

Subject: Community Reinvestment Act

Date: July 31, 2019

To: Chief Executive Officers and Compliance Officers of All National Banks, Federal Savings Associations, and Federal Branches of Foreign Banking Organizations; Department and Division Heads; All Examining Personnel; and Other Interested Parties

Description: Guidelines for Requesting Designation as a Wholesale, Limited Purpose, or Special Purpose Bank

Summary

The Office of the Comptroller of the Currency (OCC) is issuing this bulletin to inform national banks, federal savings associations, and federal branches of foreign banking organizations (collectively, banks) subject to the Community Reinvestment Act (CRA) about guidelines for requesting a designation as a wholesale or limited purpose bank for CRA purposes or requesting confirmation of its exemption as a special purpose bank under CRA regulations. This bulletin rescinds and replaces an attachment to OCC Bulletin 1996-11, "Community Reinvestment Act: Guidelines for Requesting Designation as a Wholesale or Limited-Purpose Institution."¹

Note for Community Banks

These guidelines apply to all OCC-supervised banks that request a designation as a wholesale or limited purpose bank for CRA purposes or that request an exemption from CRA regulations as a special purpose bank.

Highlights

These guidelines summarize the OCC's process for addressing bank requests for designation as a wholesale or limited purpose bank for CRA purposes or requests for confirmation of its exemption from the CRA as a special purpose bank, including

- information that a bank should provide to substantiate its request.
- instructions on how to submit requests.
- the OCC's review and approval processes, as applicable.

Background

Wholesale and Limited Purpose Banks

Under the CRA, banks are evaluated on the basis of the product lines they offer in the normal course of business. Accordingly, designated wholesale banks engaged in only incidental retail lending and designated limited purpose banks offering a narrow product line to a regional or broader market are assessed under the community development test provided in the CRA regulations.² The community development test evaluates a bank's record of meeting the credit needs of its assessment area through community development lending, qualified investments, or community development services.

To receive a designation as a wholesale or limited purpose bank for CRA purposes, a bank must file a request in writing with the OCC at least three months before the proposed effective date of the designation.³ A bank designated as a wholesale or limited purpose bank will be evaluated under the community development test beginning on the effective date of the designation. For the first CRA evaluation after designation as a wholesale or limited purpose bank, a bank may be subject to evaluation under the standard tests for large, small, or intermediate small banks for the portion of the evaluation period before the designation. Requests should be submitted to the OCC as described in the "Filing Guidelines," "Preparation and Submission of Request," and "Designation Request" sections of this bulletin.

Special Purpose Banks

The CRA regulations exclude from coverage certain special purpose banks that do not perform commercial or retail banking services by granting credit to the public in the ordinary course of business, other than as incidental to their specialized operations.⁴ These banks include banker's banks, as defined in 12 USC 24(Seventh), and banks that engage only in one or more of the following activities: providing cash management controlled disbursement services or serving as correspondent banks, trust companies, or clearing agents. A bank that seeks confirmation of such an exemption from the CRA regulations should submit its request in writing to the OCC, as described in the "Filing Guidelines," "Preparation and Submission of Request," and "Designation Request" sections of this bulletin.

Filing Guidelines

These guidelines supplement the general provisions governing the process for requesting a designation as a wholesale or limited purpose bank or confirmation of an exemption from CRA as a special purpose bank, and serve as a guide to preparing requests for submission to the OCC. In addition to the information identified in this bulletin, a bank should submit any other information that it considers relevant or that is requested by the OCC to inform its decision-making process.

The OCC also reviews other relevant financial information, such as the Uniform Bank Performance Report (UBPR), Consolidated Reports of Condition and Income (call report), CRA and Home Mortgage Disclosure Act disclosure statements, supervisory reports, and prior CRA performance evaluations. Banks do not need to submit this information because it already is available in the OCC's supervisory information systems.

Preparation and Submission of Request

A bank seeking a designation as a wholesale or limited purpose bank or confirmation of an exemption from the CRA regulations as a special purpose bank is encouraged to contact the bank's supervisory office to request an informal consultation with OCC staff. The supervisory office will schedule a consultation that will generally include staff members from the supervisory office and other OCC offices.

To request a designation as a wholesale or limited purpose bank or confirmation of an exemption as a special purpose bank, a bank must submit its request by email to the OCC at CRAWLP-SPRequests@occ.treas.gov, Subject line: CRA Designation. As part of its request, the bank should submit the information necessary to demonstrate that the request meets the criteria for designation as a wholesale or limited purpose bank or to be considered exempt from the CRA regulations as a special purpose bank. Banks may direct questions regarding the process, preparation of a request, or a pending submission by emailing CRAWLP-SPRequests@occ.treas.gov, calling (202) 649-5470, or contacting their supervisory office.

The bank's request should include a point of contact. After the OCC receives the request, the OCC's point of contact will send an acknowledgment of receipt. OCC staff will review the request and supporting information to determine whether the request is complete. A request is complete when the OCC has received the information necessary to make a determination as to whether the criteria for a designation or exemption have been met. If the OCC determines the request is incomplete, the OCC point of contact will request additional information. If any of the information initially provided by the bank changes significantly during the processing of the request, the bank's point of contact should communicate those changes promptly.

Designation requests should include a proposed effective date that is at least three months after the bank submits its request to the OCC.⁵

Designation Request

Designation or exemption requests customarily include the following:

1. A description of how the bank satisfies one of the following definitions. The statement should contain facts and data sufficient to describe the nature of the bank's current and prospective business, the credit products offered, and the market area served. For a de novo bank, the request would include a business plan that contains a description of the bank's proposed business model and operations, any and all credit and other related retail banking products to be offered, and the market area(s) to be served.

Wholesale bank: A bank that is not in the business of extending home mortgage, small business, small farm, or consumer loans to retail customers. A bank is not considered in the business of extending loans to retail customers if it does not hold itself out to the retail public as providing such loans and the bank's revenues from extending such loans are insignificant when compared with its overall lending operations. Wholesale banks may engage in very limited retail lending, if this activity is

incidental and is done on an accommodation basis.

Limited purpose bank: A bank that offers only a narrow product line (such as credit card or motor vehicle loans) to a regional or broader market. A limited purpose bank continues to meet the narrow product line requirement if it provides other types of loans infrequently.

Special purpose bank: A bank that does not perform commercial or retail banking services by granting credit to the public in the ordinary course of business, other than as incident to its specialized operations, including banker's banks, as defined in 12 USC 24(Seventh), and banks that engage only in one or more of the following activities: providing cash management controlled disbursement services or serving as correspondent banks, trust companies, or clearing agents.

2. If the bank engages in any retail or other lending activities that may not be viewed as consistent with its designation or exemption request, the request would provide sufficient information about those activities to allow the OCC to determine the extent to which they are infrequent, incidental, or performed on an accommodation basis. This information would address the following elements, as appropriate:
 - a. The types of activities and the conditions or circumstances under which the bank offers the product or service. For example, if the bank engages in mortgage lending, explain whether such loans are offered to the general public or offered only to a limited group such as corporate customers or employees of the bank.
 - b. The percentage of the bank's assets and income that each activity represents.
 - c. How any retail or other lending activity relates to the bank's assessment area(s).
 - d. Whether the volume of incidental lending activity would be sufficient to allow for a reasonable evaluation of the bank's performance under the lending test.
3. Any legal constraints or limitations that affect the type of credit services the bank may offer.
4. A description of the bank's assessment area(s) and the location of its branches and offices. The bank's assessment area(s) must consist generally of one or more metropolitan statistical areas or metropolitan divisions or one or more contiguous political subdivisions in which the bank has its main office, branches, and deposit-taking automated teller machines.⁶
5. How the bank's network of branches is consistent with the designation as a wholesale or limited purpose bank or exemption as a special purpose bank.
6. The proposed effective date for the designation or exemption, which for designations should be at least three months after the request is submitted to the OCC.

Confidentiality

Under the Freedom of Information Act (FOIA) (5 USC 552), a submitted designation or exemption request is a public document and is available to the public upon request. The OCC's decision regarding a designation or exemption request may also be made available to the public under FOIA.

A bank may request confidential treatment for information that would be exempt from FOIA disclosure requirements. For example, if the requesting bank believes that disclosure of commercial or financial information included in its request would likely result in substantial harm to its competitive position or that of its affiliates, confidential treatment of such information may be requested. This request for confidential treatment must be submitted in writing concurrently with the submission of the confidential information and should discuss in detail the justification for confidential treatment. The bank's request for confidentiality should explain the harm that would result from public release of the information.

Information for which confidential treatment is sought should be (1) segregated from the other information that is submitted, (2) specifically identified in the non-confidential portion of the designation request (by reference to the confidential section), and (3) labeled "Confidential." The requesting bank should follow this same procedure on confidentiality with regard to filing any supplemental information for which confidential treatment is sought. The OCC will determine whether information labeled "Confidential" will be treated as confidential and will advise the requesting bank of any decision to make information labeled "Confidential" available to the public. A bank should follow the procedures for requesting confidential treatment when submitting confidential supervisory information, which includes any information contained in, related to, or derived from reports of examination and inspection, or from confidential operating and condition reports.

Notification of Decision

After the OCC determines a request is complete, it will review the request and determine whether the bank meets the criteria for a wholesale, limited purpose, or special purpose bank.

Wholesale and Limited Purpose Banks

Within 60 days of receiving a complete written request, the OCC will notify the bank in writing of its decision to approve or deny the request. If approved, a designation remains in effect until the bank requests revocation of the designation or until one year after the OCC notifies the bank that the OCC has revoked the designation on its own initiative.

Special Purpose Banks

Within 60 days of receiving a complete written request, the OCC will notify the bank in writing of its decision with regard to special purpose bank status. If confirmed, the exemption remains effective until the bank provides information to the OCC that indicates the exemption no longer applies, or until the OCC notifies the bank that, based on information obtained by the OCC on its own initiative, the exemption no longer applies. During the period between the date of the bank's last performance evaluation and the date the special purpose exemption is confirmed, the bank remains subject to the CRA.

Revocation of a Prior Designation or Exemption

When a designation is revoked or an exemption no longer applies, the OCC considers the operational and strategic challenges associated with the change in performance standards applied to the bank (e.g., from a wholesale bank to a large bank) as part of the bank's overall performance context in the next CRA performance evaluation.

Further Information

Contact your supervisory office or the OCC's Bank Supervision Policy Department, Compliance Risk Policy Division, at (202) 649-5470.

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¹OCC Bulletin 2019-39, "Community Reinvestment Act: Guidelines for Requesting Approval of a Strategic Plan," rescinds and replaces OCC Bulletin 1996-11.

² 12 CFR 25.25 for national banks and federal branches and 12 CFR 195.25 for savings associations.

³ 12 CFR 25.25(a) and (b) for national banks and federal branches and 12 CFR 195.25(a) and (b) for savings associations.

⁴ 12 CFR 25.11(c)(3) for national banks and federal branches and 12 CFR 195.11(c)(2) for savings associations.

⁵ 12 CFR 25.25(b) for national banks and federal branches and 12 CFR 195.25(b) for savings associations.

⁶ 12 CFR 25.41(c) for national banks and federal branches and 12 CFR 195.41(c) for savings associations.