Introduced in 2000 under the administration of president Bill Clinton, the new markets tax credit (NMTC) is “a credit against United States income tax for investments in businesses located in low-income communities” (Kleban & Swartzendruber, 2014, p. 1). The program was conceived as “an antipoverty tool” meant to spur investments in economically distressed locations that had traditionally “lacked the access to capital and credit that is essential to economic growth” (Kerley, 2019, p. 111-112). Such investments have led to improved access to education, healthcare, and food, among other benefits. This paper will cover the elements that comprise the NMTC, the positive aspects of the funding model, and criticisms of the strategy.

The primary elements in the NMTC system are the NMTC, the CDFI, CDEs (which issue QLICIs), investors (that issue QEIs), and QALICBs; definitions and explanations of these terms will follow. The U.S. Department of the Treasury’s Community Development Financial Institutions Fund (CDFI Fund) administers the NMTC, which totals [$3.5 billion] annually (Kerley, 2019, p. 114). Through an extensive application process, community development entities (CDEs) then “compete for and [receive allocations of the] NMTC authority from the CDFI Fund.” CDEs must then “administer its allocation[s] [of the NMTC] to potential investors, and [select] and [invest] in qualified active low-income community businesses” (QALICBs) (Kleban & Swartzendruber, 2014, p. 4). CDEs serve as matchmakers and facilitators in the investment process as they aim to pair investors with QALICBs. An investor provides a qualified equity investment (QEI) to a CDE, which then provides a qualified low-income community investment (QLICI) to a QALICB. The QALICB will then work to repay the QLICI while the CDE will repay the QEI to the investor. All the while, the investor receives the benefit of the NMTC allocation, amounting to a 39 percent credit of their investment, which is then “parceled

out over a seven-year period, with 5 percent available on each of the first three and 6 percent available on the last four credit allowance dates" (Kleban & Swartzendruber, 2014, p. 24).

To qualify as a QALICB, a business must be a corporation or a partnership (the NMTC does not allow for sole proprietorship) that is located in a low-income community and has the potential, as identified by a CDE, "to generate revenue within three years of the QLICI" (Kleban & Swartzendruber, 2014, p. 27). A low-income community is defined as "...any census tract with a poverty rate of at least 20 percent or median family income of not more than 80 percent of the statewide or metropolitan area median family income" (Kleban & Swartzendruber, 2014, p. 5). Proponents of the NMTC suggest that a benefit of the funding system is that thoughtful funding is prioritized due to the competitive nature of the NMTC application process: since "a CDE is in no way assured of future allocations, [its] deployment of allocations to where [they] will have the most impact (as measured by the CDFI Fund criteria) must be a CDE's guiding principle in determining QALICB investments" (Kleban & Swartzendruber, 2014, p. 6). The function of the CDE is one of the unique and innovative aspects of the NMTC system as they preside "over the allocation of a public benefit to private interests" and have the flexibility to invest in a wide-range of businesses to positively impact communities (Kleban & Swartzendruber, 2014, p. 1-6).

To date, the NMTC "program has generated investments totaling [over] $26.4 billion in businesses in low-income communities" (Kleban & Swartzendruber, 2014, p. 2). The ability of the NMTC to generate jobs has led to bipartisan support of the program, which has been "responsible for creating 111,277 permanent jobs, along with 247,555 construction jobs" (Kleban & Swartzendruber, 2014, p. 6). Potential positive externalities of the NMTC include a reduction in "poverty and unemployment rates" (Kerley, 2019, p. 121) as well as improved standards of living through "the provision of services and products not otherwise readily

available or in inadequate supply, [including] fresh food or supermarkets, after-school programs, financial counseling, day cares, and job training programs" (Kleban & Swartzendruber, 2014, p. 3).

While the positive effects of the NMTC are logged and championed, the burdens are quietly felt by the QALICBs. This becomes evident when acknowledging that "...the documentation involved in an NMTC transactions result in expenses above and beyond a typical commercial loan transaction [with] the borrower or QALICB in an NMTC transaction typically [paying] for all of the CDE's legal fees and accounting fees in connection with the transaction" (Kleban & Swartzendruber, 2014, p. 44). Additionally, "...CDEs require QALICBs to provide periodic reporting on certain community benefits and impacts that the QLICI is having" (Kleban & Swartzendruber, 2014, p. 44). QALICBs, some of which may be start-up businesses, are likely to lack the capital (intellectual and human) to perform all these tasks in a manner that allows the business to fully thrive without added financial burden or extra work.

Lastly, a larger drawback of the NMTC system is that the there are no state designated amounts of the NMTC from the CDFI Fund, which leads to a competitive system – a "race to the bottom" - wherein CDEs from across the country all compete for a share of a CDFI honey pot that has a strong likelihood of being distributed inequitably (Kerley, 2019, p. 131).

References

Kerley, R. (2019). NEW MARKET TAX CREDITS, FISCAL FEDERALISM, & THE DORMANT COMMERCE CLAUSE. *Virginia Tax Review*, *39*(1), 111–143. https://0-www-jstor-org.libus.csd.mu.edu/stable/25782506

Kleban, D., & Swartzendruber, B. J. (2014). *Beginner's Guide To The New Markets Tax Credit*. American Bar Association.