



Part 24 Community Development Investments

Under the OCC's community development investment authority, national banks may make investments in community and economic development entities (CEDE) and projects that are designed primarily to promote the public welfare, as specified in the statute ([12 USC 24 \(Eleventh\)](#)) and regulation ([12 CFR part 24](#)) commonly known as "part 24"). Part 24 allows national banks to make investments that are not otherwise expressly permitted under the National Bank Act.

Part 24 Requirements

Public Welfare Requirements

Part 24 requires that a bank's investment must be designed primarily to promote the public welfare, such as by providing housing, services, or jobs. Specifically, under 12 CFR 24.3, a national bank or national bank subsidiary may make an investment directly or indirectly if the investment primarily benefits low- and moderate-income individuals, low- and moderate-income areas, or other areas targeted by a governmental entity for redevelopment, or the investment would receive consideration as a "qualified investment" under 12 CFR 25.23 of the [Community Reinvestment Act \(CRA\)](#).

Investment Limit Requirements

The bank's aggregate part 24 investments and outstanding commitments, including the proposed investment cannot exceed 15 percent of its capital and surplus. A bank needs written OCC permission if its aggregate investments exceed 5

percent of capital and surplus. Further, a bank's investment under part 24 may not expose it to unlimited liability.

Investment Structures Permissible under Part 24

Banks make part 24 investments directly or indirectly through community and economic development entities (CEDEs) that make or conduct eligible activities. Examples of investment structures that do not expose the bank to unlimited liability include: subsidiary community development corporations (CDCs), multi-investor CDCs, limited partnerships and limited liability companies, community development financial institutions (CDFIs), and community development (CD) loan funds.

Activities Permissible under Part 24

National banks use the part 24 authority to make investments in a variety of activities. Examples of approved public welfare investments include projects aimed at providing affordable housing such as financing and developing housing for the homeless, housing for disabled or elderly low and moderate income individuals, and projects qualifying for Low Income Housing Tax Credits and/or Federal Historic Rehabilitation Tax Credits for LMI persons.

Banks also may invest in projects promoting economic development and job creation initiatives by producing or retaining jobs for LMI persons, developing and operating commercial or industrial

properties in LMI areas, or by financing small business and small farms in these targeted areas.

For a detailed description of permissible investments, refer to the examples listed under 12 CFR 24.6 and the *Part 24 Quick Reference Guide* <http://www.occ.treas.gov/cdd/pt24toppage.htm#guide>

Over the years, banks have used the part 24 authority to make innovative community development investments, such as those using renewable energy tax credits. Those investments are more fully described in the *OCC's Guide to Community Development Precedent Letters* http://www.occ.treas.gov/cdd/ca_precedent.htm.

Part 24 Procedures

A national bank seeking to make a part 24 community development investment may provide after-the-fact notifications or seek prior OCC approval. With either approach, the bank must complete the OCC's CD-1 *Form for Processing National Bank Community Development (Part 24) Investments*.

A bank may access and submit the form electronically through the OCC's Banknet web site: <https://www.banknet.occ/cd1invest/default.aspx>.

A bank also may access and download a Word version of the CD-1 form from OCC's web page <http://www.occ.treas.gov/cdd/pt24toppage.htm>

After-the-Fact Notification

Banks eligible to provide after-the-fact notifications may make part 24 investments without prior OCC approval. However, they should notify the OCC within 10 days of making the investment. The requirements for after-the-fact notifications are described in 12 CFR 24.5(a).

A bank that is eligible to submit an after-the-fact notification is "well-capitalized bank" by meeting all of the following criteria outlined in 12 CFR 24.2(e):

- Has a composite rating of 1 or 2 under the Uniform Financial Institutions Rating System
- Has a CRA rating of "Outstanding" or "Satisfactory"
- Is not subject to a cease-and-desist order, consent order, formal written agreement, or Prompt Corrective Action directive

If a bank does not meet all of these criteria, it will not be eligible to provide an after-the-fact notification. Instead, the bank will need to submit a prior approval request to the OCC, as described below.

However, if the bank is at least adequately capitalized and has a composite rating of at least 3 with improving trends it may send a letter to the OCC requesting authorization to provide an after-the-fact notification. With that special written permission, the bank may provide after-the-fact notifications to the OCC.

In addition, a bank whose aggregate part 24 investments exceed 5 percent of its capital and surplus may seek OCC permission to provide after-the-fact notifications up to an amount not exceeding 15 percent of capital and surplus.

To provide an after-the-fact notification, a bank's part 24 investment must meet the tests for qualifying public welfare investments (12 CFR 24.3) and investment limits (12 CFR 24.4 (b)). A bank's part 24 investment also should be consistent with the examples of qualifying public welfare investments found at 12 CFR 24.6. Further, the investment structure generally is consistent with the list of examples of the types of CEDEs found at 12 CFR 24.2(c).

Prior OCC Approval

If either the bank or the proposed part 24 investment does not meet the requirements for providing an after-the-fact notification, then the bank must submit a request for prior approval and must receive such approval from the OCC before it can make the investment.

In addition, the bank will need to seek permission from the OCC and submit a prior approval request in any of the following situations:

- The bank's aggregate part 24 investments and outstanding commitments, including the proposed investment, exceed 5 percent of its capital and surplus (unless special permission has been granted by the OCC).
- The investment involves properties carried on the bank's books as "other real estate owned" (OREO).
- The OCC determines in published guidance that the investment is inappropriate for submission through the after-the-fact notice process. This information is maintained on OCC's Web site at:
<http://www.occ.treas.gov/cdd/PriorAprvlReq.pdf>

The process for prior approval and the factors that the OCC considers when evaluating a bank's proposal are described in 12 CFR 24.5(b).

The OCC, generally, will notify a bank of the agency's decision in writing within 30 days after receiving the request. It may extend the review period by notifying the bank.

The OCC may also impose conditions in connection with its approval of an investment under part 24. A bank should maintain information concerning its part 24 investment in a form that is readily accessible and available for OCC examination.

CD-1 Form

The CD-1 form contains the information that should be included in a bank's after-the-fact notification or priori approval requests. For after-the fact notices, the form asks the bank to respond to whether the bank is eligible to submit an after-the fact notification.

It also asks for the bank to provide the following information:

- How the bank's investment is consistent with part 24 requirements for public welfare investments, under 12 CFR 24.3.
- How the bank's investment is consistent with part 24 requirements for investment limits under 12 CFR 24.4, including the dollar amount of the investment; the percentage of the bank's capital and surplus that is represented by the investment; the percentage of the bank's capital and surplus that is represented by the aggregate outstanding part 24 investments and commitments; and whether the investment exposes the bank to unlimited liability.
- A description of the investment, including the name of the CEDE; type of bank investment; the CEDE's activities; the structure of the investment; the geographic area served by the CEDE; and other funding or support provided by community partners and public agencies.

Where to Send the CD-1 Form

The CD-1 form should be sent to:
Community Affairs Department
Office of the Comptroller of the Currency
Washington, DC 20219

Fax: 202.874.4652

Email: CommunityAffairs@occ.treas.gov

BankNet Filings

National banks may also submit their part 24 filings electronically through BankNet at:
<https://www.banknet.occ/cd1invest/default.aspx>.

For more information about using Banknet for submitting part 24 applications, please see Fact Sheet *Part 24 Filings on E-Corp*.

Part 24 and the Community Reinvestment Act – Similarities and Differences

The [Community Reinvestment Act \(CRA\) under 12 CFR part 25](#) and part 24 are both used by national banks to promote bank investments benefitting the public. Further, CRA has an important relationship to part 24. An investment that would receive consideration as a “qualified investment” under 12 CFR 25.23 of the CRA is considered to be an investment that meets the public welfare criteria under 12 CFR 24.3 of part 24.

Likewise, many of the activities undertaken by banks under part 24 are eligible to receive positive consideration as qualified investments under the CRA. However, the two provisions are shaped by unique features.

Among differences separating the CRA from part 24 are the purpose and scope of the regulations. Whereas the CRA regulation, 12 CFR 25, establishes the framework and criteria by which examiners assess national banks’ records of helping to meet the credit needs of their communities, part 24 provides the legal authority to make investments designed to promote the public welfare, which are not otherwise expressly permitted under the National Banking Act.

Investments made under the CRA must benefit the bank’s assessment area(s). (A bank may receive positive consideration for investments made outside of its assessment area(s) within a broader, regional area that includes its assessment area(s) as long as the bank has adequately addressed the needs of its assessment area(s).) However, investments made under part 24 are not subject to geographic restrictions.

Not all CRA investments require part 24 as the legal authority. Part 24 allows national banks to make investments not otherwise expressed under the National Bank Act, such as investing in real estate using Federal Low Income Housing Tax Credits and the ownership of stock in a community development bank. Likewise, CRA loans and investments (e.g. mortgage-backed

securities) that are expressly permitted under provisions of banking law other than 12 USC 24 (Eleventh) may be undertaken without regard to provisions of part 24.

For More Information about Part 24 and Community Development Investments

The OCC’s Community Affairs Department maintains information about national bank investments in CDCs, community development projects, and other public welfare investments on its Web-site at:

<http://www.occ.treas.gov/cdd/pt24toppage.htm>.

That site provides banks with a host of community development investment resources, including OCC policy materials, such as:

- Common Part 24 questions
<http://www.occ.treas.gov/cdd/commonpart24.htm>
- At-a-Glance Chart
<http://www.occ.treas.gov/cdd/2005quarter1.pdf>
- Compendium of National Bank Part 24 National and Regional Funds
<http://www.occ.treas.gov/cdd/fundslist.htm>

Also found on the Web site are the OCC’s *Community Developments Investments E-Zines* and *Newsletters* that provide descriptions of bank community development investments, including:

- [Multibank CDCs: Pooling Resources to Strengthen Communities](#) (Fall 2008)
- [Community Development Venture Capital: A Catalyst for Double-Bottom Line Results](#) (Spring 2007)
- [Investing in Low-Income Housing Tax Credits: A Sound Opportunity for Community Banks](#) (Spring 2006)
- [Investment Intermediaries: Helping Banks Achieve a Double Bottom Line](#) (Summer 2005)
- [Growing Markets with Bank-Owned Community Development Corporations](#) (Spring 2006)

- [New Markets Tax Credits -- Bridging Financing Gaps](#) (Summer 2004)
- [Community Development Financial Institutions and CD Banks - Natural Partners for Traditional Lenders](#) (Summer 2002)
- [Focus on Part 24 Community Development Investments](#) (Winter 2001)

Fact Sheets on the [OCC's web site](#) that include topics which touch on part 24 and community development investments include:

- [Bank-Owned Community Development Corporations](#)
- [CRA: Community Development Loans Investments and Services](#)
- [Historic Tax Credits](#)
- [Low Income Tax Credits](#)
- [Multi-Bank Partnerships for Community Development Finance](#)
- [New Markets Tax Credits](#)
- [Part 24 Filings on E-Corp](#)

The OCC's District Community Affairs Officers, located in each district, can provide assistance to banks interested in establishing or participating in a CDC, investing in low-income housing tax credit projects, or making other part 24 community development investments. A listing of community affairs officers is provided at: <http://www.occ.treas.gov/cdd/contacts.htm>