



## DEPARTMENT OF THE TREASURY

### Office of the Comptroller of the Currency

#### Agency Information Collection Activities: Information Collection Renewal; Comment Request; Securities Offering Disclosure Rules

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

**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, “Securities Offering Disclosure Rules.”

**DATES:** Comments must be received by **[INSERT DATE 60 DAYS AFTER 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](mailto:prainfo@occ.treas.gov).
- *Mail:* Chief Counsel’s Office, Attention: Comment Processing, Office of the Comptroller of the Currency, Attention: 1557-0120, 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) 293-4835.

Instructions: You must include “OCC” as the agency name and “1557-0120” 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.

Following the close of this notice’s 60-day comment period, the OCC will publish a second notice with a 30-day comment period. 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.

- Viewing Comments Electronically: Go to *www.reginfo.gov*. Hover over the “Information Collection Review” tab and click on “Information Collection Review” from the drop-down menu. From the “Currently under Review” drop-down menu, select “Department of the Treasury” and then click “submit.” This information collection can be located by searching OMB control number “1557-0120” or “Securities Offering Disclosure Rules.” 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, Clearance Officer, (202) 649-5490, Chief Counsel’s Office, Office of the Comptroller of the

Currency, 400 7th Street, 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, imposed on ten or more persons, that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of title 44 generally 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:* Securities Offering Disclosure Rules.

*OMB Control No.:* 1557-0120.

*Type of Review:* Regular.

*Affected Public:* Businesses or other for-profit.

*Description:* Twelve CFR part 16 governs the offer and sale of securities issued by national banks and Federal savings associations. The requirements in part 16 enable the OCC to perform its responsibility to ensure that the investing public has information about the condition of the institution, the reasons for raising new capital, and the terms of the offering. Part 16 requires that securities offering disclosures of national banks and Federal savings associations be generally consistent with similar Securities Exchange Commission (SEC) disclosure requirements.

The principal collections of information in part 16 are as follows:

*Form for Registration.* Under 12 CFR 16.3(a), a national bank or Federal savings association offering or selling its own securities to the public is required to make the offer or sale through the use of a prospectus that has been filed with the OCC as part of a registration statement. According to 12 CFR 16.15(a), the registration statement must be on the form for registration (17 CFR part 239) that the national bank or Federal savings association would be eligible to use if it were required to register and file with the SEC and meet the requirements of the SEC regulations referred to in the applicable form for registration. Any registration statement or amendment filed pursuant to part 16 must comply with the requirements of SEC Regulation C (17 CFR part 230, Regulation C - Registration), except to the extent those requirements conflict with specific requirements of part 16. *See* 12 CFR 16.15(b). Twelve CFR 16.15(d) requires the registration statement for securities issued by a national bank or Federal savings association that is not in compliance with the applicable regulatory capital requirements of 12 CFR part 3 to be on the Form S-1 (17 CFR part 239) registration statement under the Securities Act of 1933 (Securities Act).

*Abbreviated Form for Registration.* Under 12 CFR 16.6, a national bank or Federal savings association may be deemed in compliance with certain registration requirements of Part 16 for offers and sales of nonconvertible debt if such debt is offered and sold only to accredited investors meeting the conditions in 12 CFR 16.6. According to 12 CFR 16.6(a)(1), the national bank or Federal savings association must have securities registered under or be a subsidiary of a company that has securities registered under the Securities Exchange Act of 1934 (Exchange Act). Under 12 CFR 16.6(a)(3), the debt must be sold in minimum denominations of \$250,000 and each note or debenture, if issued in certificate form, must be legended to provide that it cannot be exchanged for notes or debentures of the national bank or Federal savings association in smaller denominations. The national bank or Federal savings association must also provide purchasers with specified disclosure information. Under 12 CFR 16.6(b), a federal branch or agency of a foreign bank need not

meet the conditions of 12 CFR 16.6(a)(1) if the federal branch or agency provides the OCC the information specified in SEC Rule 12g3-2(b) (17 CFR 240.12g3-2(b)) and provides purchasers the information specified in SEC Rule 144A(d)(4)(i) (17 CFR 230.144A(d)(4)(i)).

*Small Issues Registration.* A national bank or Federal savings association may offer and sell securities publicly in a limited dollar amount by using an offering statement meeting the requirements of SEC's Regulation A (17 CFR 230.251 *et seq.*). See 12 CFR 16.8.

*Nonpublic Offerings.* A national bank or Federal savings association may offer or sell its own securities in a private placement to accredited or sophisticated investors in compliance with 12 CFR 16.7. Under 12 CFR 16.7(a)(1), all the securities must be offered and sold in a transaction satisfying the requirements of SEC Regulation D (17 CFR part 230), subject to certain exceptions. The requirements include general conditions, information requirements, limitations on the manner of offering (advertising), amount limitations, and resale limitations, depending on the specific offering. All subsequent sales subject to the resale limitations of SEC Regulation D must be made pursuant to SEC Rule 144 (persons deemed not to be underwriters), 17 CFR 230.144; SEC Rule 144A (private resales to institutions), 17 CFR 230.144A; another exemption referenced in 12 CFR 16.5; or in accordance with registration and prospectus requirement of 12 CFR 16.3.

*Electronic Filing.* Pursuant to 12 CFR 16.17(a), all registration statements, offering documents, amendments, notices, or other documents generally must be filed with the OCC's Law Department electronically at <http://www.banknet.gov/>. Documents may be signed electronically using the signature provision in SEC Rule 402 (17 CFR 230.402). All registration statements, offering documents, amendments, notices, or other documents relating to a national bank or Federal savings association in organization must be filed with the appropriate district office of the OCC at <http://www.banknet.gov/>. All registration statements, offering documents, amendments, notices, or other documents relating to a

mutual to stock conversion pursuant to 12 CFR part 192 must be filed with the appropriate OCC licensing office at <http://www.banknet.gov/>.

*References to SEC Rules.* Where part 16 refers to a section of the Securities Act or the Exchange Act or an SEC rule that requires the filing of a notice or other document with the SEC, that notice or other document must be filed with the OCC. *See* 12 CFR 16.17(c).

*Request for Interpretive Advice or No-objection Letter.* Under 12 CFR 16.30(a), any person requesting interpretive advice or a no-objection letter from the OCC with respect to any provision of part 16 shall file a copy of the request, including any supporting attachments, with the OCC's Law Department at the address provided at [www.occ.gov](http://www.occ.gov). The request shall identify or describe the provisions of part 16 to which the request relates, the participants in the proposed transaction, and the reasons for the request; and include a legal opinion as to each legal issue raised and an accounting opinion as to each accounting issue raised. *See* 12 CFR 16.30(b)-(c).

*Withdrawal or Abandonment.* Pursuant to 12 CFR 16.19(a), any registration statement, amendment, or exhibit may be withdrawn prior to the effective date. A withdrawal must be signed and state the grounds upon which it was made. The OCC will not remove any withdrawn document from its files but will mark the document “Withdrawn upon the request of the registrant on (date).”

### **Estimated Burden**

*Estimated Frequency of Response:* On occasion.

*Estimated Number of Respondents:* 16.

*Estimated Total Annual Responses:* 90.

*Estimated Total Annual Burden:* 900 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:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

**Micah J. Cogen,**

*Acting Assistant Director,*

*Office of the Comptroller of the Currency.*

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