
Lawmakers Propose Transparency Requirements for Opportunity Zones.

But there are questions about whether they go far enough.

Information is hard to come by for anyone who wants to understand how much investment the Opportunity Zones program is attracting to struggling neighborhoods.

It's also unclear if disproportionate sums of money are going toward real estate deals in areas that are eligible for the economic development initiative but already primed for growth.

The program has been ramping up for nearly 17 months, since it was created as part of the 2017 federal tax overhaul.

But the U.S. Treasury Department has yet to clarify what data will have to be disclosed publicly about the investments taking place under the program. That means there currently isn't a systematic way for the public to determine where money is flowing to or from.

Lawmakers in the U.S. House and Senate this week took a step toward addressing this issue, proposing requirements for what information Treasury would have to collect about Opportunity Zones.

It's not clear, however, that the legislation they've put forward would shed light on some key elements of the program.

With Opportunity Zones, people and businesses can get federal tax breaks on capital gains they put into special funds that then invest these proceeds into economically distressed census tracts that have been designated as zones.

Many investors have stayed on the sidelines of the program as they've waited for regulations. But some funds have been making investments in zones and experts expect there will be more activity in the months ahead following Treasury's release of more proposed rules in April.

Sen. Cory Booker, a New Jersey Democrat, is the lead sponsor of the Senate legislation introduced this week. Booker has been a champion of Opportunity Zones in the Senate, along with South Carolina Republican Sen. Tim Scott, who is a co-sponsor of the new bill.

The guidelines in the bill were included in early Opportunity Zones legislation, according to Booker's office, but left out of the broader tax package that later ushered the program into law.

"This legislation will restore and strengthen transparency measures to ensure Opportunity Zones lives up to its original promise," Booker said in a statement.

U.S. Reps. Ron Kind, a Wisconsin Democrat, and Mike Kelly, a Pennsylvania Republican, are spearheading a House companion bill.

The legislation calls for Treasury to collect data on the number of Opportunity Funds, the amount of assets held by the funds, the composition of fund investments by asset class, such as real estate or equity in businesses, and the share of zones receiving investments.

It would also require the department to track metrics like job creation, poverty reduction and business activity in the zones.

And it would mandate that Treasury gather information on investments. This includes the amount of the investment and the date when it was made, and whether the investment is in a new or existing business or real estate, and where the business or property is located.

Some of the other investment information the department would have to collect includes the type of activity that is being supported—for instance, single family housing, apartment buildings, or commercial real estate, or the sector that businesses are operating in.

The bill says that information on investments would be made publicly available within one year after the legislation is enacted, with the caveat that any "personally identifiable data" is withheld. Annual reports of the investment information would then follow.

"It's an improvement over what the current state of affairs is," Brett Theodos, a senior fellow with the Urban Institute, who is tracking the Opportunity Zones initiative, said about the bill. "But it doesn't tell me everything I feel like I need to know about this program."

"I don't think this is sufficient to allow communities to really understand the occurrence and the effect of Opportunity Zones," he added.

The language in the bill is vague, Theodos says, when it comes to the processes for collecting data and the specific substance of what will ultimately be released publicly.

Theodos says it's important to know who is investing in the funds and the specific business ventures that capital from the funds is going to, as well as dollar amounts for not only how much money is in each opportunity fund, but also what sums are going toward projects.

The provision blocking the release of personally identifiable information, he said, injects a degree of uncertainty into the bill about what information will eventually be released.

It may be overkill to reveal every person depositing, say, $25,000 of gains into a sprawling fund.

But Theodos does make a case for disclosing investors who are bankrolling an entire fund on their own, or perhaps the top five investors in each fund, or those whose stakes in a fund surpass some set percentage threshold of a fund's total amount.

Other information Theodos says would be helpful for understanding how the program is working are the dates of investment transactions, as opposed to the year in which they took place, and the addresses for investments, instead of just the census tract where they are located.

In his view, the information should be collected in filings other than tax forms, since tax forms can be difficult for the public to access. Theodos notes that there's precedent for this type of reporting with federal tax credit programs, like the New Markets Tax Credit.

"Having transaction level data about where this program is investing is the difference between knowing whether it worked or didn't," he said. "Super important to get it right."

Treasury has now issued two rounds of proposed rules for the Opportunity Zones program without outlining a comprehensive reporting framework for funds.

Secretary Steven Mnuchin said during testimony before the House Ways and Means Committee in March that the department had not issued the reporting requirements because it did not want to rush them and invited lawmakers to offer input on what they wanted to see.

“Those aren’t critical for people starting investments,” Mnuchin said of the reporting standards. “So whether those come out next week or in six months, we have time to get it right.”

Route Fifty

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