

February 22, 2016

Legislative and Regulatory Activities Division  
Office of the Comptroller of the Currency  
**Attn: 1557-0315**  
400 7th Street, S.W., Suite 3E-218  
Mail Stop 9W-11  
Washington DC 20219

Subject: **Information Collection Renewal; Comment Request; Leveraged Lending**

This letter is in response to the Office of the Comptroller of the Currency's (OCC) request for comment on the agency's renewal of its information collection titled, "Leverage Lending". Comments must be received by April 18, 2016. I appreciate the OCC's request for public comment. I fully support the agency's quest to minimize regulatory burdens and maximize the practical utility and benefit of information collected.

The OCC invites comments on the following:

1. Whether the collection of the proposed information is necessary for the proper performance of the OCC and whether the information has practical utility
2. Ways to enhance the quality, utility and clarity of the information to be collected
3. Ways to minimize burden of information collection on respondents

**NO PRACTICAL UTILITY & NOT NEEDED**

The OCC should either rescind the information collection aspects of the guidance, pursuant to the Paperwork Reduction Act of 1995 (44 USC 3506), or change those aspects so that they provide actual utility and benefit with minimum burden.

In summary, the leveraged lending information collection includes: (i) *stress-testing* procedures for leveraged credits; (ii) *stress-testing* procedures for pipeline exposures; (iii) procedures for incorporating leveraged credit *stress testing* into the overall stress-testing framework.

The OCC should rescind these aspects of the guidance for two reasons. First, because this part of the guidance provides no new information on regulatory stress-testing expectations from what is already published in other OCC guidance. The OCC has published many handbooks and bulletins addressing *stress testing*, which includes stress testing of leveraged loans. The following OCC handbooks and bulletins provide ample guidance on stress testing all asset classes, to include leveraged loans:

1. OCC Loan Portfolio Management Handbook
2. OCC Concentrations of Credit Handbook
3. OCC Bulletin 2012-14, Interagency Stress Testing Guidance
4. OCC Bulletin 2012-16, Guidance for Evaluating Capital Planning and Adequacy
5. OCC Bulletin 2012-33, Community Bank Stress Testing
6. OCC's annual company-run Dodd-Frank Act Stress Test Instructions

The OCC's leveraged lending guidance does not provide the industry with any new information or insights into OCC expectations regarding stress testing. And the redundancy and reiteration of stress testing requirements and information collection in numerous OCC bulletins makes a mockery of the Paperwork Reduction Act of 1995. Accordingly, in the final guidance, the OCC should either rescind these aspects of the guidance or state clearly why information collection on leveraged-loan stress testing is necessary while the collection of such information on other asset and liability classes is not.

The second reason the OCC should rescind these aspects of the guidance is because the OCC has not provided a clear definition of a "leveraged loan". Instead, the OCC wants every bank to adopt its own unique definition of leveraged loans (i.e., "a thousand points of light", which in turn creates apples-to-oranges-to-bananas comparisons among banks). This lack of consistency in definition, and the lack of clarity around what constitutes *reasonable risk-taking* in leveraged lending versus unreasonable risk-taking, creates uncertainty in the marketplace and causes disintermediation. ***Ambiguous "regulatory guidance" helps no one. It causes the gradual disintermediation of banking and the migration of higher risk lending into the unregulated shadow banking system, which may become a source of systemic risk for the economy.*** The ambiguity in OCC leveraged lending guidance, and the various and sundry definitions of "leveraged loans" among banks, also impairs the OCC's ability to achieve continuity in bank-level supervision and precludes good horizontal supervision of systemic risks.

#### SUMMARY

As currently written, the information collection requirement in the leveraged lending guidance provides no practical utility, no benefit, and is burdensome. This is because the guidance does not add to the stress testing body of knowledge already published in other OCC guidance. The entire purpose of the Paperwork Reduction Act is to reduce, minimize, and control burdens and maximize practical utility and public benefit of the information created, collected, maintained for the Federal government. The information collection aspects of the leveraged lending guidance do none of that.

Moreover, if part of the OCC's mission is to promote a vibrant banking system that benefits businesses and the U.S. economy, it needs to allow for calculated risk-taking in leveraged lending. The OCC cannot do this if its guidance is ambiguous, with multiple definitions of leverage lending.

#### PLEASE CONSIDER ALL PUBLIC COMMENTS

The OCC improves the quality, utility and clarity of information when it attentively responds to all significant public comments before finalizing rules.

Presidential Executive Order 13563 (January 18, 2011) sets forth the general principles of regulation. Section 2 of the Order requires regulations to be adopted through a process involving public participation. To that end, regulations are to be based, to the extent feasible, on the open exchange of information and perspectives among affected stakeholders and the public. Federal agencies are to base their reasoning and conclusions on the rulemaking record, consistent of the comments, scientific data, expert opinions, and facts accumulated during the pre-rule and proposed rule stages.<sup>1</sup>

---

<sup>1</sup> If the rulemaking record contains persuasive new data or policy arguments, or contains difficult questions, there is a presumption that the agency will amend aspects of the rule to reflect these new issues, or terminate the rulemaking.

If the OCC and American people are to benefit from a process of public comments, it is important for the public to know whether the OCC considered all comments, and if the views or evidence presented was accepted or rejected by the agency. When the OCC leaves unclear whether it considered comments, the public record is incomplete and the OCC creates the perception that it makes final decisions on rules without considering the data, views, and arguments of others. The opportunity to comment on proposed regulation is meaningless unless the OCC responds to germane points raised by the public.

I appreciate the opportunity to comment on the OCC's renewal of information collection. I wish the agency the best of luck.

Sincerely,

Sandra A. Holly  
Hyattsville, MD