

Supporting Statement for Interagency Statement on Complex Structured Finance Transactions

The Office of the Comptroller of the Currency (OCC), in conjunction with the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, and the Securities and Exchange Commission (Agencies), is issuing for public comment an Interagency Statement on Sound Practices Concerning Complex Structured Finance Transactions (statement). The statement describes the types of internal controls and risk management procedures that the Agencies believe are particularly effective in assisting financial institutions to identify and address the reputational, legal, and other risks associated with complex structured finance transactions.

A. Justification

1. Circumstances that make the collection necessary:

As recent events such as Enron have highlighted, a financial institution may assume substantial reputational and legal risk if the institution enters into a complex structured finance transaction with a customer and the customer uses the transaction to circumvent regulatory or financial reporting requirements, evade tax liabilities, or further other illegal or improper behavior.

As financial intermediaries, financial institutions play a critical role in ensuring the integrity of financial markets and maintaining the trust and public confidence essential to the proper functioning of the capital markets. Structured finance products normally serve the legitimate business interests of customers and are an essential part of U.S. and international capital markets. Financial institutions need effective policies and procedures in place to identify those complex structured finance transactions that may involve heightened reputational and legal risk, to ensure that these transactions receive enhanced scrutiny by the institution, and to ensure that the institution does not participate in illegal or inappropriate transactions.

2. Use of the information:

Financial institutions policies and procedures should ensure that an institution's operations are conducted in compliance with applicable law and regulations. This is critical to the institution's well being since an institution may face substantial legal risk including enforcement action by an Agency and lawsuits by private parties if it participates in structured finance transactions that are used by a customer to circumvent regulatory or financial reporting requirements, evade tax liabilities, or further other illegal or improper behavior. The policies and procedures also help the institution avoid reputational risk where the transactions involved are structured to technically comply with existing laws and regulations.

3. Consideration of the use of improved information technology:

National banks may adopt any existing technology relevant to producing or retaining the information.

4. Efforts to identify duplication:

There is no duplication. This collection is unique in that it involves policies and procedures specific to a particular institution and appropriate to the types of structured finance transactions that the institution conducts.

5. Methods used to minimize burden if the collection has a significant impact on substantial number of small entities:

Small institutions are not involved in transactions of this type. Therefore, this collection of information imposes no burden on them.

6. Consequences to the Federal program if the collection were conducted less frequently:

This collection involves only usual and customary recordkeeping and requires no submission to the OCC

7. Special circumstances necessitating collection inconsistent with 5 CFR Part 1320:

Not applicable. This collection is conducted consistent with the guidelines in 5 CFR 1320.6.

8. Efforts to consult with persons outside the agency:

This submission covers a proposed statement that will be published in the Federal Register for comment. The OCC and the other Agencies will consider carefully any public comments received in response to that publication in developing the final statement.

9. Payment to respondents:

None.

10. Any assurance of confidentiality:

No assurance of confidentiality is made.

11. Justification for questions of a sensitive nature:

There are no questions of a sensitive nature.

12. Burden estimate:

The collections of information contained in the statement involve the types of policies and procedures already adopted by the large institutions that participate in developing complex structured finance transactions for customers. The statement describes the types of internal controls and risk management procedures that the Agencies believe are particularly effective in assisting financial institutions to identify and address the reputational, legal, and other risks associated with complex structured finance transactions. The Agencies believe that involved institutions already have developed the policies and procedures addressed in the statement. Thus, the development time for the policies and procedures is usual and customary for any large institution involved in transactions of this type. Further, responsible institutions would update regularly their policies and procedures to ensure that they address transactions appropriately and are adequate for that institution. Nevertheless, the Agencies have estimated burden at 100 burden hours per large institution per year. This is more a marker than a burden estimate since the Agencies believe that the burden is usual and customary.

The OCC believes that 11 national banks and 10 Federal branches are involved in complex

structured finance transactions activities. The OCC is providing an estimate of 100 burden hours per institution to cover updating the policies and procedures needed regarding these activities. Therefore, recordkeeping burden for this information collection is as follows:

21 recordkeepers @ 1 response = 21 respondents

21 responses @ 100 hours = 2,100 burden hours

The OCC estimates the cost of the hour burden to respondents as follows:

| | | | | | |
|---------------------------------|-------------|---|---------------|---|------------------|
| Clerical: | 25% x 2,100 | = | 525 @ \$ 25 | = | \$ 13,125 |
| Managerial/Technical: | 25% x 2,100 | = | 525 @ \$ 60 | = | \$ 31,500 |
| Senior Management /Professional | 50% x 2,100 | = | 1,050 @ \$100 | = | <u>\$105,000</u> |
| Total: | | | | = | \$149,625 |

13. Estimates of annualized costs to respondents:

Not applicable.

14. Estimate of annualized costs to the government:

Not applicable.

15. Change in burden:

This submission involves a new collection. Therefore, the OCC requests a program change increase of 2,100 burden hours.

16. Information regarding collections whose results are planned to be published for statistical use:

This is a recordkeeping and no data are submitted to the OCC. Therefore, the OCC has no plans to publish data for statistical purposes.

17. Display of expiration date:

The OCC requests OMB permission to omit the expiration date from the Final Guidance. The OCC will publish the OMB Control Number on the Final Guidance. The Final Guidance will continue in effect until cancelled or modified. The OCC does not expect to revise or republish the Final Guidance in the near future.

18. Exceptions to certification statement:

None.

B. Collections of Information Employing Statistical Methods

Not applicable.

Attachments:

Proposed Interagency Statement on Sound Practices Concerning Complex Structured Finance Activities

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