

Supporting Statement
Subordinated Debt Licensing Requirements
OMB Control No. 1557-0320

Scope

The scope of this Information Collection Renewal is limited to the following: (1) the 12 CFR 5.47(g) and 12 CFR 5.56(b) requirements that national banks and Federal savings associations (collectively, “institutions”) apply for OCC approval prior to prepaying subordinated debt if the prepayment is in the form of a call option; and (2) the 12 CFR 5.47(d) (ii)(C) requirement that national banks issuing subordinated debt disclose the OCC’s authority under 12 CFR 3.11 to limit distributions.

A. Justification.

1. Circumstances that make the collection necessary:

Prepayment in the Form of a Call Option

All national banks must receive prior OCC approval in order to prepay subordinated debt that is included in tier 2 capital, and certain banks must receive prior approval to prepay subordinated debt that is not included in tier 2 capital. If the prepayment is in the form of a call option, a national bank must submit the information required for general prepayment requests under 12 CFR 5.47(g)(1)(ii)(A) and also comply with 12 CFR 5.47(g)(1)(ii)(B)(2), which requires a national bank to submit either: (1) a statement explaining why the bank believes that following the proposed prepayment the bank would continue to hold an amount of capital commensurate with its risk or (2) a description of the replacement capital instrument that meets the criteria for tier 1 or tier 2 capital under 12 CFR 3.20, including the amount of such instrument and the time frame for issuance.

Federal savings associations must receive OCC approval prior to prepaying subordinated debt securities or mandatorily redeemable preferred stock included in tier 2 capital. If the prepayment is in the form of a call option, a federal savings association must submit the information required for general prepayment requests under 12 CFR 5.56(b)(2)(i) and also comply with 12 CFR 5.56(b)(2)(ii)(A), which requires a federal savings association to submit either: (1) a statement explaining why the federal savings association believes that following the proposed prepayment the savings association would continue to hold an amount of capital commensurate with its risk or (2) a description of the replacement capital instrument that meets the criteria for tier 1 or tier 2 capital under 12 CFR 3.20, including the amount of such instrument and the time frame for issuance.

Disclosure of OCC Authority Under 12 CFR 3.11 to Limit Distributions

Pursuant to 12 CFR 5.47(d)(3)(ii)(C), a national bank issuing subordinated debt must disclose on the face of the note the OCC's authority under 12 CFR 3.11 to limit distributions, including interest payments on any tier 2 capital instrument if the national bank has full discretion to permanently or temporarily suspend such payments without triggering an event of default.

2. *Use of the information:*

Federal law and OCC regulations require an institution, under certain circumstances, to receive prior OCC approval to prepay subordinated debt. When the prepayment is in the form of a call option, the OCC uses the information required of the bank to determine whether the institution will, following the transaction, continue to hold an amount of capital commensurate with its risk and thus whether to grant approval to prepay the subordinated debt. The information collected is used to ensure compliance with legal and regulatory requirements and to implement a requirement in the OCC's capital regulations.

The requirement that national banks disclose on the face of the subordinated debt note the OCC's authority under 12 CFR 3.11 to limit distributions provides important information to prospective purchasers of the note.

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

Any improved technology that allows respondents to meet the requirements of the regulation may be used.

4. *Efforts to identify duplication:*

Each submission is unique to the individual bank and situation.

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

Only the information necessary for the OCC to fulfill its statutory responsibilities for any bank, regardless of size, is requested.

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

The information is collected infrequently—only as the situation arises. Statutory or regulatory requirements govern these information collections. Less frequent collection is inconsistent with the underlying statutes and would not promote a safe and sound banking system.

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

Not applicable.

8. Efforts to consult with persons outside the agency:

The OCC issued a notice for 60 days of comment regarding this collection on April 3, 2018, 82 FR 14316. No comments were received.

9. Payment or gift to respondents:

None.

10. Any assurance of confidentiality:

The information is kept private to the extent permitted by law.

11. Justification for questions of a sensitive nature:

Not applicable. No information of a sensitive nature is collected.

12. Burden estimate:

Information Collection	No. of Respondents	No. of Responses	Hours per Response	Estimated Total Burden
Prepayment of Subordinated Debt in Form of Call Option – Reporting Requirement	184	184	1.30	239
Authority to Limit Distributions – Disclosure Requirement	42	1	0.5	21
Total				260

The cost of the hour burden is as follows:

$$260 \text{ hours} \times \$117 = \$30,420$$

To estimate wages we reviewed data from May 2017 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 \$117 per hour, which is based on the average of the 90th percentile for seven occupations adjusted for inflation (2.2 percent), plus an additional 34.2 percent to cover private sector benefits for financial activities.

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

Not applicable.

14. Estimate of annualized costs to the federal government:

Not applicable.

15. Change in burden:

There is no change in burden.

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

Not applicable.

17. Reasons for not displaying OMB approval expiration date:

Not applicable.

18. Exceptions to the certification statement:

Not applicable.

B. Collections of Information Employing Statistical Methods

Not applicable.