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## Opportunity Zones Present Incredible Opportunity for Private Fund Managers

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By Kate McCurry, John I. Sanders, and Ali Fenno

Last year, Congress passed the Tax Cuts and Jobs Act (the “Act”), which contained a tax incentive program (the “Opportunity Zone Program”) to encourage long-term investments in low-income communities identified as “opportunity zones” by state governments. Specific details of the program were left to be fleshed out by the Treasury Department, leaving the financial industry anxious for proposed regulations that would determine the strength of the opportunity zone incentives. Those proposed regulations (the “Regulations”) were released last Friday. Under the Act, the Opportunity Zone Program allows investors to:

1. Defer paying taxes on gains recognized from the sale of assets if those gains are re-invested in qualified opportunity funds (“QOFs”); and
2. Exclude from the calculation of taxable gross income any gains recognized from investments in QOFs that are held by the investor for at least ten years.<sup>[1]</sup>

The Act defines QOFs as investment companies formed for the sole purpose of investing in opportunity zones and that have at least 90% of their assets invested in opportunity zone property.<sup>[2]</sup> Opportunity zone property is defined as any opportunity zone stock, partnership interest, or business property.<sup>[3]</sup> The Regulations provide that only equity investments in QOFs are eligible for the tax benefits.<sup>[4]</sup> Aside from where equity investments are located, however, we anticipate that QOFs will be similar to any other private fund. The Regulations also specify that only capital gains may be deferred, not ordinary gains.<sup>[5]</sup> Some estimate that there are \$6.1 Trillion in such gains available to be deployed through the Opportunity Zone Program.<sup>[6]</sup> It is likely that a large portion of those gains are held by investors sophisticated enough to invest in QOFs, so the flow of funds into QOFs may be relatively smooth. Consensus within the financial industry is that the Regulations are broad and flexible enough to generate wide participation in the Opportunity Zone Program. We anticipate private fund managers and their partners will move quickly to launch QOFs and secure qualifying opportunities. If you have any questions about the opportunity zones or the regulation of private investment funds, please feel free to contact us. **Kate McCurry, John I. Sanders and Ali Fenno** are associates based in the firm’s Winston-Salem office. <sup>[1]</sup> I.R.C. § 1400Z-2. <sup>[2]</sup> I.R.C. § 1400Z-2(d). <sup>[3]</sup> I.R.C. § 1400Z-2(d)(2)(A)(i)-(iii). <sup>[4]</sup> I.R.S. News Release IR-2018-206 (Oct. 19, 2018). <sup>[5]</sup> *Id.* <sup>[6]</sup> Steve Glickman, *Opportunity is Coming to a City Near You*, Wall Street Journal (Oct. 23, 2018).