

IRS Comment Letters
Thomas, Miller, Green & Associates Comment on Proposed Regulations
(REG-119436-01) Regarding New Markets Tax Credit

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Responses to Request for Comments on the New market Tax Credit

From the IRS 4. Section 45D (d) (1) (C) provides that the term "qualified low-income community investment" includes financial counseling and other services to businesses located in, and residents of, low-income communities. What type of services should constitute financial counseling and other services for these purposes? Financial counseling to business located in low-income communities will of course include the technical assistance required for business to take full advantage of the capital that will be provided.

What is included in the definition of other services to the residents of low-income communities should also serve to achieve the legislative intent of the NMTC program - holistic economic development. To that end, we believe that other services to residents of low-income communities should include the provision of mortgages to the residents of the low-income communities pursuant to the limited Risk Sharing Demonstration Program of the same Community Renewal Tax Relief Act (Act) of 2000. It is true that the provision of mortgages, if left unchecked, could exhaust considerable amounts of funds, however, Section 143 of the ACT, the Risk Sharing Demonstration program, is a limited program that was enacted as an integral part of the holistic economic revitalization efforts set to be achieved by the ACT. The Risk Sharing Demonstration program is limited to:

1 million mortgages over a five year period
Insured CDFIs that have entered into a risk sharing contract with the FHA pursuant to the Act
A 5-year period beginning on December 21, 2000; and
One-to-four-family dwellings. Permitting CDEs to provide mortgages pursuant to this risk-sharing program will enable the CDEs have a greater impact on the holistic economic redevelopment of their target communities by providing the business with customers that have the economic base of homeownership. Thus, increasing the chance that the businesses that the CDE invest in will succeed. 7.

Section 45D (i)(1) provides that Treasury may prescribe regulations that limit the new markets tax credit for investments that are directly or indirectly subsidized by other Federal tax benefits. Under what circumstances should investments be treated as directly or indirectly subsidized by other Federal tax benefits. Investments that will allow investors to "double dip" into the IRS tax credit pool should not be allowed. Specifically, investors should not be allowed to take advantage of two or more federal tax credits as a result of their investment. Additionally, investors should not be allowed to invest where there all investment risk is removed as a result of a government backed guaranty. However, CDEs should be allowed to take advantage of the reduction of capital gains afforded investors who invest in small businesses, Empowerment Zones, Enterprise Communities and Renewal Communities. These back end incentives encourage holding these assets for five years and means that the CDE will be more successful in attracting investors to invest the CDE.