



The New Markets Tax Credit: A Valuable Tool for Economic Development

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I. The New Markets Tax Credit Is an Important Source of Investments in Cities

Born in the last days of the Clinton Administration in an agreement with House Speaker Dennis Hastert; nurtured by the Bush Treasury Department; propelled by the creativity and determination of mission-driven and for-profit community development entities and an ever-increasing array of investors; and attracting a growing number of Congressional supporters, the New Markets Tax Credit (NMTC) was extended through 2008 as the 109th Congress drew to a close.¹

The NMTC is one of the largest economic development programs supported by the federal government.

In the simplest terms, the NMTC aims to bring new investment into underserved neighborhoods. The NMTC was enacted in 2000, and the first allocations were not made until 2003, with the first investments coming in late 2003 and early 2004. Through 2007 a total investment of \$16 billion had been allocated, and the recent extension ensures a sixth round of \$3.9 billion in tax credits in 2008. To date the Treasury Department has received applications for nine to 10 times the amount available to be allocated.

With the extension, the Credit will generate a total of \$18.9 billion of direct equity investment, and based upon individual project reports it will attract at least as much money from other government programs and private investors such as banks, insurance companies and pension funds. This makes the Credit one of the largest economic development programs supported by the federal government. This total of \$37 billion in

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economic stimulation will have been achieved at a total cost to the federal government of less than \$7 billion.²

Much of the investment generated by the Credit has been and is targeted toward cities. For example, of the most recent round of \$4.1 billion of credits allocated, 59 percent of investments are expected to be made in metropolitan areas with populations over 1 million, and an additional 23 percent in smaller metropolitan areas.³ The influence on the community sector is also large: through the first four rounds \$4.76 billion was allocated to mission-driven entities (certified Community Development Financial Institutions, including some banks, and other nonprofit organizations), dwarfing any other federal program in which they participate directly.⁴

II. The NMTC is Highly Flexible and Focused on Underserved Neighborhoods

The NMTC's value lies in its extraordinary flexibility. It can be used with a variety of vehicles (equity, debt, mixes of the two, and even grants) to invest in nearly any type of business (except pure for-rent housing, financial institutions, development of intangibles, and a few specifically disfavored activities such as liquor stores, golf courses, and tanning parlors).

Taxpayers who make a “qualified equity investment” (QEI) receive a credit against income tax of 5 percent of the investment for each of the first three years, followed by a 6 percent credit for each of the next 4 years. A QEI must be made in a “qualified community development entity” (CDE), a taxable entity that has a “primary mission” of serving, or providing investment capital for, low-income communities or people; is accountable to community residents; and has been certified by the Community Development Financial Institutions Fund (CDFI Fund) of the U.S. Treasury Department.⁵ The CDEs connect investors, which are in general for-profit entities that may not have an interest in the social aspects of the investments, with the communities in which the investments are made.

HOW IT WORKS: AN EXAMPLE

The CDFI Fund awards a tax credit allocation of, for example, \$1 million to a CDE. The CDE offers the tax credit to investors. Ten investors each invest \$100,000 in return for the tax credit.

The total maximum New Market Tax Credit taken by these investors will be \$390,000. Each investor will realize a \$39,000 credit to be taken over a seven-year period; \$5,000 in each of the first three years and \$6,000 during each of the remaining four years.

The CDE in turn invests in one or more “qualified low-income community investments” (QLICI), which usually translates into a debt or equity investment⁶ in a “qualified active low-income community business” (QLICB) operating in a “low-income community,” as defined in the statute and regulations.⁷ In the event that a previously eligible activity becomes ineligible, all previously claimed credits must be repaid with interest and penalties.

Like the Low-Income Housing Tax Credit (LIHTC), but unlike, for example, the Research and Development Tax Credit or the Historic Preservation Tax Credit, the

NMTC is limited in total amount. Unlike the LIHTC, however, the credit amounts are allocated at the federal level—by the CDFI Fund—rather than by states. It should also be noted that the NMTC is a *shallow* subsidy. A project must generate enough of a return to be able to repay an investor’s original investment, unlike the deeper Low-Income Housing Tax Credit subsidy, for which an investor’s entire return often consists of tax credits.⁸

The NMTC’s flexibility and focus on underserved neighborhoods is the product of deliberate choices by several different bodies of federal policymakers. Details of these choices and a look at their effect on the implementation of the NMTC program can be found in Appendix B.

III. Project Examples

The complexity of the NMTC meant that it got off to a slow start, the learning curve and startup costs were considerable, and the initial investments tended to be more conservative than recent activities supported by the Credit. As the Credit has evolved, however, so has its flexibility and ability to attract a wide range of interested parties. In fact, several large and ambitious projects are now underway or have already been completed using the NMTC. Some of these were “stuck” for years, unable to attract financing, until the Credit made them feasible. A few are described below. Many more are summarized in Appendix A.

Mount Hope Community Center

The Mt. Hope Housing Company (MHHC) has been working in the South Bronx since 1986, and today provides housing to nearly one in six residents of its community. It also operates recreation, cultural, educational, and social service programs. Demand for these programs is high, but for years these activities took place in scattered locations: church basements, storefronts, offices, or even on the sidewalks and streets.

To help bring all these services under a single roof, the National Development Council (NDC) provided MHHC with \$5 million in NMTCs, attracting investment from Citibank and Deutsche Bank, with additional support from the city of New York. This equity investment was a key part of the nearly \$15 million in total project costs for a new community center. The structure itself will be a model of sustainability, built using local labor and providing permanent jobs.⁹ Cash flows from the mortgage on the facility will ensure a financial return to the project’s investors.

East Baltimore Life Sciences Park

East Baltimore Development, Inc. (EBDI) was formed in 2002 with the sole purpose of overseeing an \$800 million effort to revitalize an 80-acre site in East Baltimore, in what is today a high-poverty, high-crime neighborhood. The 20-acre Life Sciences Park is part of the initial phase of that effort. Located near the Johns Hopkins University Medical School and the Johns Hopkins Medical Institute, the Life Sciences Park is intended to foster an integrated research community and medical center dedicated to the advancement of biomedicine through collaboration among academic, government, and corporate scientists and clinicians. It will house 30 to 50 biotech companies, generating 4,000 to 6,000 jobs, a third of them for workers without college degrees.¹⁰

The NMTC allocation of the Enterprise Social Investment Corporation (ESIC) New Markets Partners resulted in the infusion of \$18.9 million in working capital for the Life Sciences Park.¹¹ EBDI will use this working capital to fund a portion of the site acquisition and development.¹²

Midtown Global Market and Midtown Exchange Commons

In Minneapolis, \$3.5 million in credits from LISC and the Midwest Minnesota CDC were used to create the Midtown Global Market in the former Sears Tower, situated in one of the city's most distressed but ethnically diverse neighborhoods. Local business owners and community groups from surrounding neighborhoods came together to create a redevelopment plan, working together on everything from layout to individual leasing decisions. The Market, which opened May 15, 2006, is an 80,000-square-foot public marketplace, where 50 local businesses offer a variety of internationally themed fresh and prepared foods. It supports local entrepreneurs and provides 200 permanent jobs. The NMTC was essential in lending this project initial credibility and helping it attract additional private investment.¹³

The Midtown Global Market is a portion of the Midtown Exchange commons. This larger project benefited from \$10 million of credits provided by the Community Reinvestment Fund (CRF). It includes corporate headquarters for Allina Health Systems (which moved from the suburbs into Minneapolis), hundreds of mixed-income housing units, and a new Sheraton hotel.

IV. Results so Far—Aggregate

In 2003 (“Round 1”), allocations of \$2.5 billion of credits were made to 66 allocatees; in 2004 (“Round 2”), allocations of \$3.5 billion of credits were made to 63 allocatees; in 2005 (“Round 3”), \$2 billion in credits were allocated to 41 entities; and in 2006 (“Round 4”), 63 entities received allocations totaling \$4.1 billion, including a special \$600 million allocation to 13 entities working in the Gulf Opportunity Zone, a specially designated area in Southern Mississippi affected by Hurricanes Katrina, Rita, and Wilma.¹⁴ Applications for “Round 5” allocations of a total of \$3.9 billion (including \$400 million for the GO Zone) were due February 28, 2007. A total of 258 applications were received, requesting \$27.9 billion in allocations. Awards will be made in fall 2007.

It is too early to evaluate the NMTC rigorously, in part because aggregate data about the Credit's use and effectiveness are difficult to obtain and tend to lag. The two major sources of current information are the CDFI Fund's Community Investment Impact System (CIIS) (which recently provided its first public information, covering investments made through the end of 2004); and the New Markets Tax Credit Coalition, which has conducted voluntary surveys of Round 1 and 2 allocatees and issued two reports. In January 2007, the Government Accountability Office published the second of three reports required by statute.¹⁵ The report focused primarily on NMTC investors, and concluded that:

The results of our survey and statistical analysis are consistent with the NMTC program increasing investment in eligible low-income communities by the investors that participate in the program and with this investment coming primarily from funds shifted from other uses. Such a shift would

be one indicator that the NMTC program is effective because the NMTC sought to increase investment in eligible low-income communities. An estimated 64 percent of the NMTC investors reported that they increased the share of their investment budget for low-income communities because of the credit.

According to the GAO, as of December 2006 allocatees from the first three rounds (over which \$8 billion in credits were allocated) had raised \$5.3 billion through 1,381 qualified equity investments. As of the end of September 2005, allocatees had reported to the CDFI Fund 583 qualified investments totaling \$3.1 billion.¹⁶

More detailed data are also available from the CDFI Fund as of the end of 2004. At that time 53 allocatees, mainly from Round 1, had made \$1.151 billion in low-income community investments as follows:

- 75 percent was invested for real estate acquisition, construction, or rehabilitation (for a specific manufacturer or other business and for rental or for-sale housing);
- 19 percent was allocated for business fixed-asset financing or working capital;
- 5 percent was invested for other purposes, including business equity investment;
- 90 percent of the investments went to areas in high distress;
- 90 percent of the dollars were invested in metropolitan areas; and
- CDEs offered 97 percent of their financing on better-than-market rates and terms.¹⁷

The New Markets Tax Credit Coalition's most recent report (issued in May 2006) contains somewhat different, less universal, but more timely information. That report summarizes survey information from CDEs representing over half of the \$6 billion in allocations made in Rounds 1 and 2. The data indicate that CDEs are receiving credits and turning them into low-income community investments at a fast pace: by the end of 2005, CDEs had received legal commitments for investments for 89 percent of the Round 1 and 63 percent of the Round 2 allocations. Moreover, this capital is generally deployed in the field very quickly, with 89 percent invested within 6 months of receipt. By the end of 2006, the CDEs surveyed expected to have received QEIs for 90 percent of their allocations, and that all but 3 percent of that capital would be deployed. While most of this capital comes from banks (which are subject to the Community Reinvestment Act), more than a quarter of the CDEs reported investments from other types of financial and nonfinancial entities, as well as individuals.

Of the low-income community investments made by CDEs through 2006:

- 48 percent were loans for real estate development;
- 13 percent were equity investments in real estate development; and
- 38 percent (totaling more than \$630 million) were loans and equity investments in non-real estate businesses.

The real estate investments break down as follows:

- \$284 million for mixed-use developments;
- \$267 million for retail developments;
- \$188 million for community facilities;

- \$63 million for industrial and manufacturing facilities; and
- \$26 million for for-sale housing.

Consistent with the Fund’s data, the CDEs reported that 96 percent of their investments were in communities in high distress, and that they are finding many creative ways to use credits to fill gaps in the conventional market and provide additional benefits to the community. For example, some have required that those receiving QLICs provide jobs that meet specific quality standards or offer other services to low-income communities.¹⁸

V. How Cities Can Make Effective Use of the NMTC

While the NMTC passed some major milestones in 2006, including in particular the one-year extension and the first release of data from the CDFI Fund, there are still many opportunities to improve its implementation. And with over 80 percent of the allocation dollars expected to flow to metropolitan areas, cities have an opportunity to make far greater use of the program.

Attracting investment

The NMTC’s history and terms dictate that its impact on low-income communities and their residents will be primarily market-driven. While the allocation process can focus attention on particular goals (for example, on the creation of jobs for low-income people or businesses in low-income communities), both allocatees and investors must be able to find or develop investments with acceptable returns. Therefore, city officials can play a critical role in helping to identify and cultivate investment opportunities.

Cities can most effectively attract investment by:

- Recognizing the highly competitive nature of NMTC investments and working to attract investments that match cities’ development priorities.
- Understanding and promoting the advantage the NMTC gives city investments over investments elsewhere.
- Combining NMTC allocations with local funds and tax advantages, both for specific projects and for city priorities such as effective job training, for-sale workforce housing, or environmentally friendly construction.
- Making their own programs as flexible as possible to make it easy to combine them with NMTCs.¹⁹
- Being aware that there is a market for NMTC investments, and that all of their policies—in particular those relating to the taxation of unincorporated business entities—conspire to make investing in some cities more attractive than in others.²⁰

Focusing on cities’ desired goals

As a program that aims to bring new investment into underserved neighborhoods, at the very least the NMTC has meant that investments that might have been made anyway are executed more quickly, better, and with more direct benefit to the community. But many argue that a more appropriate test—a difficult one in any context—is whether the investment would have been made “but for” the Credit.²¹ Especially in the earliest rounds, when there was a rush to get projects moving (an imperative to some extent caused by the allocation process itself, which makes eligibility for subsequent rounds

dependent on deployment of earlier allocations), some projects were questioned either on a “but for” or an impact basis. In fact many of those early projects had been “stuck in limbo” for lack of financing for years, a strong suggestion that the Credit met the “but for” test.

But is more investment the only impact cities are looking for? The NMTC can be put to many uses, and forthcoming evaluations will attempt to capture its effect on business ownership; temporary (24-month or less) and full-time jobs; community facility capabilities; real estate developed and rental costs; and housing units developed and their affordability. Assuming these can be effectively measured, cities can further focus on other desired outcomes and the means to measure progress.

It is likely, for example, that a successful, transformative project on the edge of a downtown will raise property values and may accelerate gentrification. Is that a desired effect or a negative consequence? Cities need to consider the benefit to community residents of jobs that are created and retained, and consider how community residents are involved in important decisions. They should consider how bringing long-awaited services into underserved neighborhoods—decent grocery stores, banks and credit unions, quality health care, opportunities for arts and music education, and even sit-down restaurants—should be valued, and how to improve the traditionally low-wage level of the jobs associated with these services. Larger cities may want to follow the lead of cities such as Council Bluffs, Iowa, and La Crosse, Wisconsin, and use the Credit to attract and hold manufacturing and industrial firms, whose jobs frequently pay better than those in the service sector.

Cities can focus the NMTC on desired goals by:

- Developing a local consensus around what advantages they hope to gain from the NMTC for the city as a whole and its underserved neighborhoods in particular.
- Working closely with allocatees and those in whom they invest to ensure that implementation follows this consensus, and that the investment redounds to the benefit of the surrounding area.
- Working with the CDFI Fund and Congress to ensure that the priorities they set are captured in evaluation methods and supported by federal decisions.

Extending the Credit

The Credit’s recent one-year extension is a signal of congressional approval of the Credit’s performance to date. However, because the extension covers only a single year, continuation of the Credit will require constant attention by supporters. The need is exemplified by the fact that President Bush’s Budget for Fiscal Year 2008 does not request extension of the Credit.²² Extensions will require that supporters continue to improve the Credit’s effectiveness (both in pricing and impact), ensure that evaluations of the Credit both measure the right things and are fair and complete, and inform Members of Congress of successful NMTC projects in their districts. Support for the Credit to date, especially in the Senate, has been led by Members from rural states,²³ and it will be important that urban and rural areas continue to make common cause to retain and enhance the Credit.

Additional issues concerning the use of the NMTC are discussed in Appendix C.

VI. Conclusion

In an era of declining federal resources dedicated to economic development, the New Markets Tax Credit stands out as a success story and a particular boon for metropolitan areas, which have received the majority of credits to date. Despite its complexity and initial doubts about whether it could be effectively implemented, it has shown signs of providing an important extra boost to many types of development in underserved urban and rural communities. As the program has developed, participants have become bolder and more creative in their uses of the Credit, and pushed more of the Credit's limited subsidy into severely distressed communities, and into community facilities and local businesses.

Like any social and economic program run through the tax code, it is possible to think of ways to target the NMTC more accurately or simplify the application process. But almost all such "fixes" would either substantially increase the cost of the Credit or risk decreasing the breadth of its support. Instead, cities and local officials can use targeted incentives, locally integrated programs, and clearly stated goals to help ensure that NMTC projects meet their own priorities. Doing so will not only meet city goals today but also point the way to the Credit's continuation, expansion, and improvement.

VII. Resources

Web sites

CDFI Fund: www.cdfifund.gov

Community Reinvestment Fund (presentations):
www.crfusa.com/section.asp?sectionID=83

New Markets Tax Credit Coalition: www.newmarketstaxcreditcoalition.org

Novogradac & Company LLP New Markets Tax Credit Resource Center:
www.novoco.com/new_markets/index.php

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- Armistead, P. Jefferson, “Is the NMTC Making a Difference in Low-Income Communities?”
- Roberts, Benson F., “The Political History of and Prospects for Reauthorizing the New Markets Program”
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APPENDIX A: EXAMPLE PROJECTS

Both the reports of the New Markets Tax Credit Coalition,²⁴ and some of the articles previously cited,²⁵ as well as the websites of allocatees, provide many stories about the uses of the NMTC. The projects below are activities in Living Cities locations that illustrate some of the Credit's breadth and power.

Real estate developments in distressed areas

- **The Shops at Park Village:** The Local Initiative Support Corporation (LISC), a CDFI, used its NMTC allocation to turn long-vacant land in one of Washington, D.C.'s poorest areas into 114,000 square feet of retail space, including the area's first full-service grocery store. It did so in partnership with investor Wachovia Bank, the East of the River Community Development Corporation (ERCDC), and for-profit developer William C. Smith. The redevelopment will create as many as 300 jobs in addition to providing long-needed goods and services. Moreover, the financing package provided with the Credit was structured to enable ERCDC to obtain an ownership interest in the project. This project had been stalled for many years before the Credit became available.

The Shops at Park Village development coordinates with the Town Hall Education, Arts and Recreation Center (THEARC), another project that benefited from the NMTC. Its credits came from City First Bank, a certified CDFI.

- **King Lincoln Gateway and Point of Pride:** These two redevelopment projects in Columbus, Ohio, have benefited from NMTC allocations to the Ohio Finance Fund, a certified Community Development Entity (CDE). King Lincoln is in Columbus's Empowerment Zone, and will generate 100 full-time jobs in addition to 132 construction jobs. Like Park Village, it had been stalled for years before the NMTC made the financing feasible. Point of Pride, an office/retail building, is the capstone of a coordinated public and private effort to stabilize the surrounding distressed community.
- **Arbor Park Place:** Credits supplied by Key Bank and Cleveland Development Advisors, Inc. were key to the redevelopment of a 39,000-square-foot blighted shopping center in a highly distressed neighborhood of East Cleveland. Various government entities, including the City of Cleveland; a nonprofit developer, New Village Corp.; and National City Community Development Corporation also participated. The shopping center now houses a new grocery store and a new branch of Key Bank, among other tenants. Without the NMTC the project would not have had adequate cash flow or debt service coverage to gain bank financing.
- **Jubilee-Dudley Building:** This project represents the first new construction of a commercial building in the Dudley Square neighborhood of Boston in forty years. The project's sponsor, the Jubilee Christian Church International, completed construction of this three-story office/retail complex in the spring of 2006. By February 2007, 72 percent of the Jubilee-Dudley Building had been leased and there were several prospects for the remaining space. The City of Boston tried to develop this long vacant site for more than a decade, but even with substantial city funding and an infusion of equity by the sponsor, the project still had a

substantial equity gap until Massachusetts Housing Investment Corporation provided \$7.4 million of New Markets Tax Credit financing. This project will bring a blighted and long vacant site back to productive use, and bring jobs and services to the Dudley Square community.

Community facilities

- **Bethel New Life:** The Bethel Center in Chicago (an NMTC project of the faith-based Bethel New Life community development corporation [CDC]) houses a childcare center, an employment-service facility, a community-technology center, and six commercial storefronts in a green building connected to a mass transit station. Among the tenants is the Community Savings Center, a partnership among Bethel New Life, Park Federal Savings Bank, and Thrivent Financial for Lutherans that brings both financial education and needed financial products to the neighborhood's low-income residents. The project also received assistance from the city and the state.
- **University Preparatory Academy:** NCB Capital Impact (the nonprofit affiliate of the National Consumer Cooperative Bank) made a \$3.2 million NMTC equity investment in the University Preparatory Academy (UPA) in Detroit. This investment allowed the charter school to prepay, at a substantially reduced price, its 30-year lease on a fully renovated building, with an option to buy the building at the end of the tax-credit period at 68 percent of its current price in today's dollars. This essentially enabled UPA to obtain a fully renovated building for an elementary school, without paying the costs of renovation.

Two-thirds of UPA's students qualify for free or reduced-price lunches. UPA's goal is to graduate at least 90 percent of each class and to have at least 90 percent of its graduates enroll in college or other post-secondary training. This would be a major feat in a city in which only 33 percent of ninth graders graduate and only 40 percent of graduates enroll in post-secondary institutions.

- **Healthy California:** This statewide initiative uses tax credits from Impact Community Capital (a San Francisco-based consortium of major insurance companies) to finance community health centers in low-income communities. One of the centers that has received funding is LifeLong Medical Care in Berkeley, the primary "safety net" provider of medical care to the uninsured in parts of the Bay Area. The funds will be used to purchase and rehabilitate a building in which LifeLong will consolidate operations.

Housing and mixed-use development

- **Cleveland Housing Network:** The Cleveland Housing Network is a partnership of the State of Ohio and City of Cleveland to help families with incomes as low as \$19,000 purchase their own homes. Using its NMTC allocation, Key Bank is providing a \$3 million revolving line of credit to CHN for the construction or rehabilitation of houses for sale.
- **LaSalle Commercial Space Development:** In Seattle, credits from the New Markets Support Company (an affiliate of LISC) are supporting the development of commercial space along with the Pike Place Senior Center. This project is part of a larger development that will renovate 40 affordable homes and create 24 new

ones. The housing construction is financed using Low Income Housing Tax Credits obtained by another LISC affiliate, the National Equity Fund.

- **StreetSquash:** In Harlem, New York, the National Development Council is using credits to develop within a condominium development a program that will provide academic tutoring, squash instruction, college preparation, community service, and mentoring for over 1,000 Harlem public school students annually. NMTC-generated funds will help build an 18,000-square-foot facility containing eight squash courts, four classrooms, a library, a workout area, a locker room, and administrative offices.

Business investment

- **Lena's Food Market:** In Milwaukee, NMTCs will be used to enable minority-owned Lena's Food Market to open a fourth supermarket, a warehouse, and additional retail space, creating 145 jobs. Credit allocations came through the Wisconsin Housing and Economic Development Authority, Legacy Bancorp (a bank CDFI), and Impact Seven (a loan fund CDFI).
- **Tortilla factories:** In Minneapolis and in Hayward, California, in the Bay Area, the Community Reinvestment Fund has used its NMTC allocation to finance tortilla factories' purchase of new buildings for expansion. The locally owned businesses receiving this help are all located in low-income neighborhoods. La Mexicana Tortilla Factory, a family-run business started in 1965, was able to purchase a new warehouse close to its factory site, improving distribution, adding jobs, and lowering costs.
- **Jackie Blu Wigs:** One of the smallest NMTC investments, an \$82,000 loan through the Community Reinvestment Fund and the Minneapolis community Planning and Economic Development agency, combined with a \$100,000 loan from a local bank, allowed Jacqueline Hamilton to buy a building to expand a successful wig-making and styling business serving, among others, women coping with cancer and hair loss. The building has two street-level retail spaces and a two-bedroom apartment.

APPENDIX B: IMPLEMENTATION DETAILS

The Treasury Department has attempted to bring together the poverty-alleviation and economic-development aims of the NMTC by combining flexible eligibility with more and more carefully directed allocation procedures. Treasury's Office of Tax Policy and the IRS have written regulations and guidance that provide a good deal of flexibility in how credits can be used. Simultaneously, the CDFI Fund has favored applicants serving the most distressed communities; providing the most concessionary terms of investment (including equity investments); and making investments that provide permanent jobs or critical services (e.g., health care and schools) for low-income people or residents of low-income communities.

Making the NMTC flexible

In the transition from idea to statute, the Credit's precise language acquired some baggage that had the potential to sharply limit its effectiveness if interpreted too strictly. For example, the statute requires that "substantially all" QEIs invested in a CDE must be invested in QLICIs for the seven-year period of the credit (and specifies that this condition is to be considered met if 85 percent of the assets of the CDE are so invested). Substantial recapture penalties can result if this requirement is not met. In 2001 Michael Barr, formerly Deputy Assistant Secretary of the Treasury and one of the authors of the Credit, urged the Treasury to:

*... provide for start-up and phase-down periods during which NMTC proceeds—or returns from prior investments—do not need to be invested in qualified businesses; and ... measure compliance with the "substantially all" rule and the qualified business requirements at the time of investment.*²⁶

Today, the "substantially all" rule does continue to create problems for venture-capital investments and working-capital investments in small businesses, in both cases because repayment is likely in fewer than seven years. But regulations have provided some flexibility in the calculation of the test, by providing a phase-down period in the seventh year, and by providing a period for correction.²⁷

Some were also concerned that an investment would be subject to recapture if a business that had clearly qualified as a QLICB on the date of the investment ceased to qualify later in the seven-year period. Given that recapture would include the Credit, interest and penalties for *all* the preceding years, this would have made investors extremely wary, especially of non-real estate investments.²⁸ Treasury ruled however, that it was sufficient for investors to have a "reasonable expectation" that an activity qualified as a QLICB at the outset, opening the door to a fuller use of the Credit.²⁹

In a somewhat different vein, although the statute focused on equity investments, those interested in using the NMTC soon became interested in the possibility of a leveraged model similar to ones that had been developed for the LIHTC. In such a leverage structure, an equity investment by one party in a conduit limited-liability corporation (LLC) is combined with a debt investment by the same or additional parties. The conduit LLC makes the equity investment in the CDE, which then makes the QLICI. This model

had the potential to attract additional investors and also the potential to augment equity resources with additional debt capital. For example, a leverage structure would allow a nontaxable entity such as a foundation, government entity, or pension fund to make a debt investment (frequently on concessionary terms) in a community development project while at the same time an equity investor could receive credits equal to almost its entire investment.³⁰ A leverage structure could also accommodate investors unable or unwilling to make equity investments, including community banks.

It was initially unclear whether the IRS would allow a leverage structure. It did so,³¹ although the notice was issued after the due date of applications for the first round of allocations.

The IRS and Treasury have acted similarly with respect to other issues. This does not mean that all questions are answered immediately or in the manner that users of the NMTC might prefer. For example, guidance on the “targeted populations” amendment of 2004, whose implementation turned out to be more complex than expected, was not issued until July 17, 2006,³² and is expected to change again before it becomes a final regulation. But both Treasury and the IRS have been willing to work with the NMTC’s users to make the Credit as flexible and manageable as possible within the context of a complex and occasionally quite strict statute.

Focusing the NMTC on Underserved Communities

The CDFI Fund has attempted to focus allocations on activities that provide maximum benefit to low-income neighborhoods and populations and that otherwise might not be able to attract investment at a reasonable price. It has been able to provide such direction because the strong demand for credits.

The Fund’s primary tools have been:

- The Allocation Application, which has undergone significant refinement over the course of the five rounds of allocations;
- The process by which applications are rated and ranked;
- The Allocation Agreement, which holds applicants to the promises they made in their applications; and
- The CIIS, under which allocatees must report all investments (in substantial detail concerning, e.g., the investee and terms of investment; and jobs, facilities spaces, housing units or real estate created) for monitoring purposes.

The Allocation Application consists of four main sections covering Business Strategy, Community Impact, Management Capacity, and Capitalization Strategy. The first two ask an applicant to describe what it intends to do with an allocation, where, and to whose benefit. The last two cover the applicant’s ability to carry out what it says it will do (e.g., the applicant’s track record in conducting the kinds of transactions and serving the kinds of communities proposed, as well as managerial capabilities), and ability to raise the capital needed to make use of the credit. Starting with the third round, the application review process has placed greater weight on the Business Strategy and Community Impact sections. In the fifth round, applicants who receive a passing grade in all four categories will be ranked only on their Business Strategy and Community Impact ratings.

It is in the “tips” the Fund provides to applicants that the Fund’s intentions appear most clearly. For example, Questions 16 and 17 on the Round 5 application³³ (in the Business Strategy section) ask about the applicant’s intent to use the NMTC to supply equity or substantially concessionary debt terms, and demand considerable detail. An accompanying tip tells applicants that they will “score better to the extent they commit to provide equity or equity-equivalent financing; greater interest rate reductions on their debt; and/or a higher number of flexible/non-traditional rates and terms.” The tip goes on to remind applicants (in bold type) that the Allocation Agreement will hold them to their promises.

In the Community Impact section, a general tip states that:

An Applicant will generally score well under this section to the extent that: a) it is working in particularly economically distressed or otherwise underserved communities; and b) it shows demonstrable community development and economic impact.

Later tips state that applicants that agree to make at least 75 percent of the dollar amount of their investments in exceptionally distressed communities³⁴ will score better (and that applicants will be held to their word), and that:

Applicants that can quantify and support specific indicators for expected community development impact for Low-Income Persons or residents of Low-Income Communities, over and above general economic impacts in Low-Income Communities, will score more favorably.

Applicants are also asked whether they will, for example:

- Create or maintain jobs for low-income persons or residents of low-income communities;
- Increase wages for such persons; or
- Finance or assist businesses owned by residents of low-income communities, low-income persons, minorities, or women, or that provide childcare, health care, educational or other benefits, or asset creation for low-income persons or communities.

They are then asked to describe such benefits in both number and methodology. They are also asked whether their activities will “be coordinated with local community plans or local government planning efforts,” and to explain such coordination in some detail.

Cognizant from the start about concerns that the allocation process would be highly political, the Fund has worked to keep it objective³⁵ while gradually tightening the application’s focus. There are some indications that its efforts have been successful. For example, 62 of the 63 allocatees in Round 4 indicated they would meet the 75 percent test of investments in especially disadvantaged communities, with 56 stating that 90 percent of their investments would be in such communities, including 42 that said 100 percent of their investments would be in such communities. Going beyond the “substantially all” safe harbor of 85 percent, 58 of the 63 Round 4 allocatees said they would invest at least 95 percent of their QEI dollars in QLICs. And all allocatees said they would provide equity or concessionary debt, with many promising interest rates of 500 basis points below standard, no fees, high loan-to-value ratios, relatively low debt service coverage requirements, and structures that infuse equity into projects and businesses in year

seven.³⁶ It is difficult to compare these results with past allocation rounds (in which comparable questions were not asked or from which information has not been made available), but anecdotal evidence suggests that targeting and financing terms have both improved from early to later rounds.

APPENDIX C: ADDITIONAL ISSUES RAISED BY THE NMTC

While it is too early to evaluate the NMTC fully, potential modifications have begun to surface that are worth keeping in mind as additional data become available. For example, would it make sense to modify the prohibition on the use of credits to support businesses engaged in development of intangibles, such as software development and web design?³⁷ Two areas deserving particular attention are the NMTC's current "real estate tilt" and the balance in allocations between CDEs with mission-driven parents and those without them.

A. The NMTC's "real estate tilt"

Several aspects of the NMTC, in particular its complexity and recapture rules, have tended to focus most of the investment it generates on real estate, where individual investments are usually large and the likelihood of recapture reduced. The success of "twinning" NMTCs with federal and state historic-preservation tax credits has added to this tilt.

The situation is not as extreme as initial Fund descriptions of Credit usage made it appear.³⁸ As the New Market Tax Credit Coalition's report points out, a significant portion of NMTC real estate investment is in community facilities and manufacturing and industrial facilities, and in many retail projects credits are used to lower rents to levels that local small businesses can afford. Moreover, while the CDFI Fund's report on investments through 2004 found that 76 percent were in real estate, 32 percent of the Round 4 allocations were slated to be used to finance or support loans to businesses or investments in them. Several presentations at the December 2006 conference of the New Markets Tax Credit Coalition suggested that investors are growing more comfortable with revolving pools of shorter-term business loans administered by familiar CDEs.

Nevertheless, it has proven difficult to use the NMTC to provide businesses with working capital and equipment loans, and even harder to use it for venture-capital investments.

Over the past several years, the New Markets Tax Credit Coalition has made several attempts to develop revisions to the statute and regulations to make it easier to use the Credit for smaller, shorter-term loans and venture-equity investments. So far, the Coalition has been unable to develop a consensus. On the one hand this is because attempts to shorten the recapture period, even for limited types of investments, are expensive in budgetary terms (which would reduce the chances for passage). On the other, they would seem to contradict the NMTC's goal of encouraging long-term investment. Many participants are also reluctant to add complex revisions to an already complex program.

Cities in particular should consider whether the real estate tilt is in fact undesirable. Would the NMTC be more valuable if a larger proportion of the limited credits available were directed toward shorter-term business investment, including venture capital?

B. The balance in allocations between CDEs with mission-driven parents and those without them

There has been substantial debate throughout the NMTC's history as to whether or not mission-oriented entities (mostly nonprofit organizations, but also some banks certified

as Community Development Financial Institutions) can use credits better on behalf of their communities than entities without a mission-oriented parent (such as most banks and investment partnerships). Through the first four rounds, 48 percent of allocations (for 51 percent of the funds) have gone to CDEs with for-profit parents; 44 percent of allocations (for 39 percent of the funds) have gone to CDEs with mission-oriented parents; and 9 percent of the allocations (for 10 percent of the dollars) have gone to public entities such as municipalities or city agencies. Most for-profit parents of CDEs have been banks, but in Round 4 twenty other types of for-profit entities, mainly developers and investors in real estate, received allocations totaling \$1.112 billion.³⁹

Exactly what this means for community impact is unclear. CDEs with both for-profit and mission-driven parents have invested in QLICBs with both for-profit and nonprofit developers or owners. While the CDFI Fund has consistently refused to create any sort of preference for entities with mission-driven parents, such entities have continued to compete successfully for allocations. In addition, for-profit and nonprofit parents have often worked together. A recent example is Merrill Lynch's statement that its entire \$93 million Round 4 allocation will be invested through nonprofit CDFI loan funds that have been rated on their financial strength and impact.⁴⁰

Over the years of the Credit's existence, however, a number of commentators have voiced concern that an insufficient proportion of the allocations were being made to mission-driven entities, and that the lack of such allocations would reduce the credit's effectiveness in community-based economic development and poverty alleviation.⁴¹

The question for cities is whether it matters to whom the allocation is made, as long as the process aims at the right outcomes and is transparent, accessible and fair. Will cities want to control their own allocations to a greater extent? Cities that themselves received early-round allocations often found it difficult to both receive and use credits. Nevertheless, some have continued to apply, and in Round 4 Chicago and the Seattle and Philadelphia Housing Authorities received allocations.

Or will cities benefit from the competition of other parties to invest in their underserved neighborhoods and the flexibility of non-public administration of the Credit? Will they find that in fact their communities benefit more or differently when allocations are administered by mission-driven entities? Does it matter whether an allocatee's service area is local, regional, or national?

Some of the ways in which cities can make sure that NMTC investments are consistent with their plans and further their goals are by:

- Ensuring that allocatees whose service area includes the city know the city's interest in the NMTC and its needs, including any stalled projects. (Allocatees service areas are published with the notification of awards by the CDFI Fund and are also available on the New Market Tax Credit Coalition's Web site.)
- Funding local CDEs to do the market analysis and technical work necessary to file a successful allocation application that reflects city priorities.⁴²
- Making use of their knowledge of the LIHTC and familiarity with the entities that use it. Many of these entities are also working with the NMTC and would welcome city overtures.

- Brokering investments between from nonlocal allocatees in local CDEs, thereby increasing the likelihood that the NMTC will be used in a manner consistent with the priorities of the city and its communities.

Endnotes

- 1 The NMTC, codified as Section 45D of the Internal Revenue Code, was enacted as part of PL 106-554, the Community Renewal Tax Relief Act of 2000, signed by President Clinton on December 21, 2000. The extension was passed as PL 109-432 (2006), Sec 102. Many of those who conceived of the Credit, together with users, investors and other interested parties, have come together as the New Markets Tax Credit Coalition, which advocated successfully for its extension. See <http://www.newmarketstaxcreditcoalition.org>.
- 2 Current estimates place the actual cost of the \$18.9 billion in approved New Markets Tax Credits at 33 percent over 10 years or \$6.2 billion.
- 3 Community Development Financial Institutions Fund, “New Markets Tax Credit Program: Fourth Round (2006) Allocatees,” available at [http://www.cdfifund.gov/docs/nmtc/2006/2006%20Highlights%20Document%20\(5-31-06\)-Final-Final.pdf](http://www.cdfifund.gov/docs/nmtc/2006/2006%20Highlights%20Document%20(5-31-06)-Final-Final.pdf).
- 4 “The New Markets Tax Credit Progress Report 2006,” New Markets Tax Credit Coalition, May 2006, available at <http://www.newmarketstaxcreditcoalition.org>. Calculations from Armistead, “New Markets Tax Credits”; “NMTC Allocation General Statistics Round III,” published by the New Markets Tax Credit Coalition, available at www.newmarketstaxcreditcoalition.org; and CDFI Fund, *Fourth Round — 2006 New Markets Tax Credit Allocatees (Alphabetical)* available at http://www.cdfifund.gov/docs/nmtc/2006/Profiles%20Document%20FINAL_alpha_.pdf. By way of comparison, appropriations for the CDFI Fund’s grant programs have never exceeded \$120 million, and are currently approximately \$50 million annually.
- 5 Over 1,200 entities have been certified as CDEs. Administration of the NMTC is the responsibility of two parts of the Treasury Department—the CDFI Fund, which certifies CDEs, allocates credits, enters into and enforces allocation agreements, and monitors the performance of allocatees; and the Internal Revenue Service, which is responsible for writing the regulations interpreting the tax code and enforcing tax compliance. These two parts of the Treasury, as well as the Office of the Assistant Secretary for Tax Policy, have worked together closely to develop regulations and policies that are consistent, workable and meet the goals of the statute.
- 6 The NMTC can also be used to provide “financial counseling and other services” to businesses or residents in low-income communities. In practice, however, only a small portion of the credits have been used this way, generally in conjunction with a debt or equity investment. In addition, credits can be used to make debt or equity investments in other CDEs and to buy loans from other CDEs.
- 7 In general, low-income communities are defined as census tracts with a poverty rate of at least 20 percent or a median income of 80 percent or less of the greater of the state-wide or metropolitan area median income (AMI). Tracts designated under certain other programs, such as Empowerment Zones, also qualify. Approximately 39 percent of census tracts, with approximately 36 percent of the U.S. population, are eligible. In 2004 the statute was amended to expand coverage to rural counties with high out-migration as well as low-population tracts and “targeted populations,” and the 2006 extension also requires that regulations “ensure that non-metropolitan counties receive a proportional allocation of qualified equity investments.”
- 8 More information about the Low Income Housing Tax Credit program is available in the Living Cities Policy paper, “Housing Incentives Stimulate the Private Sector,” available online at www.livingcities.org.
- 9 National Development Council, “The Bronx Is Up!” available at http://www.nationaldevelopmentcouncil.org/secondary_n/articles/displayonearticle2.aspx?ArticleType=0&ArticleID=178.
- 10 “The New Markets Tax Credit Progress Report 2005,” New Markets Tax Credit Coalition, May 2005, available at <http://www.newmarketstaxcreditcoalition.org>, 19.
- 11 “The New Markets Tax Credit Progress Report 2005,” 19.

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- 12 Enterprise Community Investment, Inc., “East Baltimore Development, Inc.” Available at http://www.enterprisecommunity.com/industryTaxCredit/structured_fin_subs/portfolio/eastbaltimore.html.
 - 13 “Midtown Global Market: History,” available at <http://www.midtownglobalmarket.org/?q=about/history>; and Cohen, Parker, Jonathan Rogers, and Carlos Espinosa, “Midtown Global Market and the Sears Building: Small Business Incubators and Public / Private Investment,” May 8, 2006, available at www.macalester.edu/urbanstudies/studentpapers/documents/midtownglobalmarket.doc.
 - 14 The Gulf Opportunity Zone Act of 2005 is federal legislation that was passed by Congress and signed into law by President Bush in December of 2005. This legislation provides for Federal Tax Incentives to areas affected by Hurricanes Katrina, Rita, and Wilma that were designated as warranting individual or public and individual assistance. <http://www.mississippi.org/content.aspx?url=/page/3269&>
 - 15 The Government Accountability Office is required by statute to do three evaluations of the NMTC. The first evaluation, issued in January 2004, focused largely on regulations and intra-Treasury cooperation. (Government Accountability Office, *New Markets Tax Credit: Progress Made in Implementation, but Further Actions Needed to Monitor Compliance*, January 2004.) The second was issued in January 2007 and examined the results of the program to date, primarily from the perspective of investors. In the report, the GAO acknowledged that it is too early to fully evaluate the Credit’s effectiveness, including its impact on communities. (Government Accountability Office, *New Markets Tax Credit Appears to Increase Investment by Investors in Low-Income Communities, but Opportunities Exist to Better Monitor Compliance*, January 2007.) The third report is due in January 2010. The CDFI Fund has just awarded a contract to the Urban Institute for what is intended to be an extensive, multiyear evaluation. (Remarks of Linda Davenport, Deputy Director of Policy and Programs, CDFI Fund, at the New Markets Tax Credit Coalition Annual Conference, December 14, 2006.)
 - 16 Government Accountability Office, January 2007 report, pp. 16-18.
 - 17 “Performance of the New Markets Tax Credit Program Through Fiscal Year End 2004,” CDFI Fund, August 31, 2006, available at <http://www.cdfifund.gov/docs/2006/083106CISSImpactdata.pdf>.
 - 18 “The New Markets Tax Credit Progress Report 2006,” New Markets Tax Credit Coalition, May 2006, available at <http://www.newmarketstaxcreditcoalition.org>.
 - 19 For example, a city may be able to make more effective use of the Credit’s subsidy with low-interest debt than with grant funds, but the loan must be made to the right entity (a conduit LLC, not the CDE), with the right terms (e.g., no demand for collateral). Examples of programs that have been successfully used to augment or support NMTC investments include: Community Development Block Grants (including the Section 108 loan guarantee provision); HOME; tax-increment financing; bond financing; and state and local historic-preservation tax credits. (Conversely, some programs administered by the Economic Development Administration have not been used successfully, as they require a security interest in the property, which is not feasible under the NMTC structure.) Using these programs successfully requires a level of experience and sophistication with economic development tools that may not be present in all cities. Interviews with David McGrady, City First, (January 5, 1007); Robert Poznanski and Benson Roberts of Local Initiatives Support Corporation (January 12, 2007). E-mail from Joe DeHaven, Indiana Bankers Association (January 11, 2007).
 - 20 Because all debt repayment from the QLICB must flow through the CDE to investors, gross receipt taxation at the CDE level can result in less of the NMTC’s subsidy going to the QLICB, making an investment in that city less attractive than an investment in a city that taxes unincorporated businesses on net income.
 - 21 Because the NMTC lacks a legislative history, its precise purpose has been the subject of substantial debate. In announcing President Clinton’s original NMTC proposal the Administration stated that “Businesses in our nation’s inner cities and isolated rural communities often lack access to equity capital to grow and succeed. For the FY2001 budget, the President proposes a major expansion of his effort to help attract new capital to these businesses through tax credits for equity investments.” (“FY2001 Budget & New Opportunity Agenda Expands the Administration’s Commitment to New

Markets and Bringing People into the Economic Mainstream,” available at http://clinton4.nara.gov/WH/New/html/20000113_1.html.)

While the president emphasized that the credits could be used for a wide range of business activities, the focus was clearly on private equity investments for businesses in underserved communities, with the assumption that jobs and economic development would follow. The statutory language itself provides additional focus, particularly in its definitions of “low-income community” and “qualified active low-income community business” and the requirement that credits be allocated to CDEs, although as several commentators have pointed out, these requirements are relatively broad. Michael Barr, one of the NMTC’s architects, has emphasized its market orientation:

By leaving investment decisions in the hands of locally-based market participants, the NMTC is structured to be quite flexible. Investment funds will compete for tax credit allocations, raise private funds, and then use these funds to invest in or provide loans to local businesses located in lower-income communities. (Barr, Michael, “Access to Financial Services in the 21st Century: Five Opportunities for the Bush Administration and the 107th Congress,” at <http://www.brookings.edu/es/urban/capitalxchange/article4.htm>.)

While acknowledging this history, other commentators have asserted that the Credit in fact has a more direct poverty-alleviation goal, which they interpret as meaning that the credits “should not be used to subsidize activities that have a limited community economic development impact . . . [and] should not fund activities that would have occurred without the subsidy.” (Rubin, Julia S and Gregory M. Stankiewicz, “The New Markets Tax Credit Program: A Midcourse Assessment,” in *Community Development Investment Review* (2005) available at <http://www.frbsf.org/publications/community/review/122005/article1.pdf>.) To others, the critical question is whether the Credit will empower “community residents—generally in the form of not-for-profit, community development organizations or small businesses—to plan for and determine the future of their neighborhoods, and to address the most pressing development needs. . . . [and to] build social capital.” (Armistead, P. Jefferson, “New Markets Tax Credits: Issues and Opportunities,” (2005) available at <http://www.prattcenter.net/pubs/nmtc-report.pdf>.) Concerns such as these have also been reflected in occasional newspaper articles. (See, e.g., Frank, Ryan, “Blight-area tax breaks aid rich,” *The Oregonian*, Nov 27, 2006.)

- 22 See Table S-6, Budget of the United States Government, Fiscal Year 2008, at <http://www.whitehouse.gov/omb/budget/fy2008/summarytables.html>
- 23 Primary supporters in the Senate have been Senators Snowe (ME), Rockefeller (WV), Grassley (IA) and Baucus (MT). In the House, Congressman Rangel of New York, who will chair the Ways and Means Committee, sponsored the initial NMTC legislation and has been a strong supporter along with a group of Members from more rural areas, such as Congressman Ron Lewis of Kentucky. See S1800 and HR3957, 109th Congress, 1st Session (2005), proposing a 5-year extension of the Credit.
- 24 “The New Markets Tax Credit Progress Report 2005” and “The New Markets Tax Credit Progress Report 2006.” The New Markets Tax Credit Coalition Web site also has fact sheets highlighting specific types of investments, such as those in health care and small businesses.
- 25 Most notably Armistead, P. Jefferson, “New Markets Tax Credits” and *Community Development Investment Review of the Federal Reserve Bank of San Francisco*, Vol. 1, Issue 1 (2005), available at <http://www.frbsf.org/publications/community/review/122005/index.html>.
- 26 Barr, Michael, “Access to Financial Services in the 21st Century”
- 27 26 CFR §§1.45D-1(c)(5), (e)(6)
- 28 The regulations effectively provide that something can be a QLICB based on the percentage of gross income, services, or tangible property used by the entity in a low-income community. Calculation of both the gross income and services percentages can be difficult and, in particular, subject to changing conditions over a seven-year period. Real estate, on the other hand, stays in one place. This is likely a major reason, although probably not the only one (the sheer size of real estate investments compared to others is probably relevant), that the credit has tended to flow to real estate investments, especially in the early rounds. 26 CFR §1.45D-1(d)(4)

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- 29 26 CFR §1.45D-1(d)(6)(i)
- 30 For reasons relating to the IRS ruling on this subject (see note below), as well as the investors' interest in making certain the project lasts for the full seven years, the equity investor, as well as the debt investor, will still have an interest in making certain the economics of the project are sound.
- 31 Revenue Ruling 2003-20, IRB 2003-9, page 465
- 32 Notice 2006-60, IRB 2006-29, page 82
- 33 The Round 5 allocation application can be found at <http://www.cdfifund.gov/docs/nmtc/2007/2007NMTCAllocationApplication.pdf>.
- 34 These are communities with some combination of high poverty rates (greater than 30 percent), low median incomes (under 60 percent AMI), and high unemployment rates (more than 1.5 times the national average), and/or designation under other programs targeted to lower-income communities, such as federal economic development zones, SBA HUB zones, brownfields sites, and areas encompassed by HOPE VI redevelopment plans. Targeting to rural or disaster areas also comes under this section.
- 35 Applications are read and scored by three readers, with the results reviewed by a panel of CDFI Fund staff. The ultimate decision is made by a Fund official. Those familiar with the process are convinced that it has in fact been fair and transparent. The fact that the Fund provides individualized feedback to unsuccessful applicants about how their application might be improved has been helpful in ensuring transparency.
- 36 Community Development Financial Institutions Fund, "New Markets Tax Credit Program: Fourth Round (2006) Allocatees," available at [http://www.cdfifund.gov/docs/nmtc/2006/2006%20Highlights%20Document%20\(5-31-06\)-Final-Final.pdf](http://www.cdfifund.gov/docs/nmtc/2006/2006%20Highlights%20Document%20(5-31-06)-Final-Final.pdf)
- 37 The regulations provide that "any trade or business consisting predominantly of the development of intangibles for sale or license" will not qualify as a QLICB. 26 CFR §1.45D-1(d)(5)(iii)(A).
- 38 For example, the CDFI Fund's 2004 Annual Report, which discussed the projected uses of the second round of allocations, stated that 53% would be used for "real estate businesses," without noting that this included items such as plants for manufacturing companies and community facilities, as well as commercial real estate development. CDFI Fund, Performance and Accountability Report, Fiscal Year 2004, available at <http://www.cdfifund.gov/news/annualReports/2004annualReport.pdf>, pg 23.
- 39 Calculations from Armistead, "New Markets Tax Credits"; "NMTC Allocation General Statistics Round III," published by the New Markets Tax Credit Coalition, available at www.newmarketstaxcreditcoalition.org; and CDFI Fund, *Fourth Round — 2006 New Markets Tax Credit Allocatees (Alphabetical)* available at http://www.cdfifund.gov/docs/nmtc/2006/Profiles%20Document%20FINAL_alpha_.pdf.
- 40 See http://www.opportunityfinance.net/uploadedFiles/103106_ofn_ml_cars.pdf; <http://www.socialfunds.com/news/article.cgi/2157.html>.
- 41 See, e.g., Rubin and Stankiewicz, "The New Markets Tax Credit Program" and Armistead, "New Markets Tax Credits." See also Forbes, Jennifer, "Using Economic Development Programs as Tools for Urban Revitalization: A Comparison of Empowerment Zones and New Markets Tax Credits," 2006 *University of Illinois Law Review*, 177.
- 42 Washington, DC made a \$100,000 grant to City First Enterprises, the nonprofit parent of City First Bank, to assist in preparation of its NMTC application, which generated millions of dollars of investment in the city, as City First received allocations totaling \$163 million. Interview with David McGrady, City First (January 5, 2007).