



In this week's Tax Credit Tuesday Podcast, Michael J. Novogradac, CPA, talks about confirmation of the new FHFA Director Mark Calabria and allocations to the Housing Trust Fund and Capital Magnet Fund. He also recaps the first meeting of the White House Opportunity and Revitalization Council and how federal agencies are aligning initiatives with opportunity zones. After that, he will discuss the Disaster Opportunity Zones Act, a bill that aims to spur disaster recovery through opportunity fund investments. Then, he will share an IRS Revenue Procedure 2019-17, which clarifies a major question about bond-financed housing for special populations. Then he briefly shares some news the Housing the Homeless Students Act of 2019 to allow formerly homeless students to live in low-income housing tax credit and HUD Section 202 funded housing. He also talks about congressional support for extending renewable energy tax credits. He closes with state legislative news from West Virginia, Ohio and Mississippi.

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## GENERAL NEWS

### **Calabria Confirmed as FHFA Director; FHFA Releases 2018 Allocations to HTF, CMF**

- The Federal Housing Finance Agency has a new director.
- With a party-line vote of 52-44 the Senate last Thursday confirmed Mark Calabria as head of the FHFA.
- The FHFA is the agency that oversees Fannie Mae and Freddie Mac, since the enterprises were put into conservatorship in 2008.
- Calabria previously had served as chief economist to Vice President Mike Pence.
- He was also a senior staffer in the Senate and helped draft the Housing and Economic Recovery Act of 2008, or HERA.
- In his new role as FHFA director, Calabria will help lead the Trump administration's efforts in housing finance reform.
- Calabria said at his confirmation hearing that he was committed to ending the conservatorship of Fannie and Freddie, once and for all.
- This goal echoes a recent memo that President Trump issued, directing Treasury Secretary Steven Mnuchin to develop a housing finance reform proposal.
  - That memo called for ending the conservatorships of Fannie Mae and Freddie Mac, as well as authorizing FHFA to approve new guarantors to create competition in the mortgage market.
- Now the day before Calabria was confirmed as FHFA director, acting director Joseph Otting authorized the transfer of affordable housing allocations from Fannie Mae and Freddie Mac to the National Housing Trust Fund and the Capital Magnet Fund.
- The Housing Trust Fund will receive nearly \$250 million and the Capital Magnet Fund will receive more than \$130 million.
  - Housing Trust Fund dollars will help create and preserve affordable housing for low- and very-low income households and Capital Magnet Fund grants will help finance affordable housing and community revitalization.
- Now still outstanding is the question as to whether Calabria will continue to allow Fannie Mae and Freddie Mac to make low-income housing tax credit (LIHTC) equity investments.
- The GSEs were allowed to re-enter the market by the previous director, Mel Watt back in 2017.
- They each could invest up to \$500 million annually starting in 2018.
- But Calabria could change that policy.
- We'll be watching and report back as we learn more.

### **Opportunity and Revitalization Council**

- Well let's now talk now about opportunity zones.
- First of all, the second tranche of proposed opportunity zones guidance is still a week or two away from being released.
- This is according to Treasury Assistant Secretary for Tax Policy, David Kautter.
- Please stay tuned for more updates as they become available.



- I will announce their availability on Twitter and discuss them in future podcasts.
- But in the meantime, the White House Opportunity and Revitalization Council held its first meeting last Thursday and I do want to share some of the highlights with you.
  - Now President Trump created the council, and it consists of 13 federal agencies, and he created it late last year to help implement and optimize the use of federal resources connected to the opportunity zones incentive, as well as otherwise help distressed areas.
- Now the president has named Scott Turner as the council's executive director.
  - Turner is a past member of the Texas House of Representatives, as well as a former NFL football player.
- President Trump introduced Turner at the council meeting last week and said that the group would work to streamline regulations, improve education and promote affordable housing.
- He then asked other members of the council to provide opportunity zones updates from their agencies.
- HUD Secretary Ben Carson shared a story about how he visited an abandoned sawmill that is being redeveloped into housing through the opportunity zones incentive.
- Commerce Secretary Wilbur Ross said the Economic Development Administration has issued a notice of funding opportunity to make all entities within qualified opportunity zones generally available for Economic Development Administration funds.
- Then turning to Transportation Secretary Elaine Chao, she said that the Department of Transportation is incorporating opportunity zones principles into 10 grants totaling \$2.3 billion so that grant recipients will think about how to incorporate opportunity zones into their endeavors.
- Labor Secretary Alex Acosta said that the unemployment rate within opportunity zones is about one-and-a-half times the national level.
  - Acosta said that the Department of Labor is adding preference points to all of its grants to focus on work development opportunities in opportunity zones.
- Over with the Environmental Protection Agency, Administrator Andrew Wheeler, said that the EPA will use an opportunity zone designation as a tie-breaker in applications for its \$15 million in grants this summer.
- Secretary of Education Betsy DeVos said that the opportunity zones incentive can help develop more charter schools.
- It's exciting to see how federal agencies are creating synergy with their resources and initiatives to align with opportunity zones.
- The Novogradac Opportunity Zones Working Group will be submitting recommendations to the council on how to make regulatory changes to existing federal programs to help facilitate development and investment in communities designated as opportunity zones and other distressed areas.
- I would encourage you to send me your ideas.
- Send them to [cpas@novoco.com](mailto:cpas@novoco.com).
- Or share them on Twitter.
  - Just hit the hashtag @Novogradac.
- Now I'm happy to say that investor interest in opportunity zones continues to grow.
- The Novogradac Opportunity Funds listing now has, yes, more than 100 funds.
- And those 100 funds expect to raise more than \$23 billion to make community development investments.



- Now the funds listed include a broad range of investment types and geographic investment areas.
- I've provided a link to that listing in today's show notes and I'll also tweet it out.

### **Disaster Opportunity Zones Act**

- Now staying on the topic of opportunity zones, Florida's two U.S. senators introduced legislation last week to allow governors to nominate additional opportunity zones in areas hit by natural disasters in 2018.
  - Now the areas span five states.
  - North Carolina, South Carolina, Georgia and Florida – those four states because they were hit by hurricanes in 2018.
  - And then the fifth state is California, which was hit by wildfires.
- Now under the bill, governors of those five states would be able to nominate opportunity zones either 25 low-income census tracts or 25 percent of the low-income census tracts in the disaster-affected areas.
  - They can pick the greater of those two.
    - 25 low-income census tracts or 25 percent of the low-income census tracts in the disaster-affected areas.
- Now designating more areas as opportunity zones in these states could help drive more private investment to help low-income disaster areas recover.
- Now the two Republican Senators are Sens. Marco Rubio and Rick Scott, of course, and the name of the bill is the Disaster Opportunity Zones Act.
- Now this isn't the first effort to pair opportunity zones with disaster recovery efforts.
- Sen. Rubio was a cosponsor of a broader disaster recovery bill introduced in the previous Congress.
  - That bill was called the Hurricanes Florence and Michael and California Wildfire Tax Relief Act.
  - One of the bill's provisions would have treated any applicable disaster zone as an opportunity zone.
  - Now the bipartisan bill that was introduced in that Congress died in committee at the end of the congressional session.
  - And it had six cosponsors.
- I'd also note, in the House, Rep. Mark Meadows of North Carolina last month introduced legislation to allow federally declared disaster areas to be added as opportunity zones.
  - That bill was assigned to the House Ways and Means Committee.
- Now I'll keep you posted in future podcasts on any updates to the Disaster Opportunity Zones Act.
- And in the meantime, if you're interested in how tax incentives can help in disaster recovery, I invite you to join us for the Novogradac Investing in Puerto Rico Conference being held next month.
- That conference will be in San Juan, Puerto Rico, being held on May 9 and May 10.
- We'll discuss the investment outlook for Puerto Rico and the Virgin Islands.
- We'll also discuss investment opportunities in disaster areas, including the LIHTC, new markets tax credit (NMTC) and opportunity zones.
- I'll include a registration link in today's show notes and I'll tweet out the link, as well.



### Revenue Procedure 2019-17

- Next, I have an update from the IRS.
- And update that will make many more affordable housing developments possible.
- Now let me take you back in time a bit.
  - In 2008, Congress created a provision that allowed LIHTC financed properties to provide preferences, occupancy preferences, for specific groups, such as veterans.
  - However, at the time, Congress did not explicitly say that such occupancy preferences were allowable for private activity bond-financed developments.
  - Now this created a possible conflict.
  - Preferences were ok for the LIHTC, but not for private activity bonds, which is what entitles many new construction and substantial rehabilitated rental properties to qualify for the 4 percent LIHTC.
    - An interesting conundrum.
  - Well last week's revenue procedure confirms what had been a widely held view, but of late had actually come into question whether or not you could combine residential rental housing bonds – tax-exempt bonds – with the LIHTC and give preferences to specific groups, such as veterans.
  - Well, the IRS ruling says you can.
- So the bottom line is now, housing providers can be confident that they can build housing for veterans and other special groups and give occupancy preferences to them, and they'll still qualify for private activity bond financing in addition to the LIHTCs.
  - The result: more housing will be built to serve these special populations.



## OTHER NEWS

- In other LIHTC-related news, three U.S. senators have introduced legislation to allow formerly homeless students to live in housing funded by the federal LIHTC.
  - Students, as you know, generally are not eligible for LIHTC housing.
  - This bill would permit students who were either homeless as children or were formerly homeless veterans to live in the housing.
  - The bill is called the Housing the Homeless Students Act of 2019.
  - I should note there's a similar provision the Affordable Housing Credit Improvement Act, legislation that is expected to be introduced in both the House and the Senate shortly.
- Turning to affordable housing news from HUD, HUD has issued an advance notice of funding availability and an application for up to \$50 million in grants under the Section 202 Supportive Housing for the Elderly program.
  - Now this is significant because it's the first such allocation for that program since fiscal year 2011.
  - This announcement said that there will be another round of funding next year.
- And then moving to renewable energy news, a large group of Congress members sent a letter to Ways and Means Committee Chairman Richard Neal last week, calling for the extension of the investment tax credit (ITC) and production tax credit (PTC).
  - Now by large group, I mean 110 members of the House of Representatives.
    - That's more than 25 percent of the membership.
    - Now they are, by the way, all Democrats.
  - Now the letter called for tax legislation this year to address clean energy.
  - And in addition to the investment and PTCs, the letter mentioned energy storage and other issues.
  - I do have a link to this letter in today's show notes.
- Moving now to state news, we have interesting updates out of West Virginia, where Gov. Jim Justice vetoed a bill, a bill that would have exempted new opportunity zones businesses from corporate net income and personal income tax for 10 years.
  - We've discussed this in a prior podcast.
  - Now Justice vetoed the legislation, but his veto message cited technical flaws, including what he saw as faults with the title of the bill.
  - Justice did say in the veto message, and I quote, that he would, "welcome a similar bill in a subsequent legislative session, correcting the technical errors noted," end quote.
- Now turning to Ohio, meanwhile, a bill that would create a 10 percent state tax credit for opportunity zones investments passed the state senate.
  - This bill now goes to the House for consideration.
  - The credit would require investment in Ohio-specific funds and would have a \$1 million transaction cap every two years.
  - The statewide cap could be \$50 million every two years.
- And then turning to Mississippi Gov. Phil Bryant has signed legislation to extend the state NMTC by 18 months.
  - The credit had a sunset date of Jan. 1, 2020, but now it's authorized until July 1, 2021.



## RELATED RESOURCES

### **Housing Trust Fund, Capital Magnet Fund Allocations**

[News Release: FHFA Authorizes Payments to Housing Trust Fund and Capital Magnet Fund](#)

[FHFA Letter to Fannie Mae](#)

[FHFA Letter to Freddie Mac](#)

### **Opportunity Revitalization Council Meeting**

[Remarks](#)

[Novogradac Opportunity Funds Listing](#)

### **Disaster Opportunity Zones Act**

[Disaster Opportunity Zones Act](#)

[Novogradac 2019 Investing in Puerto Rico Conference Registration](#)

### **IRS Clarifies Private-Activity Bonds Can be Used to Build Veteran Housing**

[Rev. Proc. 2019-17](#)

### **Housing for Homeless Students Act of 2019**

[Housing for Homeless Students Act of 2019 \(S. 767\)](#)

### **HUD Section 202 Grants**

[HUD Notice of Funding Availability and Application](#)

### **Energy Extenders Letter**

[Congressional Letter to Rep. Richard Neal](#)

### **Congressional Letter to Rep. Neal**

[Letter to Rep. Neal about Renewable Energy Provisions](#)

### **Ohio Bill to Invest in OZs**

[Ohio S.B. 8, Authorize tax credit for investment in opportunity zone](#)

### **West Virginia OZ Bill Vetoed**

[West Virginia H.B. 2828 to Promote Investment in OZs](#)

### **Mississippi**

[Mississippi S.B. 2598 to Extend State New Markets Tax Credit](#)

### **Novogradac 2019 Opportunity Zones Spring Conference**

[Novogradac 2019 Opportunity Zones Spring Conference Registration](#)