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"POLLUTION AND PANDEMICS: COVID-19'S DISPROPORTIONATE IMPACT ON ENVIRONMENTAL JUSTICE COMMUNITIES"

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Introduction

Chairman Tonko, Ranking Member Shimkus, and members of the committee: it is a pleasure to be with you today. I am the Co-founder and President of the Opportunity Funds Association (OFA), a trade association whose members are entrepreneurs, investors, developers and fund managers operating in Opportunity Zones. The Opportunity Funds Association (OFA) is an advocacy, education, and communications organization established to enable our members to participate in public policy, share best practices, and communicate the industry's contributions to distressed rural and urban communities across the country. Through our members we connect capital to overlooked areas, improving lives, creating opportunities, and ensuring long-term economic growth in America's most vulnerable communities. Prior to co-funding OFA I served as Tax Counsel to Senator Tim Scott (R-S.C.) where I helped champion the Investing in Opportunity Act, legislation authored by Senators Tim Scott (R-SC) and Cory Booker (D-NJ) and Representatives Pat Tiberi (R-OH) and Ron Kind (D-WI). This legislation, which enjoyed broad bipartisan support, was the basis for the Opportunity Zones provision in the Tax Cuts and Jobs Act (TCJA) of 2017. The Opportunity Zones initiative is the most ambitious federal attempt to boost private investment in low-income areas in a generation. Over $10 billion has been raised for investment as of April 30, and Secretary Mnuchin estimates Opportunity Zones could drive as much as $100 billion into struggling communities over the coming decade. Opportunity Zones can be a key tool in helping local governments meet goals for sustainable and equitable development.

Since Opportunity Zones became law, OFA has worked closely with the Treasury department to ensure timely and effective implementation of the policy, closely with the White House Opportunity and Revitalization Council to encourage public and private investment in Opportunity Zone businesses, and closely with Congress to support legislation such as robust reporting requirements, that will ensure existing residents benefit from the capital attracted to their community.

In the testimony that follows, I will:

- Highlight key features of the Opportunity Zones incentive;
- Provide an overview of executive branch efforts to encourage public and private investment in distressed communities;
- Underscore what Congress can do to optimizer Opportunity Zones;

How The Incentive Works

The Opportunity Zones incentive is a community investment tool established by Congress in the Tax Cuts and Jobs Act of 2017 to encourage long-term investments in low-income urban and rural communities nationwide. Opportunity Zones provide a tax incentive for investors to re-invest their unrealized capital gains into dedicated Opportunity Funds.

While there have been a number of previous federal incentive programs aimed at boosting economic activity in underserved areas, this incentive can be used in a variety of ways, making it an important tool for financing a range of economic priorities across different types of communities. The policy is intended to support the creation of new economic value within communities, either by establishing something new, such as an operating business or commercial development, or by making large-scale improvements to existing businesses or assets within a community. The incentive is designed to reward patient capital, with the most significant benefit kicking in only after 10 years.

The communities themselves were selected by governors in each state based upon federal income and poverty criteria. Governors were allowed to designate up to 25 percent of the eligible census tracts as Opportunity Zones, which in turn makes certain investments in those areas eligible for a federal tax benefit.

How The Opportunity Zones Were Selected

Congress gave governors of every state and territory the critical lead role of selecting Opportunity Zones. Under the statute, each governor was allowed nominate up to 25 percent of his or her state's low-income community census tracts to be designated as areas where the federal tax incentive will apply. Low-income community census tracts are generally defined as places with poverty rates of at least 20 percent or median family incomes no greater than 80 percent of the surrounding area. Nearly 32,000 tracts meet this definition nationwide, totaling roughly 43 percent of all U.S. census tracts. Thus, governors had to narrow the pool of eligible tracts down to roughly 8,700 selections. States identified priorities, engaged stakeholders, and incorporated additional selection criteria in ways that reflected their unique local characteristics. Governors were encouraged to strike the right balance between need and opportunity, as well as to select zones where there were mutually reinforcing state, local, and federal programs..

The Characteristics of Opportunity Zone

The bipartisan Economic Innovation Group analyzed the selected Zones and found the following:

● **Demographics:** 31.5 million people call Opportunity Zones home (35 million including Puerto Rico and the territories). The majority of Opportunity Zones residents, 57 percent, are non-white minorities, compared to 39 percent of the country as a whole. Black Americans are particularly over-represented in Opportunity Zones, constituting nearly twice as large a share of the zone population as they do the national population.

● **Poverty:** In total, 7.9 million Americans residing in Opportunity Zones live in poverty. Opportunity Zones have an average poverty rate of 27.7 percent compared with the national poverty rate of 14.1 percent. Poverty rates rose in 53 percent of zones between the 2006-10 and 2014-18 periods.

Even though Opportunity Zones only cover one-quarter of the country's low income census tracts, they cover 38 percent of all U.S. census tracts that have been persistently poor (with a poverty rate of at least 20 percent) since at least 1980. They cover 49 percent—essentially half—of the country's pockets of concentrated persistent poverty, meaning census tracts in which at least 40 percent of the population has lived in poverty since at least 1980

● **Population Density:** 23 percent of the tracts lie outside of a metropolitan area, making them slightly more rural than the low-income communities as a whole. In terms of the zip code in which tracts lie, Opportunity Zones are nearly evenly split at 38 percent in high density (urban) areas and 40 percent in low density (rural) ones, with the remainder located in medium density (suburban) communities.

● **Median Family Income**: The median family income (MFI) in the average Opportunity Zone is $47,316, compared to $73,965 nationally; the value in the median tract is $45,547. Fully three-fifths of zones have an MFI below $50,000.

● **Health Outcomes**: The Center for Disease Control and Prevention (CDC) publishes census tract level health data for 500 US cities. This dataset covers 3,500 Opportunity Zones, a little less than half of all Opportunity Zones. Even though the dataset is not comprehensive and only features urban areas, it does nonetheless provide a snapshot of the health challenges facing residents in a large number of Opportunity Zones. Individuals living in these Opportunity Zones are less likely to take advantage of preventative health services, such as flu shots, mammograms and dental care and more likely to suffer from medical conditions that include asthma, diabetes and heart disease versus those living in non-Opportunity Zone tracts. The average obesity rate in these Opportunity Zones is 7.4 percentage points higher (35%) than non-Opportunity Zone tracts and a third of residents of these Opportunity Zones did not participate in any leisure-time physical activity, compared to 24% of residents of non-Opportunity Zone tracts.

● **Food Access:** The U.S. Department of Agriculture provides data on "food deserts", which are defined as low income census tracts without a full service grocery store within a 1 mile radius in urban areas or within a 10 mile radius in rural areas. While Opportunity Zones represent around 11 percent of all census tracts, they account for 24 percent of the nation's food deserts. In total, 2,225 Opportunity Zones, or 28 percent of all zones, qualify as food deserts.

● **Brownfields:** Opportunity Zones, which represent only 10.7 percent of all U.S. census tracts, contain nearly one-third (32 percent) of the country's brownfield sites, which are properties that have been contaminated by prior (often industrial) use and typically stand vacant for years or decades.11 All together the country's 8,766 Opportunity Zones contain over 14,700 known brownfield sites.

● **Clean energy:** Clean energy is already taking root in Opportunity Zones. There are 475 solar energy installations producing more than 1MW of activity in Opportunity Zones, as well as 127 wind farms and 15 battery plants of at least the same capacity.

Whitehouse Opportunity and Revitalization Council

Economically distressed communities require more than private capital alone. Many of these communities are in need of public-sector support and regulatory streamlining to ensure they develop the foundations necessary to support a thriving private sector. Public investment in economic development, entrepreneurship, education and workforce training, and safe neighborhoods — along with guidance for engaging with investors and entrepreneurs — will help communities unlock private capital to create sustainable growth. Acknowledging this need, President Donald J. Trump signed Executive Order 13853 on December 12, 2018. This Order established the White House Opportunity and Revitalization Council to carry out the Administration's plan to target, streamline, and coordinate Federal resources to be used in Opportunity Zones and other economically distressed communities. The White House Opportunity and Revitalization Council members have identified over 200 Federal programs where targeting, preference, or additional support could be granted to Opportunity Zones. As of April 30, 2020, the Council has already taken action on 273 grants or programs. As a part of this process, EPA is awarding 155 grants for communities and tribes totaling over $65.6 million in EPA Brownfields funding the agency's Assessment, Revolving Loan Fund, and Cleanup Grant Programs. These funds will aid under-served and economically disadvantaged communities, including neighborhoods located in Opportunity Zones, in assessing and cleaning up abandoned industrial and commercial properties. Of the 151 total communities selected, 118 of these communities can potentially assess or clean up brownfield sites in census tracts designated in these zones.

What Congress Should Do

The most important step Congress can take to optimize sustainable growth in Opportunity Zones is to pass a bill adding reporting and transparency requirements to the policy. Senator Tim Scott along with Senators Sinema, and Grassley introduce a bill to this end. This bill would enable Treasury to collect key information on the location of Opportunity Zone investments, the types of businesses and projects attracting investment, and the number of jobs created. This information will enable Congress to adjust the policy to further incentivize investment in areas remaining underserved, and will be demonstrate the viability of the policy as a community development tool.

Congress can also consider other reasonable adjustments to the policy such as creating gigabit opportunity zones to support the development of rural broadband, and legislation to allow existing community development organizations such as CDFIs to participate more directly in Opportunity Zones.