TRUMP EXECUTIVE ORDER CUTS THE RED TAPE FOR OPPORTUNITY ZONES

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Opportunity Zone Alert

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On December 12, President Trump issued an Executive Order (the "Executive Order") establishing the White House Opportunity and Revitalization Council (the "Council") to promote and encourage both public and private investments in economically distressed communities, with particular emphasis on Qualified Opportunity Zones ("QOZs").

The Executive Order focuses on reducing regulatory and administrative burdens together with streamlining and improving access to federal, state, and local resources in order to stimulate economic opportunity and mobility, encourage entrepreneurship, create jobs, provide quality housing, improve education, and provide safer communities. If successful, the Executive Order should alleviate administrative barriers, reduce costs, and accelerate development timelines for Opportunity Zone ("OZ") projects, thereby making the already attractive benefits of OZs even more advantageous.

GOALS OF THE EXECUTIVE ORDER

The Executive Order establishes the White House Opportunity and Revitalization Council and charges it with working across the executive branch to facilitate investment in OZs and other underserved communities. The new Council will be comprised of the head of 13 federal agencies, or their designees, and will be chaired by Secretary of Housing and Urban Development Ben Carson.

The Council has several specific responsibilities, including:

- Assessing how agencies can focus federal investments toward distressed areas, including QOZs;
- Minimizing regulatory and administrative costs that discourage public and private investment in these areas, including when applying for multiple incentives;
- Consulting with state, local, and tribal governments and private individuals on how to encourage economic development in these areas;
- Coordinating federal interagency efforts to ensure that public and private stakeholders can develop successful strategies to promote economic growth;
- Working to make the availability of incentives more transparent to the public and easier to apply for, including evaluating the utility of creating a web based tool;
- Evaluating the feasibility of placing federal buildings in these areas;

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- Determining whether strategies can be coordinated across agencies to assist communities and regions to address economic problems; and
- Evaluating what data and metrics can be used to determine the effectiveness of such investments.

AN AMBITIOUS TIMELINE FOR THE COUNCIL TO ACCOMPLISH ITS GOALS

The Executive Order sets out an aggressive timeline for the new Council to complete its work. First, the Council must develop a work plan within 90 days. Then, within 210 days of the Executive Order, the Council is required to create a list of recommended changes to federal statutes, regulations, policies, and programs that would promote public and private investment in distressed areas, including QOZs. Finally, the Council is given one year to recommend changes to federal law to facilitate use of federal resources by states, localities and tribal governments and also to identify best practices that can be integrated into investments in these distressed areas to increase economic growth, encourage new business formation and revitalize communities.

HOW THE EXECUTIVE ORDER COULD ENHANCE OPPORTUNITY ZONE INCENTIVES

The Executive Order demonstrates the administration's commitment to promoting the use of OZ incentives to generate economic growth and job creation in disadvantaged areas, while also sending signals to state, local, and tribal governments that they should be working to reduce barriers to attract investment and to the Treasury Department that as they continue to work on OZ guidance they should strive to make the incentives as user-friendly as possible.

Reducing administrative barriers and encouraging coordination among all levels of government could greatly reduce timelines to receive zoning approvals and permits, and thus to complete projects. Quicker permitting could ameliorate concerns about meeting the substantial improvements test for tangible property or satisfying the 31-month safe harbor for working capital associated with OZ projects. This would be a significant benefit to real property renovations and new construction, as well as the establishment of new business enterprises. These reduced burdens, together with enhanced transparency and improved accessibility to other incentives, should also reduce costs of OZ projects, increase returns for investors, and allow more ventures to “pencil out” while accelerating job creation.

The Executive Order will also have political implications as the administration and Congress look to prioritize infrastructure policy in 2019 and facilitate investment in disadvantaged and urban areas. Stronger infrastructure will provide a better base to attract additional OZ projects and development.

A NEW OPPORTUNITY FOR STAKEHOLDERS TO PROVIDE INPUT

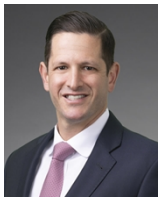
The ambitious scope and aggressive timeline of the Executive Order offers tremendous opportunities for stakeholders to provide meaningful input to the executive branch on ways that regulatory and administrative burdens could be alleviated, project timelines could be accelerated, and costs could be reduced — making the use of OZ incentives even more practical and attractive. No one knows better than developers and entrepreneurs

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the challenges, barriers, and frustrations that arise from red tape at the federal level and in localities around the country.

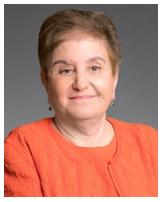
Please contact any member of our K&L Gates OZs team to discuss your particular concerns and how you can help inform the Council on ways to address them, including suggestions on how to eliminate delays and bottlenecks, facilitate federal, state and local coordination, and smooth the way for investment by utilizing OZ incentives to promote economic vitality in disadvantaged areas across the nation.

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