

Supporting Statement
Leasing
OMB Control No. 1557-0206

A. Justification.

1. *Circumstances that make the collection necessary:*

Under 12 CFR 23.4(c), national banks must liquidate or re-lease personal property that is no longer subject to lease (off-lease property) within five years from the date of the lease expiration. If a bank wishes to extend the five-year holding period for up to an additional five years, it must obtain OCC approval. Permitting a bank to extend the holding period may result in cost savings to national banks. It may also provide flexibility for a bank that experiences unusual or unforeseen conditions that would make it imprudent to dispose of the off-lease property. Section 23.4(c) requires a bank seeking an extension to provide a clearly convincing demonstration as to why an additional holding period is necessary. In addition, a bank must value off-lease property at the lower of current fair market value or book value promptly after the property comes off-lease. These requirements enable the OCC to ensure that a bank is not holding the property for speculative reasons and that the value of the property is recorded in accordance with generally accepted accounting principles (GAAP).

Under 12 CFR 23.6, leases are subject to the lending limits prescribed by 12 U.S.C. 84, as implemented by 12 CFR part 32, or, if the lessee is an affiliate of the bank, to the restrictions on transactions with affiliates prescribed by 12 U.S.C. 371c and 371c-1. Twelve U.S.C. 24 contains two separate provisions authorizing a national bank to acquire personal property for purposes of lease financing. Twelve U.S.C. 24(Seventh) authorizes leases of personal property (Section 24(Seventh) Leases) if the lease is a conforming lease as defined in 12 CFR 23.2(d)(2) and represents a noncancelable obligation of the lessee (i.e., the lease serves as the functional equivalent of a loan). See 12 CFR 23.20. A national bank may also acquire personal property for purposes of lease financing under the authority of 12 U.S.C. 24(Tenth) (CEBA Leases). Section 23.5 requires that if a bank enters into both types of leases, its records must distinguish between the two types of leases. This information is required to prove that the national bank is complying with the limitations and requirements applicable to the two types of leases.

2. *Use of the information:*

National banks use the information to ensure their compliance with applicable Federal banking law and regulations and accounting principles. The OCC uses the information in conducting bank examinations and as an

auditing tool to verify bank compliance with laws and regulations. In addition, the OCC uses national bank requests for permission to extend the holding period for off-lease property to ensure national bank compliance with relevant laws and regulations and to ensure bank safety and soundness.

3. *Consideration of the use of improved information technology:*

Improved information technology is not useful in reducing the reporting burden because each filing is unique to the individual bank. However, the OCC would consider any request by a national bank to use improved information technology in these applications. To satisfy the recordkeeping requirements of this submission, banks may use any information technology that permits retrieval and review by OCC examiners.

4. *Efforts to identify duplication:*

The information collection is unique to the bank and the particular filing. It is not duplicated elsewhere.

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

Not applicable.

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

The information is collected infrequently, as covered situations arise. Less frequent collection could impair OCC's bank supervisory activities and would limit the utility of the information to bank management. Less frequent collection could result in unsafe and unsound bank operations.

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

This information collection is conducted in accordance with OMB's guidelines in 12 CFR part 1320.

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

The OCC published a *Federal Register* notice regarding the extension of OMB approval of the information collection requirements in Part 23 on January 20, 2016 (81 FR 3236). No comments were received.

9. *Payment to respondents:*

None.

10. Any assurance of confidentiality:

No assurance of confidentiality is given.

11. Justification for questions of a sensitive nature:

No questions of a sensitive nature are asked.

12. Burden estimate:

The OCC estimates the burden as follows:

Cite and Burden Type	Information Collection Requirements in 12 CFR Part 23	Number of Respondents	Number of Responses	Average Hours Per Response	Estimated Burden Hours
12 CFR 23.4(c) Reporting	Investment in personal property – Holding period – At the expiration of the lease (including any renewals or extensions with the same lessee), or in the event of a default on a lease agreement prior to the expiration of the lease term, a national bank shall either liquidate the off-lease property or re-lease it under a conforming lease as soon as practicable. Liquidation or re-lease must occur not later than five years from the date that the bank acquires the legal right to possession or control of the property, except the OCC may extend the period for up to an additional five years, if the bank provides a clearly convincing demonstration why any additional holding period is necessary.	37	37	10	370 hours
12 CFR 23.4(c) Recordkeeping	Investment in personal property – Valuing Off-Lease Property – The bank must value off-lease property at the lower of current fair market value or book value promptly after the property becomes off-lease property. ¹	240	240	1	240 hours

¹ Valuing property at the lower of fair market value or book value is a GAAP requirement. Therefore, the burden attributable to this recordkeeping requirement is considered usual and customary business practice. The OCC has assigned one burden hour per bank to prepare and retain these records.

Cite and Burden Type	Information Collection Requirements in 12 CFR Part 23	Number of Respondents	Number of Responses	Average Hours Per Response	Estimated Burden Hours
12 CFR 23.5 Recordkeeping	<i>Requirement for separate records</i> – If a national bank enters into both CEBA Leases and Section 24(Seventh) Leases, the bank’s records must distinguish the CEBA Leases from the Section 24(Seventh) Leases. ²	68	68	1	68 hours
Totals		345	345		678 hours

Cost per Hour Burden to Respondents:

678 x \$101 = \$68,478

To estimate average hourly wages we reviewed data from May 2014 for wages (by industry and occupation) from the U.S. Bureau of Labor Statistics (BLS) for depository credit intermediation (NAICS 522100). To estimate compensation costs associated with the rule, we use \$101 per hour, which is based on the average of the 90th percentile for seven occupations adjusted for inflation (2 percent), plus an additional 30 percent to cover private sector benefits. Thirty percent represents the average private sector costs of employee benefits.

13. Estimate of annualized costs to respondents:

None.

14. Estimate of annualized costs to the government:

None.

15. Changes in burden:

Former burden: 370 respondents; 685 total burden hours
 New burden: 345 respondents; 678 total burden hours
 Difference: -25 respondents; -7 total burden hours

The decrease in burden is due to the decrease in the number of regulated institutions.

² It is both a good management practice and a usual and customary business practice for a bank to distinguish between the two separate types of leases in its records. The OCC has assigned one burden hour per bank to prepare and retain these records.

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

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

17. Display of expiration date.

Not applicable.

18. Exceptions to certification statement.

None.

B. Collections of Information Employing Statistical Methods.

Not applicable.