Public Welfare Investments Requiring Prior OCC Approval

Most national banks may make public welfare investments by notifying the OCC within 10 days after making their investments. The after-the-fact notice process provides national banks with the flexibility to take advantage of investment opportunities within short time frames. A bank must be “eligible” to use this process (see Section 24.2(e) and its investments must comply with the 12 CFR 24 public welfare and investment limit requirements (see Sections 24.3 and 24.4).

12 CFR 24 requires the OCC to publish investments that are inappropriate for after-the-fact notice. To date, these include:

- When a bank’s investment, plus prior public welfare investments and outstanding commitments, total an amount in excess of 5 percent of the bank’s capital and surplus. For this kind of investment, prior OCC approval is required. (Well-capitalized banks may request OCC approval to use the after-the-fact notice process for future investments up to 15 percent of its capital and surplus, under appropriate conditions.1)
- A bank’s investment that involves other real estate owned (OREO).
- Any investment by a bank that does not meet the definition of an “eligible” bank (Section 24.2(e)).

A bank may submit to the OCC a request for prior approval of such investments.

Note that a bank may not make an investment as a general partner under 12 CFR 24 because it would expose the bank to unlimited liability. However, under 12 CFR 24, a bank may invest in its CDC Subsidiary that acts as a general partner in appropriate investment activities.

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1 For a bank to receive OCC permission to use the after-the-fact notice process for public welfare investments total an amount in excess of 5 percent of its capital and surplus, up to 15 percent, the bank must make this request in writing.