

those provisions. The proposed rule eliminates cross-references to the specific sections of the SEC's regulations in favor of a more general reference to the rules, regulations, and forms adopted by the SEC pursuant to the listed statutory provisions. The existing statutory cross-references in parts 11 and 16 are adequate, in our judgment, to alert registered national banks and national banks required by part 16 to make filings pursuant to section 15(d) of the Exchange Act of the requirements that apply to them and to prompt them to consult the appropriate SEC regulations.

National banks may also monitor the **Federal Register**, the SEC's Web site,¹⁸ and other appropriate publications to ensure that they are aware of developments that affect them. If the rules or forms issued by the SEC under these sections require issuers to file documents with the SEC, national banks must make such filings with the OCC in accordance with the provisions of part 11 or part 16, as appropriate.

Request for Comments

The OCC solicits comment on all aspects of the proposed rule. Commenters who suggest that the OCC modify the requirements of the SEC's rules, regulations, and forms for registered national banks should support their request by demonstrating how such a modification would satisfy the standard in section 12(i); that is, with respect to registered national banks, that the SEC's rules, regulations or forms are not necessary or appropriate in the public interest or for the protection of investors.

Solicitation of Comments on Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act, Public Law 106-102, section 722, 113 Stat. 1338, 1471 (November 12, 1999), requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. We invite your comments on how to make this proposal easier to understand. For example:

- Have we organized the material to suit your needs? If not, how could this material be better organized?
- Are the requirements in the proposed regulation clearly stated? If not, how could the regulation be more clearly stated? Is it appropriate to eliminate specific cross-references in our rules to specific provisions of the SEC's rules?
- Does the proposed regulation contain language or jargon that is not

clear? If so, which language requires clarification?

- Would a different format (grouping and order of sections, use of headings, paragraphing) make the regulation easier to understand? If so, what changes to the format would make the regulation easier to understand?

- What else could we do to make the regulation easier to understand?

Regulatory Analysis

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b) (RFA), the regulatory flexibility analysis otherwise required under section 604 of the RFA is not required if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities and publishes its certification and a short, explanatory statement in the **Federal Register** along with its rule. As of December 31, 2002, there were approximately 25 national banks that had a class of securities registered under sections 12(b) or 12(g) of the Exchange Act and therefore subject to the proposed amendments to part 11. As of the same date, only 15 of these institutions have assets of less than \$100 million and are considered small entities for purposes of the RFA. See 5 U.S.C. 601; 13 CFR 121.201. As of December 31, 2002, there were approximately 20 national banks subject to part 16 reporting requirements.

Based on the relatively small number of national banks affected by the proposed revisions to parts 11 and 16 of our rules, the OCC hereby certifies that this proposal will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not needed.

Paperwork Reduction Act of 1995

In accordance with the Paperwork Reduction Act of 1995, the OCC may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The information collection requirements contained in this notice of proposed rulemaking have been submitted to OMB for review and approval under OMB Control Number 1557-0106 ((MA)—Securities Exchange Act Disclosure Rules—12 CFR part 11) and OMB Control Number 1557-0120 ((MA)—Securities Offering Disclosure Rules—12 CFR part 16).

The OCC is proposing to revise 12 CFR part 11 to reflect amendments to

section 12(i) of the Securities Exchange Act of 1934 (Exchange Act) made by the Sarbanes-Oxley Act of 2002. These amendments to section 12(i) give the OCC the authority to administer and enforce a number of the Sarbanes-Oxley Act's new reporting, disclosure, and corporate governance requirements with respect to national banks that have a class of securities registered under the Exchange Act.

The OCC is also proposing to make conforming revisions to 12 CFR part 16, which prescribes securities offering disclosure rules for national banks that issue securities that are not subject to the registration requirements of the Securities Act of 1933. The proposed rule amends section 16.20 to include references to the requirements of the Sarbanes-Oxley Act that the OCC is authorized to administer and enforce.

12 CFR part 11 incorporates by reference the applicable SEC regulations. The OCC does not maintain its own forms for collecting information and instead requires reporting banks to file SEC forms. Part 11 ensures that publicly owned national banks provide adequate information about their operation to current and potential shareholders, depositors, and to the public. The OCC reviews the information to ensure that it complies with Federal law and makes public all information required to be filed under these rules. Investors, depositors, and the public use the information to make informed investment decisions.

Title: (MA)—Securities Exchange Act Disclosure Rules (12 CFR part 11).

OMB Number: 1557-0106.

Form Numbers: SEC Forms 3, 4, 5, 8-K, 10, 10-K, 10-Q, Schedules 13D, 13G, 14A, 14B, and 14C.

Estimated number of respondents: 75.

Estimated number of responses: 456.

Average hours per response: Varies.

Estimated total burden hours: 4,156.5 hours.

The likely respondents: National banks, individuals.

The information collection requirements in 12 CFR part 16 enable the OCC to perform its responsibilities relating to offerings of securities by national banks by providing the investing public with facts about the condition of a bank, the reasons for raising new capital, and the terms of securities offerings. Part 16 generally requires banks to conform to the Securities and Exchange Commission rules.

Title: (MA)—Securities Offering Disclosure Rules (12 CFR part 16).

OMB Number: 1557-0120.

Description: Sections 16.3 and 16.5 require a national bank to file its

¹⁸ See <http://www.sec.gov>.