Comptroller of the Currency
Administrator of National Banks

Community Developments

Community Affairs
Department

Fact Sheet

New Markets Tax Credits

What are New Markets Tax Credits?

The New Markets Tax Credit (NMTC) Program is an economic development tax incentive administered by the United States Department of the Treasury's Community Development Financial Institutions Fund.

NMTCs are allocated annually by the CDFI Fund to community development entities (CDEs) under a competitive application process.

To qualify as a CDE, an entity must be a domestic corporation or partnership that:

1. has a mission of serving, or providing investment capital for, low-income communities or low-income persons;

2. maintains accountability to residents of low-income communities through their representation on a governing board of, or advisory board to, the CDE; and

3. has been certified as a CDE by the CDFI Fund.

What are the benefits to banks?

- Investors receive a credit against federal income taxes for making qualified equity investments in Community Development Entities (CDEs).
- The credit totals 39 percent of the cost of the investment and is claimed over a seven-year period.
- NMTCs are a CRA-eligible activity.

How can banks utilize NMTCs?

1. Form a CDE as a bank subsidiary (or bank holding company affiliate) and apply to the CDFI Fund

The CDE can apply for certification on the CDFI Fund's Web-site (www.cdfifund.gov)

CDFI Fund-certified CDEs are eligible to apply for NMTC during the Treasury Department's annual funding round.

CDEs must make 85 percent of their investments in Qualified Low Income Community Businesses. These businesses must be in economically targeted areas as defined by the CDFI Fund.

2. Invest in another entity's CDE

Some CDEs that have received NMTC allocations are seeking investors to share in the tax credits.

The CDFI Fund's Web-site contains a listing of NMTC awardees by state.

3. Invest through a fund

Some CDEs have formed their own equity funds. By investing in a fund, a CDE can more effectively manage cash flow thus reducing risk of recapture to the investor.

What are the NMTC regulatory considerations?

Equity investments in a CDE can be authorized public welfare investments under 12 CFR 24. National banks are required to submit after-the-fact notifications (or seek prior approval) for their investments with the OCC.

Alternatively, a national bank can establish and capitalize a CDE as an operating subsidiary or as a non-controlling equity investment if 12 CFR 5.34 or 5.36, respectively, are satisfied. (See http://www.occ.gov/cdd/legal_authority.html)

What are the risks of NMTCs?

A bank should consider the compliance, credit, and liquidity risk of any investment it is considering.

In order to take full advantage of the credits under the NMTC program the bank should have taxable income projected for the term of the investment.

NMTCs are subject to recapture for seven years after an equity investment is made in a CDE if:

- A CDE ceases to be a certified CDE, or
- "Substantially all" of the equity investment proceeds are no longer used for qualified Low-Income Community Businesses, or
- The CDE redeems the equity investment.

For more information

- OCC's Summer 2004 *Community Developments Investments* entitled" New Markets Tax Credits – Bridging Financing Gaps" at: www.occ.gov/cdd/index.html
- CDFI Fund's Web-site at: www.cdfifund.gov
- OCC's Web-site for information about the Part 24 community development investment authority at: http://www.occ.treas.gov/cdd/pt24toppage.htm
- OCC's District Community Affairs Officers whose contact information can be obtained at: www.occ.treas.gov/cdd/commfoc.htm