



DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal;

Comment Request; Mandatory Contractual Stay Requirements for Qualified

Financial Contracts

AGENCY: Office of the Comptroller of the Currency, Treasury (OCC).

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites comment on a continuing information collection as required by the Paperwork Reduction Act of 1995 (PRA). In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and the 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 OCC is soliciting comment concerning the renewal of its information collection titled “Mandatory Contractual Stay Requirements for Qualified Financial Contracts.”

DATES: Comments must be received by [INSERT 60 DAYS FROM DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Commenters are encouraged to submit comments by e-mail, if possible.

You may submit comments by any of the following methods:

- *E-mail:* prainfo@occ.treas.gov.
- *Mail:* Chief Counsel’s Office, Attention: Comment Processing, Office of the Comptroller of the Currency, Attention: 1557-0339, 400 7th Street, SW., suite 3E-218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street, SW., suite 3E-218, Washington, DC 20219.

- *Fax:* (571) 465-4326.

Instructions: You must include “OCC” as the agency name and “1557-0339” in your comment. In general, the OCC will publish comments on *www.reginfo.gov* without change, including any business or personal information provided, such as name and address information, e-mail addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this information collection beginning on the date of publication of the second notice for this collection by the method set forth in the next bullet. Following the close of this notice’s 60-day comment period, the OCC will publish a second notice with a 30-day comment period.

- **Viewing Comments Electronically:** Go to *www.reginfo.gov*. Hover over the “Information Collection Review” tab and click on “Information Collection Review” dropdown. Underneath the “Currently under Review” section heading, from the drop-down menu select “Department of Treasury” and then click “submit.” This information collection can be located by searching by OMB control number “1557-0339” or “Mandatory Contractual Stay Requirements for Qualified Financial Contracts.” Upon finding the appropriate information collection, click on the related “ICR Reference Number.” On the next screen, select “View Supporting Statement and Other Documents” and then click on the link to any comment listed at the bottom of the screen.
- For assistance in navigating *www.reginfo.gov*, please contact the Regulatory Information Service Center at (202) 482-7340.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, OCC Clearance Officer, (202) 649-5490, Chief Counsel's Office, Office of the Comptroller of the Currency, 400 7 St., SW., Washington, DC 20219. If you are deaf, hard of hearing, or have a speech disability, please dial 7-1-1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501 *et seq.*), Federal agencies must obtain approval from the OMB for each collection of information that they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of title 44 requires Federal agencies to provide a 60-day notice in the *Federal Register* concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the OCC is publishing notice of the renewal of this collection.

Title: Mandatory Contractual Stay Requirements for Qualified Financial Contracts

OMB Control No.: 1557-0339

Frequency of Response: On occasion.

Affected Public: A national bank or Federal savings association (FSA) (or any subsidiary of either) that is a subsidiary of a global systemically important bank holding company that has been designated pursuant to 12 CFR 252.82 of the Federal Reserve Board's Regulation YY; a national bank or FSA (or any subsidiary of either) that is a subsidiary of a global systemically important foreign banking organization designated pursuant to 12 CFR 252.87 of the Federal Reserve Board's Regulation YY; a Federal branch or agency (or any U.S. subsidiary of a Federal branch or agency) of a global systemically important foreign banking organization designated pursuant to 12 CFR

252.87 of the Federal Reserve Board's Regulation YY; and any national bank or FSA that is not under a bank holding company and that has more than \$700 billion in total assets as reported on its most recent Consolidated Reports of Condition and Income (Call Report).

Abstract: Under 12 CFR part 47, a covered bank is required to ensure that a covered qualified financial contract (QFC) -- (1) contains a contractual stay-and-transfer provision analogous to the statutory stay-and-transfer provision imposed under Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (see 12 U.S.C. 5390(c)(9)–(10)) and in the Federal Deposit Insurance Act (see 12 U.S.C. 1821(e)(8)–(10)) and (2) limits the exercise of default rights based on the insolvency of an affiliate of the covered bank. A covered bank is defined in 12 CFR 47.3(b) as:

- A national bank or FSA that has more than \$700 billion in total assets as reported on the national bank's or FSA's most recent Call Report;
- A national bank or FSA that is a subsidiary of a global systemically important bank holding company that has been designated pursuant to § 252.82 of this title (Federal Reserve Board Regulation YY) (12 CFR 252.82);
- A national bank or FSA that is a subsidiary of a global systemically important foreign banking organization that has been designated pursuant to § 252.87 of this title (Federal Reserve Board Regulation YY) (12 CFR 252.87);
- A Federal branch or agency, as defined in subpart B of this chapter (governing Federal branches and agencies), of a global systemically important foreign banking organization that has been designated pursuant to § 252.87 of this title (Federal Reserve Board Regulation YY) (12 CFR 252.87); or
- A subsidiary of a covered bank, except, as defined in 12 CFR 47.3(b)(3), subsidiaries held in satisfaction of debt previously contracted in good faith,

portfolio companies held under the Small Business Investment Act of 1956, and certain companies engaged in the business of making public welfare investments.

The requirements are intended to enhance the resilience and the safety and soundness of Federally chartered and licensed financial institutions by addressing concerns relating to the exercise of default rights of certain financial contracts that could interfere with the orderly resolution of certain systemically important financial firms.

Covered banks may comply either by amending the contractual provisions of their QFCs consistent with the requirements of §§ 47.4 and 47.5 within a specified period of time or by adhering to the International Swaps and Derivatives Association 2015 Universal Resolution Stay Protocol or U.S. Protocol (ISDA Protocols). Alternatively, 12 CFR 47.6(b)(1) provides that a covered bank may request that the OCC approve as compliant with the requirements of §§ 47.4 and 47.5 provisions of one or more forms of covered QFCs, or amendments to one or more forms of covered QFCs, with enhanced creditor protection conditions.

In order for the OCC to evaluate a covered bank's request, 12 CFR 47.6(b)(3) requires that the request include (1) an analysis of the proposal that addresses a range of factors laid out in § 47.6(d) that are intended to facilitate the OCC's consideration of whether the proposal would be consistent with the restrictions and the main objectives of the rule; (2) a written legal opinion verifying that the covered bank's proposed provisions or amendments would be valid and enforceable under applicable laws of the relevant jurisdictions, including, in the case of proposed amendments, the validity and enforceability of the proposal to amend the covered QFCs; and (3) any additional information relevant to the OCC's approval that the OCC requests. The OCC will then use the information collected to determine whether the covered bank's proposed alternative creditor protection conditions comply with the requirements of the rule and achieve its policy goals.

Estimated Burden:

Number of Respondents: 44

Estimated Burden per Respondent: 140 hours

Total Estimated Annual Burden: 6,160 hours

Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on:

- Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;
- The accuracy of the OCC's estimate of the burden of the collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected;
- Ways to minimize the burden of the collection on respondents, including the use of automated collection techniques or other forms of information technology; and
- Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Theodore J. Dowd,

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