

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Parts 24, 43, and 128

[Docket ID OCC-2025-0075]

RIN 1557-AF32

Streamlining Regulations Concerning Public Welfare Investments, Open Market

Collateralized Loan Obligations, and Federal Savings Association

Nondiscrimination Requirements

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency invites public comment on a notice of proposed rulemaking (proposed rule) to rescind or amend certain regulations that are unnecessary, based on anything other than the best reading of the underlying statutory authority, or lacking clear statutory authority, consistent with the criteria set out in the Executive Order titled Ensuring Lawful Governance and Implementing the President’s “Department of Government Efficiency” Deregulatory Initiative. The proposed rule would remove certain references to minority- and women-owned entities; remove the portion of the credit risk retention requirements that provides an alternative compliance option for lead arrangers of open market collateralized loan obligations; and remove certain duplicative non-discrimination requirements for Federal savings associations.

DATES: Comments must be received by 30 days after date of publication in the *Federal Register*.

ADDRESSES: Commenters are encouraged to submit comments through the Federal eRulemaking Portal. Please use the title “Streamlining Regulations Concerning Public Welfare Investments, Open Market Collateralized Loan Obligations, and Federal Savings Association Nondiscrimination Requirements” to facilitate the organization and distribution of the comments. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal – Regulations.gov:*

Go to <https://regulations.gov/>. Enter Docket ID “OCC-2025-0075” in the Search Box and click “Search.” Public comments can be submitted via the “Comment” box below the displayed document information or by clicking on the document title and then clicking the “Comment” box on the top-left side of the screen. For help with submitting effective comments, please click on “Commenter’s Checklist.” For assistance with the *Regulations.gov* site, please call 1-866-498-2945 (toll free) Monday-Friday, 9 a.m.-5 p.m. EST, or e-mail regulationshelpdesk@gsa.gov.

- *Mail:* Chief Counsel’s Office, Attention: Comment Processing, Office of the Comptroller of the Currency, 400 7th Street, SW, Suite 3E-218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street, SW, Suite 3E-218, Washington, DC 20219.

Instructions: You must include “OCC” as the agency name and Docket ID “OCC-2025-0075” in your comment. In general, the OCC will enter all comments received into the docket and publish the comments on the *Regulations.gov* website 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 action by the following method:

- *Viewing Comments Electronically – Regulations.gov:*

Go to <https://regulations.gov/>. Enter Docket ID “OCC-2025-0075” in the Search Box and click “Search.” Click on the “Dockets” tab and then the document’s title. After clicking the document’s title, click the “Browse All Comments” tab. Comments can be viewed and filtered by clicking on the “Sort By” drop-down on the right side of the screen or the “Refine Comments Results” options on the left side of the screen. Supporting materials can be viewed by clicking on the “Browse Documents” tab. Click on the “Sort By” drop-down on the right side of the screen or the “Refine Results” options on the left side of the screen checking the “Supporting & Related Material” checkbox. For assistance with the *Regulations.gov* site, please call 1-866-498-2945 (toll free) Monday-Friday, 9 a.m.-5 p.m. EST, or e-mail regulationshelpdesk@gsa.gov.

The docket may be viewed after the close of the comment period in the same manner as during the comment period.

FOR FURTHER INFORMATION CONTACT: Chris Rafferty, Counsel, (202) 649-5490; 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:

I. Background

The OCC has conducted a review of its existing regulations for consistency with the criteria set out in Executive Order 14219 (E.O. 14219), Ensuring Lawful Governance and Implementing the President’s “Department of Government Efficiency” Deregulatory Initiative, which requires agencies to review all regulations subject to their sole or joint jurisdiction for consistency with law and Administration policy.¹ Among other criteria, E.O. 14219 requires agencies to identify regulations that (1) are based on anything other than the best reading of the underlying statutory authority and (2) implicate matters of social, political, or economic significance that are not authorized by clear statutory authority.² The OCC is issuing this proposed rule to streamline parts 24, 43, and 128 of title 12 of the Code of Federal Regulations by rescinding or amending regulations that meet the criteria of E.O. 14219 or are otherwise unnecessary, duplicative, or burdensome.

II. Description of the Proposed Rule

A. Part 24—Community Development Corporation and Project Investments and Other Public Welfare Investments.

Consistent with E.O. 14219, the OCC is issuing this proposed rule to amend the Community Development Corporation and Project Investments and Other Public Welfare Investments regulations codified at 12 CFR part 24.

Twelve U.S.C. 24(Eleventh) authorizes national banks and their subsidiaries to make investments “designed primarily to promote the public welfare, including the welfare of low- and moderate-income families and communities (such as through the provision of housing, services, or jobs),” subject to certain percentage of capital

¹ 90 FR 10583 (Feb. 19, 2025).

² *Id.*

limitations. Part 24 implements this statute to provide authority for national banks to make public welfare investments (PWIs). Under § 24.3, a PWI is an investment made directly or indirectly by a national bank or its subsidiary that primarily benefits low- and moderate-income (LMI) individuals, LMI areas, or other areas targeted by a governmental entity for redevelopment, or an investment that would receive consideration as a “qualified investment” under the investment test in the Community Reinvestment Act’s implementing regulations.³ Section 24.6, which incorporates definitions provided for in § 24.2, describes examples that meet the requirements of § 24.3. The examples of PWIs that benefit LMI areas and individuals include certain investments in small businesses and small farms, including minority- and women-owned small businesses and small farms, and minority- and women-owned depository institutions.

Consistent with E.O. 14219, the OCC is issuing this proposed rule to amend part 24 by removing references to minority- and women-owned entities. These amendments align the PWI examples with the text of the enabling statute. Further, the use of more streamlined text would better highlight the operative components in each example. The amendments in part 24, consistent with the minimum statutory requirements, would generally permit national banks and their subsidiaries to continue to make PWIs to the same extent as currently permitted.⁴

B. Part 43—Risk Retention for Open Market Collateralized Loan Obligations

³ See 12 CFR 24.3.

⁴ For the proposed examples, the primary determinant of whether an investment meets the requirements of § 24.3 would, as in the current rule, continue to be (1) the location of the investment (*i.e.*, in an LMI area or targeted redevelopment area) or (2) the benefit the investment would provide for LMI individuals.

Consistent with E.O. 14219, the OCC is issuing this proposed rule to rescind the portion of its credit risk retention regulation that provides an alternative compliance option for lead arrangers of open market collateralized loan obligations (CLO) codified at 12 CFR 43.9.

On December 24, 2014, the OCC published a joint final rule implementing the credit risk retention requirements under section 15G of the Securities Exchange Act of 1934 as amended by section 941 of the Dodd-Frank Act.⁵ Generally, the final rule requires securitizers of asset-backed securities (ABS) to retain at least five percent of the credit risk associated with related ABS transactions.⁶ The preamble to the final rule explains that for open market CLO transactions, the CLO manager is the appropriate party to hold risk retention.⁷ As an alternative to the standard options for vertical or horizontal risk retention, the final rule includes a provision to permit the lead arranger in an open market CLO transaction to hold risk retention in lieu of the CLO manager (lead arranger option).⁸

In 2018, plaintiffs successfully sued the Securities and Exchange Commission and the Board of Governors of the Federal Reserve System to block the final rule's credit risk retention requirements from applying to CLO managers in open market CLO transactions.⁹ While the OCC was not a party to the case, it is likely the court's conclusions would apply to open market CLO managers under the OCC's risk retention rule.

⁵ 79 FR 77602 (Dec. 24, 2014).

⁶ *Id.*

⁷ *Id.* at 77650.

⁸ *Id.* at 77750-1, *codified at* 12 CFR 43.9.

⁹ *Loan Syndications & Trading Ass'n v. SEC*, 882 F.3d 220 (D.C. Cir. 2018).

As open market CLO managers are no longer subject to the current risk retention rule, the lead arranger option in 12 CFR 43.9 is now irrelevant. Therefore, the OCC is issuing this proposed rule to rescind the lead arranger option for its credit risk retention regulation and make conforming amendments to cross-references in part 43.

C. Part 128—Nondiscrimination Requirements

Consistent with E.O. 14219, the OCC is issuing this proposed rule to rescind its “Nondiscrimination Requirements” regulation for Federal savings associations (FSAs) codified at 12 CFR part 128.¹⁰ The regulation is duplicative of other legal authorities that address discrimination and lacks clear statutory authority. Additionally, rescinding part 128 would reduce burden for FSAs by removing regulatory requirements that are not applicable to national banks.

Part 128 prohibits FSAs from engaging in discriminatory practices in connection with: (i) lending and other services, including the purchase of a loan or securities; (ii) applications; (iii) advertising; (iv) appraisals; (v) underwriting; and (vi) employment. These requirements were originally promulgated by the Office of Thrift Supervision (OTS) at 12 CFR part 528 before the OTS’s powers, authorities, rights, and duties were transferred to the OCC pursuant to Title III of the Dodd-Frank Act.¹¹

E.O. 14219 requires agencies to identify regulations that (1) are based on anything other than the best reading of the underlying statutory authority and (2) implicate matters of social, political, or economic significance that are not authorized by clear statutory

¹⁰ 76 FR 48950 (Aug. 9, 2011).

¹¹ Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111-203, 124 Stat. 1376, 1522 (2010). The Dodd-Frank Act transferred 12 CFR part 528 to the OCC with respect to Federal saving associations and to the Federal Deposit Insurance Corporation (FDIC) with respect to State saving associations. The FDIC republished these regulations at 12 CFR part 390.

authority.¹² Twelve CFR part 128 implicates nondiscrimination, which is a matter of social, political, or economic significance, and is not authorized by clear statutory authority. Current part 128 cites to 12 U.S.C. 1464 (the OCC’s general rulemaking powers for FSAs under the Home Owners’ Loan Act) and 12 U.S.C. 5412(b)(2)(B) (the transfer provision for authorities from OTS to the OCC). Twelve U.S.C. 1464 does not address nondiscrimination. Further, the OTS did not have clear statutory authority to promulgate 12 CFR part 528 in the first instance,¹³ and thus 12 U.S.C. 5412 did not transfer clear statutory authority to the OCC for part 128.

Additionally, part 128 largely reiterates the prohibitions on discrimination contained in the Equal Credit Opportunity Act and its implementing regulations,¹⁴ the Fair Housing Act and its implementing regulations,¹⁵ and other laws concerning nondiscrimination and their implementing regulations.¹⁶ Accordingly, part 128 is generally duplicative of other legal authorities that address discrimination and unnecessary.¹⁷

Request for Comments

¹² 90 FR 10583 (Feb. 19, 2025).

¹³ The former OTS rule cites to 12 U.S.C. 2810 (disclosure of data by the Department of Housing and Urban Development under 12 U.S.C. 29); 12 U.S.C. 2901 et seq. (Community Reinvestment Act, which does not impose substantive nondiscrimination requirements); 12 U.S.C. 1691 et seq. (Equal Credit Opportunity Act, for which the Bureau of Consumer Financial Protection has exclusive rulemaking authority); and 42 U.S.C. 1981-1982 (civil rights statutes relating to equal rights under the law and the property rights of citizens, which do not grant the OCC rulemaking authority).

¹⁴ 15 U.S.C. 1691 et seq.

¹⁵ 42 U.S.C. 3605.

¹⁶ See Equal Employment Opportunity Act of 1972, Pub. L. No. 92-261, 86 Stat.103 (1972); Home Mortgage Disclosure Act, 12 U.S.C. 2801 et seq.; Civil Rights Act of 1964, Pub. L. No. 88-352, 78 Stat. 241 (1964).

¹⁷ Similarly, on February 3, 2021, the FDIC rescinded and removed 12 CFR part 390, which, as noted above, was applicable to State savings associations. The FDIC based its rescission on the fact that the provision was largely duplicative of other regulations and burdensome to subject State savings associations to additional requirements to which insured State nonmember banks are not subject. 86 FR 8082 (Feb. 3, 2021).

The OCC invites comment on all aspects of this proposed rule.

III. Regulatory Analyses

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA)¹⁸ states that no agency may conduct or sponsor, nor is the respondent required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC has reviewed the notice of proposed rulemaking and determined that it would not create any new or revise any existing, collections of information under the PRA. Accordingly, no PRA submissions to OMB will be made with respect to this proposed rule.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 et seq., requires an agency, in connection with a proposed rule, to prepare an Initial Regulatory Flexibility Analysis describing the impact of the rule on small entities (defined by the Small Business Administration (SBA) for purposes of the RFA to include commercial banks and savings institutions with total assets of \$850 million or less and trust companies with total assets of \$47 million or less) or to certify that the proposed rule would not have a significant economic impact on a substantial number of small entities. The OCC currently supervises approximately 609 small entities.¹⁹

¹⁸ 44 U.S.C. 3501 et seq.

¹⁹ The OCC bases the estimate of the number of small entities on the Small Business Administration's size thresholds for commercial banks and savings institutions (NAICS Code: 522110), and trust companies (NAICS Code: 523991), which are \$850 million and \$47 million, respectively. Consistent with the General Principles of Affiliation 13 CFR 121.103(a), the OCC counts the assets of affiliated financial institutions when determining whether to classify an OCC-supervised institution as a small entity. The OCC uses December 31, 2024, to determine size because a "financial institution's assets are determined by averaging

The OCC estimates that the proposed rule would not have a significant economic impact on a substantial number of small entities, as the proposed rule would rescind or amend existing regulations and does not contain any new mandates. Accordingly, an Initial Regulatory Flexibility Analysis is not required, and the OCC certifies that the proposed rule would not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

The OCC analyzed the proposed rule under the factors set forth in the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1532). Under this analysis, the OCC considered whether the proposed rule includes a Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year (adjusted for inflation). Because the proposed rule would rescind or amend existing regulations and does not contain any new mandates, the OCC estimates that the proposed rule would not result in an expenditure of \$100 million or more annually by State, local, and Tribal governments, or by the private sector (adjusted for inflation). The OCC's estimates that the costs associated with the proposed rule, if finalized as proposed, would be de minimis. Accordingly, the OCC has not prepared the written statement described in section 202 of the UMRA.

Riegle Community Development and Regulatory Improvement Act of 1994

Pursuant to section 302(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4802(a)), in determining the effective date and

the assets reported on its four quarterly financial statements for the preceding year.” See footnote 8 of the U.S. Small Business Administration’s *Table of Size Standards*.

administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions, the OCC will consider, consistent with the principles of safety and soundness and the public interest: (1) any administrative burdens that the proposed rule would place on depository institutions, including small depository institutions and customers of depository institutions and (2) the benefits of the proposed rule. The OCC requests comment on any administrative burdens that the proposed rule would place on depository institutions, including small depository institutions and their customers, and the benefits of the proposed rule that the OCC should consider in determining the effective date and administrative compliance requirements for a final rule.

Providing Accountability Through Transparency Act of 2023

The Providing Accountability Through Transparency Act of 2023²⁰ requires that a notice of proposed rulemaking include the internet address of a summary of not more than 100 words in length of a proposed rule, in plain language, that shall be posted on the internet website *www.regulations.gov*.

The OCC invites public comment on the proposed rule to rescind or amend certain regulations that are unnecessary, based on anything other than the best reading of the underlying statutory authority, or lacking clear statutory authority, consistent with the criteria set out in the Executive Order titled Ensuring Lawful Governance and Implementing the President’s “Department of Government Efficiency” Deregulatory Initiative. The proposed rule would remove certain references to minority- and women-owned entities; remove the credit risk retention requirements for open market

²⁰ 5 U.S.C. 553(b)(4).

collateralized loan obligations; and remove certain duplicative non-discrimination requirements for Federal savings associations.

The proposal and the required summary can be found at <https://www.regulations.gov> by searching for Docket ID OCC-2025-0075 and <https://occ.gov/topics/laws-and-regulations/occ-regulations/proposed-issuances/index-proposed-issuances.html>.

Executive Orders 12866 and 14192

Executive Order 12866, as amended, provides that the Office of Information and Regulatory Affairs (OIRA) will review all “significant regulatory actions” as defined therein. OIRA has determined that this proposed rule is a “significant regulatory action” for purposes of section 3(f) of Executive Order 12866.

Executive Order 14192, titled “Unleashing Prosperity Through Deregulation,” separately requires that an agency, unless prohibited by law, identify at least ten existing regulations to be repealed when the agency publicly proposes for notice and comment or otherwise promulgates a new regulation with total costs greater than zero. Executive Order 14192 further requires that new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least ten prior regulations. This proposed rule is considered a deregulatory action under Executive Order 14192.

List of Subjects

12 CFR Part 24

Community development, Credit, Investments, Low and moderate income housing, Manpower, National banks, Reporting and recordkeeping requirements, Rural areas, Small businesses.

12 CFR Part 43

Automobile loans, Banks and banking, Commercial loans, Commercial real estate, Credit risk, Mortgages, National banks, Reporting and recordkeeping requirements, Risk retention, Securitization.

12 CFR Part 128

Advertising, Aged, Civil rights, Credit, Equal employment opportunity, Fair housing, Individuals with disabilities, Martial status discrimination, Mortgages, Religious discrimination, Reporting and recordkeeping requirements, Savings associations, Sex discrimination, Signs and symbols.

Authority and Issuance

For the reasons set forth in the preamble, the Office of the Comptroller of the Currency proposes to amend 12 CFR parts 24, 43, and 128 as follows:

PART 24—COMMUNITY AND ECONOMIC DEVELOPMENT ENTITIES, COMMUNITY DEVELOPMENT PROJECTS, AND OTHER PUBLIC WELFARE INVESTMENTS

1. The authority citation for part 24 continues to read as follows:

Authority: 12 U.S.C. 24(Eleventh), 93a, 481 and 1818.

§ 24.2 [Amended]

2. Amend § 24.2(h) by removing the phrase “or minority-owned small business”.

§ 24.6 [Amended]

3. Amend § 24.6 by:

a. In paragraph (b)(2), removing the phrase “, including minority- and women-owned small businesses or small farms,”;

b. In paragraph (d)(1), removing the phrase “, including minority- and women-owned small businesses,”; and

c. In paragraph (d)(4), removing the phrase “minority- and women-owned”.

PART 43—CREDIT RISK RETENTION

4. The authority citation for part 43 is revised to read as follows:

Authority: 12 U.S.C. 93a, 1464, and 15 U.S.C. 78o-11.

§ 43.3 [Amended]

5. Amend § 43.3(b) by removing “§ 43.9,”.

§ 43.9 [Removed and Reserved]

6. Remove and reserve § 43.9.

PART 128—[REMOVED AND RESERVED]

7. Remove and reserve part 128.

Jonathan V. Gould,
Comptroller of the Currency.