eligibility

- Of the ~74,000 census tracts nationwide:
  - Nearly 32,000 Low-Income Community tracts
  - An additional 9,700 are eligible contiguous tracts

- Applying 25% Cap
  - Nearly 8,100 tracts could be designated as Opportunity Zones
  - About 11% of all census tracts nationwide
Opportunity Zones: Technical Notes on Eligibility

- Recommend using 2011-2015 American Community Survey data
  - Can be downloaded from the [CDFI Fund’s website](#)
  - Unknown if Treasury will accept 2012-2016 ACS data

- Possible for contiguity to occur across state lines
  - States would need to coordinate

- Contiguity determined using Rook’s case
Opportunity Zones: Technical Notes on Eligibility

- **Central cell**
- **Cells excluded**
- **Other cells included in calculation**

Queen's case contiguity

Rook's case contiguity
Additional Resources

- Enterprise Community Partners
  - [Opportunity Zones Program Landing Page](#)
  - [Enterprise Blogs on the Opportunity Zones Program](#)

- Economic Innovation Group
  - [Opportunity Zones Program Landing Page](#)
  - [The Tax Benefits of Investing in Opportunity Zones](#)
  - [Guidance for Governors](#)

- Missouri Department of Economic Development
  - [Opportunity Zones Program Landing Page with Opportunity Zone Designation RFP](#)

- National Governors Association
  - [Staff Directories & Contact Information](#)

- National Development Council
  - [Unpacking the Investing in Opportunities Act webinar](#)

- Novogradac & Company
  - [Opportunity Zones Program Resource Center](#)

- Senator Tim Scott
  - [Video message](#)
Thank You!