

benefit low- and moderate-income individuals, low- and moderate-income areas, or other areas targeted by a governmental entity for redevelopment, or would receive consideration as "qualified investments" under 12 CFR 25.23. The following is a non-exclusive list of examples of the types of entities that may be CEDEs:

- (1) National bank community development corporation subsidiaries;
- (2) Private or nonbank community development corporations;
- (3) CDFI Fund-certified Community Development Financial Institutions or Community Development Entities;
- (4) Limited liability companies or limited partnerships;
- (5) Community development loan funds or lending consortia;
- (6) Community development real estate investment trusts;
- (7) Business development companies;
- (8) Community development closed-end mutual funds;
- (9) Non-diversified closed-end investment companies; and
- (10) Community development venture or equity capital funds.

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(h) *Small business* means a business, including a small farm or minority-owned small business, that meets the qualifications for Small Business Administration Development Company or Small Business Investment Company loan programs in 13 CFR 121.301.

■ 5. Revise § 24.3 to read as follows:

§ 24.3 Public welfare investments.

A national bank may make an investment under this part if the investment primarily benefits low- and moderate-income individuals, low- and moderate-income areas, or other areas targeted by a governmental entity for redevelopment, or the investment would receive consideration under 12 CFR 25.23 as a "qualified investment."

■ 6. In § 24.4, revise paragraph (a) to read as follows:

§ 24.4 Investment limits.

(a) *Limits on aggregate outstanding investments.* A national bank's aggregate outstanding investments under this part may not exceed 5 percent of its capital and surplus, unless the bank is at least adequately capitalized and the OCC determines, by written approval of the bank's proposed investment pursuant to § 24.5(b), that a higher amount will pose no significant risk to the deposit insurance fund. In no case may a bank's aggregate outstanding investments under this part exceed 10 percent of its capital and surplus. When calculating the aggregate amount of its aggregate

outstanding investments under this part, a national bank should follow generally accepted accounting principles, unless otherwise directed or permitted in writing by the OCC for prudential or safety and soundness reasons.

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■ 7. In § 24.5:

- a. Revise the section heading;
- b. Revise paragraph (a) and;
- c. Revise paragraphs (b)(1) and (b)(2) to read as follows:

§ 24.5 Public welfare investment after-the-fact notice and prior approval procedures.

(a) *After-the-fact notice of public welfare investments.* (1) Subject to § 24.4(a), an eligible bank may make an investment authorized by 12 U.S.C. 24 (Eleventh) and this part without prior notification to, or approval by, the OCC if the bank follows the after-the-fact notice procedures described in this section.

(2) An eligible bank shall provide an after-the-fact notification of an investment, within 10 working days after it makes the investment, to the Director, Community Development Division, Office of the Comptroller of the Currency, Washington, DC 20219.

(3) The bank's after-the-fact-notice must include:

- (i) A description of the bank's investment;
- (ii) The amount of the investment;
- (iii) The percentage of the bank's capital and surplus represented by the investment that is the subject of the notice and by the bank's aggregate outstanding public welfare investments and commitments, including the investment that is the subject of the notice; and
- (iv) A statement certifying that the investment complies with the requirements of §§ 24.3 and 24.4.

(4) A bank may satisfy the notice requirements of paragraph (3) of this section by completing form CD-1, attached as Appendix 1 to this part.

(5) A national bank that is not an eligible bank but that is at least adequately capitalized, and has a composite rating of at least 3 with improving trends under the Uniform Financial Institutions Rating System, may submit a letter to the Community Development Division requesting authority to submit after-the-fact notices of its investments. The Community Development Division considers these requests on a case-by-case basis.

(6) Notwithstanding the provisions of this section, a bank may not submit an after-the-fact notice of an investment if:

- (i) The investment involves properties carried on the bank's books as "other real estate owned"; or

(ii) The OCC determines, in published guidance, that the investment is inappropriate for after-the-fact notice.

(b) *Investments requiring prior approval.* (1) If a national bank does not meet the requirements for after-the-fact investment notification set forth in this part, the bank must submit an investment proposal to the Director, Community Development Division, Office of the Comptroller of the Currency, Washington, DC 20219. The bank may use form CD-1, attached to this part as Appendix 1, to satisfy this requirement.

(2) The bank's investment proposal must include:

- (i) A description of the bank's investment;
- (ii) The amount of the investment;
- (iii) The percentage of the bank's capital and surplus represented by the proposed investment and by the bank's aggregate outstanding public welfare investments and commitments, including the proposed investment; and
- (iv) A statement certifying that the investment complies with the requirements of §§ 24.3 and 24.4.

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■ 8. Revise § 24.6 to read as follows:

§ 24.6 Examples of qualifying public welfare investments.

Investments that primarily support the following types of activities are examples of investments that meet the requirements of § 24.3:

(a) Affordable housing activities, including:

- (1) Investments in an entity that finances, acquires, develops, rehabilitates, manages, sells, or rents housing primarily for low- and moderate-income individuals;
- (2) Investments in a project that develops or operates transitional housing for the homeless;
- (3) Investments in a project that develops or operates special needs housing for disabled or elderly low- and moderate-income individuals; and
- (4) Investments in a project that qualifies for the Federal low-income housing tax credit;

(b) Economic development and job creation investments, including:

- (1) Investments that finance small businesses (including equity or debt financing and investments in an entity that provides loan guarantees) that are located in low- and moderate-income areas or other targeted redevelopment areas or that produce or retain permanent jobs, the majority of which are held by low- and moderate-income individuals;
- (2) Investments that finance small businesses or small farms that, although