

OCC Guidelines Establishing Standards for Recovery Planning by Certain Large Insured National Banks, Insured Federal Savings Associations, and Insured Federal Branches; Technical Amendments

Supporting Statement
OMB Control No. 1557-0333

The Office of the Comptroller of the Currency (OCC) submitted the information collections in the proposed Guidelines Establishing Standards for Recovery Planning by Certain Large Insured National Banks, Insured Federal Savings Associations, and Insured Federal Branches (Proposed Guidelines)¹ to the Office of Management and Budget (OMB) for review and approval pursuant to the Paperwork Reduction Act of 1980 (as amended) (PRA) at 44 U.S.C. 3506 and the implementing regulations at 5 CFR part 1320.11.

OMB instructed the OCC to examine any public comments it received in response to the Proposed Guidelines' PRA estimate and describe any relevant comments and the OCC's response in the supporting statement for the final OCC Guidelines Establishing Standards for Recovery Planning by Certain Large Insured National Banks, Insured Federal Savings Associations, and Insured Federal Branches; Technical Amendments (Final Guidelines). The OCC has resubmitted the information collections to OMB in connection with the Final Guidelines.

A. Justification.

1. *Circumstances that make the collection of information necessary:*

The OCC issued Final Guidelines applicable to each insured national bank, insured Federal savings association, and insured Federal branch of a foreign bank (together, banks) with average total consolidated assets equal to or greater than \$50 billion (together, covered banks). These Final Guidelines state that each covered bank should develop and maintain a recovery plan that is appropriate for its individual size, risk profile, activities, and complexity, including the complexity of its organizational and legal entity structure, in order to be able to respond quickly to and recover from the financial effects of severe stress. The Final Guidelines establish standards for this recovery planning.

These standards, which are codified in 12 CFR part 30, Appendix E, are enforceable under section 39 of the Federal Deposit Insurance Act,² which authorizes the OCC to prescribe operational and managerial standards.

2. *Use of the information:*

The Final Guidelines include collections of information subject to the PRA. Specifically, the Final Guidelines provide that a covered bank's recovery plan should include the following elements:

¹ 80 Fed. Reg. 78681 (Dec. 17, 2015).

² 12 U.S.C. 1831p-1.

Overview of covered bank. A recovery plan should describe the covered bank's overall organizational and legal entity structure, including its material entities, critical operations, core business lines, and core management information systems. The plan should describe interconnections and interdependencies (1) across business lines within the covered bank, (2) with affiliates in a bank holding company structure, (3) between a covered bank and its foreign subsidiaries, and (4) with critical third parties.

Triggers. A covered bank's recovery plan should identify triggers that appropriately reflect the bank's particular vulnerabilities.

Options for recovery. A recovery plan should identify a wide range of credible options that a covered bank could undertake to restore financial strength and viability, thereby allowing the bank to continue to operate as a going concern and to avoid liquidation or resolution. A recovery plan should explain how the covered bank would carry out each option and describe the timing required for carrying out each option. The recovery plan should specifically identify the recovery options that require regulatory or legal approval.

Impact assessments. For each recovery option, a covered bank should assess and describe how the option would affect the covered bank. This impact assessment and description should specify the procedures the covered bank would use to maintain the financial strength and viability of its material entities, critical operations, and core business lines for each recovery option. For each option, the recovery plan's impact assessment should address the following: (1) the effect on the covered bank's capital, liquidity, funding, and profitability, (2) the effect on the covered bank's material entities, critical operations, and core business lines, including reputational impact, and (3) any legal or market impediment or regulatory requirement that must be addressed or satisfied in order to implement the option.

Escalation procedures. A recovery plan should clearly outline the process for escalating decision-making to the covered bank's senior management, board of directors (board), or appropriate board committee in response to the breach of any trigger. The recovery plan should also identify the departments and persons responsible for executing the decisions of senior management, the board, or an appropriate board committee.

Management reports. A recovery plan should require reports that provide senior management, the board, or an appropriate board committee with sufficient data and information to make timely decisions regarding the appropriate actions necessary to respond to the breach of a trigger.

Communication procedures. A recovery plan should provide that the covered bank notify the OCC of any significant breach of a trigger and any action taken or to be taken in response to such breach and should explain the process for deciding when a breach of a trigger is significant. A recovery plan also should address when and how the covered bank will notify persons within the organization and other external parties of its action under the recovery plan. The recovery plan should specifically identify how the covered bank will obtain required regulatory or legal approvals.

Other information. A recovery plan should include any other information that the OCC communicates in writing directly to the covered bank regarding the covered bank's recovery plan.

The Final Guidelines also state that a covered bank should (1) integrate its recovery plan into its risk governance functions and (2) align its recovery plan with its other plans, such as its strategic, operational (including business continuity), contingency, capital (including stress testing), liquidity, and resolution planning. The covered bank's recovery plan also should be specific to that covered bank and coordinated with any recovery and resolution planning efforts by the bank's holding company.

Finally, the Final Guidelines state that a covered bank's recovery plan should address the responsibilities of the bank's management and board with respect to the plan. Specifically, management should review the recovery plan at least annually and in response to a material event. It should revise the plan as necessary to reflect material changes in the covered bank's size, risk profile, activities, and complexity, as well as changes in external threats. This review should evaluate the organizational structure and its effectiveness in facilitating a recovery. The board is responsible for overseeing the covered bank's recovery planning process. The board of a covered bank or an appropriate board committee should review and approve the recovery plan at least annually, and as needed to address significant changes made by management.

The OCC believes that a large, complex institution should undertake recovery planning in order to be able to respond quickly to and recover from the financial effects of severe stress on the institution. The process of developing and maintaining a recovery plan also should cause a covered bank's management and its board to enhance their focus on risk governance with a view toward lessening the negative impact of future events. OCC examiners will assess the appropriateness and adequacy of the covered bank's ongoing recovery planning process as part of the agency's regular supervisory activities.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Describe any consideration of using information technology to reduce burden:

Respondents may use any technology compatible with the Final Guidelines.

4. Efforts to identify duplication:

As explained in the preamble to the Proposed Guidelines, the OCC recognizes that many covered banks already engage in significant planning, including planning responses to cyber attacks, business interruptions, and leadership vacancies. Some covered banks also undertake a range of other planning, including strategic, contingency, capital (including stress testing), liquidity, and resolution. The same is true for their parent holding companies or affiliates. As also noted in the Proposed Guidelines, the OCC does not intend for a covered bank's recovery planning to be needlessly burdensome or duplicative of these other planning processes. The OCC expects, however, that a covered bank's recovery plan will identify the recovery strategies that are specific to that bank and, as appropriate, distinguishable from the recovery strategies of its holding company or affiliates. Furthermore, while the OCC encourages covered banks to leverage their existing processes, including by incorporating or cross-referencing portions or elements of relevant plans, in most cases, it is unlikely that a covered bank will be able to use a plan prepared for another purpose or entity to satisfy the Final Guidelines. As we have noted

previously, the purpose of these Final Guidelines is to provide a comprehensive framework for evaluating how severe stress would financially affect a covered bank specifically and the recovery options that would allow that bank to remain viable under such stress.

5. *If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.*

The Final Guidelines apply to banks with average total consolidated assets equal to or greater than \$50 billion (which, as noted above, are defined as covered banks.) Although the Final Guidelines reserve the OCC's authority to apply the Final Guidelines to a bank with less than \$50 billion in average total consolidated assets if the OCC determines such entity is highly complex or otherwise presents a heightened risk, as the preamble to the Final Guidelines notes, the OCC does not expect to determine any small entities to be highly complex or to otherwise present a heightened risk.

6. *Consequence to Federal program if the collection were conducted less frequently, as well as any technical or legal obstacles to reducing burden:*

If a covered bank were to prepare, review, or revise its recovery plan less frequently than provided in the Final Guidelines, the bank would be less prepared to respond quickly to and recover from the financial effects of severe stress, which could threaten its viability or the safety and soundness of its operations. There were no specific technical or legal obstacles to reducing burden.

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

The information collection will be conducted in a manner consistent with 5 CFR Part 1320.5(d)(2).

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

As part of the Proposed Guidelines, the OCC published the information collection for a 60-day comment period and asked the public to comment on: (1) whether the proposed collection of information is necessary for the proper performance of the OCC's functions, including whether the information has practical utility, (2) the accuracy of the OCC's estimate of the burden of the proposed information collection including the cost of compliance, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

We received one comment on our proposed information collection, which addressed all of these questions. First, the commenter argued that a stress event that threatens the viability of a covered bank is the result of either an event that the bank could not have foreseen or failed prudential supervision by the OCC. In either case, the commenter argued, a recovery plan will be useless. In addition, this commenter argued that if a covered bank treats its recovery plan like

a prescriptive playbook, the plan will fail and, alternatively, if a recovery plan only provides guidelines, the plan will have no practical utility.

In response, in the Final Guidelines, the OCC states that stress scenarios are important tools that a covered bank uses to determine areas of vulnerability and help it identify the appropriate triggers. The OCC understands that a covered bank's recovery planning process will not result in a plan that identifies every trigger and option for every possible scenario – but the OCC does believe that the processes of recovery planning and codification of a plan will help a covered bank manage the stresses it encounters. With respect to the role of a recovery plan during a period of severe stress, a covered bank should use its judgment to determine the most appropriate options for the bank to take to preserve its financial strength and viability.

The commenter also stated that the OCC's burden estimate was too low. In the Final Guidelines, the OCC explained that it believes that its original estimate was realistic given the requirements of the Proposed Guidelines and has included the same estimate in the Final Guidelines. We increased by two the estimate of the number of respondents, however, to reflect the most recent data available.

In addition, the commenter stated that the agency could enhance the quality and utility of the information collection by requiring only triggers and response options in its plans. In response, in the Final Guidelines, the OCC explained that it believes that stress scenarios are important tools that a covered bank uses to determine areas of vulnerability and identify appropriate triggers. The Final Guidelines include the overview of the covered bank as a plan element because a covered bank's organizational and legal entity structure is likely to change often; its inclusion will both ensure that the bank considers the entire organization in the development of its plan and assist the bank in understanding the recovery plan's relationship with its other planning efforts.

The commenter also stated that the proposed information collection is duplicative of and redundant to information that the OCC currently collects. In response, the OCC recognizes that some information necessary for recovery planning may have been compiled or provided to the OCC for other purposes. However, we believe that it is necessary for a covered bank to assemble this information in the context of recovery planning in order to develop an appropriate plan to respond to future stresses. We encourage, however, covered banks to leverage, including by cross-referencing, if appropriate, this prior work.

Finally, the commenter argued that it is burdensome to ask a covered bank to connect its recovery plan with its other plans. In response, in the Final Guidelines, the OCC noted that a covered bank's various plans are not intended to operate in a vacuum and must be compatible with each other in order to be effective.

9. *Payment or gift to respondent:*

The OCC has not provided and has no intention to provide any payment or gift to respondents under this information collection.

10. Any assurance of confidentiality:

The information collection request will be kept private to the extent permissible by law.

11. Justification for questions of a sensitive nature:

None.

12. Burden estimate:

Total Number of Respondents: 25.

Total Burden per Respondent: 7,543 hours.

Total Burden for Collection: 188,575 hours.

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

None.

14. Estimate of annualized cost to the Federal government:

None.

15. Change in burden:

This is a new information collection request.

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

There are no publications.

17. Reasons for not displaying OMB approval expiration date:

The agency is not seeking to not display the expiration date of OMB approval of the information collection.

18. Exceptions to the certification statement:

There are no exceptions to the certification.

B. Collections of Information Employing Statistical Methods

Not applicable.