

# **Public Notice and Comments**

## **Comptroller's Licensing Manual**

**Washington, DC  
February 2003**

# Public Notice And Comments

## Table of Contents

---

Introduction.....	1
Public Notice.....	1
Contents of Applicant’s Published Notice.....	2
Special Considerations.....	2
Additional Notice by Applicant.....	3
Other Agency’s Public Notice.....	3
Public Notices by the OCC.....	3
Notification upon Request.....	4
Public Comment.....	4
Duration of Comment Period .....	5
Extension of Comment Period Requests.....	5
Meetings.....	6
OCC Ombudsman as Liaison.....	7
Published Decisions.....	7
Community Reinvestment Act (CRA).....	7
CRA Comments Prior to the Application.....	8
CRA Comments on the Application.....	9
Removal of Application from Expedited Review Process.....	9
Convenience and Needs.....	10
CRA and Decisions on Applications.....	10
Public Hearings.....	11
Key Policies.....	11
Application Process.....	12
Public Hearing Proceeding.....	12
Notification of Attendance.....	12
Time Limits.....	13
Testimony an Evidence.....	13
Procedures: Public Hearing.....	15
References.....	19

# Public Notice and Comments

---

## Introduction

Applicants must obtain prior approval from the Comptroller of the Currency (OCC) to engage in certain transactions or activities. In many cases, the applicants must publish notice of their filings pursuant to a specific law or regulation. This publication process allows the public to give written comments to the OCC in support of, or in opposition to, the application or to recommend that the OCC grant approval subject only to certain conditions. The specific publication requirement for each type of covered filing is discussed in the relevant filing booklet in this manual. The general requirements of a public notice are summarized in this booklet.

In response to a public notice, the OCC occasionally receives comments from the public in support of, or in opposition to, applications. If warranted, the OCC will remove expedited filings from the expedited review process to allow sufficient time to consider the comments received. Sometimes commenters request that the OCC extend the comment period and/or convene a meeting or public hearing. This booklet discusses the procedures the OCC uses when comments are received, the effect of the Community Reinvestment Act (CRA) on certain applications, and the requirements and step-by-step procedures for conducting public hearings.

This booklet should be used together with other booklets of the *Comptroller's Licensing Manual* (manual). Users will need to refer to the "[General Policies and Procedures](#)" (GPP) booklet and to the specific application booklet for additional discussion, instructions, and procedures relating to how the OCC processes applications. For your convenience, this booklet contains hyperlinks to other manual booklets and OCC publications and resources.

## Public Notice

For certain applications, an applicant publishes a public notice of its filing in a newspaper of general circulation in the community in which it proposes to engage in business. For example, if a bank proposes to establish a branch, it publishes notice in the community in which the branch will be located. In a merger between two banks, each headquartered in a different city, the applicant must publish notices in each bank's headquarters city. The publication must occur on the date the application is filed or as soon as possible before or after submission of the filing.

Pursuant to statutes and/or regulations, an applicant must publish notice containing specific information for the following types of filings:

- National bank charters (other than conversions).
- Establishment of domestic branches.

- Relocation of main office or branches.
- Business combinations.
- Changes in bank control.

Although branch closings are not applications requiring OCC action or typically a published notice, a bank must send advance notice of branch closings to its customers and post a notice at the closing branches (see the [Branch Closings](#) booklet).

## Contents of Published Notice

Generally, the public notice must contain:

- A statement that the filing is being made.
- The date of the filing.
- The applicant's name.
- The filing's subject matter.
- A statement that the public may comment to the OCC.
- The appropriate OCC office address where comments should be sent, the public file may be viewed, and a copy of the public file may be requested.
- The closing date of the comment period.
- Any other related information required by the OCC.

Note: Refer to the specific application booklets to obtain specific notice requirements and sample notices.

Promptly after publication, the applicant must provide to the appropriate licensing manager a statement containing the date of publication, the name and address of the newspaper that published the public notice, a copy of the public notice, and any other information that the OCC may require.

## Special Considerations

If the filing is part of a multiple-step transaction, or a series of transactions, the applicant should explain the entire transaction in one notice, as if it were a single filing, so that the public will understand the total transaction. For example, a bank should not publish a relocation of a main office in one notice, establishment of a branch at the current main office location in a second notice, and a merger in a third notice, if they are all steps in a single transaction. In addition, the description of the multiple-step transaction must include any step, even if the step does not require a public notice if it were treated as a single transaction.

When a bank operates under more than one name or under one substantially different from its legal name, each public notice should include both the bank's legal name and the name(s) it is using or intends to use in the community in which the publication circulates.

Banks should also consider the languages used by the residents of the communities in which notice is required. If the bank determines that the primary language of a significant number of adult residents of the community is other than English, the bank may choose to publish the required notices in both languages. The OCC may also require that notices be published in languages other than English.

## Additional Public Notice by Applicant

In addition to the legally required notices, the OCC may determine that the applicant must also publish another public notice if the OCC believes additional notice is appropriate to obtain public comment. For example, the OCC may require the republication of public notices if significant amendments to an application occurred after it was initially filed. The OCC will usually provide specific guidance to the applicant on the form and content of such specific notice, based on the type of filing and the issues presented, to ensure an effective public notice without creating undue delay or expense.

## Other Agency's Public Notice

Upon an applicant's request, the OCC may accept the public notice required by another federal agency to satisfy the applicant's public notice requirements for its OCC filing. The public notice must adequately fulfill the OCC's requirements and state that comments must be submitted to both the OCC and, if applicable, the other federal agency.

## Public Notices by the OCC

The OCC publishes in its [Weekly Bulletin](#) notice of all applications subject to a public notice and other filings received or acted upon each week. The *Weekly Bulletin* is available on the OCC's Internet site. The *Weekly Bulletin* does not satisfy the applicant's public notice requirements.

The OCC has the authority to publish a notice requesting comment on a filing in a manner appropriate for that particular filing. If the OCC decides to provide additional public notice and an opportunity for comment on a filing, it may publish the notice in any manner it determines appropriate for the particular filing, such as the *Federal Register*, *OCC's Weekly Bulletin*, or local or regional newspapers. When public notice is not legally required, the OCC will consider such notices when:

- The filing presents novel or complex issues.
- The filing is likely to be controversial.
- The filing may have widespread implications for banks or customers.

- The OCC would benefit from public comments.

## Notification upon Request

Members of the public may request that the OCC provide notice to them of the filing of applications covered by the CRA that are submitted by specific national banks. Requests for such notice should be directed to the licensing manager at the [appropriate district office](#) that processes applications for that bank.

## Public Comment

The OCC welcomes comments on all filings. To facilitate public comment, the OCC is committed to providing the public with easy access to public information on filings and decisions. Any interested person may participate in the OCC licensing process by commenting in writing on any filing during the applicable public comment period. Comments and related communications should be addressed to the appropriate OCC licensing manager or to whomever is identified in the published notice. All comments received are placed in the public file for the filing, unless the submitter has requested and been granted confidential treatment by the OCC.

The OCC also is committed to processing applications and reaching decisions without unnecessary delay. However, the OCC also intends to provide each application with the scope and depth of review it warrants, even if that review requires an extension of time. The OCC considers all comments it receives during the comment period. In addition, the OCC will consider comments received after the close of the comment period only if doing so would not inappropriately delay action on a filing.

In some instances, the OCC may notify interested persons that it will no longer accept comments on a filing. This can occur after a commenter and the applicant have replied to each other's statements, or information on protested or other issues is received significantly after the close of the comment period. The OCC will decide the application on the basis of the information received as of the date it ceased accepting comments.

Comments should be specific and contain data or references to support conclusions or recommendations. Typically, general concerns raised by commenters do not adequately identify matters that an examiner can thoroughly investigate. Specific comments will enable the OCC to review potential issues more completely prior to its decision. Comments may also recommend approval or denial of a filing or approval only on the condition that an applicant completes certain actions before and/or after its application is approved.

In addition, during the public comment period, an interested person may write to the OCC and request:

- A copy of the public file for a filing (see [Procedures: Information Request](#) section in the GPP booklet).

- Extension of the comment period (see the [Extension of Comment Period](#) discussion in this booklet).
- The OCC to conduct a public hearing, arrange a public meeting, arrange a private meeting between the commenter and the OCC, with or without the applicant present, or arrange a meeting between the commenter and the applicant at which the OCC will *not* be present. (See the [Meetings](#) and [Public Hearing](#) sections in this booklet.)
- The OCC to convene a meeting to explore the feasibility of obtaining financial services in low- and moderate-income areas in which the closing of an interstate bank's branch is located (See *Branch Closings* booklet).

Because of concerns over confidentiality and fairness, the OCC staff refrains from commenting publicly on the merits of a filing under review, making no statements that could be construed as favoring one decision over another. The staff avoids any reference to recommendations or opinions on the likelihood of a favorable or unfavorable decision.

The OCC routinely provides an applicant with the opportunity to respond to any comment received.

## Duration of Comment Period

Interested persons generally have 30 days from the initial date of publication of the notice of the filing to provide written comments to the OCC. Under exceptional circumstances, such as natural disasters or unusual transactions, the OCC may shorten a comment period or require a longer comment period. The public comment period for short-distance branch and short-distance main office relocations is 15 days. The public comment period for a Notice of Change in Control is 20 days. The notice published by the applicant is required to identify the closing date of the comment period on the filing. In computing the period of days for comment, the OCC includes the day of publication as the first day of the period.

## Extension of Comment Period Requests

During the comment period, any person may make a written request to the appropriate licensing manager for additional time to submit comments. The OCC may extend the comment period if:

- The applicant fails to file all required information in time to permit review by interested persons.
- The requester demonstrates that additional time is necessary to develop factual information that the OCC determines is necessary for its consideration of the filing.
- The OCC determines that other extenuating circumstances exist.

For example, the OCC, in its discretion, may decide to extend the comment period when:

- The OCC considers a request to release certain information to the public file that the applicant deems confidential.
- After the close of the comment period, the applicant submits a significant amendment to the filing.

The OCC will promptly notify the applicant and any interested party if it decides to extend the comment period.

## Meetings

In general, the OCC relies on written information submitted during the comment period to reach a decision on an application. However, the OCC will consider obtaining information through meetings if useful to reach a decision. Such meetings, which are informal in nature, should not be confused with formal public hearings. Information on public hearing requests and procedures appears later in this booklet.

Upon request, the OCC may participate in meetings with persons, community organizations, or other members of the public to obtain useful information prior to making a decision on an application. The OCC may arrange for private or public meetings on an application, either upon receipt of a written request for such a meeting made during the comment period or upon the OCC's own initiative. The OCC will summarize and place in the official file significant information it obtains during those meetings. The OCC official authorized to decide the application reviews the official file prior to a decision.

While the OCC strongly encourages written submissions, a person or group that desires to have an OCC representative hear oral statements from community members about an applicant national bank should submit a written request for such a meeting to the OCC during the public comment period. That request should explain why a written submission is not feasible or appropriate. If the OCC believes that such a meeting is warranted, the OCC will try to arrange a private meeting or take information by telephone to obtain relevant information for consideration in reviewing an application. Meetings may be held in OCC offices or at other appropriate sites depending upon the financial means of the parties with whom the OCC intends to meet and other relevant considerations.

If warranted, to help narrow issues or facilitate their resolution, the OCC may also try to arrange a private meeting between representatives of the applicant and commenters at which OCC representatives are *not* present. The proceedings of such meetings are not a part of the official file for the application.

A public meeting is advertised and open to participation or observation by all members of the public. The meeting may be warranted if the OCC believes such a meeting would be necessary to elicit relevant information from persons desiring to provide it and would otherwise be in the public interest. One or more public meetings in various locations might be appropriate, for example, if two large, multistate banks proposed to merge and the OCC received requests for public meetings from various parties in more than one location who have raised multiple issues.



## OCC Ombudsman as Liaison

The OCC Ombudsman is available to act as a liaison between the OCC and any affected person(s) who may need assistance with any problem or question resulting from the OCC's regulatory activities. Information about the Ombudsman is contained in [OCC Bulletin 2002-9](#).

## Published Decisions

Pursuant to 12 CFR 5.13(e), the OCC publishes public decisions on filings that represent a new or changed policy or present issues of general interest to the public or the banking industry. The OCC also publishes decisions when they contain conditions imposed upon the applicants that are enforceable under 12 USC 1818 or if they discuss CRA issues. These decisions are printed in their entirety in the OCC's monthly publication, [Interpretations and Actions](#), and are available in the OCC's Internet site. Those decisions frequently are highlighted in the OCC's [Quarterly Journal](#), which is available on the OCC's Internet site.

## Community Reinvestment Act (CRA)

Congress enacted the CRA to require federal bank and thrift regulators to encourage insured depository institutions to help meet the credit needs of their entire communities, including low- and moderate-income neighborhoods, consistent with safe and sound banking practices. Pursuant to the CRA, the OCC periodically examines each national bank subject to CRA, assigns a CRA rating, and issues a public evaluation. The OCC assigns a national bank a CRA composite performance rating of Outstanding, Satisfactory, Needs to Improve, or Substantial Noncompliance. Interstate national banks also are assigned ratings for each state and multistate metropolitan statistical area (MSA) in which they have branches in at least two states within the multistate MSA. The OCC also reports conclusions about such banks' performance in each MSA and in non-MSA portions of states in which they have branches.

Pursuant to the CRA, the OCC will take into account a bank's record of CRA performance in considering an application for:

- Establishment of a domestic branch.
- Relocation of the main office or a branch office.
- Business combination.
- Conversion to a national bank charter.

This record may be the basis for conditionally approving or denying a filing.

An applicant for a new national bank charter (other than a conversion applicant) must submit a description of how it will meet its CRA objectives. The OCC evaluates the description in considering the application.

The OCC considers the CRA performance records of all insured depository institutions involved in a CRA-covered filing. In certain interstate transactions, the OCC, in determining whether to approve an application, considers:

- The applicant's record of performance as reviewed by the OCC.
- The applicant's record of compliance with applicable state community reinvestment laws.
- The most recent CRA evaluation of any bank that would be an affiliate of the resulting bank.

The OCC releases a variety of information about its CRA compliance activities. Each month it publishes in a press release a list of CRA ratings of national banks. That release is included in the monthly publication *Interpretations and Actions*. That publication and the OCC's *Quarterly Journal* also include letters conditionally approving or denying filings for CRA reasons, or otherwise discussing CRA issues. That and other CRA information also may be found on the OCC's [Internet site](#).

Published decision letters for a licensing filing that includes CRA-related information will be redacted to remove information that may be considered confidential under the standards of the Freedom of Information Act. The CRA-related information, including any OCC-imposed conditions, will not be treated as confidential.

### **CRA Comments Prior to Application**

The OCC encourages community and civic organizations, government officials, and other members of the public to express their views about a bank's CRA performance to the bank and the OCC at the earliest possible time. Interested persons are encouraged not to wait for an application to be filed to present their views about a national bank's CRA performance. When assessing a bank's CRA record of performance, the OCC considers all comments received prior to conducting a CRA examination.

The CRA regulation facilitates the public's ability to comment to banks and the OCC in the absence of an application. Under 12 CFR 25.43, every national bank must maintain a public file that includes:

- All written comments received from the public for the current year and each of the prior two calendar years that specifically relate to the bank's performance in helping to meet community credit needs and any response by the bank to the comments.
- A copy of the public section of the bank's most recent CRA performance evaluation prepared by the OCC.
- A list of the bank's branches.
- A list of branches opened or closed during the current year and each of the prior two calendar years.
- A list of services generally offered at the branches.

- A map of each assessment area.

The OCC publishes, at least 30 days in advance of the beginning of each calendar quarter, a list of the national banks scheduled for CRA examination in that quarter. The OCC includes this list on its Internet site. The OCC considers any comments submitted to the bank or the OCC in its CRA evaluation.

### **CRA Comments on the Application**

The OCC considers written comments that address an applicant's CRA performance in connection with the filing of a CRA-covered application. CRA comments should contain or reference specific information about an applicant's lending, investments, and/or services in one or more particular geographic areas. The more specific the issue can be identified by the commenter, the more likely the OCC can investigate the matter thoroughly prior to making a decision. Raising general issues or concerns with the bank's overall CRA performance is not likely to provide the OCC with adequate information to question the bank's assigned CRA performance rating. Accordingly, commenters are encouraged to include analyses about specific issues. Normally, the OCC allows the applicant to respond to adverse CRA comments.

### **Removal of Application from Expedited Review Process**

As discussed in the GPP booklet, the OCC generally provides expedited review for most types of applications if the applicant is in healthy condition and has a CRA rating of Satisfactory or Outstanding. Expedited review means that an application subject to a public comment period will be considered approved through the passage of time as of the 15th day after the close of the comment period, unless the OCC acts sooner on the application, formally extends the expedited review period, or removes the application from the expedited review process. The OCC will remove an application from expedited review if the filing, or an adverse comment about the filing, presents significant supervisory, CRA, or compliance concerns, or raises significant legal or policy issues, requiring additional OCC review.

For CRA issues, the OCC will remove an application from expedited review for CRA issues if:

- A significant CRA concern exists. A significant CRA concern exists when the bank's: (1) CRA rating is less than satisfactory, institution-wide, or, if applicable, in a state or multistate MSA; or (2) CRA performance is less than satisfactory in an MSA, or in the non-MSA portion of a state, in which it seeks to expand through approval of an application.
- An adverse comment is received that contains information that will require OCC analysis past the expedited review period.
- Additional time is needed to obtain or analyze information relevant to an application, regardless of whether adverse comments are filed, including information from a targeted CRA review or a comment raising multiple issues about a complex proposal.

- Additional time is needed to schedule and hold a public or private meeting or a public hearing.
- Requested by the applicant.

The OCC notifies the applicant promptly whenever an application is removed from expedited review, with a written explanation of the reasons for the decision to process it under standard procedures.

The OCC will not remove a filing from the expedited review process if it determines that an adverse comment: does not raise a significant issue or concern; is frivolous; appears to have been filed primarily to delay action on the filing; or raises CRA concerns that the OCC determines already have been resolved satisfactorily.

The OCC considers a CRA concern to have been resolved satisfactorily if the OCC previously reviewed (for example in a recent examination or in connection with another application) a concern as presenting substantially the same issue in substantially the same assessment area during substantially the same time, and the OCC determines that the concern would not warrant denial or imposition of a condition on approval of the application. The OCC construes “substantial similarity” narrowly. The OCC may consider a CRA concern to be unresolved, for example, if it receives new information on a matter reviewed previously by the OCC.

## **Convenience and Needs**

In applications subject to the CRA, the OCC may, as a matter of policy, also consider the effect of the proposed transaction on the convenience and needs of the affected communities. The OCC, by statute, must consider convenience and needs in connection with business combination proposals. The “convenience and needs” factor is distinguished from the CRA requirements in that the convenience and needs analysis is prospective, whereas the CRA requires the OCC to consider the applicant’s record of performance, except in charter proposals for which the OCC takes into account the applicant’s description of how it will meet its CRA objectives. For example, in a merger transaction, the OCC considers any plans of the resulting, combined bank for closing branches, particularly in low- or moderate-income areas, as a convenience and needs matter.

The OCC may also remove an application from expedited review if time is needed to obtain or analyze information, whether from adverse comments or otherwise, that raise significant concerns about the convenience and needs of the communities that will be affected by a proposed transaction.

## **CRA and Decisions on Applications**

The OCC does not generally impose CRA-related conditions or deny applications on CRA grounds when an applicant has a satisfactory record of CRA performance. However, an applicant whose record of performance is less than satisfactory overall or in any state, or in any multistate MSA, or in the MSA or non-MSA portion of a state in which it seeks to expand, will normally receive approval of applications pursuant to an enforceable condition under 12 USC 1818 that its performance be

improved.<sup>1</sup> Conditional approvals typically require applicants to submit a plan, acceptable to the OCC, with measurable goals to improve CRA performance.

Conversely, an applicant with a poor CRA record may receive unconditional approval if consummation of the transaction would result in an improvement in the bank's performance. For example, if a bank had a poor record of providing comprehensive branching services in low- or moderate-income areas, the OCC would normally approve without conditions an application by the bank to open a full-service branch in an underserved low- or moderate-income neighborhood.

Staff in the OCC's headquarters directs the resolution of all CRA issues arising from decisions on applications.

In connection with its decisions on applications in which comments were received, the OCC will respond to all parties who filed written protests. The OCC may rely on its prior analysis if the specific issues or concerns raised in a comment letter have been addressed previously by the OCC in connection with an examination or application. Typically, the OCC addresses the issues raised by commenters in a transmittal letter or decision statement. The OCC will describe: the issues raised by the commenters; how those issues were resolved; whether the OCC removed the application from the expedited review process; the scope of any targeted investigation of the banks' activities; and the conclusions reached following any investigation. All decisions that raise CRA issues are published in *Interpretations and Actions* as described earlier in this booklet.

## Public Hearings

In general, the OCC relies on written information submitted during a comment period to reach a decision on an application. However, the OCC may hold a meeting or public hearing to clarify facts or issues about a filing and to assist it in making a decision. For information on meetings, refer to the prior section of this booklet. This section of the booklet discusses the public hearing process.

A hearing is neither an adversarial proceeding nor a forum for the presentation or settlement of legal arguments. All interested persons may participate in the hearing process. Persons challenging the legality of a filing should submit comments separately in writing.

## Key Policies

The OCC may hold a public hearing:

- Upon request or upon its own initiative.
- To clarify facts or issues about a filing.

---

<sup>1</sup> The OCC also may conditionally approve an application to ensure that a proposal will promote the convenience and needs of an affected community.

The OCC will hold a hearing if any person requesting a public hearing (requester) demonstrates that:

- A written submission would be insufficient to enable the requester to make an adequate presentation of information; or
- The hearing would benefit the decision-making process or be in the public's interest.

The OCC will pay the hearing room costs and the cost of its own transcript copies. The requester and other interested persons will pay for their transcript copies. A written request for a waiver of the transcript cost must state the reasons for the waiver and demonstrate the person's financial need. If a waiver is granted, the OCC will pay the cost. If the OCC denies a hearing request, it will notify the requester of the reason.

## Application Process

Requests for hearings should be filed with the appropriate licensing manager. Such requests must be in writing and submitted prior to the end of the prescribed comment period. The OCC evaluates each request for a hearing and determines if one is warranted.

The decision on the hearing request will not be made until the end of the comment period. If a hearing is granted, the OCC appoints the presiding officer, who is responsible for all procedural questions, but will not act on the application. The presiding officer schedules the hearing as soon as possible, or within 30 days. The OCC will issue its notice of hearing ([notice](#)) to the applicant, the requester, and all other protestants or interested persons.

Anyone desiring to be heard must notify the OCC within 10 days from the date the notice of hearing is issued.

## Public Hearing Proceeding

A public hearing is held to assist the OCC in making a decision by clarifying the facts or issues about an application that cannot be expressed adequately in writing. A hearing is not an adversarial proceeding or an opportunity for the presentation or settlement of legal arguments. Comments challenging the legality of an application should be submitted separately in writing.

### **Notification of Attendance**

Each person wishing to be heard will notify the presiding officer (PO) in writing within 10 days from the date of the notice of public hearing. (It is not necessary to submit names of specific witnesses at this time.) The PO will prepare the List of Interested Parties/Participants and will furnish the information to all interested persons.

## **Time Limits**

The PO will set the maximum time for the hearing. Each participant may decide how to use such time and how to allocate it between opening and closing statements, presentations, and questioning of the other party. When more than one participant is involved, they may wish to agree among themselves, prior to the hearing, on the allocation of time. If they neglect to do so, the presiding officer will allot the time.

## **Testimony and Evidence**

### **A. Witnesses**

Each participant in the hearing must submit to the PO, the applicant, and each participant a list of all witnesses. Such list(s) must be submitted to all interested parties five days prior to the hearing. Subject to the rulings of the PO, the participant(s) may present their views and data in any manner they choose. The PO will not rule upon the qualifications of a witness as long as his/her testimony is relevant to the application.

### **B. Exhibits**

All exhibits must be filed in duplicate with the PO and a copy provided to the applicant and each participant at least five days prior to the hearing. This includes maps, photographs, charts, and other visual aids used in the testimony of any witness. Large exhibits may be used at the hearing, but reduced copies that can be inserted in a file (8 ½" x 11" or smaller) must be provided to the PO, the applicant, and each participant.

Exhibits that deviate from the requirements of quantity or size may not be accepted at the hearing nor may reference to any such items be permitted during the testimony.

### **C. Presentation of Testimony**

A panel consisting of OCC staff members will preside over the hearing (hearing panel). The PO has authority to determine who may appear; the order of appearance; the testimony, evidence, data, or other material offered by any persons that may be received; and all other procedural matters arising from the hearing. The names of all speakers will be provided to the reporter before the hearing begins. No witness may be questioned without his/her consent, although the members of the hearing panel, applicant, or participants may question any witness on any matter and at any length within the time set for the hearing. Witnesses are not sworn. The refusal to answer questions, however, may be considered to determine the weight accorded the testimony of any witness. A reporter will record the entire hearing proceedings. The order of presentation will be as follows:

1. *Opening Statements:* The applicant and participant(s) may make a brief statement summarizing the information they will present. The applicant presents first.

2. *Applicant's Presentation:* Following the opening statements, the applicant will make his/her presentation. The application, summary of information, and other data previously submitted is deemed part of the presentation, and the applicant may rest on such submissions. A designated person should be available at the hearing to answer questions about documents previously filed.
3. *Questioning of Applicant:* Following the applicant's presentation, the participant(s) may ask any questions about the documents previously filed and/or testimony given. Such time will be charged to the participant(s).
4. *Participant's Presentations:* The participant's presentation will follow that of the applicant's. All documents submitted prior to the hearing are deemed to be part of the participant's case. Although the participant(s) may rest on such submissions, additional statements may be submitted for the record. A designated person should be available at the hearing to answer questions regarding documents previously filed.
5. *Questioning of Participant(s):* Following the presentation of the participant(s), the applicant may ask any questions about the documents previously filed and/or testimony given. Such questioning will be permitted only after the participant(s) has completed his/her presentation fully. Such time will be charged to the applicant.
6. *Closing Statements:* The applicant and each participant may make a closing statement summarizing his/her presentation. The applicant proceeds first.
7. *Post-Hearing Submissions:* If the applicant or participant(s) in the hearing requests that the public file remain open, comments concerning any materials filed or discussed may be submitted to the presiding officer no later than 14 calendar days following receipt of the transcript. No new matters may be addressed under this provision. A person submitting additional materials must send them concurrently to the applicant and other participants at the hearing.



# **Procedures: Public Hearing**

---

## **Requesting a Hearing**

### Licensing Staff

1. Refers an interested party that requests instructions to this booklet of the *Comptroller's Licensing Manual*.

### Requester

2. Submits a written request to the OCC, with a copy to the applicant, for a public hearing to the appropriate district office prior to the end of the comment period providing the following information:
  - The nature of the issues or facts to be presented.
  - The reasons why written submissions would be insufficient to make an adequate presentation to the OCC.
  - The reasons why a hearing would benefit the decision-making process or be in the public interest.

## **Reviewing the Hearing Request**

### Licensing Staff

3. Makes appropriate CAIS entries and provides notice to headquarters Licensing (HQ LIC).
4. If the requester has not stated adequately the reasons for a public hearing or the nature of the issues, requests clarification or additional information, as necessary, or contacts the requester to determine if a public or private meeting would be appropriate.
5. If step 4 is not necessary, sends an acknowledgment letter to the requester within five business days of receipt, stating that the decision on the hearing request will not be made until the end of the comment period.
6. Sends a notice to the applicant of the request for a public hearing within five business days of receipt.
7. Contacts the Congressional Liaison in Washington whenever written or telephone inquiries are received from congressional members or their staff. All congressional inquiries must be documented in the official file.
8. Solicits comments from the division responsible for monitoring CRA compliance and any other appropriate OCC divisions.

## Deciding a Hearing Request

### Licensing Staff

9. Makes appropriate CAIS entries.
10. Solicits comments from other OCC divisions, as appropriate.
11. Prepares a confidential memorandum and draft decision letter with a recommendation.
12. Forwards the official file, confidential memorandum, draft decision letter, and recommendation to the appropriate official for decision.
13. Decides the hearing request.
14. Makes appropriate CAIS entries.
15. Notifies the requester, the applicant, and all interested persons of the decision by letter, listing the reason(s) for a denial action.
16. If the hearing request is denied, goes to step 34.
17. If the hearing request is approved, selects the presiding officer (PO) and the hearing panel.

## Holding a Public Hearing

### Presiding Officer

18. Schedules the hearing as soon as possible (within 30 days).
19. Arranges for the hearing room.
20. Arranges for a reporting service through the Office of the Chief Counsel.
21. Coordinates the hearing schedule by telephone with the applicant, requester, all interested persons, reporter, and appropriate OCC staff.
22. Provides a written [Notice of Public Hearing](#) to the applicant, requester, hearing panel and other appropriate OCC staff, reporter, and other interested persons.

### Requester/Participant

23. Advises the PO within 10 days after the Notice of Public Hearing that he or she wishes to participate.
24. Sends lists of specific witnesses and duplicate copies of all exhibits to be presented by any participant to the appropriate OCC district office, the

presiding officer, the applicant, and other participants, at least five days before the hearing.

## Presiding Officer

25. Sends a list of all persons or witnesses to be present at the hearing to the applicant and to all interested persons.
26. Sends acknowledgment of receipt of the witness list and all exhibits to the appropriate requester.
27. Confirms that the public hearing room is arranged.
28. Provides a list of names of all parties who will speak at the hearing to the reporter before the hearing begins.
29. Holds the hearing.

## Completing the Hearing Process

### Chief Counsel's Office

30. Receives copies of the transcript from the reporter and forwards to the PO and licensing manager.

### Presiding Officer

31. Advises the applicant and all interested persons in writing when the transcript has been received.

### Participant/Applicant

32. May request that the hearing record be held open for 14 calendar days after the OCC's receipt of the transcript to permit submission of additional written statements.

### Presiding Officer

33. Sends acknowledgment of receipt of all post-hearing materials received within the 14-day period after receipt of the transcript.

## Post-Hearing Responsibilities

### Licensing Staff/HQ LIC

34. Reviews the official file for completeness and returns it to the appropriate licensing manager to complete processing of the application.

35. Submits information on filings it denied or conditionally approved that involve CRA-related decisions to HQ LIC prior to the end of the quarter in which the decision was reached to ensure that it has sufficient information to publish in the [\*Quarterly Journal\*](#).
36. Makes appropriate CAIS entries.

## References

---

<b>Appeals</b>	
Bulletin	OCC 2002-9
Change in Bank Control	12 CFR 5.50(f)(3)(iii)
<b>Comments and Requests for Meetings and Hearings</b>	
Regulations	12 CFR 5.10, 5.11
<b>Hearing Denial Notification</b>	
Regulation	12 CFR 5.11
<b>Hearing Procedures</b>	
Regulation	12 CFR 5.11
<b>Public Availability of Information</b>	
Regulations	12 CFR 4.11-4.39
	12 CFR 5.9
<b>Public Request</b>	
Regulation	12 CFR 5.9
<b>Publication Requirement</b>	
Regulation	12 CFR 5.8