



POLICIES & PROCEDURES MANUAL

Comptroller of the Currency
Administrator of National Banks

Section: Comptroller's Office

Subject: Publication of Significant OCC Interpretive
Opinions and Corporate Decisions in
Interpretations and Actions

TO: All Department and Division Heads

BACKGROUND and PURPOSE

The OCC routinely issues interpretive opinions and corporate decisions that apply the standards that govern national banks to particular facts and circumstances presented by a national bank or other requester. The sources of the governing standards include the statutes that the OCC administers, applicable judicial precedents, and the OCC's regulations, guidelines, and policies. Our opinions and corporate decisions explain these standards and describe how they should be applied. Making these documents widely available promotes fairness and accountability and permits public scrutiny of the reasons for our decisions. Moreover, the availability of a published body of opinions and corporate decisions helps to ensure consistency and predictability in the OCC's decision making. National banks' ability to consult that material in turn facilitates their decision-making and strategic planning.

In addition to complying with applicable statutory requirements to make certain documents available in our public reading room,¹ the OCC, in its discretion, also publishes its significant interpretive opinions and corporate decisions in *Interpretations and Actions*. Publication in *Interpretations and Actions* is another way to promote the objectives of fairness, accountability, consistency, and predictability by ensuring that our significant precedents are widely available. The purpose of this PPM is to describe the OCC's policy with respect to the publication of significant interpretive opinions and corporate decisions in *Interpretations and Actions* and the procedures that implement this publication policy. This PPM is not intended to serve as a complete catalog of all of the types of material that we publish in *Interpretations and Actions*.²

¹ See 5 USC 552(a)(2) (Freedom of Information Act (FOIA) provision describing documents required to be made available for inspection and copying in an agency's public reading room). Materials are not required to be made available for inspection and copying in the reading room if they are "promptly published and offered for sale." *Id.* The OCC offers an annual subscription to *Interpretations and Actions* in paper form. An electronic version of *Interpretations and Actions* also appears on the OCC's Internet Web site. The Web site address is www.occ.treas.gov/interp/monthly.htm.

² For example, letters imposing conditions enforceable pursuant to 12 USC 1818 are published in *Interpretations and Actions* without regard to whether they are "significant" as that term is used in this PPM.

POLICY

It is the OCC's policy to make significant interpretive opinions and corporate decisions available to national banks and to the public by publishing them in *Interpretations and Actions*. Publication in *Interpretations and Actions* of the documents covered by this PPM is in addition to making them available for inspection and copying in the OCC's public reading room.

PUBLICATION STANDARD

An interpretive opinion or corporate decision is considered significant for purposes of publication in *Interpretations and Actions* if:

- It expresses an opinion about a new issue, develops or applies a new theory or a new analysis of an existing law or regulatory requirement, or applies an established theory or analysis to a set of facts that differs materially from facts that the agency has previously considered;
- It contains a new interpretation of 12 USC 24(Seventh); or
- The issue, the analysis employed, or the factual context is believed to be of general interest to national banks or the public.

The purpose of this standard is to identify for publication those interpretations that are likely to be considered important by most national banks and other interested observers and to avoid the need for repetitive publication of documents that reiterate previously published analyses or views. This standard does not preclude the OCC from publishing other opinions or decisions.

SCOPE

The OCC publishes in *Interpretations and Actions* a significant opinion or decision of any of the following types:

- Legal opinions;
- Accounting opinions;
- Corporate decisions;
- Regulatory interpretations, such as letters interpreting the OCC's risk-based capital regulations or the regulations governing the fiduciary activities of national banks;
- Letters approving investments made pursuant to 12 USC 24 (Eleventh) and part 12 of the OCC's regulations (Community Development Corporations, Community Development Projects, and Other Public Welfare Investments) if the investment is of a type not previously approved under 12 USC 24 (Eleventh) and part 12; and
- No-objection letters.

Nothing in this PPM requires the OCC to publish information that is protected from disclosure under the standards established by the FOIA, such as institution-specific supervisory or enforcement information.

PROCEDURES

- ***Identifying documents for publication.*** Each senior deputy comptroller who supervises units that prepare interpretive opinions or corporate decisions is responsible for ensuring that documents covered by this PPM are published in accordance with the publication standard established by it. A senior deputy comptroller may designate the managers within his or her department who will determine which documents prepared by that department should be published in *Interpretations and Actions*. The designated managers are responsible for identifying documents to be published, in accordance with this PPM.

- ***Transmitting documents for publication.***
 - *In the Law, Licensing, and Community Affairs departments:* The designated managers in the Law, Licensing, and Community Affairs departments are responsible for transmitting any document to be published to the Law Department's Administrative and Internal Law Division (AIL). Documents should be sent to Barry Aldemeyer, senior counsel at (202) 874-4460. AIL is responsible for transmitting documents to the Communications Division for publication in *Interpretations and Actions*.

 - *In all other departments:* The designated managers are responsible for transmitting any document to be published to the Communications Division.

- ***Redacting and publishing documents.*** The Communications Division is responsible for redacting and publishing in *Interpretations and Actions* the documents transmitted to it by the designated managers.

FOR FURTHER INFORMATION

Further information about the publication standards and procedures required by this PPM is available from Jerry Hansen, assistant director, AIL at (202) 874-4460.

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