

Supporting Statement
Community and Economic Development Entities, Community Development Projects, and
Other Public Welfare Investments – 12 CFR 24
OMB Control Number 1557-0194

This information collection is being submitted to OMB for review pursuant to the issuance of a notice of proposed rulemaking entitled “Regulatory Review Amendments.” 12 CFR Part 24 is being revised, including the CD-1 Form found in Appendix A to comport with changes made to 12 U.S.C. 24(Eleventh) by the Financial Services Regulatory Relief Act, Pub. L. 109-351. The OCC is requesting a three-year extension for the entire collection.

A. Justification.

1. Circumstances that make the collection necessary:

Federal law at 12 U.S.C. 24 (Eleventh) authorizes national banks to make investments each of which promotes the public welfare by benefiting primarily low- and moderate-income communities or families (such as by providing housing, services, or jobs). The statute requires the OCC to limit a national bank’s aggregate investment in these projects up to 15 percent of the bank’s unimpaired capital and surplus.

This information collection is needed to ensure national bank compliance with the revised statute regarding the amount and nature of these investments. Further, the information collection is needed to ensure bank safety and soundness, to identify risks to the Federal deposit insurance system, and to generally manage the OCC’s process for permitting national banks’ community development entities, community development projects, and other public welfare investments.

2. Use of the information:

Current Part 24

An eligible bank may make an investment without prior notification to, or approval by, the OCC if the bank submits an after-the-fact notification of an investment within 10 days after it makes the investment (12 CFR 24.5(a)).

A national bank that is not an eligible bank but that is at least adequately capitalized may submit a letter to the OCC requesting authority to self-certify investments (12 CFR 24.5(a)(4)).

If a national bank does not meet the requirements for after-the-fact notification, the bank must submit an investment proposal for prior approval by the OCC (12 CFR 24.5(b)).

The OCC will use the information to determine whether the investment meets the statutory and regulatory requirements, is consistent with safe and sound business practices, such as by not

exposing the bank to unlimited liability, and does not pose significant risk to the Federal Deposit Insurance Fund.

Changes Under the NPRM

The Financial Services Regulatory Relief Act, Pub. L. 109-351 (FSRRA), narrowed the grant of authority in 12 U.S.C. 24(Eleventh) by providing that a national bank may “make investments, directly or indirectly, each of which promotes the public welfare by benefiting primarily low- and moderate-income communities or families (such as by providing housing, services, or jobs).” The FSRRA also revised section 24(Eleventh) to state explicitly that the authority to make public welfare investments applies to investments made by a national bank directly and by its subsidiaries and raised the maximum aggregate outstanding investment limit under section 24(Eleventh) from 10 to 15 percent of the bank’s unimpaired capital and surplus.

The notice of proposed rulemaking modifies the procedure that applies when a national bank requests OCC approval to exceed the 5 percent investment limit. The current rule permits a national bank’s aggregate outstanding investments to exceed 5 percent of its capital and surplus if the bank is well-capitalized and the OCC determines, by written approval of a bank’s proposed investment pursuant to the procedures set out at § 24.5(b), that a higher amount will pose no significant risk to the Deposit Insurance Fund. Section 24.5(b) describes the application process that is required for the OCC’s prior approval of an investment when a bank does not satisfy the requirements for using an after-the-fact notice. Thus, the investment limits provision in current §24.4(a) requires a national bank to submit a request to exceed the 5 percent limit together with a specific investment proposal, and to use the prior approval procedures for that investment proposal. The proposal removes the requirement that a national bank submit a specific investment proposal for prior approval under § 24.5(b) when it also seeks approval to exceed the 5 percent investment limit. Under the proposed simpler procedure, the bank would submit a written request to the OCC to exceed the 5 percent limit and would not be required to tie this request to a specific investment proposal. If the OCC provides written approval of the request, the bank may make investments above the 5 percent limit. However, as is the case for investments below the 5 percent limit, for each investment above the limit the bank would submit either an after-the-fact notice under § 24.5(a) if it satisfies the requirements for after-the-fact notice, or an application under § 25.4(b) if it does not.

3. Consideration of the use of improved information technology:

Form CD-1 – National Bank Community Development (Part 24) Investments provides national banks with guidance on the information needed by the OCC. A Word version of the form is available on the OCC Web site at <http://www.occ.treas.gov/cdd/CD-1.doc> for downloading.

Electronic Submission of Part 24 Filings

A national bank may electronically submit its part 24 filing by using the CD-1 form in the E-Corp tool on the OCC’s National BankNet (www.banknet.gov), a secure limited-access Web site for banks regulated by the OCC. E-Corp is one of the tools located on National BankNet, which

provides an electronic process for banks to complete and submit a variety of corporate applications and notices to the OCC, including the CD-1 form.

4. *Efforts to identify duplication:*

The required information is not duplicative and is unique to each public welfare investment and bank.

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

Not applicable. The collection does not have a significant impact on a substantial number of small entities. This information collection imposes only the minimum burden necessary to ensure compliance with Federal law, accomplish program goals, ensure national bank safety and soundness, and minimize risk to the Federal deposit insurance fund.

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

The information collection is the minimum necessary to ensure bank compliance with the law, safety and soundness requirements, and to generally manage the OCC's process for permitting national bank public welfare investments. These submissions are prepared only when a bank intends to make an investment in a community development entity or community development project or other public welfare activity.

7. *Special circumstances that would cause an information collection to be conducted in a manner inconsistent with 5 CFR Part 1320:*

None. The information collection is conducted in accordance with the requirements of 5 CFR Part 1320.

8. *Efforts to consult with persons outside the agency:*

These revisions are being issued for 60 days of public comment through a notice of proposed rulemaking. The OCC invites public comments. All comments received will be analyzed and taken into consideration.

9. *Payment or gift to respondents:*

None.

10. *Any assurance of confidentiality:*

None.

11. *Justification for questions of a sensitive nature:*

There are no questions of a sensitive nature.

12. Burden estimate:

The OCC estimates the burden as follows:

| Cite and Burden Type | Information Collection Requirements in Part 24 | No. of Respondents | Avg. hours per Response | Estimated Burden Hours |
|-----------------------------|--|---------------------------|--------------------------------|-------------------------------|
| §24.4(a) Reporting | <i>Written request to exceed 5% investment limit</i> – A national bank may submit a written request or letter to the OCC to exceed the 5 percent limit for aggregate outstanding investments. The bank is not required to tie the request to a specific investment proposal. | 5 | .5 | 2.5 |
| §24.5(a) Reporting | <i>After-the-fact notice of public welfare investments</i> – An eligible bank may make an investment without prior notification to, or approval by, the OCC if the bank submits an after-the-fact notification of an investment within 10 days after it makes the investment. The after-the-fact notice must include: <ul style="list-style-type: none"> • A description of the bank’s investment • The amount of the investment • The percentage of the bank’s capital and surplus represented by the bank’s aggregate outstanding public welfare investments, including the investment that is the subject of the notice • A statement certifying compliance | 360 | 1.5 | 540 |
| §24.5(a)(4) Reporting | <i>Letter from 3-rated banks requesting to self-certify</i> – A national bank that is not an eligible bank but that is at least adequately capitalized may submit a letter to the OCC requesting authority to self-certify investments. | 5 | .5 hour | 2.5 |
| §24.5(b) Reporting | <i>Investments requiring prior approval</i> – If a national banks does not meet the requirements for after-the-fact notification, the bank must submit an investment proposal to the OCC. The investment proposal must include: <ul style="list-style-type: none"> • A description of the bank’s investment • The amount of the investment • The percentage of the bank’s capital and surplus represented by the bank’s aggregate outstanding public welfare investments, including the proposed investment • A statement certifying compliance | 30 | 1.5 | 45 |
| TOTAL | | 400 respondents | | 590 hours |

Cost of hour burden to respondents is estimated to be:

Clerical (\$20) – 30% x 590 hours = 177 hours @ \$20 = \$3,540

Managerial/Technical (\$40) – 50% x 590 hours = 295 hours @ \$40 = \$11,800

Senior Management/Professional (\$80) – 15% x 590 hours = 88.5 hours @ \$80 = \$7,080
Legal (\$100) – 5% x 590 hours = 29.5 hours @ \$100 = \$2,950

Total cost of hour burden to respondents: \$ 25,370

13. Estimate of total annual costs to respondents (excluding cost of hour burden in Item #12):

None.

14. Estimate of annualized costs to the Federal government:

None.

15. Change in burden:

| | |
|----------------|---|
| Former burden: | 250 respondents; 250 responses; 371 burden hours |
| New burden: | 400 respondents; 400 responses; 590 burden hours |
| Difference: | +150 respondents; +150 responses; +219 burden hours (volume change) |

The majority of the increase in burden hours is due to the use of more accurate estimates based on the experience obtained since our last submission.

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

The OCC has no plans to publish the information for statistical purposes.

17. Reasons for not displaying OMB approval expiration date:

Not applicable. This submission involves a regulation.

18. Exceptions to the certification statement in Item 19 of OMB Form 83-I:

None.

B. Collections of Information Employing Statistical Methods.

Not applicable.