

SUPPORTING STATEMENT
Prohibited Service at Savings and Loan Holding Companies
(New Collection)

A. JUSTIFICATION

1. Circumstances that make the collection necessary

The Office of Thrift Supervision (OTS) requests OMB approval for the collection of information contained in the attached proposed interim final rule. The OTS is publishing an interim final rule implementing section 710(a) of the Financial Services Regulatory Relief Act of 2006, which added a new section 19(e) to the Federal Deposit Insurance Act (FDIA). Section 19(e) of the FDIA prohibits any person who has been convicted of any criminal offense involving dishonesty or a breach of trust, or money laundering or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such an offense (prohibited person) from holding certain positions with respect to a savings and loan holding company (SLHC). The interim rule describes actions that are prohibited under the new statute and describes procedures for applying for an OTS order granting a case-by-case exemption.

In order for a prohibited person to obtain or to continue in certain positions with an SLHC, the SLHC or the individual will need to apply to the OTS for an approval order for a case-by-case exemption. OTS does not believe that this requirement is punitive in intent. Rather, the primary criteria in assessing such applications is whether the prohibited person in his/her proposed capacity at the SLHC participates in the major policy making functions of the SLHC or threatens the safety and soundness of the insured depository institution that is controlled by the SLHC, the interests of its depositors, or the public confidence in the institution. The proposed collection of information is not burdensome in nature and pertains to the position at the SLHC to be held by the prohibited person, the prohibited person's level of ownership of the SLHC, the specific nature of the offense involved, evidence of rehabilitation, and other relevant factors.

2. Use of the Information Collected

The information collected when an SLHC or an individual applies for a case-by-case exemption will be used by OTS to determine whether to approve or deny the prohibited person's involvement in the affairs of the SLHC.

3. Consideration of the use of improved information technology

The respondents will need to file their applications in writing to OTS.

4. Efforts to identify duplication

This information collection is not duplicative within the meaning of the PRA and OMB regulations.

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

This information collection does not have a significant impact on a substantial number of small entities.

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

To reduce the burden of this new collection on SLHCs and individuals, OTS is proposing in its interim final rule to exempt, subject to certain conditions, SLHC employees whose responsibilities and activities are limited solely to agriculture, forestry, retail merchandising, manufacturing, or public utilities operations.

7. Special circumstances necessitating collection inconsistent with 5 CFR part 1320

OTS is not aware of any special circumstances within the meaning of this paragraph.

8. Consultation with persons outside the agency

OTS consulted with industry representatives with regard to the proposed rule as well as the proposed collection of information. OTS is soliciting public comments on the interim final rule and will carefully consider any public comments received in response to that publication in developing the Final Rule.

9. Payment to respondents

OTS provides no payments or gifts to respondents.

10. Confidentiality

OTS will treat the information collected with respect to applications for case-by-case exemptions as confidential provided that the respondent requests in writing with the application how the request is consistent with the standards under the Freedom of Information Act and OTS regulations at 12 C.F.R. Part 505.

11. Information of a Sensitive Nature

None.

12. Burden estimate

Number of respondents: 50

Preparing application: 16 hours

Total estimated time per response: 16 hours

Total estimated annual burden: 50 respondents x 16 hours = 800 hours

The FDIC's Statement of Policy issued under Section 19(a) of the FDIA, and the FDIC's rules at 12 C.F.R. Part 303, subpart L and 12 C.F.R. Part 308, subpart M contain procedures and standards applicable to an application pursuant to Section 19 of the FDIA. OTS is adopting similar procedures and standards for its application for a case-by-case exemption in its implementation of Section 19(e) of the FDIA. The FDIC uses OMB Form No. 3064—0018, "Application Pursuant to Section 19 of the Federal Deposit Insurance Act" to collect information on a prohibited person and his/her position at an insured institution. OTS does not propose to use this form or any specific form for the collection of information with regard to its SLHCs. However, OTS believes the FDIC's estimate for public reporting burden for the collection of this information, at an average of 16 hours per response, is reasonable and applicable in this instance given the similarity of the information to be collected.

13. Estimate of annualized costs to respondents

Not applicable.

14. Estimate of annualized costs to the government

Not applicable.

15. Analysis of change in burden

Because this is a new collection, the entire increase of 800 burden hours is a program change.

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

The results of these collections will not be published for statistical use.

17. Display of expiration date

Not applicable.

18. Exceptions to certification statement

None.

B. STATISTICAL METHODS

Not applicable.

Attachment

Notice of Proposed Rulemaking