

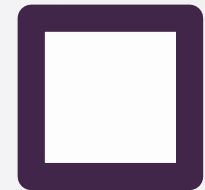
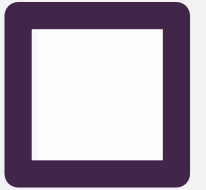
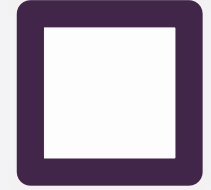


**COUNCIL *on* FOUNDATIONS**

*Public Policy, Partnerships, and Government Relations*

# ***Opportunity Zones: Can Foundations Help Communities Get Ready?***

**Oct. 31, 2018**



**INCLUSIVE ECONOMIC  
PROSPERITY  
LEARNING SERIES**

# Council on Foundations



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# Agenda

- The Treasury rules
- Expected investors and types of projects
- Governors and expected State strategies
- Examples of communities and approaches
- Q & A

# Opportunity Zones Regulations

- [Proposed regulations](#) released on Oct. 19
- Comment period ends Dec. 18 (60 days from release date)
- Treasury/IRS plan to release a second set of proposed regulations before the end of the year

# Speakers

**Don Snyder**, Tax Associate, Federal Policy Group

**Aaron Klein**, Fellow and Policy Director Center on Regulation and Markets, Brookings Institution

**Sally Rood**, Senior Policy Analyst, Economic Opportunity, National Governors Association

**Tim Blute**, Director, NGA Future, National Governors Association

**Aaron Seybert**, Social Investment Officer, Social Investment Practice, The Kresge Foundation

**Adam Northup**, LOCUS Impact Investing

**Rachel Reilly**, Director of Impact Investing, Enterprise Community Partners

# Don Snyder

Director, Tax  
Associate,  
Federal Policy Group



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# Overview of Opportunity Zone Treasury Regulations

## Very Basic Background of the Provision:

New provisions in the Internal Revenue Code (**Code**) permitted the chief executive of a state, the District of Columbia, or U.S. possession to within a limited time period recommend the designation of some of the census tracts in his or her jurisdiction that are **low-income communities (Low-ICs)** as a **qualified opportunity zone (Q-Zone)**.

The provisions also state that certain investments in a Q-Zone receive preferential federal tax treatment.

- Simplified, a Low-IC is any census tract where either (i) the poverty rate is at least 20%, or (ii) the median family income is less than or equal to 80% of the relevant state or metropolitan median income
- With respect to Puerto Rico, all Low-ICs are deemed to be a Q-Zone
- Designation of a Low-IC as a Q-Zone lasts for 10 years
- Complete list of all Q-Zones available (see IRS Notice 2018-48)





# Overview of Opportunity Zone Treasury Regulations

## Very Basic Background of the Provision, cntd:

Certain investments in a Q-Zone, specifically, those invested in a qualified opportunity fund (**Q-Fund**) receive favorable federal tax treatment, with the hope that encouraging private investment in such communities will benefit the communities.

- Simplified, a Q-Fund is an entity that has at least 90% of its assets in Q-Zone property, including either tangible business property used in a Q-Zone or equity interests in Q-Zone businesses
- Capital gain reinvested in a Q-Fund is deferred for up to 10 years
- If such gain is held in Q-Fund for 5+ years, it is 10% exempt
- If such gain is held in a Q-Fund for 7+ years, it is 15% exempt
- If such gain is held for 10+ years, it is 15% exempt and the gain from the Q-Fund investment is 100% exempt



# Overview of Opportunity Zone Treasury Regulations

## Proposed Regulations:

The proposed regulations are detailed and highly technical, and address only some of the issues relating to Q-Zones and Q-Funds.

A variety of issues are specifically identified as issues that will be addressed through subsequent guidance.

The proposed regulations request public comments (due December 28), both on the various proposals and also on any other relevant topic.

- Issues addressed in proposed regulations include:
  - Type of gain eligible for deferral
  - Taxpayers eligible to elect deferral, and procedure for making the election
  - When does the 180-day period start for reinvesting capital gains in a Q-Fund?
  - How is deferred reinvested gain eventually taxed?
  - How do the rules work for passthrough entities?
  - How long can an investor hold its investment in a Q-Fund and still be exempt from residual gain?
  - How can an entity certify as a Q-Fund, and what types of entities are eligible?
  - How quickly must a Q-Fund invest in Q-Zone property to meet its requirements?
  - How much Q-Zone activity/investment does it take to be a Q-Zone business?



# Overview of Opportunity Zone Treasury Regulations

Proposed Regulations, cntd:

- Issues identified for future guidance include:
  - General meaning of “substantially all”
  - Transactions that trigger deferred, reinvested capital gain
  - What is a “reasonable period” for a Q-Fund to reinvest its gains from selling Q-Zone property
  - Administrative rules that apply where a Q-Fund fails to maintain 90% of its assets as Q-Zone property
- Some issues are not addressed or designated as needing to be addressed, such as any social value metric for evaluating a Q-Fund’s investments in a Q-Zone



# Overview of Opportunity Zone Treasury Regulations

Proposed Regulations, cntd:

The following is a high-level description of some of the likely key rules in the proposed regulations for investors and Q-Funds.

- **Type of gain eligible for deferral:**
  - The Code provision is silent on the type of gain that can be deferred by reinvesting it in a Q-Fund
  - The proposed regulations clarify that only capital gain can be so deferred, and even exclude certain types of capital gain
- **Timing of reinvesting capital gain in a Q-Fund:**
  - The proposed regulations clarify how and when the 180-day clock for reinvesting capital gain in a Q-Fund starts
  - The key date for these rules is the date the capital gain would otherwise be treated as having been “earned”



# Overview of Opportunity Zone Treasury Regulations

Proposed Regulations, cntd:

The following is a high-level description of some of the likely key rules in the proposed regulations for investors and Q-Funds.

- Partnership rules:
  - The proposed regulations allow passthrough entities to make a deferral election on behalf of all partners/owners
  - The proposed regulations also allow a partner or owner to individually make the deferral election
- How to make the deferral election:
  - IRS Form 8949
- Types of Q-Fund investments eligible for gain exemption
  - The proposed regulations clarify that only investments where a valid capital gain deferral election has been made are exempt



# Overview of Opportunity Zone Treasury Regulations

Proposed Regulations, cntd:

The following is a high-level description of some of the likely key rules in the proposed regulations for investors and Q-Funds.

- Gain exemption for Q-Fund investments after termination of Q-Zone status:
  - The proposed regulations specify that gain from an investment in a Q-Fund is exempt so long as the investment is disposed of on or before December 31, 2047
  - Proposed rule allows investors a significant amount of extra time to sell/dispose of Q-Fund investments and receive the tax exemption so that they are not forced to exit the investment prematurely



# Overview of Opportunity Zone Treasury Regulations

Proposed Regulations, cntd:

The following is a high-level description of some of the likely key rules in the proposed regulations for investors and Q-Funds.

- How Q-Funds certify their status as such:
  - The proposed regulations specify that Q-Funds may self-certify as a Q-Fund
  - IRS Form 8996
- **Pre-existing funds/property:**
  - The proposed regulations clarify that pre-existing funds can become Q-Funds so long as they meet the applicable standards
  - The proposed regulations also clarify that with respect to Q-Funds, in order for something to be Q-Zone property it had to have been bought by the Q-Fund after 2017



# Overview of Opportunity Zone Treasury Regulations

Proposed Regulations, cntd:

The following is a high-level description of some of the likely key rules in the proposed regulations for investors and Q-Funds.

- Does cash-on-hand count for purposes of a Q-Fund meeting the 90% Q-Zone assets test?
  - The proposed regulations provide that working capital held by Q-Zone businesses for up to 31 months still counts as Q-Zone property so long as the business has a written business plan to hold the capital for buying, building, or improving tangible property in the Q-Zone, has a schedule to use the capital in this capacity, and “substantially” follows the schedule





# Overview of Opportunity Zone Treasury Regulations

Proposed Regulations, cntd:

The following is a high-level description of some of the likely key rules in the proposed regulations for investors and Q-Funds.

- How much Q-Zone tangible property must a business have to be treated as a Q-Zone business?
  - The Code requires that “substantially all” of a Q-Zone business’s owned or leased property be Q-Zone property in order to qualify
  - The proposed regulations specify that a Q-Zone business has “substantially all” Q-Zone property so long as at least 70% of its tangible property is Q-Zone property
  - Thus, if a business owns four restaurants, for example, it is a Q-Zone business so long as 3 of these are in the Q-Zone



# Overview of Opportunity Zone Treasury Regulations

Questions?

Contact Information:

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# Aaron Klein

Fellow and Policy  
Director, Center on  
Regulation and  
Markets,  
Brookings Institution



# Zones: Opportunity for Change or Windfall for Investors?

## What We Know

- Large Federal Program with Substantial Financial Incentives
- Moving Quickly
- Substantial Discretion for States
- Little to No Coordination Required with Stakeholders
- No Evaluation Required

## What We Don't Know

- Who Will Take Advantage of the Program (Investors, Developers)?
- Which Strategies States are Pursuing?
- Who Will Benefit?
- What Constitutes Success (and for whom)?



# Aaron Klein @AaronDKlein

- Fellow, Economic Studies, Brookings Institution.
- Director of Center on Regulation and Markets.
- Deputy Assistant Secretary of Economic Policy, US Treasury Department (2009-2012)
- Chief Economist, US Senate Banking, Housing and Urban Affairs Committee (2001-2009)



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# Sally Rood

Senior Policy Analyst,  
Economic  
Opportunity Division,  
National Governors  
Association



# Timothy Blute

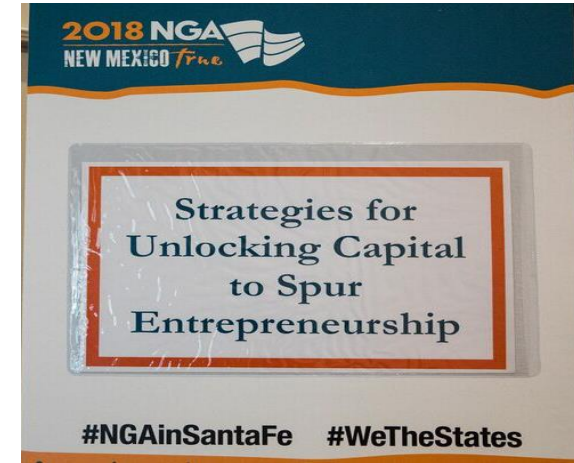
Director, NGA Future,  
National Governors  
Association



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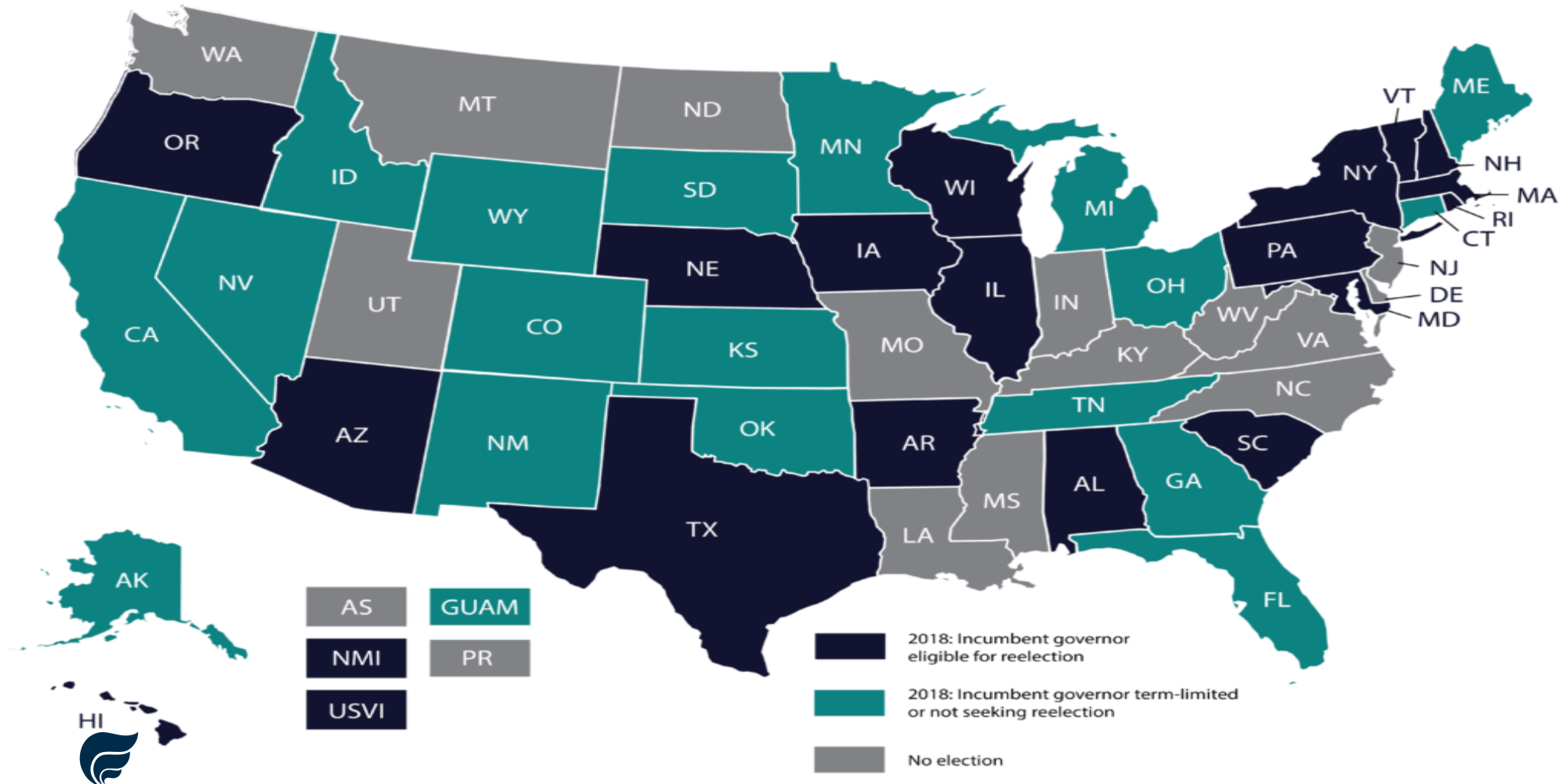
# National Governors Association and Opportunity Zones

- Office of Government Relations
  - Advocating for states to Congress & Federal government
  - Economic Development & Commerce Committee
    - Briefings for Governors & their DC Reps
- NGA Center for Best Practices
  - Policy consultancy & think tank
  - Peer-learning meetings
  - Technical assistance for states in partnership with other organizations
- 2018 Summer Meeting sessions






# The Challenge and Opportunity of Elections



# State Actions, Roles and Needs

- Governors submitted Zone designations to Treasury
- Aligning Zones to existing state strategies
- Engaging community leaders, philanthropic & nonprofit communities
- In-state workshops
- Marketing sites & small businesses - outreach to funds, developers on projects
- Building state knowledge base, contacts, partnerships
- State-level online maps/clearinghouses
- Layering incentives
- Helping NGA to analyze regs


 **GOVERNOR SANDOVAL NOMINATES 61 OPPORTUNITY ZONES**

CARSON CITY, NV - April 23, 2018

Governor Brian Sandoval today [nominated 61 opportunity zones](#) pursuant to the Tax Cuts and Jobs Act of 2017, which established an Opportunity Zone tax incentive, designed to encourage long-term private investment in low-income communities.

**Contact**  
[Mary-Sarah Kinner](#)  
Communications Director

[ABOUT US](#) [CONTACT US](#) [PROGRAM INDEX](#) [MEDIA CENTER](#) [SITE SELECTOR/INVESTOR SITE](#)

 **Department of Commerce** [SERVING COMMUNITIES](#) [BUILDING INFRASTRUCTURE](#)

Gov. Inslee approves Opportunity Zones in communities across Washington

April 20, 2018 | [News Releases](#)

For Immediate Release: April 19, 2018  
Contacts: Office of the Governor: Ofirah Yheskel, Ofirah.Yheskel@governor.virginia.gov | Virginia Department of Housing and Community Development: Amanda Love, (804) 371-7006, Amanda.Love@dhsd.virginia.gov

**Governor Northam announces nomination of 212 Opportunity Zones**

*Commonwealth maximizes new federal tax incentive program, ensures local and regional priorities are represented*

# Next Steps with NGA

- Educate new governors on state roles in ensuring Opportunity Zone success
- Update governors on any new regulatory developments
- State summit on Opportunity Zones, Spring 2019
- Develop model comprehensive strategies & best practices for states
- Facilitate communications between governors' offices & philanthropic community



# Follow-Up

Contact NGA with any additional questions:

- Sally Rood, Senior Policy Analyst, Economic Opportunity  
[srood@nga.org](mailto:srood@nga.org) or 202-624-7820
- Timothy Blute, Director, NGA Future  
[tblute@nga.org](mailto:tblute@nga.org) or 202-624-7854



COUNCIL *on* FOUNDATIONS

# Aaron Seybert

Social Investment  
Officer, Social  
Investment Practice,  
The Kresge  
Foundation



# Adam Northup

## LOCUS Impact Investing



# KEY OPPORTUNITY ZONE LEARNINGS ARE EMERGING FROM PLACE-FOCUSED FOUNDATIONS ACROSS THE COUNTRY

## Opportunity Zone projects & investments will be in high demand

- Plenty of Opportunity Zone capital will be available – from national scale banks & private equity to local high net worth individuals & families
- Outside of large, urban-centric real estate pipeline, shovel-ready project demand is not prepared for the Opportunity Zone capital inflow
- Without additional Treasury or legislative intervention, the investment window will be short

## Place-based impact investing activity is slower to develop

- Lagging Opportunity Zone energy and knowledge in the communities themselves
- Outside investors & business interests lack understanding of scale, prospects & challenges in the Opportunity Zones
- Rural Opportunity Zone tracts and non-real estate businesses getting relatively minimal attention
- Primary focus on financial returns rather than community revitalization and wealth generation

## Immature investment ecosystems hinder efficient capital flow

- Established market-places of business interests and investors largely do not exist in the Opportunity Zones
- Plenty of players wanting to engage and spur activity (philanthropy, economic development, CDFIs, local government, etc..) – but lack the connective tissue
- Awareness of and access to full range of capital including, equity, debt, grants, tax incentives, etc... not readily available





# PLACE-FOCUSED FOUNDATIONS CAN PLAY SEVERAL ROLES TO DRIVE COMMUNITY BENEFIT IN THE OPPORTUNITY ZONES

## 1. Champion the potential community impact

- Leverage philanthropic supported institutions (e.g. business labs & incubators) to help educate and excite the community
- Be a loud voice and watch-dog advocating for establishing and tracking measures of community improvement
- Ensure the donor base is aware, knowledgeable and engaged

## 2. Leverage the foundation's assets

- Partner with key leaders and groups to provide space, host forums, and support events
- Provide grants to individuals and group championing the program and/or establishing markets
- Invest alongside in mission-aligned projects with direct grants, equity, debt, guarantees, etc...

## 3. Help establish an Opportunity Zone market

- Convene stakeholders from across the spectrum (economic development, CDFIs, local government, community leaders, business interests, wealth managers, philanthropy, etc...)
- Seek out and build out inventories of potential projects and investors
- Develop a real and virtual clearinghouse for investors and business interests to connect

## 4. Facilitate the creation of Opportunity Zone Funds

- Identify community needs and investment gaps
- Locate business sponsors and developers willing to help close gaps
- Pool together potential investors
- Push on local government & other groups to provide incentives and support





# LOCUS IMPACT INVESTING, A SUBSIDIARY OF VIRGINIA COMMUNITY CAPITAL (CDFI), HELPS PLACE-FOCUSED FOUNDATIONS LEVERAGE MORE OF THEIR ASSETS FOR MISSION IMPACT IN LOCAL COMMUNITIES



A Partnership With the Center for Rural Entrepreneurship

**Adam Northup**

Senior Vice President | Financial Strategist

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COUNCIL on FOUNDATIONS

# Rachel Reilly

Director of Impact  
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Community Partners



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# Enterprise Community Partners

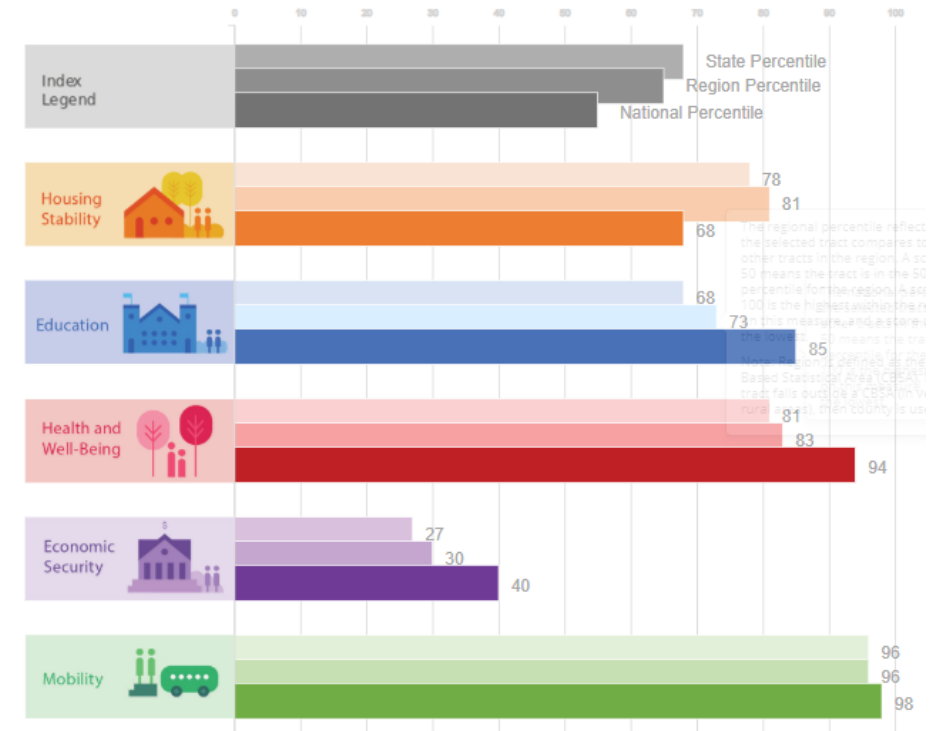
- Early supporter of the Investing in Opportunity Act, with reporting requirements
- Working with key stakeholders on implementation at national and local levels
  - Congressional testimony to Joint Economic Committee ([May 2018](#))
- National resource
  - Mapping tool, Opportunity Zones guide, webinars, blogs, etc.
  - [www.OpportunityZonesInfo.org](http://www.OpportunityZonesInfo.org)
- Local expertise
  - Technical assistance presence, existing relationships, and measurable impact in approximately one third of Opportunity Zones nationwide
- Finance capabilities
  - Leveraging our impact-driven investment platform to create and support funds
  - [Emergent Communities Fund](#)



# Enterprise Community Partners

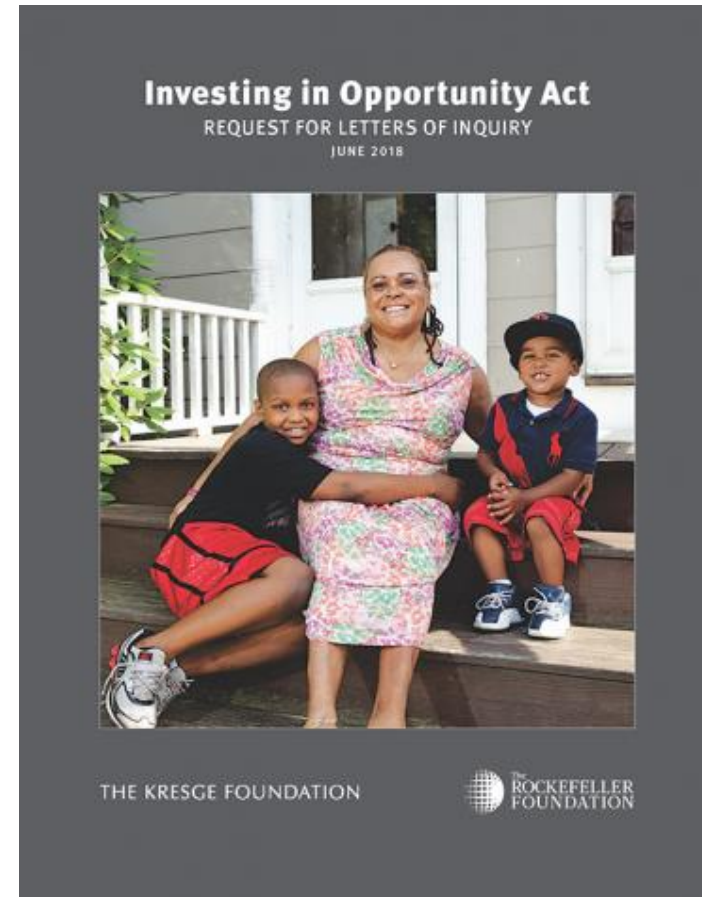


What Does Opportunity Look Like for People Living in This Community?



# Importance of Philanthropy

- Convening
- Education
- Local Investor Base
- Capacity Building and Technical Assistance
- Boost Effective Returns / Mitigate Risk
- Grant Support to Investee
- Responsible Exits From Opportunity Funds
- Research and Impact Measurement



Rachel Reilly  
Director, Impact Investing  
Enterprise Community Partners  
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# Tools and Resources

- National Council of State Housing Agencies - [Opportunity Zone Fund Directory](#)
- St. Louis Federal Reserve – Opportunity Zone Explorer Displacement Risk Interactive Data Tool  
<https://www.stlouisfed.org/community-development/data-tools/opportunity-zones-explorer>
- US Impacting Investing Alliance [Blog](#): *Community Foundations Can Help Make the Most of Opportunity Zones*



# Share What You Learn

**Send information on tools and resources to**

**[partnerships@cof.org](mailto:partnerships@cof.org)**

**COF Opportunity Zone webpage  
Find under “Resources” menu**



# Opportunity Zones Webinar “Part 2”

*Save the Date*

## ***A Primer for Funders on CDFI’s: Co-Investing for Inclusive Community Development***

Dec. 12, 2:00pm – 3:00pmET

Moderator: Donna Fabiani, Executive Vice  
President, Opportunity Finance Network



COUNCIL on FOUNDATIONS



# Upcoming Council Webinars and Events

- **Show Me the Money: Fundraising Tips for Community Foundations in the New Political Landscape** **NOV 8**
- **What the 2018 Midterm Outcomes Mean for the 116th Congress** **NOV 14**
- **California College Pathways: A Case Study on How Strategic Philanthropy Leads to Systematic Change** **NOV 15**
- **Need to Make a Dollar Out of 15 Cents? Event Planning on a Budget for Community Foundation Professionals** **NOV 15**
- **Don't Be Caught Off-Guard This Tax Season: A Guide for Navigating the New UBIT Rules** **NOV 20**
- **Spurring Opportunity: Entrepreneurship and Community Foundations** **NOV 27**
- **Racial Equity Forum**  
Los Angeles, CA— **NOV 7**
- **Veteran's Philanthropy Exchange: Successes and Challenges in Veterans Transition**  
Pittsburgh, PA — **NOV 14**
- **Leading Together Conference**  
Miami, FL— **APR 30-MAY 1**