

QUICK REFERENCE GUIDE TO PUBLIC WELFARE INVESTMENTS

National Bank Public Welfare Investments

12 USC 24 (Eleventh) and 12 CFR 24

October 2018

Primarily Promote the Public Welfare	Investment Limits	Procedures
<p>12 CFR 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, a national bank or national bank subsidiary may make an investment directly or indirectly if:</p> <ul style="list-style-type: none"> Investment is designed primarily to promote the public welfare, including the welfare of low- and moderate-income persons (with < 80% area median income) Investment is designed primarily to promote the public welfare, including the welfare of low- and moderate-income areas (< 80% area median income), Investment is made in area(s) targeted by a governmental entity for redevelopment, or Investment would receive consideration as a “qualified investment” under 12 CFR 25.23 of the Community Reinvestment Act (CRA). 	<ul style="list-style-type: none"> After-the-fact notice is permitted for an eligible bank with total 12 CFR 24 investments of less than 5% of its capital and surplus. Prior OCC approval is required for a bank with aggregate investments in excess of 5%, and up to 15%, of its capital and surplus. A bank's aggregate investments and aggregate commitments may not exceed 15% of its capital and surplus. An investment must not expose a bank to unlimited liability. 	<p>After-the-fact notice of public welfare investments – An eligible bank may make an investment that meets the requirements for primarily promoting the public welfare and investment limits and notify the OCC within 10 working days after it makes the investment. Generally, the investment activities are consistent with examples of qualifying investments under 24.6.</p> <p>Investments requiring prior OCC approval – A bank not meeting the requirements for the after-the fact notification process may submit a proposal requesting OCC approval prior to making the public welfare investment. Prior approval is also required for investments involving “other real estate owned.”</p> <p>CD-1 Form – National banks must submit the completed CD-1 Form for Processing National Bank Public Welfare Investments to provide an after-the-fact notice or to request prior approval of a public welfare investment to the Community Affairs Department, Office of the Comptroller of the Currency, Washington, DC 20219.</p> <p>Banks have the option to submit their CD-1 forms to the OCC via the Central Application Tracking System (CATS), which is a web-based secure portal to draft, track, and submit filings to the OCC.</p>
	CEDE Structures Typical CEDE Structures <ul style="list-style-type: none"> Bank CDC subsidiary Multibank or multi-investor CDC Limited partnership Limited liability company (LLC) Community development financial institution (CDFI) Community development entity (CDE) CD loan fund or lending consortia CD real estate investment trust (REIT) CD focus bank CD venture capital funds Business development companies National and regional real estate funds CD closed-end mutual funds Non-diversified, closed-end investment funds 	

Examples of Public Welfare Investments Activities

Examples of How Banks Invest in CEDE Structures

CD investments must meet the requirements for primarily promoting the public welfare and investment limits. Activities undertaken by the community and economic development entity (CEDE) or CD project, in which the bank invests, must primarily benefit LMI persons, LMI areas, areas targeted by a governmental entity for redevelopment, or the investment would receive consideration as a “qualified investment” under 12 CFR 25.23 of CRA. Investments meeting these standards can include those that provide:

Affordable housing activities, including

- Financing, acquiring, developing, rehabilitating, managing, selling, or renting affordable housing persons for LMI persons
- Developing and operating an assisted living facility for the elderly
- Developing and operating a special needs project, such as transition housing for the homeless
- Projects qualifying for federal low-income housing tax credits
- Projects qualifying for federal historic rehabilitation tax credits for LMI persons

Economic development and job creation investments, including

- Providing equity and loan financing for small businesses or small farms located in LMI areas
- Producing or retain permanent jobs for LMI persons
- Developing and operating a commercial or

- industrial property located in a LMI area, or that is occupied by a small business that produces jobs for LMI persons
- Developing and operating a business incubator located in a LMI area, or that is occupied by a small business that produces jobs for LMI persons
- Forming and operating an agricultural cooperative located in a LMI area, or that produces jobs for LMI persons

Investments in community and economic development entities

- CD focus bank
- CDFIs that are certified by the U.S. Dept. of Treasury CDFI Fund
- CDEs that are eligible to receive New Markets Tax Credits
- Minority- and women-owned depository institutions that help meet the credit needs of the communities in which they are chartered

Other public welfare investments

- Providing credit counseling and job training for LMI persons
- Providing technical assistance services for nonprofit CD organizations in LMI areas
- Providing technical assistance services for small businesses or small farms located in LMI areas
- Developing and operating a medical or mental health facility for LMI persons
- Developing and operating a community service facility for LMI persons
- Entities in LMI areas receiving renewable energy tax credits

- Equity investments for the purchase of stock or membership shares
- Equity investments for limited partner or member interests in a fund that undertakes a qualifying activity such as affordable housing or small business finance with LMI job creation.

Note: Lending activities that are expressly authorized under provisions of banking law other than 12 USC 24 (Eleventh) may be undertaken without regard to the provisions of 12 CFR 24.

For more information about the national bank public welfare investment authority, please go to www.occ.gov/pwj.

If you have any questions, please contact Community Affairs at 202.649.6420 or communityaffairs@occ.treas.gov.

Our District Community Affairs Officers are also a good resource for public welfare investment information. Your DCAO’s contact information can be found at www.occ.gov/topics/community-affairs/contacts.html.