

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 24

[Docket No. 03-01]

RIN 1557-AC09

Community and Economic Development Entities, Community Development Projects, and Other Public Welfare Investments

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is proposing to amend 12 CFR part 24, the regulation governing national bank investments that are designed primarily to promote the public welfare. This proposal updates the definition section of the regulation to reflect the additional types of public welfare investment structures that have become more common in recent years and that are permissible under the governing statute. The proposal also clarifies the statutory standard that applies to the activities of those entities; simplifies the standards for making public welfare investments; clarifies how a national bank calculates the value of its public welfare investments for purposes of complying with the rule's investment limits; simplifies the regulation's investment self-certification and prior approval processes; and expands the list of examples of qualifying public welfare investments that satisfy the rule's requirements. These changes are intended to encourage additional public welfare investments by national banks by simplifying the regulation and further reducing unnecessary burden associated with part 24 investments.

DATES: Comments must be received March 11, 2003.

ADDRESSES: Please direct your comments to: Docket No. 03-01, Communications Division, Public

Information Room, Mailstop 1-5, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219. Due to delays in paper mail in the Washington area, commenters are encouraged to submit their comments by fax or by e-mail. You may send comments by fax to (202) 874-4448, or by electronic mail to regs.comments@occ.treas.gov. You can make an appointment to inspect and photocopy comments by calling (202) 874-5043.

FOR FURTHER INFORMATION CONTACT:

OCC: Michele Meyer, Counsel, Legislative and Regulatory Activities Division, (202) 874-5090; Stephen Van Meter, Assistant Director, Community and Consumer Law Division, (202) 874-5750; or Barry Wides, Director, or Karen Bellesi, Investments Manager, Community Development Division, (202) 874-4930.

SUPPLEMENTARY INFORMATION:

I. Background

The OCC is proposing to amend 12 CFR part 24, which contains the rules relating to national banks' investments in community development corporations (CDCs), community development (CD) projects, and other public welfare investments. Part 24 implements 12 U.S.C. 24 (Eleventh), which authorizes national banks to make investments designed primarily to promote the public welfare, including the welfare of low- and moderate-income communities and families, subject to certain percentage-of-capital limitations. (The investments authorized by 12 U.S.C. 24 (Eleventh) are collectively referred to in this proposal as "public welfare investments.") The purpose of this proposal is to make it easier for national banks to use the public welfare investment authority that the statute and regulation provide, and to eliminate unnecessary regulatory burdens currently associated with the investment review and approval process.

The OCC originally adopted part 24 in 1993 and substantially revised the regulation in 1996.¹ The 1996 revisions encouraged national banks to make public welfare investments by eliminating unnecessarily burdensome

provisions and streamlining the part 24 procedures. Among other things, the 1996 revisions: Modified the test for determining whether an investment primarily promotes the public welfare; streamlined the procedures for investment self-certification (which permits an eligible bank² to make a public welfare investment and notify the OCC after-the-fact) and prior approval of investments; and expanded the list of activities eligible for self-certification.

In 1999, we revised part 24 further by simplifying the prior approval and self-certification requirements that apply to national banks' public welfare investments, expanding the types of investments for which self-certification may be used by removing geographic restrictions, and permitting an eligible bank to self-certify in connection with any eligible public welfare investment.³

We are committed to continually reevaluating our rules to reduce unnecessary regulatory burden and simplify compliance, consistent with the safe and sound operation of national banks. Our experience since the 1999 revisions to part 24 has demonstrated the benefits of these efforts. In the year 2001, national banks self-certified compliance in 90 percent of all part 24 investments, compared with 65 percent in 1998. In the same year, national banks and their community partners committed \$995 million to part 24 investments, compared with \$1.7 million in 1998.

We believe that additional improvements to this regulation could further stimulate part 24 investments fully consistent with safety and soundness considerations. Toward that end, this proposal streamlines the rule to eliminate additional unnecessary regulatory burdens currently associated with the investment review and approval process, as described in greater detail in the next section of this preamble discussion. These changes are designed to further encourage national bank participation in the part 24 investment program, without

² An "eligible bank" is well capitalized; has a composite rating of 1 or 2 under the Uniform Financial Institutions Rating System and at least a "satisfactory" Community Reinvestment Act rating; and is not subject to a cease and desist order, consent order, formal written agreement, or Prompt Corrective Action directive. 12 CFR 24.2(e).

³ See 64 FR 31160 (June 10, 1999).

¹ See 58 FR 68464 (December 27, 1993); and 61 FR 49654 (September 23, 1996).