



RESCINDED

OCC 2005-33

Subject: Hurricane Katrina
Date: September 19, 2005

**To: Chief Executive Officers of All National
Banks, Federal Branches and Agencies,
Department and Division Heads, and All
Examining Personnel**

Description: Supervisory Guidance

Any attachments to this document are rescinded only as they relate to national banks and federal savings associations.

Katrina-related information.

SUMMARY

On August 29, 2005, the OCC issued a press release (NR 2005-83) encouraging national banks to consider measures to assist borrowers who have been affected by Hurricane Katrina. The attached interagency release (NR 2005-87), issued on September 2, 2005, outlines additional actions that financial institutions can take to meet the critical financial needs of their customers and their communities. Efforts taken by national banks to work with their borrowers and customers in affected communities, if conducted in a reasonable and prudent manner, are consistent with safe and sound banking practice. In accordance with the Community Reinvestment Act (CRA), the OCC will favorably consider activities that revitalize or stabilize a designated disaster area.

In addition to the steps outlined in the interagency release, the OCC has:

- Authorized national banks in affected areas to establish temporary branches with only an after-the-fact notice requirement;
- Authorized several unaffected national banks to establish temporary branches to serve evacuees with minimal prior notice;
- Permitted national banks to share branch facilities and employees without entering into a prior written agreement spelling out the rights, obligations, and duties of the parties, provided a formal agreement is entered into as soon as reasonably practical thereafter; and
- Issued additional guidance, in the form of frequently asked questions and answers (FAQs), on various issues that have arisen as bankers work to address the needs and concerns of their customers and communities. Topics covered in the FAQs include CRA, Bank Secrecy Act, credit practices, temporary branching, and shared facilities/employees. A copy of these FAQs is attached to this bulletin.

Given the need to get information to banks as quickly as possible and recognizing that mail service has been disrupted to certain affected areas, the OCC is using its Web site and BankNET to relay Katrina-related guidance and to provide links to other Web sites and information that may assist bankers and their customers. Bankers are encouraged to check these sites periodically for updated information.

The OCC and other federal financial regulatory agencies recognize that Hurricane Katrina may affect banks' ability to submit accurate and timely regulatory reports. National banks that anticipate having difficulty submitting accurate and timely call reports or other required regulatory reports are encouraged to

notify their supervisory office as soon as possible. The OCC will not take supervisory action against national banks that take appropriate and prudent steps to comply with regulatory reporting requirements but are unable to do so due to circumstances caused by Hurricane Katrina. More generally, consistent with its longstanding practice, the OCC will consider the unusual circumstances that banks in affected areas may have with respect to safety and soundness or compliance issues, including those regarding the Bank Secrecy Act, in determining the appropriate supervisory response.

The OCC is committed to working with the banking industry and other federal financial regulators to respond to issues that arise in the aftermath of Hurricane Katrina and to minimize disruption and burden on banks in affected areas. In this regard, the OCC will work with national banks affected by the disaster and will use appropriate discretion in establishing the scope and frequency of examinations.

For additional information or assistance related to Hurricane Katrina, please contact your supervisory office or Fred Finke, senior policy liaison, at (202)-874-4468.

Emory W. Rushton
Senior Deputy Comptroller and Chief National Bank Examiner

Related Links

- [NR 2005-83: OCC Encourages Customers to Work with Customers Affected by Hurricane Katrina](#)
- [NR 2005-87: Agencies Encourage Institutions to Assist Displaced Customers](#)
- [FAQs \(PDF\)](#)

OCC Information Related to Hurricane Katrina

Frequently Asked Questions

Last Updated on September 19, 2005

Questions Categories

- General questions
- Bank Secrecy Act
- Community Reinvestment Act

General questions regarding Hurricane Katrina

Q: May national banks enter into space and employee sharing arrangements with other depository institutions when providing services through temporary branches to persons displaced by Hurricane Katrina? (Added Sept. 9, 2005)

A: Yes. OCC regulations permit national banks to share space and employees with unrelated businesses, including other depository institutions. 12 C.F.R. § 7.3001(a) and (b). The regulations permit employees of one of the other businesses to act as an agent for the bank and vice-versa.

In entering into space and employee sharing arrangements, OCC regulations provide that banks make certain that customers know the identity of the institution providing the services. This can be accomplished with appropriate signage where reasonably possible, but in any event, shared employees should clearly disclose to customers the identity of the depository institution with which they are doing business. Any forms that are used should include the name of the depository institution even if the employee writes the name of the institution on the form.

OCC regulations provide that the rights, obligations, and duties of the parties, including steps taken to assure safe and sound operation, when engaging in a sharing arrangement be set forth in a written agreement. The OCC recognizes, however, that under the emergency circumstances existing following Hurricane Katrina, banks need to provide services as quickly as possible through temporary branches created following little or no lead-time. In these cases, it may be impossible for the parties to develop a written agreement prior to providing services through such arrangements. Consequently, for temporary branches created in response to Hurricane Katrina the OCC is not requiring that the parties enter into a formal written agreement prior to initiating a shared space or employee relationship. However, the parties should take steps to assure that customers know the identity of the depository institution that they are dealing with, and the parties should come to a general understanding about how the facility will operate. As soon as reasonably practical following the initiation of the sharing arrangement, the parties should enter into a written agreement formalizing the relationship, roles and responsibilities of the parties.

Q: How can banks work with their customers who were affected by Hurricane Katrina?

A: For borrowers, banks are encouraged to establish programs that allow affected borrowers to waive or defer monthly payments until a repayment plan can be resumed. For many customers, the bank may need to offer temporary hardship programs that waive fees and lower interest rates and payment amounts for a period up to 12 months. Lenders also can extend and defer payments and renew and rewrite loans to help borrowers overcome financial difficulties.

Please see the interagency statement that was issued on September 2, 2005 (also on this web site) that addresses this, as well as actions that could be taken for depositors and others, in more detail. Also on this web site is information from the Treasury Department that provides guidance on Government benefit checks and the use of third party drafts. National banks should also contact their portfolio manager or Keith Pace in the OCC's District Office in Dallas (214-720-0656).

Q: Will OCC defer implementation of the banks' changes in minimum payment requirements to comply with the Account Management and Loss Allowance Guidance for Credit Card Lending?

A: Deferring implementation of the Account Management Guidance is not an appropriate solution. For many hurricane victims simply deferring implementation of plans to change minimum payment requirements for credit cards would not address the borrowers' primary concerns. Banks will be far more effective in their payment relief efforts through direct contact with customers and designing programs that are most suitable for the customers' situation. Credit card lenders have the latitude to work with borrowers in affected areas by establishing programs, including temporary hardship programs that can ease payment requirements for customers in need of financial assistance.

Q: May a national bank located in an area in Louisiana, Alabama, or Mississippi, which the President has declared a major disaster area as a result of Hurricane Katrina establish emergency temporary banking facilities at other locations in those states and in Texas to serve persons displaced as a result of the hurricane?

A: Yes. National banks in those areas may establish temporary facilities to serve people and businesses displaced by the hurricane subject to an after-the fact notice process. These facilities may be established at any location, such as at or near the Astrodome in Houston, Texas, where persons displaced by the hurricane are being sheltered. Under these circumstances, no additional determination, approval, or authorization from the OCC will be required for a period of up to six months following the establishment of the temporary facility. The facilities established under this procedure may provide all of the usual branching services including payment of withdrawals, receipt of deposits, and disbursement of loan proceeds. These facilities may be traditional fixed site facilities, mobile facilities, facilities shared by two or more depository institutions, or other types of branch facilities.

After-the-fact notification process

Banks seeking to establish such facilities should provide written or oral notice to the OCC's Southern district licensing unit of the existence of the facility within five days after it is established. The notice should state the location of the facility, that the primary purposes of the facility is to serve persons displaced by Hurricane Katrina, the date that it opened, and that the

bank will not operate the facility for more than six months. The contact information for our licensing unit is:

Karen Bryant
Southern District Licensing@occ.treas.gov
500 North Akard Street, Suite 1600
Dallas, Texas 75201

Establishment of temporary emergency branches in other states

National banks located in areas of Louisiana, Alabama, or Mississippi that have been declared to be major disaster areas that seek to establish temporary emergency branches to serve displaced persons in states other than those three or Texas should follow the procedures set forth in response to the following question.

Q: May a national bank not located in an area that the President has declared to be a major disaster area as a result of Hurricane Katrina establish emergency temporary branches to serve persons displaced as a result of the hurricane?

A: Yes, national banks may establish such temporary emergency branches in any state if permissible under applicable law following prior notice to the OCC. Banks seeking to establish such branches must provide prior written notice to the OCC's Southern district licensing unit at the address listed above. The notice should disclose the location of the branch, the date that it will open, that its primary purpose will be to serve persons displaced by Hurricane Katrina, and that the branch will be operated for no longer than six months.

Branch establishment by in-state banks

A prior notice submitted by a bank seeking to establish an *intrastate* branch (that is, a branch in a state where the bank has its main office or one or more branches) does not need to represent compliance with branching law in most states, including Texas, Louisiana, Mississippi, Alabama, Arkansas and Oklahoma, because they impose no geographical restrictions on intrastate branching.

Branch establishment by out-of-state banks

A prior notice submitted by a bank seeking to establish an interstate branch (that is, a branch in a state other than one in which the bank has its main office or already operates one or more branches) must represent compliance with interstate branching law. Currently about half of the states, including Louisiana, Mississippi, Alabama and Arkansas do not permit establishment of interstate de novo branches. Texas and Oklahoma permit interstate de novo branching only where the state of the bank seeking to establish the branch also permits it.

Out-of-state banks that may not have legal authority to establish temporary branches in states affected by the hurricane may contact the OCC to determine how they can provide services in affected communities or to displaced persons.

Q: Do branch closing procedures apply to branches closed because of Hurricane Katrina?

A: Branch closing notice requirements and procedures do not apply when there is a temporary interruption of service due to an event beyond the bank's control, such as damage inflicted by a

hurricane, provided that the bank intends to restore branching services at the site in a timely manner under the circumstances. However, if the bank ultimately decides not to reopen the branch, the bank should notify the customers of the branch and the OCC to the extent reasonably possible under the circumstances and as soon as reasonably possible after the decision not to reopen the branch is made.

Q: Do branch closing procedures apply to temporary facilities that are set up as described above to serve persons displaced by Hurricane Katrina?

A: Banks that establish temporary facilities under the procedures set forth above in the aftermath of Hurricane Katrina to serve persons displaced by the hurricane are not required to follow branch closing procedures when the bank closes down the temporary facility. However, in anticipation of closing such a facility, banks should work with any remaining customers to make certain that they will have convenient access to banking services once the facility is closed.

Q: How can financial institutions verify the identity of hurricane evacuees for individuals who lost their Louisiana driver's license or identification card?

A: For financial institutions attempting to verify the identity of hurricane evacuees, the following information may help customers obtain proof of identity if they had a Louisiana Office of Motor Vehicles issued driver's license or identification (ID) card prior to Hurricane Katrina. Evacuees located inside Louisiana should visit their local motor vehicle office and apply for a free replacement driver's license or ID card. The Office of Motor Vehicles will not require any documentary proof of identity to reissue the cards, because they will use photograph and signature verification from their database. Persons at shelters or lacking access to a motor vehicle office should call (225) 925-4610 or (225) 925-3993 to receive information about the best options to obtain identity documents in their area.

Evacuees located outside of Louisiana should apply for a free reconstructed driver's license or ID card by faxing form DPSMV-2003 to the Louisiana Office of Motor Vehicles at (225) 925-3901, (225) 925-1937 or (225) 925-6303. Form DPSMV-2003 is available for download from the Louisiana Office of Motor Vehicles official Web site (<http://www.expresslane.org/>) or can be faxed to the individual by calling (225) 925-4195 or (877) DMV-LINE [(877) 368-5463]. The form should include the person's full name, signature, date of birth, race, sex, social security number, an address where they would like their driver's license or ID card mailed, and a telephone number, if possible. Their signature on the form will be used to verify their identity. The Office of Motor Vehicles will try to mail the driver's license or ID card within 72 hours. For additional information, please visit the Louisiana Office of Motor Vehicles' Web site.

Questions relating to the Bank Secrecy Act and Katrina

Q: I am opening new bank accounts for people displaced by Hurricane Katrina. What information or identification do the Bank Secrecy Act or related regulations require me to obtain to open an account?

A: Bank Secrecy Act regulations require banks to obtain certain information about a person before opening a new account and to verify the identity of individuals within a reasonable time thereafter.

Under the interagency Customer Identification Program rules, before opening an account, a bank must obtain, at a minimum, an individual's

1. name,
2. address,
3. date of birth, and
4. taxpayer identification number, which for most individuals is a social security number. [Individuals who are not U.S. persons may provide a taxpayer identification number or a number from any other government-issued document evidencing nationality or residence and bearing a photograph or similar safeguard.]

After the account is opened, the bank is permitted a reasonable period of time to verify the customer's identity. The bank should determine what period of time is reasonable under the circumstances and given the methods available to verify the identity of individuals affected by the hurricane, through documentary or non-documentary methods. (See response to question below for information on provisions for verifying a new account holder's identity without documents.)

Q: I am opening accounts for Hurricane Katrina victims who do not have drivers' licenses or any other form of identification. How can I verify the identity of these individuals and remain in compliance with the Bank Secrecy Act?

A: Under the interagency rules regarding customer identification, a bank is not required to obtain a driver's license from a person at the time of account opening. The bank must obtain the information listed in the response to the question above (name, address, date of birth, taxpayer ID) before opening an account. This can be done without documentation. Verification of the identity of the customer is not required at account opening. This may be undertaken within a "reasonable time" thereafter. The bank should determine what period of time is reasonable for verifying the identity of individuals affected by the hurricane, given the unique circumstances. In satisfying the verification requirement, it is important to stress that the Bank Secrecy Act rules allow banks flexibility to design a program that uses documents (driver's license, passport, etc), non-documentary methods (e.g., comparison of information provided by the person to information obtained through electronic searches of consumer reporting agencies, public databases, or other sources), or a combination to verify a customer's identity.

Banks are encouraged to use other verification methods for individuals affected by the storm who do not have traditional forms of identification, such as driver's licenses. Banks establishing accounts for individuals depositing Treasury checks for Social Security, the Office of Personnel Management, and Railroad Retirement benefit payments can use the processes put in place by these agencies to verify the identity of their benefit recipients by telephone. A link to recently released guidance from the U.S. Treasury on government benefit checks and the use of third party drafts is inserted: http://www.fms.treas.gov/flexibility_thirdparty.html

Accepting these or other forms of identification, or using non-documentary methods for verifying customer identity may require an amendment to a bank's Customer Identification Program. If necessary, banks should amend their Customer Identification Programs immediately and obtain required board approval for program changes as soon as practicable.

Q: I would like to open an account for an individual who does not have a permanent address because his house was destroyed by the hurricane. How do I comply with the requirement in the Bank Secrecy Act rules that I get the individual's address before I open the account?

A: The bank should obtain the individual's last permanent address and get the address of the location where the individual is currently residing; even if it is temporary. In the absence of an actual address or street number for the temporary housing, a description of the physical location of the customer's temporary housing will suffice.

Q: I am a banker that is receiving wire transfers for non-customers who are victims of Hurricane Katrina. What information do I have to obtain and verify before I release the proceeds of the wire transfer directly to a non-customer beneficiary?

A: For wires or payment orders of less than \$3,000 the bank is not required by law to obtain information from the beneficiary or to verify the beneficiary's identity. However, prudent banking practice would normally lead a bank to do both. For wire transfers or payment orders of **\$3,000 or more**, which the bank accepts for a person who is not a customer of the bank, the bank should obtain and retain the following:

1. Name of beneficiary
2. Address (see Q&A above for information about addresses)
3. Type of identification document reviewed and number of the identification document, and
4. Taxpayer identification number (e.g. social security number) or notation of the lack thereof.

The receiving bank is responsible for obtaining this information and maintaining a record of the information. Typically, the bank will verify the identity of the person by asking for a driver's license or some other form of identification (see prior questions).

Community Reinvestment Act

Q: Will banks receive consideration under the Community Reinvestment Act for loans, investments, and services that benefit people or areas affected by Hurricane Katrina?

A: In accordance with the CRA regulation and existing guidance, the OCC will favorably consider activities that revitalize or stabilize designated disaster areas, but will give greater weight to those activities designed to benefit low- or moderate-income individuals or areas. Other activities, such as providing affordable housing or community services to low- and moderate-income individuals, may also qualify for community development consideration under CRA.

Q: Would a bank receive CRA credit for supporting temporary emergency shelter/housing for individuals who have been evacuated and then transported to other areas? In my situation, individuals have been evacuated to Texas, and parts of Texas have been declared a disaster area due to Hurricane Katrina.

A: Yes, a bank may receive positive CRA consideration for supporting temporary emergency shelter/housing for individuals in areas declared disaster areas.

Q: How do the 2005 changes to the CRA regulations concerning designated disaster areas affect an investment's eligibility under the "Part 24" public welfare investment authority (12 CFR Part 24)?

A: A national bank may make a public welfare investment under 12 CFR Part 24, if the investment primarily benefits low- and moderate-income individuals, low- and moderate-income areas, or other areas targeted by a government entity for redevelopment, or the investment would receive consideration under 12 CFR 25.23 (CRA) as a "qualified investment." The 2005 revisions to the CRA regulations modified the definition of "community development" to make bank activities to revitalize or stabilize designated disaster areas eligible for CRA consideration. Disaster areas may be designated by Federal or State Governments. Such designations include, for example, Major Disaster Declarations administered by the Federal Emergency Management Agency. Consequently, a national bank may make an investment under 12 CFR Part 24 for any community development activity that revitalizes or stabilizes a designated disaster area.