



NEW MARKETS TAX CREDITS

A General Briefing

New Markets Tax Credits (NMTCs)

- Initially put in place for 2001-2007
 - \$15 Billion investments to be directed to “low income communities”
 - 39% Tax Credit to investors over 7 yrs.
 - “GO Zone Investments later added
- One year extension for 2008
- Legislation before Congress for 2009

New Markets Tax Credits

- 2 Administering agencies
 - US Department of the Treasury's Community Development Financial Institutions Fund (CDFI fund)
 - Internal Revenue Service

NMTC Basic Program

Community Development Entities (CDEs) must use substantially all of the proceeds from Qualified Equity Investments (QEIs) to make Qualified Low-Income Community Investments (QLICIs) to Qualified Active Low-Income Community Businesses (QALICBs) located in Low-Income Communities

NMTC Terminology

- **CDFI Fund**-Certified Development Financial Institution Fund-receives applications from CDEs, evaluates and awards allocation amounts for investments eligible for NMTCs to **successful CDEs**
- **CDE**-Certified Development Entity-applies to and may receive an award from CDFI Fund to “earmark” investments eligible for NMTCs. Receives a “fee” for this “earmark” from QALICB

NMTC Terminology

Continued

- **QEI**-Qualified **Equity** Investment made by an Investor **into a CDE**. Said QEI is eligible for NMTCs. This must be made w/in 5 years of award.
- **QLICI**-Portion of QEI (substantially all) that is invested by CDE into a **QALICB** in a “**Low Income Community**”. This may be loan and/or equity. QLICI must be made w/in 12 mos. of QEI.

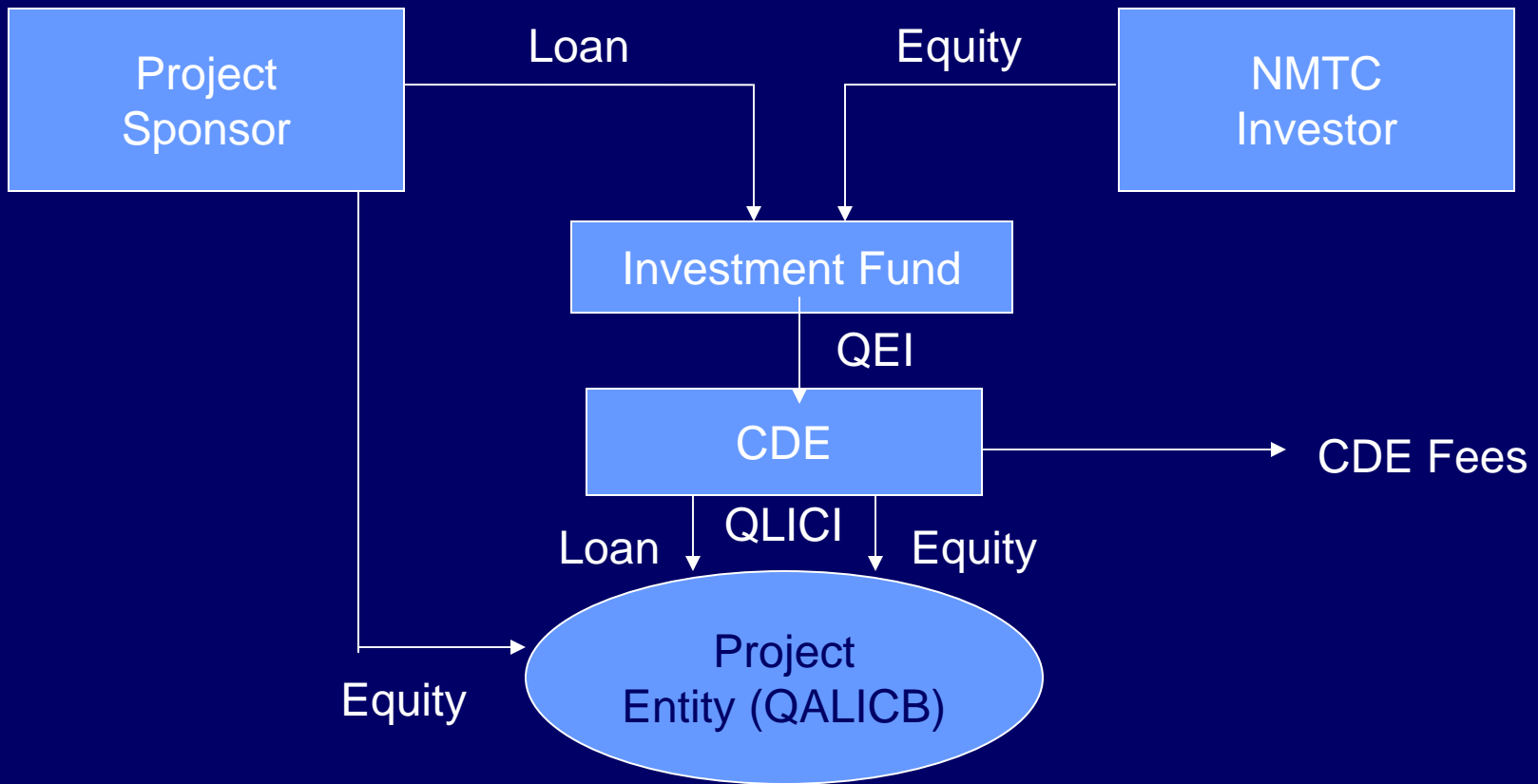


NMTC Terminology

Continued

QALICB-Qualified Active Low Income Community Business. Must be located in a “Low Income Community.” This has very specific restrictions (addressed later).

Simple NMTC Diagram



Requirements for NMTCs

Project must:

- ❑ be in a “Low Income Community”
- ❑ be a “Qualifying Active Low Income Community Business”
- ❑ have an allocation from a CDE

Low Income Community

Qualifying Census Tract

- Poverty Rate > 20%, or
- Median Income < 80% of the greater of:
 - Statewide Median Income
 - Metro Area Median Income
- Targeted Populations
- Certain Census Tracts with < 2,000 people
- High Migration Rural Counties

Highly Distressed Census Tracts

- Poverty rates >30%
- Median family income \leq 60% of MSA or State median, whichever is greater
- Unemployment rate at least 1.5 X National Average
- Federally designated Empowerment Zone, Enterprise Community, or Renewal Community
- SBA designated HUB Zones in certain cases

Highly Distressed Census Tracts

- Federally designated Brownfields redevelopment areas
- Areas encompassed by a HOPE VI redevelopment plan
- Federally designated Native American or Alaskan Native areas, Hawaiian Homelands, or redeveloped by appropriate tribal or other authority

Highly Distressed Census Tracts

- Areas designated as distressed by Appalachian Regional Commission or Delta Regional Authority
- Colonias areas as designated by HUD
- Federally designated medically underserved areas, in certain cases
- CDFI Hot Zones

Highly Distressed Census Tracts

- High Migration Rural County
- State or local TIF districts, enterprise zone programs, or other similar state/local programs targeted towards particularly economically distressed communities
- Counties for which FEMA has issued “major disaster declaration” since 7/15/05 and determined eligible for both “individual and public assistance”

QALICBs

Corporation or Partnership in active conduct of a “qualified” business meeting ALL of the 5 following requirements:

1. Gross Income-50%
2. Tangible Property-40%
3. Services Performed-40%
4. Collectibles-5%
5. Nonqualified Financial Property-5%

QALICBs

“Active”

- CDE reasonably expects business to generate revenues w/in 3 years
- Nonprofits must be expected to be engaged in an activity that furthers purpose as nonprofit w/in 3 years

QALICBs

“Qualified” Business

- Rental Real Estate (NO “sin” lessees)-80% limitation on residential
- Excluded Businesses/activities
 - Intangibles for sale or license
 - Country Clubs, Golf Course, Massage Parlor, Hot Tub Facility, Suntan Facility, Racetrack or or Other Gambling Facility or Liquor Store
 - Certain Farming Businesses

QALICBs

- CDE must have reasonable expectation that business will remain QALICB during 7 year compliance period at time of investment
- Cannot have “control”-direct or indirect-of 50% or more of the entity

To Receive NMTC Equity:

- **QALICB** needs an **allocation** of investment dollars eligible for the NMTC from a CDE
 - CDEs **compete** to get allocations for eligible investments from the CDFI fund
 - Projects **compete** to get a **CDE** receiving an allocation to “**earmark**” a portion of their allocation for QALICB, which allows the investors to receive tax credits in exchange for investing in your project

5th Round CDE “Competition”

- 258 Qualifying CDEs applied for allocations
 - Applicants’ names not disclosed
- 61 successful CDEs
 - 50 were awarded \$3.5 Billion allocations
 - 11 were awarded \$0.4 Billion GO Zone Allocations

Competition for CDE “Earmarks”

- Economic, cultural, educational, community impact
 - FTE Jobs
 - Direct, Indirect, Induced Impact
- **Monetary need** that earmark completes
- **Timing** can be critical
 - **Competition** for allocations is heavy
 - CDEs have limited **territories**
 - Each CDE has a **mission** or objective

“Recapture”

- Possible for 7 years after QEI made
- Amount = NMTCS already allowed + Interest
- Causes:
 - CDE ceases to be “qualified”
 - Amounts invested no longer “substantial”
 - Equity investment is redeemed by CDE
- Risk to investor - “all or nothing”

Can a Non-Profit Owned Benefit from Tax Credits?

- Non-profit continues to exist for purposes of donations and fundraising activities
- Forms a partnership
 - For profit entity that pays a large amount of taxes – contributes cash (equity) in exchange for tax credits
 - Non-Profit “contributes” “Property”, and funds from fundraising activities

Can a Non-Profit Owned Theatre Benefit from Tax Credits? – cont'd

- Each New Markets Tax Credit investment will pass through a CDE before passing into the “Project” entity
- The actual structure will depend on the Investors, type of Investments, number of investors, etc.

No “Free Lunch”

- Funds must be set aside to exit
- CDE requires an up front fee and asset management fees over the 7 year term
- CDE and Investor legal and accounting fees must be paid
- Owner’s team of advisors, legal counsel, and accountants must be paid

Example

■ Project Cost -		\$60,000,000
■ QEI (Conservative Estimate)	\$ 45,000,000	
■ New Markets Credit @39%	\$ 17,550,000	
■ Investor Purchase Price @75%		\$13,162,500
■ CDE Up Front Fees		\$ 900,000
■ Gross Credits Received		\$12,262,500
■ Less Reserves, Fees (multiple CDEs)*		\$ 4,262,500
■ Net Benefit, Reserving ALL Costs		<u>\$ 8,000,000</u>
		=====

*Market/CDE defines yearly fees, no. of CDEs affects professional fees

2007 CDE Allocations

- 258 applicants, 61 successful CDEs
 - \$3.9 billion “awarded”, \$27.9 billion requested
 - \$3.5 billion outside GO Zone-50 CDEs
 - Fees bring QLICI available to \$3 Billion
- Average allocation \$64 billion
- 46% have national “footprint”
- 24% in “minor urban areas”

2007 CDE Allocations

- 47 will place 100% investments in “higher economic distress than minimum required”
- ALL will place at least 75% in “higher economic distress”
- 63% will invest in “real estate” projects
- Both concessionary debt and equity products

2008 CDE Allocation Process

- CDEs have been working for months
- Applications due late February
- \$3.5 billion other than GO Zone
- Emphasis ever increasing on high economic distress
- 1 in 4 success rate as to CDEs?
- 1 in 9 success rate on allocation \$\$?
- Awards \$12-\$135MM? Avg. \$65MM?

Census Tract Information

- 4 tracts run
- 31.5% Poverty Rate
- 54% of Benchmark Median Income
- 2.37 x National Unemployment Rate