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Trends And Tips - Tax Equity For Mid-Market Energy Projects: Mintz, Levin

Last week's "Financing Renewable Energy" tax credit conference, by Novogradac and Company, affirmed some market trends that we have seen in recent project finance deals. Perhaps most striking was the slow expansion of small and mid-market tax equity investors, compared to their counterparts upmarket. The result is that developers of projects and project portfolios under \$50 million may need to look harder to find the right partner to monetize their tax credits.

Looking back even a couple of years, we saw a tax equity market that was dominated by a small handful of large players, most of whom were focused on big investments investing large amounts of capital into utility-scale projects. Today, the number of investors has increased (JPMorgan Chase reports at least 20 wind investors and 28 solar investors in 2015), as has the amount of tax equity investment (up 14% between 2014 and 2015, according to JPMorgan Chase). Our anecdotal experience, affirmed by investors and developers we have spoken with, is that the bulk of that expansion has been among large banks, insurers and Fortune 500-sized corporate investors, which have grown increasingly comfortable with the risk profile of renewable energy projects and the diligence required to evaluate a prospective investment.

A similar trend has been lagging among smaller investors. Smaller tax equity investments are not necessarily simpler to diligence, negotiate or document than large deals, and renewable energy continues to be seen as a "new" industry to many banks, insurance companies and other potential investors. Despite this friction slowing the entry of new investors into the marketplace, there are some encouraging signs. First, we see evidence of increasing cross-over from investors in other tax credit-driven spaces (new market, low income housing, etc.). Second, when they do enter the market, smaller investors are often more nimble at the investment-stage and can be better at building ongoing relationships that can ease future investor interactions (e.g., when seeking consent to refinance project debt).

These trends suggest some actionable advice for mid-market project sponsors:

1. Don't be afraid to look outside the usual pool of energy tax credit investors. Cross-over investors have existing experience with some of the same structures used in Section 45 and Section 48 investments, but there is an educational process to help them become comfortable with the diligence process and risk profile for energy projects. A willingness to work through that learning curve may open the door to new investor relationships.
2. Look for opportunities to build long-term relationship that can support multiple deals. It is an unfortunate reality that doing an \$8 million tax equity deal is not one tenth as complicated and costly as doing an \$80 million deal. Working with an investor that can be a longer-term partner creates potential economies of scale as the parties replicate and recycle investment terms, documents and diligence standards across multiple deals.
3. Consider who will be a strong partner after closing. A typical tax equity investor will have consent rights over material events in a project's life, such as a debt refinancing. Demands for hefty consent fees, lengthy diligence reviews and other requirements can strain the relationship

between a project sponsor and the tax equity investor. If the parties have a relationship that extends beyond the immediate project (see #2 above), then motivations will be better aligned at these important milestones.

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