

Board of Governors of the Federal Reserve System



Notice of Public Welfare Investments by State Member Banks to the Federal Reserve System

REMINDER

For investments that do not meet one or more of the following criteria, the investing bank must submit a request for prior approval to the Federal Reserve. Such a request must include the information specified in section 208.22(d) of Regulation H, and must be submitted (by way of a letter or other submission on bank letterhead) to the Federal Reserve Bank of which the investing bank is a member.

Section 208.22 of Regulation H (12 CFR 208.22) permits Federal Reserve member banks to make certain public welfare investments. Investments that meet the requirements specified in section 208.22(b) of Regulation H may be made without prior regulatory approval. To assist it in determining if a proposed public welfare investment may be made without prior regulatory approval, a bank, at its option, may use the checklist attached to this form.

For a public welfare investment not requiring prior approval, the investing bank must notify the appropriate Reserve Bank of the investment within 30 days of making the investment. Such a notice must identify the amount of the investment and the entity in which the investment is made. To fulfill this notice requirement, a bank may use this form, or may provide the required information by way of a letter or other submission on bank letterhead.

For a public welfare investment requiring prior approval, the investing bank should not use this form. Instead, the investing bank must submit (by way of a letter or other submission on bank letterhead) the information specified in section 208.22(d) of Regulation H to the Reserve Bank of which it is a member. The Board is required

to act on a request for prior approval within 60 days of submission of the required information, unless the Board notifies the requesting member bank that a longer time period will be required to review and act on the request.

Examples of permissible community development and public welfare investments can be found in the Federal Reserve System's *Directory of Community Development Investments* at www.federalreserve.gov/dcca/directory/.

Additional information on community development investments by financial institutions can be found at the following sites:

- Federal Reserve Board of Governors Regulatory Guidance and Resource Information on Community Development Investments www.federalreserve.gov/CommunityAffairs/cdi/default.htm
- Federal Reserve Bank of San Francisco Center on Community Development Investments www.sf.frb.org/cdinvestments/index.html
- Office of the Comptroller of the Currency Part 24 Community Development Investments www.occ.treas.gov/cdd/pt24toppage.htm

Checklist for Notice of Public Welfare Investments by State Member Banks that Do Not Require Prior Approval

Regulation H does not require that this checklist be submitted to the Federal Reserve System. A bank may choose to use this checklist, however, as an aid in determining if a proposed public welfare investment may be made without prior regulatory approval. If the bank or the proposed investment **does not meet** the requirements described in this form, then the bank must submit a request for prior approval of the investment. Such a request must include the information specified in section 208.22(d) of Regulation H, and must be submitted (by way of a letter or other submission on bank letterhead) to the appropriate Federal Reserve Bank, as listed on the final page of this form.

To Make a Public Welfare Investment without Prior Board Approval:

1. The investing bank must meet **all** of the following requirements:

- The bank is well-capitalized or adequately capitalized under 12 CFR 208.43(b)(1) and (2);
- The bank has received a composite CAMELS rating of “1” or “2” as of its most recent examination;
- The bank has received an overall rating of “1” or “2” as of its most recent consumer compliance examination; and
- The bank is not subject to any written agreement, cease-and-desist order, capital directive, prompt-corrective-action directive, or memorandum of understanding issued by the Board or by a Federal Reserve Bank.

2. The proposed investment must meet **all** of the following requirements:

- The investment is permitted by state law;
- The investment will not expose the bank to liability beyond the amount of the investment;
- The investment will not cause the bank’s aggregate public welfare and community development investments to exceed 5 percent of the bank’s capital stock and surplus; and
- The investment is in a corporation, limited partnership, or other entity.

3. The proposed investment must meet **one or more** of the following requirements:

- The Board has determined that an investment in that entity or class of entities is a public welfare investment under paragraph 23 of Section 9 of the Federal Reserve Act (12 U.S.C. 338a) or community development investment under Regulation Y (12 CFR 225.127, *see also* 12 CFR 225.28(12)); **OR**
- The Comptroller of the Currency has determined by order or regulation that an investment in that entity by a national bank is a public welfare investment under section 5136 of the Revised Statutes (12 U.S.C. 24 (Eleventh)); **OR**

The entity in which the investment is to be made is a community development financial institution as defined in section 103(5) of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4702(5)); **OR**

The entity in which the investment is to be made engages, directly or indirectly, solely in or makes loans solely for the purposes of one or more of the following community development activities:

Residential Property—Investing in, developing, rehabilitating, managing, selling, or renting residential property where the majority of the units will be occupied by low- and moderate-income persons,¹ or if the property is a “qualified low-income building” as defined in section 42(c)(2) of the Internal Revenue Code, 26 U.S.C. 42 (c)(2);

Nonresidential Real Property—Investing in, developing, rehabilitating, managing, selling or renting non-residential real property or other assets located in a low- or moderate-income area² and targeted toward low- and moderate-income persons;

Small Business Development—Investing in one or more small businesses³ located in a low- or moderate-income area to stimulate economic development;

Job Training or Placement—Investing in, developing or otherwise assisting job training or placement facilities or programs that will be targeted towards low- and moderate-income persons;

1. Low- and moderate-income persons are defined in 42 U.S.C. 5302(a) (20)(A) as families and individuals whose incomes do not exceed 80 percent of the median income of the area involved, as determined by the secretary of Housing and Urban Development with adjustments for smaller and larger families.

2. Low- or moderate-income area is defined as one or more census tracts in a Metropolitan Statistical Area (MSA) where the median family income adjusted for the family size in each census tract is less than 80 percent of the median family income adjusted for family size of the MSA. If the area is not in a MSA, the definition is one or more census tracts or block-numbered areas where the median family income adjusted for family sizes in each census tract or block numbered area is less than 80 percent of the median family income adjusted for the family size of the state.

3. Small business means a business that meets the size-eligibility standards of 13 CFR 121.108(a).

Checklist for Notice of Public Welfare Investments by State Member Banks that Do Not Require Prior Approval—Continued

- Employment Opportunities**—Investing in an entity located in a low- or moderate-income area if the entity creates long-term employment opportunities, a majority of which (based on full-time equivalent positions) will be held by low- and moderate-income persons;
- Technical Assistance**—Providing technical assistance, credit counseling, research, and program development assistance to low- and moderate-income persons, small businesses, or nonprofit corporations to help achieve community development.

Notice of Public Welfare Investments by State Member Banks to the Federal Reserve System—Continued

Please submit these forms to your Federal Reserve Bank District

District 1

Federal Reserve Bank of Boston
Supervision, Regulation and Credit Department
Attn: Analytics Unit
P.O. Box 55882
Boston, Massachusetts 02205

District 2

Federal Reserve Bank of New York
Attn: Bank Applications Function
33 Liberty Street
New York, New York 10045

District 3

Federal Reserve Bank of Philadelphia
Attn: Supervision, Regulation & Credit—
Regulatory Applications
Ten Independence Mall
Philadelphia, Pennsylvania 19106

District 4

Federal Reserve Bank of Cleveland
Supervision & Regulation Department
Attn: Consumer Affairs, 5th Floor
P.O. Box 6387
Cleveland, Ohio 44101

District 5

Federal Reserve Bank of Richmond
Banking Supervision & Regulation
Attn: Consumer Affairs, 13th Floor
P.O. Box 27622
Richmond, Virginia 23261

District 6

Federal Reserve Bank of Atlanta
Division of Supervision & Regulation
Attn: Community Affairs, 8th Floor
1000 Peachtree Street, NE
Atlanta, Georgia 30309-4470

District 7

Federal Reserve Bank of Chicago
Supervision & Regulation
Attn: Applications Dept.
230 South La Salle Street
Chicago, Illinois 60604-1413

District 8

Federal Reserve Bank of St. Louis
Attn: Banking Supervision Applications Manager
P.O. Box 14831
St. Louis, Missouri 63178

District 9

Federal Reserve Bank of Minneapolis
Banking Supervision Department
Attn: Applications Manager
P.O. Box 291
90 Hennepin Avenue
Minneapolis, Minnesota 55480

District 10

Federal Reserve Bank of Kansas City
Attn: Applications Department
925 Grand Boulevard
Kansas City, Missouri 64198

District 11

Federal Reserve Bank of Dallas
Banking Supervision Department
Attn: Applications Division, 6th Floor
2200 N. Pearl Street
Dallas, Texas 75201

District 12

Federal Reserve Bank of San Francisco
Banking Supervision & Regulation
Attn: Applications Unit, 9th Floor
101 Market Street
San Francisco, California 94105