Summary: October 9, 2018

In this week's Tax Credit Tuesday Podcast, Michael J. Novogradac, CPA, shares an update on opportunity zones regulations. He also shares highlights from the Novogradac opportunity zones and affordable housing conferences last week. Other topics he will discuss include Fannie Mae's proposal to re-enter the low-income housing tax credit equity market, guidance on the Housing Trust Fund and the latest qualified equity investment issuance report from the CDFI Fund.

Summaries of each topic:

GENERAL NEWS

Opportunity Zones Regulations

- The question of the hour is *when* the IRS will release its much-anticipated opportunity zones regulations.
- This guidance is expected to clarify several key issues for investors and participants in this new incentive.
- We do expect the regulations to be proposed and interim.
- The Novogradac Opportunity Zones Working Group has submitted several suggestions, many suggestions, to the IRS and we're eager for further clarity on those issues.
- And as I mentioned in an earlier podcast, the IRS did submit regulatory guidance to the Office of Information and Regulatory Affairs at the Office of Management and Budget on Sept. 12.
- Now there is generally a mandated 10-day working review period before the Office of Management and Budget releases the guidance for publication in the Federal Register.
- Well we have shot through that 10-day period.
- It's been nearly a month since the guidance was sent for review.
- We do expect the final guidance any day now.
- So I'd encourage you to subscribe to Novogradac's free industry news alerts to be notified as soon as the guidance is available.
- I will tweet a link to our industry alerts subscription page today.

OZ Conference

- As we await release of the first tranche of opportunity zones guidance from the IRS and Treasury, I do want to note last week we had our first ever Opportunity Zones Conference.
  - We held it in in New Orleans.
- Just before we also held our Affordable Housing Developers Conference.
- Now our Opportunity Zones conference was our largest conference in our firm's history.
- More than 1,000 people came to New Orleans and many more watched it online through our live feed.
  - I'd like to thank all of you who participated, both online, and who came to New Orleans.
- The conference was two great days of education and networking.
- Now our keynote speaker was Dan Kowalski, the counselor to the U.S. Treasury Secretary, Steven Mnuchin.
  - Now the opportunity zones guidance is not yet, as I have already noted, and as such, Dan was limited in what he could say.
  - But what he did say was that we could expect to see <u>two</u> sets of guidance this year.
    - One, this pending round of guidance, followed by a second tranche of guidance later this year.
- Now I also got to share the stage with John Lettieri of the Economic Innovation Group or EIG, as well as Steve Glickman.
- Steve is with Develop LLC now, but he was recently with EIG.

- These two are key figures in the development of the opportunity zones incentive and they did get to share a lot of interesting insights about how it came to be and what they hope it will become.
- I asked John what he thought of the chances of getting any legislation affecting the opportunity zones incentive during the next year.
    - Specifically, I asked about a chance of pushing back the 2026 recognition date or pushing back the five- and seven-year hold metrics.
- Here's what he said about getting that kind of legislation.
    - *"Nothing helps like success, so if we see a marketplace stand up that's having a real impact in communities. The cost of opportunity zones, $1.6 billion over 10 years, that's not a lot. In a $4.5 trillion tax bill, it was truly a drop in the ocean. For the type of benefit we're talking about bringing to communities, I think all of those things are on the table. First things first, I think it's easier to make the case that we should allow investors to recoup the year of implementation by extending that date back or making other types of adjustments that extend that timeline if there's proof that traction is being gained in these communities, that impact is had, that capital is flowing as intended.*
- Now another session that we had at our conference that I think's going to interest many of our podcast listeners was one that focused on how the incentive works and can work with various tax credits.
- Here's a brief synopsis as to what our speakers said.
- Now regarding the low-income housing tax credit (LIHTC), looks like it pairs well with the opportunity zones incentive because so many developments are in opportunity zones.
- And the hold period is generally 15 years.
    - However, attendees were reminded that most acquisition-rehabilitation developments will not qualify for the incentive because the opportunity zones incentive requires substantial improvement of the property.
    - And <u>substantial</u> means 100 percent of the cost over a 30-month period.
    - Most acquisition-rehabilitation properties will not have that level of improvements.
- On the historic tax credit (HTC), meanwhile, it's also a very natural fit for the opportunity zones incentive.
    - Merrill Hoopengardner of the National Trust Community Investment Corporation said that 46 percent of HTC properties that received Part 3 approval last year were in opportunity zones.
    - And 58 percent of properties that received Part 2 approval were in opportunity zones.
        - Very high percentages.
    - As such, that means there's a real chance to use the new incentive to add equity to HTC developments.
- Regarding new markets tax credits (NMTC), things get a little more complicated.
    - My partner Nicolo Pinoli from our Portland, Ore., office reminded attendees the opportunity zones incentive is all about equity, whereas the NMTC is usually about lending money to qualified businesses.
    - Nicolo did say it's worthwhile looking at how to pair the two together, however, in many situations, they won't overlap that well.

- Now we continue to examine a variety of issues around opportunity zones, and we plan to soon publish our first Opportunity Zones Handbook.
- We're awaiting this first release of Treasury guidance, and then we'll update our current draft, our internal draft, and then the Opportunity Zones Handbook will be ready for release.
- I'll keep you updated on the progress and let you know when it's available.
- Once again, thanks to everyone who came to New Orleans or watched online.
- Now we do have two opportunity zones conferences planned for next year, one's in April, one's in October.
- I'd encourage you to register early for these conferences, since this Opportunity Zones Conference did sell out.
- I will update you in future podcasts as soon as we have more information about the conferences next year.

LIHTC Conference

- As I noted earlier, after our Opportunity Zones Conference last week, we held our Affordable Housing Conference in New Orleans.
- Now there was a fair amount of discussion during the conference about the possibility of affordable housing legislation being passed in the lame-duck session of Congress.
        - More specifically, affordable housing tax legislation.
    - Specifically, whether some provisions from the Affordable Housing Credit Improvement Act might be included in some technical corrections or other tax bills in a lame-duck session.
    - The key point is that while the Affordable Housing Credit Improvement Act as a whole is unlikely to pass this Congress, parts of it, potentially many parts of it could.
    - Now we've already seen that with the inclusion of income-averaging being included as well as the temporary 12.5 percent allocation increase in the omnibus bill earlier this year
    - And as you would expect at a bond conference, there was a lot of enthusiasm for the provision to create a 4 percent floor for the low-income housing tax credit (LIHTC).
- Now there was plenty of other discussion as well.
- Our equity panel said that the market has largely stabilized after tax reform.
    - One observation was that some investors who are especially interested in the Community Reinvestment Act are seeing their CRA cycle end, such that their interest level is diminishing.
    - However, yield-based investors are still there.
- During our bond track sessions, there was more discussion about 4 percent LIHTCs.
    - Panelists said that HUD's Rental Assistance Demonstration program, or RAD, has helped maintain an appetite for 4 percent credits and tax-exempt bonds.
    - Now attendees were reminded that public housing agencies are often looking for development partners to help them with a tax credit renovation of their property through RAD.
- Now as always, if you have any questions about financing affordable housing developments, please contact a Novogradac partner near you.

Fannie Duty-to-Serve Plan

- Staying on the topic of affordable housing, the Federal Housing Finance Agency, or FHFA, is considering changes to Fannie Mae's proposal to start investing in LIHTC equity.
- That under its duty-to-serve underserved markets plan.
- Now the proposal is a modification of Fannie's duty-to-serve plan for the years 2018-2020.
- Now more specifically, the proposed changes to their equity investments would be in rural areas that are eligible for duty-to-serve consideration.
- Fannie proposes to make LIHTC equity investments in
    - 20 properties in 2018,
    - 30 properties in 2019 and
    - 30 more properties in 2020.
- Now before this year, FHFA said Fannie Mae had not made any equity investments in LIHTC properties in the past eight years.
- And Freddie Mac, I should note, recently made its first LIHTC equity investment in nearly a decade through a partnership with Enterprise Community Investment.
- Now Fannie and Freddie were once major equity investors in the LIHTC.
- That before becoming subject to the corporate alternative minimum tax in 2007 and being placed under conservatorship in 2008.
- Now FHFA has invited public comment on Fannie's proposed re-entry as a LIHTC equity investor.
- Comments are due Nov. 2 and FHFA will publish approved modifications in December.
- If there is input that you'd like to share, I'd encourage you to email the Novogradac LIHTC Working Group as soon as possible.
- I'll include the appropriate email address in today's show notes.

OTHER NEWS

- Turning to other news, I have a quick update from HUD.
- Last week HUD issued guidance for Housing Trust Fund grantees.
    - The notice outlines commitment and expenditure requirements under the Housing Trust Fund.
    - This guidance also described how HUD would determine compliance with deadline requirements.
- Also last week, the CDFI Fund released its latest Qualified Equity Investment Issuance Report.
- As of the report's Oct. 2 release, the amount of NMTC allocation authority still available is more than $3.2 billion.
- If you would like to see the latest QEI Report, go to www.newmarketscredits.com.
- And to get insights into the 2018 NMTC allocation round and what's ahead for the 2019 round, be sure to register for our Novogradac New Markets Tax Credit Fall Conference next week.
- The conference is being held in Austin, Texas on Oct. 18-19.
- I've included a registration link in today's show notes, and I'll also send out a tweet.

RELATED RESOURCES

Opportunity Zones Regulations

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LIHTC Conference

Contact a Novogradac partner for LIHTC assistance

Fannie Mae

Request for Input on Fannie Mae and Freddie Mac 2018-202 Duty to Serve Plan Modifications

Email LIHTC Working Group

Housing Trust Fund

Notice CPD-19-12: Commitment and Expenditure Deadline Requirements for the Housing Trust Fund Program

QEI Issuance Report

NMTC Qualified Equity Investment Report

Register for the Novogradac 2018 New Markets Tax Credit Fall Conference