



BILLING CODE: 4810-33-P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal;

Comment Request;Subordinated Debt Licensing Requirements

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 the general public and other federal agencies to take this opportunity to 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, “Subordinated Debt Licensing Requirements.”

DATES: Comments must be submitted on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Because paper mail in the Washington, DC area and at the OCC is subject to delay, 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: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557-0320, 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 “1557-0320” in your comment. In general, the OCC will publish them on *www.reginfo.gov* without change, including any business or personal information that you provide, 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 collection¹ by any of the following methods:

- Viewing Comments Electronically: Go to *www.reginfo.gov*. Click on the “Information Collection Review” tab. 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 “1557-0320” or “Subordinated Debt Licensing Requirements.” Upon finding the appropriate information collection, click on the related “ICR Reference Number.” On the

¹ Following the close of the 60-Day comment period for this notice, the OCC will publish a notice for 30 days of comment for this collection.

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.
- Viewing Comments Personally: You may personally inspect and photocopy comments at the OCC, 400 7th Street, SW., Washington, DC. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649-6700 or, for persons who are deaf or hearing impaired, TTY, (202) 649-5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, OCC Clearance Officer, (202) 649-5490 or, for persons who are deaf or hearing impaired, TTY, (202) 649-5597, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501-3520), federal agencies must obtain approval from OMB for each collection of information 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 the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to provide a 60-day notice in the Federal Register concerning each proposed collection of information, including each renewal 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 proposed collection of information set forth in this document.

Title: Subordinated Debt Licensing Requirements.

OMB Control No.: 1557-0320.

Frequency of Response: On occasion.

Affected Public: Business or other for-profit.

Burden Estimates:

Prepayment of Subordinated Debt in Form of Call Option: 184

Respondents; 1.30 burden hours per respondent; 239 total burden hours.

Authority to Limit Distributions: 42 Respondents; 0.5 hours per

respondent; 21 total burden hours.

Total Burden: 260 hours.

Description: The scope of this Information Collection Renewal is limited to the following: (1) the 12 CFR 5.47(g) and 12 CFR 5.56(b) requirements that national banks and federal savings associations (collectively, “institutions”) apply for OCC approval prior to prepaying subordinated debt if the prepayment is in the form of a call option; and (2) the 12 CFR 5.47(d) requirement that national banks issuing subordinated debt disclose the OCC’s authority under 12 CFR 3.11 to limit distributions.

National banks must receive prior OCC approval in order to prepay subordinated debt that is included in tier 2 capital, and certain banks must receive prior approval to prepay subordinated debt that is not included in tier 2 capital. If the prepayment is in the form of a call option, a national bank must submit the information required for general

prepayment requests under 12 CFR 5.47(g)(1)(ii)(A) and also comply with 12 CFR 5.47(g)(1)(ii)(B)(2), which requires a national bank to submit either: (1) a statement explaining why the bank believes that following the proposed prepayment the bank would continue to hold an amount of capital commensurate with its risk; or (2) a description of the replacement capital instrument that meets the criteria for tier 1 or tier 2 capital under 12 CFR 3.20, including the amount of such instrument and the time frame for issuance.

Federal savings associations must receive OCC approval prior to prepaying subordinated debt securities or mandatorily redeemable preferred stock included in tier 2 capital. If the prepayment is in the form of a call option, a federal savings association must submit the information required for general prepayment requests under 12 CFR 5.56(b)(2)(i) and also comply with 12 CFR 5.56(b)(2)(ii)(A), which requires a federal savings association to submit either: (1) a statement explaining why the federal savings association believes that following the proposed prepayment the savings association would continue to hold an amount of capital commensurate with its risk; or (2) a description of the replacement capital instrument that meets the criteria for tier 1 or tier 2 capital under 12 CFR 3.20, including the amount of such instrument and the time frame for issuance.

Pursuant to 12 CFR 5.47(d)(3)(ii)(C), a national bank issuing subordinated debt must disclose on the face of the note the OCC's authority under 12 CFR 3.11 to limit distributions, including interest payments on any tier 2 capital instrument if the national bank has full discretion to permanently or temporarily suspend such payments without triggering an event of default.

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 collections of information are necessary for the proper performance of the OCC's functions, including whether the information has practical utility;

(b) The accuracy of the OCC's estimates of the burden of the information collections, including the validity of the methodology and assumptions used;

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

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

Dated: March 27, 2018.

Karen Solomon,

Acting First Deputy Comptroller and Chief Counsel,

Office of the Comptroller of the Currency.

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