

*Via Electronic Mail*

January 11, 2019

Legislative and Regulatory Activities Division  
Office of the Comptroller of the Currency  
400 7th Street, S.W.  
Washington, D.C. 20219

Re: Paperwork Reduction Act Notice Regarding 12 CFR Parts 9 and 150, *Fiduciary Activities*, 83 Federal Register 56400 (November 13, 2018). OMB Control No.: 1557–0140.

Dear Sir or Madam:

The American Bankers Association<sup>1</sup> (ABA) appreciates this opportunity to comment on the Office of the Comptroller's (OCC) Paperwork Reduction Act (PRA) notice covering 12 CFR Parts 9 and 150, regulations governing the fiduciary activities of national banks and federal thrifts (collectively, banks). Under the PRA notice, the OCC solicits public comment on "collection of information" requirements found in these regulations, specifically inquiring with regard to: (a) Whether the information collection is necessary for the proper performance of the OCC; (b) The accuracy of the OCC's burden estimate; (c) Ways to improve the quality, utility, and clarity of the information collected; (d) Ways to minimize the burden of the collection; and (e) Cost estimates for the operation, maintenance, and purchase of services to provide information.

The PRA notice identifies a number of specific fiduciary regulations that are within the scope of "collection of information," including a number in 12 CFR 9.18 that govern the establishment and administration of bank collective investment funds. This letter addresses one specific requirement in that section.<sup>2</sup>

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<sup>1</sup> The American Bankers Association is the voice of the nation's \$17 trillion banking industry, which is composed of small, regional, and large banks that together employ more than 2 million people, safeguard \$13 trillion in deposits, and extend nearly \$10 trillion in loans.

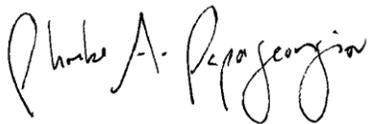
<sup>2</sup> ABA previously raised this comment in a letter submitted under the *Economic Growth and Regulatory Paperwork Reduction Act* review process in September 2014, available at <https://www.aba.com/Advocacy/commentletters/Documents/09-02-14ABALettertoOCCReReg9.pdf>.

**12 CFR 9.18(b)(6), Audits and Financial Reports of Collective Investment Funds**

Under 9.18(b)(6), a bank administering a collective investment fund must “[a]t least once during each 12-month period ... prepare a financial report of the fund based on the audit required by paragraph (b)(6)(i) of this section.” The OCC Handbook on Collective Investment Funds further states that, “A bank cannot waive the annual audit requirement when it terminates a fund. Unless a fund’s termination occurs as of the audit date of the fund, a separate fund termination audit is required to verify all fund assets have been distributed or are otherwise accounted for.” Although the Handbook emphasizes the need for a final audit, we urge the OCC to provide some flexibility as to its timing when the fund is terminated shortly after the 12-month audit period ends.

Given significant fixed costs in conducting audits, the expense of a “stub-period” audit can be substantial. This cost would usually be borne by the participants remaining in the fund at or near its termination, the number of which typically decrease over time, thereby magnifying the effect of any accrual for the audit cost. Therefore, as a matter of burden reduction for both the fund participant *and* the bank, we urge the OCC to amend the requirement to allow a bank terminating a fund within 15 months after the last audit to wait until the fund has terminated to complete the final audit.

Sincerely,

A handwritten signature in black ink that reads "Phoebe A. Papageorgiou". The signature is written in a cursive, flowing style.

Phoebe A. Papageorgiou

Vice President, Trust Policy