

part that would expose the bank to unlimited liability.

§ 24.5 Public welfare investment self-certification and prior approval procedures.

(a) *Self-certification of public welfare investments.* (1) Subject to § 24.4(a), an eligible bank may make an investment described in § 24.6(a) without prior notification to, or approval by, the OCC if the bank follows the self-certification procedures prescribed in this section.

(2) To self-certify an investment, an eligible bank shall submit, within 10 working days after an investment is made, a letter of self-certification to the Director, Community Development Division, Office of the Comptroller of the Currency, Washington, DC 20219.

(3) The bank's letter of self-certification must include:

(i) The name of the CDC, CD Project, or other entity in which the bank has invested;

(ii) The date the investment was made;

(iii) The type of investment (equity or debt), the investment activity listed in § 24.6(a) that the investment supports, and a brief description of the particular investment;

(iv) The bank's total investment in the CDC, CD Project or other entity, and the bank's aggregate outstanding investments under this part, including commitments and the investment being self-certified;

(v) The percentage of the bank's capital and surplus represented by the bank's aggregate outstanding investments under this part, including commitments and the investment being self-certified; and

(vi) A statement demonstrating compliance with § 24.3 and § 24.4.

(4) A national bank that is not an eligible bank but 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 self-certify investments. The Community Development Division considers these requests on a case-by-case basis.

(b) *Investments requiring prior approval.* (1) If a national bank or its proposed investment does not meet the requirements for self-certification set forth in paragraph (a) of this section, the bank shall submit a proposal for an investment to the Director, Community Development Division, Office of the Comptroller of the Currency, Washington, DC 20219.

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

(i) The name of the CDC, CD Project, or other entity in which the bank intends to invest;

(ii) The date on which the bank intends to make the investment;

(iii) The type of investment (equity or debt), the investment activity listed in § 24.3(a) that the investment supports, and a description of the particular investment;

(iv) The bank's total investment in the CDC, CD Project or other entity, and the bank's aggregate outstanding investments under this part (including commitments and the investment being proposed);

(v) The percentage of the bank's capital and surplus represented by the bank's aggregate outstanding investments under this part (including commitments and the investment being proposed); and

(vi) A statement demonstrating compliance with § 24.3 and § 24.4.

(3) In reviewing a proposal, the OCC considers the following factors and other available information including:

(i) Whether the investment satisfies the requirements of § 24.3;

(ii) Whether the investment is consistent with the safe and sound operation of the bank; and

(iii) Whether the investment is consistent with the requirements of this part and the OCC's policies.

(4) Unless otherwise notified by the OCC, and subject to § 24.4(a), the bank may make the proposed investment after 30 calendar days from the date on which the OCC receives the bank's investment proposal.

(5) The OCC, by notifying the bank, may extend its period for reviewing the investment proposal. If so notified, the bank may make the investment only with the OCC's written approval.

(6) The OCC may impose one or more conditions in connection with its approval of an investment under this part. All approvals are subject to the condition that a national bank must conduct the approved activity in a manner consistent with any published guidance issued by the OCC regarding the activity.

§ 24.6 Activities eligible for self-certification.

(a) *Eligible activities.* In accordance with the process described in § 24.5(a), a bank may self-certify the following investments without prior notice to, or approval by, the OCC:

(1) Investments in an entity that finances, acquires, develops, rehabilitates, manages, sells, or rents housing primarily for low- and moderate-income persons;

(2) Investments that stimulate economic development, community

stabilization or revitalization, or permanent job creation or retention for low- and moderate-income persons by financing small businesses (including equity or debt financing and investments in an entity that provides loan guarantees);

(3) Investments that stimulate economic development, community stabilization or revitalization, or permanent job-creation or retention for low- and moderate-income persons by providing credit counseling, job training, community development research, and similar technical assistance services for small businesses, non-profit community development organizations, low- and moderate-income persons or areas, or other areas (including rural areas) targeted for redevelopment by state or local government;

(4) Investments in an entity that stimulates economic development, community stabilization or revitalization, or permanent job creation or retention for low- and moderate-income persons by acquiring, developing, rehabilitating, managing, selling, or renting commercial or industrial property that is located in a low- and moderate- income area or other area (including rural areas) targeted for redevelopment by state or local government, and which is occupied primarily by small businesses;

(5) Investments as a limited partner in a project with a general partner that is, or is primarily owned and operated by, a 26 U.S.C. 501(c)(3) or (4) non-profit corporation and that qualifies for the federal low-income housing tax credit;

(6) Investments in low- or moderate-income areas, or other areas (including rural areas) targeted for redevelopment by state or local government that create long term employment opportunities, the majority of which will be held by low- and moderate-income persons;

(7) Investments in a national bank that has been approved by the OCC as a national bank with a community development focus;

(8) Investments that have been approved by the Federal Reserve Board under 12 CFR 208.21 for state member banks; and

(9) Investments that have been previously determined by the OCC to be permissible under this part.

(b) *Ineligible activities.*

Notwithstanding the provisions of this section, a bank may not self-certify an investment if:

(1) The investment involves properties carried on the bank's book as "other real estate owned";

(2) The investment funds projects in a state or metropolitan area other than