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LAW ALERT

NEW MARKETS IN THE NEW YEAR: FIVE-YEAR EXTENSION OF THE NEW MARKETS TAX CREDIT PROGRAM

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On December 27, 2020, the Consolidated Appropriations Act of 2021 (the "Act") was signed into law, which, among many other things, includes a tax extension package for several federal tax credit programs. The Act provides for a five-year extension and a \$25 billion appropriation to fund the federal New Markets Tax Credit ("NMTC") program. The NMTC program had been scheduled to expire on December 31, 2020, but instead received the largest extension in the 20-year history of the credit.

The \$5 billion appropriation per NMTC allocation round will make available additional NMTC funding for projects throughout California. The NMTC program is a federal program which helps to fund economic development in low-income communities. Since its inception, the NMTC program has led to the creation of over 1,000,000 jobs, primarily in severely economically distressed areas.

In November of this year, Community Development Entities ("CDEs"), the private entities that apply for NMTC allocations, submitted applications for the 2020 NMTC allocation round. The Community Development Financial Institutions Fund (the "CDFI Fund"), NMTC program, estimates that it will make announcements for the 2020 NMTC allocation round in the summer of 2021. In the 20-year history of the credit, the CDFI Fund has made 1,254 allocation awards totaling \$61 billion.

Bipartisan efforts for a longer NMTC extension bill, including program permanency, remain underway in Congress.

Brief Summary of the NMTC Program

The NMTC program is a tax credit program that promotes investment in businesses and public facilities located in low-income communities or that provide services or jobs to low-income households. In exchange for a qualified equity investment in a CDE, an investor becomes eligible to receive tax credits from the federal government. The CDE then provides a loan or an equity investment to a qualified active low-income community business ("QALICB") that is located in a qualified low-income census tract or that provides services or employment opportunities to low-income "targeted populations."

Goldfarb and Lipman attorneys have closed projects financed with the assistance of NMTCs including community centers, industrial kitchen facilities, youth centers, supermarkets, medical facilities, childcare facilities, shopping centers, performing arts centers, manufacturing facilities, and office buildings for nonprofits.

Goldfarb & Lipman has successfully represented public agencies and nonprofit and for-profit entities in structuring and closing numerous types of NMTC transactions, including operating business loans, real estate development loans, portions of a business transactions, and targeted populations transactions.