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The Honorable David J. Kautter
Assistant Secretary for Tax Policy U.S.
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

May 31, 2019

RE: TREAS-DO-2019-0004-0001, Data Collection and Tracking for Qualified Opportunity Zones

I am writing on behalf of the National Housing Conference (NHC) to offer additional comments concerning the development of public information collection and tracking related to investment in qualified opportunity funds.

NHC has been defending the American Home since 1931. We believe everyone in America should have equal opportunity to live in a quality, affordable home in a thriving community. NHC convenes and collaborates with our diverse membership and the broader housing and community development sectors to advance our policy, research and communications initiatives to effect positive change at the federal, state and local levels. Politically diverse and nonpartisan, NHC is a 501(c)3 nonprofit organization.

The OZ incentive's theory of change presumes that ten-year equity investments in low-income communities will yield positive economic outcomes for those communities. Significantly, the OZ incentive does not involve a competitive application process or any targeting to directly benefit low-income people. By comparison, the Low-Income Housing Tax Credit (LIHTC) and the New Markets Tax Credit (NMTC) typically pass through intermediary organizations with a track record of successful and responsive community development. However, the LIHTC and NMTC also entail reporting and governmental oversight to confirm compliance with their income-targeting provisions, which are an important safeguard to ensure that the taxpayer's investment is well spent. Currently, the OZ incentive has minimal annual reporting requirements, as was intended by the Conference Report for the Tax Cuts and Jobs Act. The Conference Report was explicit about Congressional expectations related to annual reporting requirements:

> The Secretary or the Secretary's delegate is *required* to report annually to Congress on the opportunity zone incentives beginning 5 years after the date of enactment. The report *is* to include an assessment of investments held by [the] qualified opportunity fund[s] nationally and at the State level. To the extent the information is available, the report is to include the number of qualified opportunity funds, the amount of assets held in qualified opportunity funds, the composition of qualified opportunity fund investments by asset class, and the percentage of qualified opportunity zone census tracts designated under the provision that have received qualified opportunity fund investments. The report *is* also to include an assessment of the

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> impacts and outcomes of the investments in those areas on economic indicators including job creation, poverty reduction and new business starts, and other metrics as determined by the Secretary.[1] [*emphasis added*]

NHC believes that it is critical that all data points should be required as applicable in order to ensure comparability of data. If made optional, any subsequent evaluation of the impact of the tax incentive will not be an accurate depiction. The full data must also be released to the public on an annual basis so that independent stakeholders with research capacities can conduct analyses of QOF investments and the outcomes and impacts on communities within designated OZs.

Treasury has direct experience collecting and analyzing the type of data necessary for this task: the primary example is the CDFI Fund's operation of the NMTC program in cooperation with the IRS. Every year, the CDFI Fund receives data on the economic outcomes of projects that were funded with in qualified NMTC equity investments.[2] In any given year, the CDFI Fund receives reports on outstanding portfolios of over $20 billion in NMTC qualified low-income community investments. The Community Investment Impact System (CIIS) is the web-based data collection system that NMTC "allocatees" use to submit their Institution Level Reports (ILRs) and Transaction Level Reports (TLRs) to the CDFI Fund. The ILR provides summary organizational, financial, lending and impact data about the institution submitting the report. The TLR provides detailed information on the loans and investments made by the institution in low-income communities.

Treasury also successfully collected data on small business loans and investments enrolled in the State Small Business Credit Initiative (SSBCI) from 2011-17. Treasury's SSBCI program received and analyzed data on more than 21,000 loans and investments exceeding $10 billion. The annual data collection included census tract location, financing amount, other simultaneous financing, NAICS code, year of incorporation, sales and number of FTE employees.

Treasury has consistently demonstrated the capacity to design a data collection system for a reasonable number of variables in QOFs and QOZ Property with a light touch that will not discourage use of the incentive.

Recommended Annual Reporting Requirements

1. NHC recommends the CDFI Fund as ideally suited to collect and analyze the data necessary to complete the annual report to Congress requested by the Conference Report.

[1] Conference Report to Accompany H.R. 1 - Tax Cuts and Jobs Act, p. 539, December 15, 2017.

[2] The CDFI Fund has allocated $3.5 billion in NMTC each year since 2010. Allocatees report on the outcomes of the qualified low-income community investments for seven years after deployment.

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2. NHC recommends that the CDFI Fund collect the following data on every OZ Fund every year on an ***Institution***-Level Report:
    a. The amount of assets held in qualified opportunity funds;
    b. The composition of qualified opportunity fund investments by asset class of QOZ Property (QOZ stock, QOZ partnership interest, or QOZ business property);
    c. The percentage of qualified opportunity zone census tracts designated under the provision that have received qualified opportunity fund investments; and
    d. The source of the unrealized capital gains invested in the QOF (from a drop-down menu)

3. NHC recommends that the CDFI Fund collect the following data on every OZ Investment every year on a ***Transaction***-Level Report:
    a. Date of investment
    b. Census tract of QOZ Business Property (for all investments)
    c. The asset class of QOZ Property (QOZ stock, QOZ partnership interest or QOZ business property)
    d. NAICS code (if the QOZ Property is either QOZ stock or QOZ partnership interest)
    e. Year of formation and whether the domestic corporation or partnership was formed for the purpose of being a qualified opportunity zone business
    f. The dollar amount of the investment in QOZ property
    g. The number of rental housing units at the time of acquisition
    h. Of the total rental housing units in (g), the number of rental housing units that were affordable[3] to a household earning less than 80 percent of AMI
    i. The number of rental housing units after "substantial improvement"
    j. The number of rental units in (g) that were sold
    k. The number of units sold in (j) that were sold at affordable[4] prices
    l. The number of full-time employees at the time of investment
    m. The number of full-time employees at the most recent calendar year-end

If Treasury does not assign the data collection responsibility to the CDFI Fund, NHC believes the same data fields could be incorporated into a new form on taxpayers' annual IRS return as a second-best solution. However, NHC is concerned that if the data were collected by the IRS, it would be difficult to navigate the taxpayer privacy rules quickly enough to provide annual data beginning five years after enactment.

An important caveat for government officials to consider when analyzing OZ data is the limited ability to draw a causal relationship between investments and outcomes to signify the effectiveness of the OZ incentive. OZ eligible census tracts have not developed in a vacuum nor will they moving forward as

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[3] If the housing units are rental units, monthly rent threshold is 30 percent of 80 percent of AMI.
[4] If the housing units are for-sale units, sale price at a projected monthly mortgage payment (with taxes, insurance and condo fees) less than 30 percent of 80 percent of AMI.

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QOF investment begins to flow. Economic changes across eligible communities will be partly influenced by local market contexts and QOF investments may accelerate socioeconomic changes that already had some momentum. NHC is concerned that QOF investments in some eligible tracts may spur gentrification, as such tracts may have qualified to be an OZ but have already been on developers' radars.[5] Additionally, QOF portfolios will likely consist of various types of investments and developments. Given local market trends and the range of investments across QOZs, it will be difficult to delineate the direct impact of a particular investment or development in a QOZ. This consideration is important when assessing the effectiveness of particular OZ investments.

Additionally, it is important not to conflate increases in workforce training and increases in jobs with improved economic outcomes for OZ residents. Job creation is a good indicator of economic development but if the jobs created do not align with the local labor pool, the jobs will be outsourced to individuals who live outside of the OZ and may be less in need. In order for OZ residents to benefit, some of the new job opportunities must match the skill level of the local labor pool. We suggest the total number or percentage of jobs provided to and retained by residents of each OZ or QOZ asset be reported to assess this concern.

Finally, we suggest that the minimum period over which the impact assessment of the OZ incentive should occur is 5 years. However, considering the OZ incentive is in effect over a 10-year period and the potential impacts of subsequent investments may affect communities for years after the incentive's expiration, 5 years should be seen as an absolute minimum.

NHC and our members are optimistic that, with the right guardrails and regulations, the opportunity zones program can successfully direct capital to communities in need of revitalization. Thank you for taking our comments into consideration. Please contact me at davidmdworking@nhc.org or (202)442-2121 x234 with any questions.

Sincerely,

David M. Dworkin

David M. Dworkin
President & CEO

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[5] An analysis by the Urban Institute found that, according to their definition of socioeconomic change, 3.7 percent of US tracts have experienced sizable change. Designated OZ eligible tracts had a higher percentage of tracts experiencing socioeconomic change than eligible tracts that were not designated as opportunity zones (3.2 percent compared to 2.4 percent). Theodos, Brett, Brady Meixell, Carl Hedman. "Did States Maximize Their Opportunity Zone Selections?" *Urban Institute.* 2018. https://www.urban.org/research/publication/did-states-maximize-their-opportunity-zone-selections