

**Housing Credit 101: Deal Structuring and Syndication Essentials**

**Housing Credit 101**  
*Deal Structuring and Syndication*  
**Essentials**

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**HOUSING CREDIT CONNECT** **DEAL STRUCTURING AND SYNDICATION ESSENTIALS**

## Panel Overview

- Why invest in housing tax credits?
- Common investment structures
- Investor trends/status of equity markets
- Key business terms and investor protections
- Syndicator/direct investor perspectives
- Important investor due diligence/underwriting issues
- Recapture Basics
- Questions

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## Why Invest in Affordable Housing Tax Credits?

- Tax Benefits
- Economic Benefits
- Social Benefits
- Geographic Flexibility

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## Why Invest in Affordable Housing Tax Credits:

### *Tax Benefits*

- Predictable 10-Year Credit Stream Based on the Cost of Constructing or Rehabilitating Residential Rental Housing
- Depreciation Losses
- One Year Carry Back; Twenty-Year Carry Forward
- Credits Can Offset Alternative Minimum Tax for Buildings Placed in Service After 12/31/07, and for Rehabilitation Expenditures Incurred After 12/31/07

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## Why Invest in Affordable Housing Tax Credits:

*Other Benefits*

<b>Potential Economic Benefits:</b> <ul style="list-style-type: none"><li>• Cash Flow and Sale/Refinancing Sharing (But Not Generally Underwritten)</li><li>• Asset Management Fee Revenue</li></ul>	<b>Social Benefits:</b> <ul style="list-style-type: none"><li>• Community Reinvestment Act ("CRA") Qualification</li><li>• Shareholder Relations</li><li>• Social Responsibility</li><li>• Some Projects May Qualify as Green Investments</li></ul>	<b>Geographic Flexibility:</b> <ul style="list-style-type: none"><li>• Can Provide Geographic Diversification</li><li>• Can Target for Local Priorities and Visibility</li></ul>
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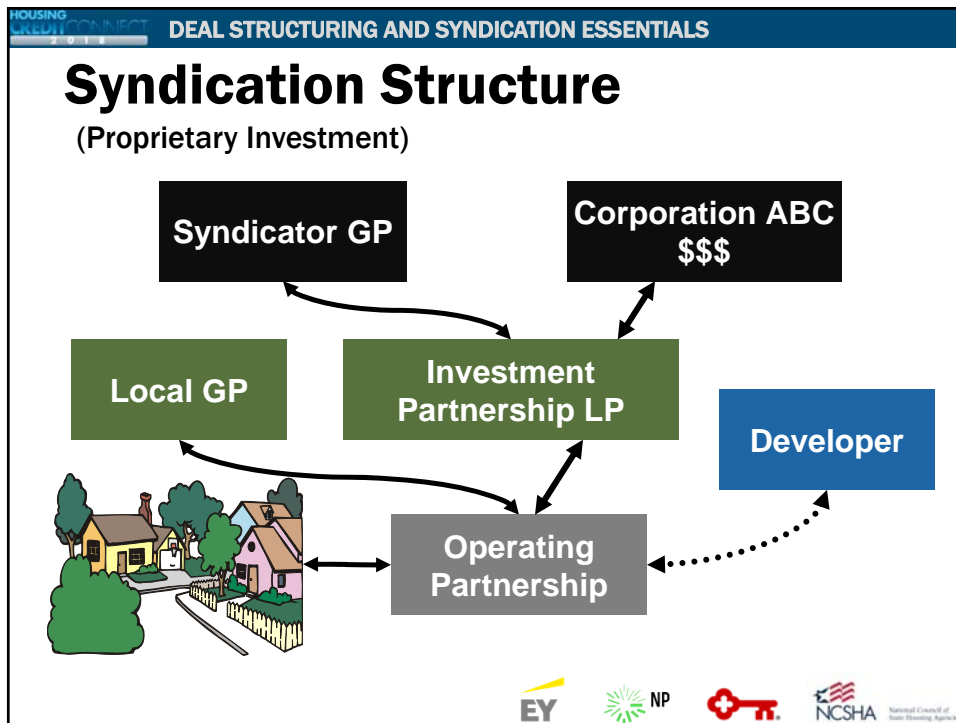
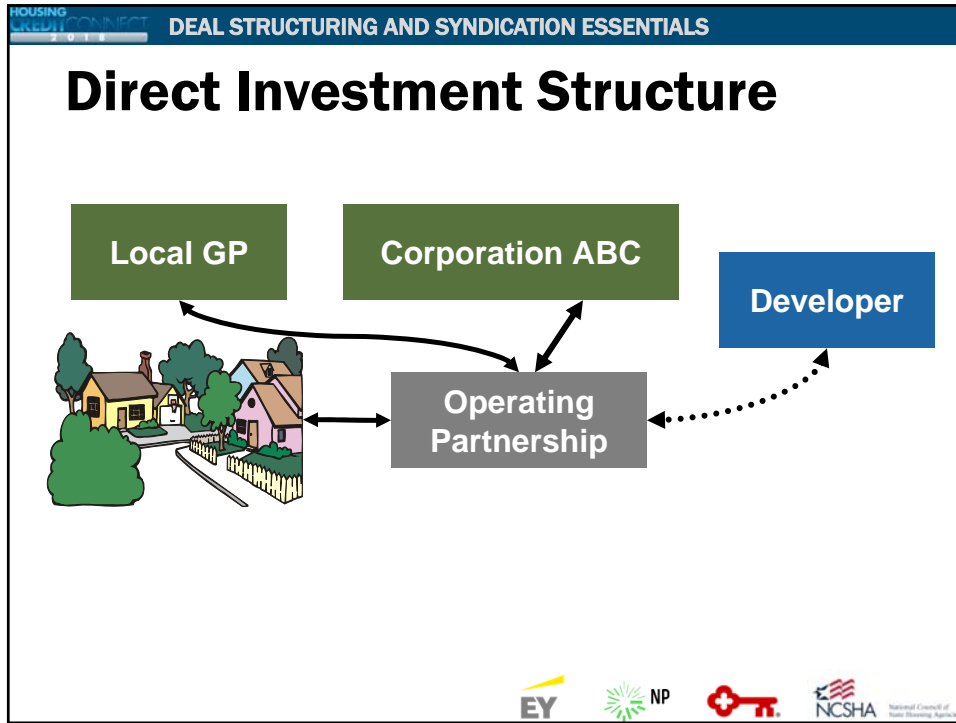
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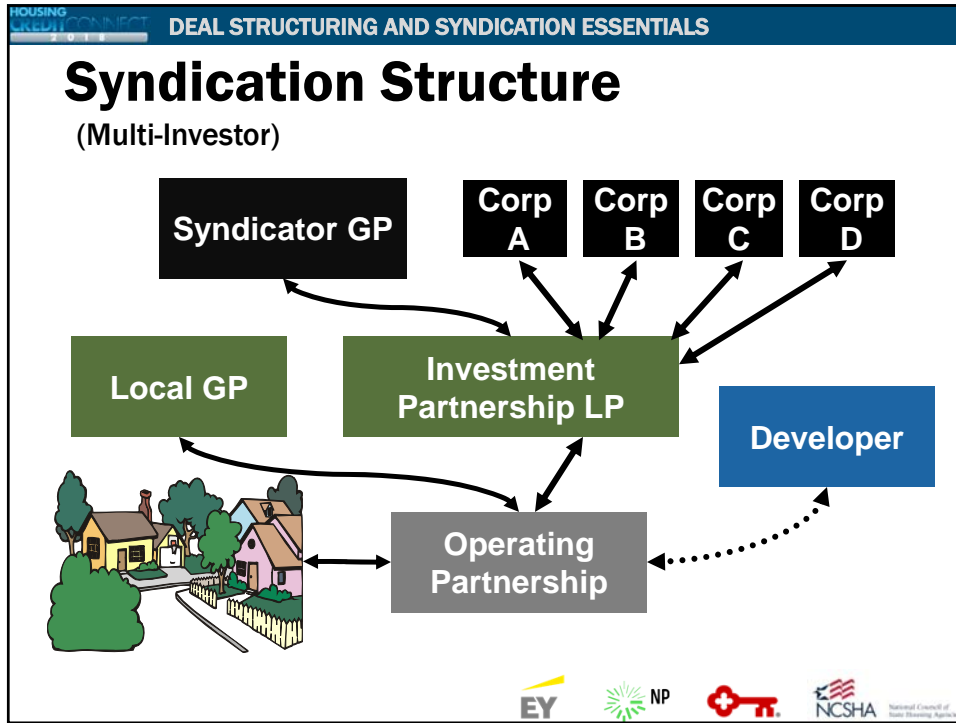
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## Common Investment Structures

<b>Direct Investment:</b>	• Investment Directly into the Project Partnership which is the Owner of the Housing Development
<b>Proprietary Investment:</b>	• Investment Through a Fund Managed by a Syndicator Without Other Investors for a Particular Housing Development
<b>Multi-Investor Investment:</b>	• Investment through a Fund Managed by a Syndicator with Other Investors for a Particular Housing Development
<b>Secondary Investment:</b>	• Purchased During the 10-Year Credit Period from Original Investor
<b>Guaranteed Investment:</b>	• Certain Sponsors May Guarantee a Specific Yield and/or Against Specific Investment Risks

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## Structuring Tax Credit Investments: Key Business Terms and Investor Risks/Protections

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## Overview of Major Investment Risks

**Tax:**

- Recapture of a Portion of Previously-Allocated Credits and Future Credits for Projects that Do Not Comply with Income, Rent and Other Project Restrictions During the Initial Fifteen-Year Compliance Period

**Construction and Lease-up:**

- Units Must Be Completed and Rented to Qualifying Tenants to Receive Credits

**Operational:**

- Loss of Property Through Foreclosure Would Result in Similar Recapture and Loss of Future Credits

**Sponsor Risk:**

- Weak or Overextended Sponsor

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## Key Business Terms

- Projects Owned by Limited Partnership or Limited Liability Company
- Limited Partner Generally Receives 99.99% of Tax Credits, Depreciation, Losses and Profits
- Limited Partner Makes Capital Contributions in Multiple Installments (Generally 4 or 5), Based on Negotiated Development, Financing and Performance Benchmarks
- General Partner Guarantees Completion/Stabilization, Amount and Timing of Credits, and Funding of Deficits
- Investor Protections (Removal/Repurchase/Adjusters)




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## Structuring Tax Credit Investments:

Key Investor Protections

- Tax Credit Adjusters
  - Eligible Basis Adjuster
  - Timing Adjuster
  - Compliance Adjuster
- Construction Completion/Stabilization Guaranty
- Operating Deficit Funding Guaranty
- Removal of General Partner/Admission of Additional General Partner
- Removal of Management Agent





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## Structuring Tax Credit Investments:

Key Investor Protections

- Reporting Requirements/Removal of Accountants
- Repurchase of Investor Interest
- Removal of General Contractor
- Operating/Replacement Reserves
- Personal Guarantees

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## UNDERSTANDING THE SYNDICATOR/DIRECT INVESTOR PERSPECTIVE

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### Important Structuring/Underwriting Issues

- Assessing the market and determining realistic rents
- Underwriting operating expenses
- Section 8 Rental assistance and Re-tenanting issues
- Underwriting sponsor reputation/experience/financial strength
- Determining appropriate replacement, operating and lease-up reserves
- Capital accounts, depreciation and related party debt
- Structuring deferred development fees
- Permanent debt terms and required DSCR
- Insurance issues
- Construction review
- Environmental issues

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# RECAPTURE 101

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## Recapture

- **Recapture for Non-Compliance:**
  - Accelerated Portion of Credit Recaptured (1/3 of Credit First 10 Years, Decreasing Through Year 15)
  - If Minimum Set-Aside Fails, All Accelerated Credits Recaptured
  - Otherwise, Unit-by-Unit (Extent of Decrease in Qualified Basis)
- **Full Recapture on Transfer of Project or Interest Therein**
  - De Minimis (1/3 Ownership) Exception

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## Calculating Recapture Cost

- Recapture Tax (Up to 1/3 of Credits Previously Claimed)
- Additional Interest Charge
- No Right to Receive Future Tax Credits

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## Avoiding Recapture

- Recapture May be Avoided Upon the Disposition of a Building (or Interest Therein) if:
  - A Taxpayer Reasonably Expects the Building to Remain Low Income and in Compliance with LIHTC Program, and
  - Taxpayer Agrees to Extend Period for the Statute of Limitations for Three Years Following Taxpayer's Notification to the Treasury that a Recapture Event has Occurred

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