May 30, 2019

The Honorable Steven Mnuchin
Department of the Treasury
1111 Constitution Ave NW
Washington, DC 20224

Re: Request for Information on Data Collection and Tracking for Qualified Opportunity Zones, Document Citation 84 FR 18648

Dear Secretary Mnuchin:

Thank you for the opportunity to comment on the data collection and tracking requirements for Opportunity Zones. I am writing on behalf of Opportunity Finance Network, a national association of more than 270 Community Development Financial Institutions (CDFIs) investing in opportunities that create affordable housing, vital community services, and entrepreneurial capital in rural, urban, and Native communities. OFN members have cumulatively provided more than $65 billion in responsible lending to help low-income, low-wealth, and otherwise disinvested individuals and communities nationwide.

OFN has consistently advocated for meaningful and comprehensive data collection as an essential component to be able to measure the impact of the Opportunity Zone provision, to provide transparency to communities, and to ensure Opportunity Zones are working for the residents of the target census tracts. As a part of that effort, OFN contributed to the Opportunity Zones Framework, created in partnership with the US Impact Investing Alliance, the Beeck Center at Georgetown University, and the Federal Reserve Bank of NY, which identifies best practices, a reporting framework, and a shared goal of measuring outcomes. Opportunity Zones and Opportunity Funds require robust data collection in order to accurately evaluate the impact on target communities and to calculate the return on investment from the Federal government. OFN strongly supports the Opportunity Zones Framework and has incorporated many of its recommendations in this comment letter.

The Opportunity Zones provision is a potential source of up to $100 billion of capital for low income communities, however, without strong reporting and data collection, it will be impossible to determine the exact impact of Opportunity Fund investment in these target communities and to ensure that the investment is benefiting members of that community. Overall economic indicators may provide a snapshot of the situation in a community but will be insufficient to determine whether any growth is the result of Opportunity Fund investment and how that growth has impacted the long-time residents of the community. More detailed data collection will be needed to prove cause and effect. The promise of Opportunity Zones lies in creating lasting economic growth for the residents of these communities which will require private, public, and non-profit entities to work together and strong reporting and transparency standards.

We have prepared responses to each of the individual questions laid out in the request for information:

1. *What data would be useful for tracking the effectiveness of providing tax incentives for investment in qualified Opportunity Zones to bring economic development and job creation to distressed communities?*


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Opportunity Finance Network strongly supports collection of transaction level data with impact measurements to determine the full effectiveness of the tax incentive. Transaction level data is the only way to track where the investment is going. Census tract level economic data will not provide the detail needed to determine whether any economic development is directly attributable to investment by an Opportunity Fund rather than to overall economic growth. Data analysis will require details about the specific location of each investment. Impact data, such as the number of jobs created, type and number of housing units constructed, or square footage of commercial real estate is needed to determine the direct impact of the Opportunity Fund investments. Once this detailed data has been collected, Opportunity Zones can be compared on equal footing to other community and economic development initiatives.

2. *In addition to the anticipated revisions to Form 8996 discussed in the Summary of this Notice and Request for Information, is there other information that could appropriately be collected on a tax form that would be helpful in measuring the effectiveness of the Opportunity Zone incentives. For example, should qualified Opportunity Zone businesses be required to report on a tax form the location by census tract of 1. Owned and leased tangible property or 2. Employees of a qualified Opportunity Zone business?*

   OFN is supportive of collecting comprehensive data that will show where the investment is being made, the results of the investment, and the impact on the targeted community. The data collection by Treasury should be significantly expanded to get the full picture of the impact of investments on communities. This data collection should include the:

   - Size of the investment
   - Location of the investment
   - Type of investment
   - Community impacts of the investment
     - Housing units created (affordable and market rate)
     - Permanent, seasonal and construction jobs created
       - Whether those jobs went to residents of the Opportunity Zone
     - Square footage of commercial real estate
     - Number of new small businesses created
     - Other appropriate measures based on asset class (childcare spots created, patients served via a medical facility etc.)

   In addition we would also recommend that Opportunity Funds provide a brief narrative description of each project investment, which would include: the nature of the project; the benefits to the community; the degree to which the project was developed in consultation with the community residents and/or mitigated against displacement; and the extent to which the project connects with local workforce development efforts for low and moderate income residents.

   OFN supports the use of an online portal managed by the CDFI Fund for the collection of this data.

3. *What data would be useful for measuring how much would have been invested in qualified Opportunity Zones in the absence of the Opportunity Zone incentive?*

In order to determine what investment would have taken place without the Opportunity Zone incentive, the direct impacts of the Opportunity Fund investments and the ability to tie those investments to specific projects and locations is essential. Beyond the data that is collected about Opportunity Fund investments, the Federal government should track the economic conditions in the designated Opportunity Zones, those census tracts that were eligible for designation and not chosen and those areas that were not eligible for designation. Comparing the data about Opportunity Fund investment with overall economic conditions and impacts and mapping the trends in geographic areas will allow the Federal government and research entities to determine whether investments were made as a result of the Opportunity Zone tax incentive and not simply as a continuation of pre-existing economic growth or a result of national or regional economic conditions.

4. *What data would be useful for ensuring that the investments opportunity remains an attractive option for investors?*

   Data collection that shows which investments have had success will provide future investors with detailed information about the viability of investing in Opportunity Zones. Since investment in community development may be new to many of the investors looking to take advantage of the Opportunity Zone incentive, detailed information about where and how investments are taking place will build confidence and comfort. The ability for investors to see that their investment can generate a return, create a community impact and garner tax benefits will increase the attractiveness of investment in Opportunity Zones.

5. *What are the costs and benefits of various methods of information collection? Who should perform this data collection?*

   The transaction level data that will need to be collected should not generate significant cost to investors or Opportunity Fund managers. The data to be reported will generally be a part of the information collected in day to day management of an investment or gathered during the due diligence period prior to an investment. Reporting this existing information annually through a streamlined online portal should be a negligible expense. The benefit of collecting such data is detailed throughout this comment letter.

   In order to keep the cost of data collection down for the Federal government, the CDFI Fund is best equipped to collect the appropriate data. The CDFI Fund is already accepting transaction level data with impact reporting for other programs, such as the New Markets Tax Credit. Rather than spending additional and unnecessary time and money to create a new data collection and tracking system within Treasury, it would be prudent to use the knowledge and systems that are already in place to collect, analyze and report the data on Opportunity Fund investments. The CDFI Fund reporting portal has also already been tested by program participants for years, ensuring that the portal and data collection system will meet the needs of Treasury, Opportunity Funds, and community groups. Upscaling the ability of the CDFI Fund to collect and report the data will require the investment of additional Federal funds, however, it will be significantly cheaper than creating a new system.

6. *What considerations should government officials take into account when considering data to analyze the effectiveness of the qualified Opportunity Zone incentives to promote economic development to distressed areas? Over what time period should this analysis occur?*

   Analysis and public reporting of the data collected by Treasury needs to occur on a regular and timely schedule. The transaction level data should be made publicly available annually. By making this data public on a regular basis, it will allow private, non-profit, philanthropic and educational institutions to analyze the data and react quickly to emerging trends to make the incentive as effective as possible.

   The Federal government should analyze the data to determine
   - The number of qualified Opportunity Funds
   - The amount of assets held in qualified Opportunity Funds
   - The composition of qualified Opportunity Fund investments by asset class
   - The percentage of qualified Opportunity Zone census tracts that have received qualified Opportunity Fund investments
   - The geographic and demographic distribution of Opportunity Zones receiving investment, including a comparison of the percentages of urban, rural and Native Opportunity Zones that are receiving investment
   - The impacts of investment in those areas on economic indicators, including job creation, poverty reduction, new business starts, affordable housing units created etc.

7. *How do you view the role of the Federal Government, and Tribal, State and local governments in the ongoing maintenance and administration of Opportunity Zones?*

   Federal, Tribal, State and local governments must all have a role in the maintenance and administration of Opportunity Zones, however, as a Federal tax incentive the Federal government must take a leading role in setting standards for Opportunity Zones and Opportunity Fund investments. Local, State and Tribal governments are best suited to engage with other community partners, provide marketing and educational support to projects seeking investment, and provide additional incentives tailored to the needs of their area. The Federal government is needed to set strong, nationwide reporting requirements, standards for bad actors, and the overall regulatory environment for investments. In the absence of nationwide standards for data collection and reporting it will be nearly impossible to get a complete analysis of the success of the provision or to properly compare the impacts in different regions of the country.

8. *Is there any additional information regarding data collection and tracking for Opportunity zones not already addressed that you would like to provide?*

   CDFIs have a unique perspective on the data collection that is needed in low wealth communities. CDFIs have been making loans in many of the over 8,700 designated Opportunity Zones and are already required to report transaction level data to the CDFI Fund at the Department of the Treasury each year as a condition of receiving funding through the CDFI Fund. Treasury has already determined that this level of reporting is appropriate to determine the impact of investment in low to moderate income communities.

Our mission is to ensure access to capital in low- and moderate-income communities and we do not want to require any reporting or data collection that will serve as an impediment to this goal, however, we must ensure that Opportunity Funds are making responsible investments and are being responsible stewards of the Federal tax incentive that they have been given.

In addition to providing data on the efficacy of the Opportunity Zone provision and on the impact to the targeted community, comprehensive data collection will help to identify which types of investments are the most effective and if there are any gaps in the investments in Opportunity Zones that could be addressed in future legislation. This data will allow policy makers to get a true picture of the full field of investment and to be able to compare impacts across the country.

Data collection will also serve to benefit the efforts of the White House Opportunity and Revitalization Council as they seek to target other Federal programs to benefit Opportunity Zones. By being able to clearly see the investments being made in the private market, the Federal government can fill the gaps needed to support that investment. If, for example, several investments are being made in an Opportunity Zone for manufacturing facilities, the Federal government could support workforce training or apprenticeship programs to train members of the community to fill the new jobs.

Additionally, we have concerns that the current self-certification and lack of reporting requirements increases the potential for bad or unscrupulous actors to participate in the program. As is the current practice under the New Markets Tax Credit Program, the IRS should consider requiring managers of Opportunity Funds to self-certify that neither the Fund nor its principals:

(i) have, within a three-year period preceding the formation of the Opportunity Fund, been indicted, charged with or convicted of, or had a civil judgment rendered against it for commission of fraud or a criminal offense;

(ii) have, within a three-year period preceding the formation of the Opportunity Fund, been indicted, charged with or convicted of, or had a civil judgment rendered against it for violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(iii) are presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in (i) and (ii).

OFN was pleased to see information in the preamble of the second tranche of regulations that Treasury will be releasing further guidance on bad actor provision later this year and encourages Treasury to act quickly and comprehensively to protect the integrity of the Opportunity Zones provision.

OFN also recognizes that it was Congressional intent to ensure accountability of Opportunity Funds to achieve certain community development impacts through their investments in Opportunity Zones. As noted in the Conference Report that accompanied H.R. 1 (Report 115-466):

> *"The provision intends that the certification process for a qualified opportunity fund will be done in a manner similar to the process for allocating the new markets tax credit. The provision provides the Secretary authority to carry out the process."*

Consistent with the language of the Conference Report, it would be appropriate for the Treasury Department to require Opportunity Funds to identify, at the time of certification, one or more outcomes from a list of desirable community development outcomes that they intend to achieve with their investments. These could include, for example: creating quality jobs for low-income individuals; developing affordable housing for low-income families; investing in community facilities that provide services benefitting low-income community residents; etc.

Collecting this information at the time of an Opportunity Fund's certification is not at all burdensome and will not in any way slow down Fund formation or investment activity. Any Opportunity Fund that is being created will already know their target investment market and will be able to simply select from the pre-prepared options. This will encourage Opportunity Funds to think intentionally about how their investments will produce positive outcomes for community residents and it will provide a metric to measure the results of the Opportunity Fund's investments.

Thank you again for the opportunity to comment on these important data reporting and transparency requirements. Opportunity Finance Network looks forward to continuing to work with Treasury on this and other important issues.

Sincerely,

Jennifer A Vasiloff

Jennifer A. Vasiloff
Chief External Affairs Officer

Attachment: Prioritizing and Achieving Impact in Opportunity Zones, Opportunity Zones Framework, Beeck Center

## Prioritizing and Achieving Impact in Opportunity Zones

Opportunity Zones have captured the attention of investors, fund managers, policy makers and community advocates. Proponents anticipate that the policy will unlock billions of dollars to support vital community development projects and create economic opportunity in distressed areas. As interest in Opportunity Zones increases, it is important that early participants in the Opportunity Zones market maintain focus on achieving the purpose for which the policy intended: positive economic and social outcomes.

The tax benefits associated with the Opportunity Zones policy will allow investors to leverage more capital for projects in these communities while also reducing their capital gains tax bill. Many of the investors entering this market are doing so with an explicit goal of creating positive social, economic and environmental impact. But even where an investor's objectives are purely commercial, successfully investing in the Zones will require careful attention to existing community assets, needs and priorities.

For residents of these communities, and for the investors who will bring those dollars to bear, a clear approach to Opportunity Zones investment, guided by a shared set of principles and implemented through a common and flexible reporting framework, offers the best chance to deliver on the promise and potential of the Opportunity Zones policy.

The U.S. Impact Investing Alliance, the Beeck Center at Georgetown University, and the Federal Reserve Bank of New York recognized that a broad range of actors will benefit from a shared approach. Last year, the 3 entities convened multiple roundtables with community development investors, researchers, policy makers and other practitioners to discuss how to ensure that these investments result in meaningful and inclusive economic development. Following those discussions, the U.S. Impact Investing Alliance and the Beeck Center partnered to develop such an approach that we believe will allow stakeholders of all kinds to link their work to the emerging nationwide body of Opportunity Zones practice. Simultaneously this will enable each stakeholder to effectively measure and manage for the impact and outcomes they seek to achieve.

This document is specifically focused on how Opportunity Fund managers can thoughtfully deploy the capital they raise from investors. Fund managers will be responsible for identifying and tracking Opportunity Zones investments and as such will be well placed to collect basic market and impact data. Proactive efforts to do so will enable fund managers and their investors to understand the impact of investors and enable independent evaluators and researchers to more deeply analyze the long-term outcomes of the overall policy. This approach includes:

- **Guiding Principles**: We agree that Guiding Principles are core to effective and equitable Opportunity Zones investment and implementation.
- **Reporting Framework**: We agree that a Reporting Framework is necessary to promote beneficial Opportunity Zones investment at scale. This common approach should include a set of core criteria, while maintaining the flexibility to be effectively deployed by diverse stakeholder groups across a wide range of asset classes.
- **Shared Goal of Measuring Outcomes:** We understand that different entities including state and local government, industry groups and other organizations, serving multiple stakeholder groups, may seek out different types or amounts of data. We believe that the approach we outline here allows for each organization to develop deeper layers of data collection, building on the

common Reporting Framework. We also believe that this approach is the most effective pathway to widescale deployment of the Framework and, ultimately, achievement of the outcomes sought by the Opportunity Zones policy.

## Guiding Principles for Opportunity Zones Stakeholders

We are optimistic about the possibilities that Opportunity Zones and Opportunity Funds offer to combat economic inequality and barriers facing low-income and underinvested communities. We also believe that doing so will require focus on these goals, as well as diligent efforts to avoid unintended outcomes. These principles are designed to guide stakeholders, of all kinds, as they conceptualize and implement their Opportunity Zones activities.

1. **Community Engagement:** Opportunity Fund investors should request that fund managers integrate the needs of local communities into the formation and implementation of the funds, reaching low-income and underinvested communities with attention to diversity.
2. **Equity:** Opportunity Fund investments should seek to generate equitable community benefits, leverage other incentives and aim for responsible exits.
3. **Transparency:** Opportunity Fund investors should be transparent and hold themselves accountable, with processes and practices that remain fair and clear.
4. **Measurement:** Opportunity Fund investors should voluntarily monitor, measure and track progress against specific impact objectives, identifying key outcome measures and allowing for continuous improvement.
5. **Outcomes:** Opportunity Fund metrics should track real change, with an understanding that both quantitative and qualitative measures are valuable indicators of progress.

## Opportunity Zones Reporting Framework

The Opportunity Zones Reporting Framework contains criteria that represent the shared, common and collective metrics that should be utilized by all stakeholders across the Opportunity Zones landscape. By introducing these consistent data points at the inception of Opportunity Zones implementation, we can ultimately gain a deeper understanding of activity across the Opportunity Zones landscape – what is working, where hidden barriers lie, and where policy adjustments or enhancements may be needed.

By enabling various entities, including state and local government, industry groups and other organizations, to develop additional layers of data collection on top of this common Framework, we seek to enable innovation in measurement, and impact, across asset classes and stakeholder types.

**I. Investment Intention and Community Engagement**: Opportunity Fund managers should proactively report information that will encourage effective market formation and enable community engagement before and during investments.

**Prospective Information**

- Geographic focus (state, zip code, urban focus, rural focus, etc.)
- Intended investment focus (housing, small business, growth business, etc.)
- Target investment size
- Mission statement or impact objective

**Basic Fund Demographics**

- Size of fund
    - Total assets
    - Eligible deferred gain assets
- Type of investor (corporate, individual filer)
- Tax-paying residence of investors (aggregated by state and portion of fund assets)
- Structure of fund (single, multi-asset)
- GP demographics (including racial and gender composition)

**Community Engagement**

- Community support indicators
    - Community engagement narrative
    - Community needs assessment
    - NGO partnership
    - Public notice of development
- Engagement with regional economic development strategies
    - *Example – Fund manager has conducted consultations with the relevant economic development agency.*

**II. Impact Measurement and Reporting**: Opportunity Fund managers should commit to tracking and reporting basic transaction-level data, a core set of community impact metrics that are widely applicable to Opportunity Funds and additional metrics applicable to the specific investment thesis and impact vertical(s) of the fund. These should be reported in a common standard to allow for regional and national aggregation of data.

**Transaction Data Reporting**

- Size of investment
- Location of investment (census tract or address)
- NAICS code of operating business
- Type of qualifying property

**Core Community Impact**

- Jobs
    - Number of employees
        - Permanent
        - Seasonal
        - Construction
    - Net new jobs created
    - Number of employees from LMI communities
    - Employment of targeted disadvantaged groups (i.e., returning citizens, veterans, etc.)
- Entrepreneurship (if applicable)
    - NAICS code of commercial tenants (real estate)
    - Percentage of woman- or minority-owned enterprises
    - Percentage of first-time business owners
- Real Estate (if applicable)

- Affordable housing
    - Net new number of affordable units
    - Number of net additional individuals housed based on development
    - % of units that are affordable
    - Number of affordable units renovated
- Square footage of real estate
    - Commercial
    - Residential
- Infrastructure improvements

**Investment Thesis Reporting** – Fund managers should additionally select, measure and report on metrics specific to the investment thesis and impact vertical of the fund. Where possible, this should be done in alignment with validated third-party evaluation methodologies. There are many widely accepted methodologies, including, but not limited to AERIS, BLab, IMP, IRIS, iRR, etc.

- *Example:* Education and Training (if applicable)
    - Student transition rate (% of students transitioning from one level to the next)
    - Dropout rates
    - Truancy rates
    - Number of people receiving vocational or technical training for 21st century jobs
- *Example:* Environment (if applicable)
    - LEED certification/compliance
    - Other environmental impact standards

**III. Lasting Community Impact**: Opportunity Fund managers should seek opportunities to create durable community benefits by prioritizing responsible investment exit strategies where feasible.

**Responsible Exits**

- Attention should be given to exit considerations at the outset of investment. Side letters, term sheets or non-binding exit plans could provide various considerations, including:
    - Stakeholder first right of refusal
    - Employee stock ownership plans
    - Management continuity
- These formal provisions may not be appropriate for all funds and investors. In such cases, a broad commitment to preserve community wealth could be issued by fund managers without obligating specific action.

**IV. Transparent Outcomes Reporting**: While it is beyond the expertise and scope of most fund managers to perform rigorous impact outcomes assessments themselves, managers should commit to working forthrightly and transparently with independent evaluators and researchers.

## Towards a Common Goal

Opportunity Zones are a powerful tool to provide improved quality of life and economic empowerment for underserved communities across the United States. We believe that, by utilizing the common approaches articulated in this document, we can enable an important collective step towards a shared and equitable future.

***DRAFT* Sample Reporting Form**

Mission statement: Key target impact of investments.

Investment Thesis: What are the sectors or industries in which the fund seeks to invest and why?

Commitment to report publicly: Yes/No

Fund information

- Size of the fund
- Location of capital deployment (census tracts)
- Type of qualifying property or business
- GP demographics (race and gender composition)

Intended impact: Defined for each fund and investment. [There are existing tools available for fund managers to help define, measure and quantify impact].

- Intended impact, e.g. (not limited to)
  - Education – high school graduation rates, school retention rates, job retained
  - Affordable housing – number of affordable units created as % of development
  - Jobs – number of jobs retained within community, % of salary increase for lowest paid employees
  - Entrepreneurship – number of new businesses started, number of female and minority owned businesses created
  - Access to healthy food
  - Environment impact

Community Engagement

- Method of community engagement
- Type of feedback incorporated
- Partnerships with local organizations and type of partnership
- Community needs assessment or alignment with established community priorities
- How investment is aligned with local/regional economic development strategies

Post-Exit Evaluation

- Community impact beyond hold period
- Variation from original intention