

DEPARTMENT OF THE TREASURY
Office of the Comptroller of the Currency
12 CFR Parts 21 and 163
[Docket No. OCC-2020-0037]
RIN 1557-AE77

Exemptions to Suspicious Activity Report Requirements

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury (OCC).

ACTION: Notice of proposed rulemaking with request for public comment.

SUMMARY: The OCC is inviting comment on a proposed rule that would modify the requirements for national banks and federal savings associations to file Suspicious Activity Reports. The proposed rule would amend the OCC’s Suspicious Activity Report regulations to allow the OCC to issue exemptions from the requirements of those regulations. The proposed rule makes it possible for the OCC to grant relief to national banks or federal savings associations that develop innovative solutions intended to meet Bank Secrecy Act requirements more efficiently and effectively.

DATES: Comments must be received by [INSERT DATE 30 DAYS FROM PUBLICATION IN THE **FEDERAL REGISTER**]

ADDRESSES: Commenters are encouraged to submit comments through the Federal eRulemaking Portal, if possible. Please use the title “Exemptions to Suspicious Activity Report Requirements” to facilitate the organization and distribution of the comments. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal – Regulations.gov Classic or Regulations.gov Beta:*
Regulations.gov Classic: Go to <https://www.regulations.gov/>. Enter “Docket ID OCC-2020-0037” in the Search Box and click “Search.” Click on “Comment Now” to submit public

comments. For help with submitting effective comments please click on “View Commenter’s Checklist.” Click on the “Help” tab on the *Regulations.gov* home page to get information on using *Regulations.gov*, including instructions for submitting public comments.

Regulations.gov Beta: Go to <https://beta.regulations.gov/> or click “Visit New *Regulations.gov Site*” from the *Regulations.gov* Classic homepage. Enter “Docket ID OCC-2020-0037” in the Search Box and click “Search.” Public comments can be submitted via the “Comment” box below the displayed document information or by clicking on the document title and then clicking the “Comment” box on the top-left side of the screen. For help with submitting effective comments please click on “Commenter’s Checklist.” For assistance with the *Regulations.gov* Beta site, please call (877) 378-5457 (toll free) or (703) 454-9859 Monday-Friday, 9am-5pm ET or e-mail regulations@erulemakinghelpdesk.com.

- *Mail:* Chief Counsel’s Office, Attention: Comment Processing, Office of the Comptroller of the Currency, 400 7th Street, SW., suite 3E-218, Washington, DC 20219.

- *Hand Delivery/Courier:* 400 7th Street, SW., suite 3E-218, Washington, DC 20219.

Instructions: You must include “OCC” as the agency name and “Docket ID OCC-2020-0037” in your comment. In general, the OCC will enter all comments received into the docket and publish the comments on the *Regulations.gov* website without change, including any business or personal information provided such as name and address information, e-mail addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this rulemaking action by the following methods:

- *Viewing Comments Electronically – Regulations.gov Classic or Regulations.gov*

Beta:

Regulations.gov Classic: Go to <https://www.regulations.gov/>. Enter “Docket ID OCC-2020-0037” in the Search box and click “Search.” Click on “Open Docket Folder” on the right side of the screen. Comments and supporting materials can be viewed and filtered by clicking on “View all documents and comments in this docket” and then using the filtering tools on the left side of the screen. Click on the “Help” tab on the *Regulations.gov* home page to get information on using *Regulations.gov*. The docket may be viewed after the close of the comment period in the same manner as during the comment period.

Regulations.gov Beta: Go to <https://beta.regulations.gov/> or click “Visit New *Regulations.gov Site*” from the *Regulations.gov* Classic homepage. Enter “Docket ID OCC-2020-0037” in the Search Box and click “Search.” Click on the “Comments” tab. Comments can be viewed and filtered by clicking on the “Sort By” drop-down on the right side of the screen or the “Refine Results” options on the left side of the screen. Supporting materials can be viewed by clicking on the “Documents” tab and filtered by clicking on the “Sort By” drop-down on the right side of the screen or the “Refine Results” options on the left side of the screen.” For assistance with the *Regulations.gov* Beta site, please call (877) 378-5457 (toll free) or (703) 454-9859 Monday-Friday, 9am-5pm ET or e-mail regulations@erulemakinghelpdesk.com.

The docket may be viewed after the close of the comment period in the same manner as during the comment period.

FOR FURTHER INFORMATION CONTACT: Jim Vivenzio, Senior Counsel; Jina Cheon, Counsel; Henry Barkhausen, Counsel; or Scott Burnett, Counsel, Chief Counsel’s Office (202) 649-5490; Office of the Comptroller of the Currency, 400 7th Street, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

I. Introduction

OCC regulations require national banks and federal savings associations to file Suspicious Activity Reports (SARs) under certain conditions. These regulations also provide for: (i) board of director notification; (ii) filing exceptions; (iii) SAR confidentiality; (iv) recordkeeping requirements; (v) supporting documentation requirements; and (vi) limitations on liability. Requirements related to SARs are codified at 12 CFR 21.11 for national banks and 12 CFR 163.180 for federal savings associations. This proposed rule would amend those sections to allow the OCC to issue exemptions from the regulations’ SAR requirements.

II. Background

The OCC has long required its regulated institutions to report potential violations of law arising from transactions that flow through those institutions.¹ The OCC required such reporting because fraud, abusive insider transactions, check-kiting schemes, money laundering, and other

¹ The OCC first codified this requirement in 1971 at 12 CFR 7.5225, which required national banks to submit a report to the OCC, the FBI, the U.S. attorney for the bank’s district, and the bank’s bonding company consisting of “any state of facts growing out of the affairs of the bank known or suspected to involve criminal violation of any other section of the United States Code.” 36 FR 17000, 17012 (Aug. 26, 1971). In 1986, the OCC repealed 12 CFR 7.5225 and adopted its criminal referral form regulation, 12 CFR 21.11, which required national banks to report specified suspicious transactions on a standardized criminal referral form. 51 FR 25866 (July 17, 1986). As explained below, the OCC revised 12 CFR 21.11 in the 1990s to conform to the new SAR reporting form and system.

financial crimes can pose serious threats to a financial institution's continued viability and, if unchecked, can undermine the public confidence in the nation's financial system generally.²

In 1992 Congress passed the Annunzio-Wylie Anti-Money Laundering Act, which redesigned the criminal referral process applicable to OCC supervised entities and made the reporting of certain suspicious transactions a requirement of the Bank Secrecy Act (BSA).³ The Act permitted the Department of the Treasury to require financial institutions, including national banks and federal savings associations, to "report any suspicious transaction relevant to a possible violation of law or regulation."⁴ As a result, the Department of the Treasury, in consultation with the OCC, the other federal banking agencies, and law enforcement, developed the modern SAR form and reporting process, which standardized the reporting forms and created a centralized database that could be accessed by multiple law enforcement and regulatory agencies.

To implement this new reporting system, the Financial Crimes Enforcement Network of the Department of the Treasury (FinCEN) issued its implementing SAR regulations in 1996 for financial institutions subject to the requirements of the BSA to, among other things, specifically address the reporting of money laundering transactions and transactions designed to evade the reporting requirements of the BSA.⁵ To further implement this new reporting process and reduce unnecessary reporting burdens, the OCC and the other federal banking agencies

² 54 FR 25839 (June 20, 1989).

³ Pub. L. 102-550, 106 Stat. 3672 (1992).

⁴ 31 U.S.C. 5318(g)(1). The quoted text is from section 1517 of the Annunzio-Wylie Anti-Money Laundering Act, which was originally codified at 31 USC 5314(g). The text was moved as part of the Violent Crime Control and Law Enforcement Act of 1994.

⁵ 61 FR 4326 (Feb. 5, 1996). Prior to the adoption of FinCEN's SAR regulation in 1996 and the accompanying revisions to the OCC's regulation, the OCC's criminal referral regulation did not have a specific provision that required the reporting of money laundering transactions. However, the criminal referral regulation broadly encompassed money laundering and structuring transactions as explained in the Supplementary Information section to the final rule enhancing the criminal referral process. 54 FR 25839, 25840 (June 20, 1989).

contemporaneously amended their criminal referral form regulations to incorporate the new SAR form and reporting database, align their regulatory reporting requirements with FinCEN's BSA reporting requirements, and further refine the reporting processes.⁶

As a result of this redesign and FinCEN's implementing regulations, national banks and federal savings associations are currently required to file SARs under both OCC and FinCEN regulations. These regulations are not identical but are substantially similar with regard to the specified BSA reporting obligations required by FinCEN. Both the OCC's and FinCEN's SAR regulations require banks to file SARs relating to money laundering, transactions that are designed to evade the reporting requirements of the BSA, and transactions that have no business or apparent lawful purpose or are not the sort in which the particular customer would normally be expected to engage, and the bank knows of no reasonable explanation for the transactions after examining the available facts, including the background and possible purpose of the transactions.⁷ Furthermore, with respect to the SAR confidentiality requirements in the BSA, both the OCC's and FinCEN's SAR regulations require banks to maintain the confidentiality of a SAR and any information that would reveal the existence of the SAR, outside of certain circumstances.

While the OCC and FinCEN regulations contain substantively similar requirements, including requiring reporting in certain common contexts and requiring institutions to maintain the confidentiality of SARs, the OCC and the other federal banking agencies require reporting in broader circumstances (*e.g.*, insider abuse at any dollar amount).⁸ As previously noted, these violations and abuse situations can pose serious threats to financial institutions' continued

⁶ 61 FR 4332 (Feb. 5, 1996) (OCC).

⁷ See 12 CFR 21.11(c)(4); 163.180(d)(3)(iv); 31 CFR 1020.320(a)(2).

⁸ 12 CFR 208.62 (Board of Governors of the Federal Reserve); 12 CFR 390.353 (Federal Deposit Insurance Corporation); 12 CFR 748.1 (National Credit Union Administration).

viability and, if unchecked, can undermine the public confidence in the nation's financial industry.

The OCC and FinCEN SAR regulations also provide: (i) that SARs are not required for a robbery or burglary committed or attempted that is reported to appropriate law enforcement authorities; (ii) that SARs are confidential and shall not be disclosed except as authorized; (iii) recordkeeping requirements for SARs and supporting documentation; (iv) that supporting documentation shall be deemed to have been filed with the SAR; and (v) that supporting documentation shall be made available to appropriate law enforcement agencies upon request. The regulations also provide a limitation on liability to any national bank, federal savings association or other financial institution and any director, officer, employee, or agent of a national bank or federal savings association or other financial institution that makes a voluntary disclosure of any possible violation of law or regulation to a government agency or files a SAR pursuant to the regulations or any other authority. The OCC's regulations also contain a provision requiring that national banks and federal savings associations promptly notify their board of directors when a SAR has been filed.

While neither the OCC's SAR regulations nor FinCEN's SAR reporting regulation contain provisions permitting exemptions, FinCEN has general authority to grant exemptions from the requirements of the BSA, which includes granting exemptions under its SAR reporting regulations.⁹ FinCEN's regulation provides that "[t]he Secretary [of Treasury], in his sole discretion, may by written order or authorization make exceptions to or grant exemptions from the requirements of [the BSA]. Such exceptions or exemptions may be conditional or unconditional, may apply to particular persons or to classes of persons, and may apply to

⁹ See 31 U.S.C. 5318(a)(7), with implementing regulations at 31 CFR 1010.970.

transactions or classes of transactions.”¹⁰ The Secretary has delegated this exemption authority to FinCEN.

This disparity in exemption authority makes it more difficult for the OCC to grant relief if a national bank or federal savings association has a novel SAR filing proposal that does not squarely fit within the regulatory requirements but would nonetheless be beneficial from an anti-money laundering regulatory and safety and soundness perspective. As financial technology and innovation continue to develop in the area of monitoring and reporting financial crime and terrorist financing, the OCC will need the express regulatory flexibility to grant exemptive relief when appropriate in this area on a consistent basis. In 2018 the OCC, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, FinCEN, and the National Credit Union Administration issued a statement encouraging banks to take innovative approaches to meet their BSA/anti-money laundering (BSA/AML) compliance obligations.¹¹ That statement explained that banks are encouraged to consider, evaluate, and, where appropriate, responsibly implement innovative approaches in this area. Today, innovative approaches and technological developments in the areas of SAR monitoring, investigation, and filings may involve, among other things: (i) automated form population using natural language processing, transaction data, and customer due diligence information; (ii) automated or limited investigation processes depending on the complexity and risk of a particular transaction and appropriate safeguards; and (iii) enhanced monitoring processes using more and better data, optical scanning, artificial intelligence, or machine learning capabilities. Requests for exemptive relief pertaining to innovation or other matters may involve, among other things, expanded

¹⁰ 31 CFR 1010.970(a).

¹¹ Joint Statement on Innovative Efforts to Combat Money Laundering and Terrorist Financing (Dec. 3, 2018), available at <https://www.occ.gov/news-issuances/news-releases/2018/nr-occ-2018-130a.pdf>.

investigations and SAR timing issues, SAR disclosures and sharing, continued SAR filings for ongoing activity, outsourcing of SAR processes, the role of agents of national banks and federal savings associations, the use of shared utilities and shared data, and the use and sharing of de-identified data. OCC expects that new technologies will continue to prompt additional innovative approaches related to SAR filing and monitoring.

III. The Proposal

The proposed rule would allow the OCC to issue exemptions from the requirements of its SAR regulations. Specifically, the proposed rule would add a provision to 12 CFR 21.11 and 12 CFR 163.180 that would provide that the OCC may exempt a national bank or federal savings association from the requirements of those sections.

As discussed above, the OCC's SAR regulations contains some requirements that are not included in FinCEN's SAR regulation. For exemption requests involving these OCC additional SAR requirements, a national bank or federal savings association would only need to seek an exemption from the OCC. The OCC believes that the proposed process is consistent with the purposes of the BSA and with safe and sound banking. For exemption requests from the requirements of the OCC's SAR regulations that would also require an exemption from FinCEN's SAR regulation, for example, exemption requests related to SAR filings required by 12 CFR 21.11(c)(4), or related to SAR timing requirements in 12 CFR 21.11(d), or related to SAR confidentiality in 12 CFR 21.11(k), a national bank would need to seek an exemption from both the OCC and FinCEN.

Under the proposed rule, a national bank requesting an exemption from the requirements of 12 CFR 21.11, including exemptions related to SAR filings solely required by paragraphs (c)(1), (c)(2) or (c)(3), must submit a request in writing to the OCC. In reviewing such requests,

the OCC would consider whether the exemption is consistent with safe and sound banking, and any other appropriate factors, such as any outstanding supervisory concerns related to BSA/AML, including informal and formal enforcement actions.

A national bank or federal savings association requesting an exemption from the requirements of the OCC's SAR regulations that would also require an exemption from FinCEN's SAR regulation, for example, an exemption request related to SAR filings under 12 CFR 21.11(c)(4) for national banks, would have to submit a request in writing to both the OCC and to FinCEN for approval. Upon receiving a written request from a national bank or federal savings association, the OCC would consider whether the exemption is consistent with the purposes of the Bank Secrecy Act, with safe and sound banking, and any other appropriate factors, such as any outstanding supervisory concerns related to BSA/AML, including informal and formal enforcement actions. With respect to requests for exemption from the requirements of the OCC's SAR regulations that would also require an exemption from FinCEN's SAR regulation, the requestor would have to obtain exemptions from both agencies.

The OCC also may notify the other federal banking agencies and consider their comments before granting any exemption. Such exemptions may be conditional or unconditional, may apply to particular persons or to classes of persons, and may apply to transactions or classes of transactions. In addition, the proposed rule provides that the OCC may grant an exemption for a specified time period.

Under the proposed rule, the OCC could also revoke previously granted exemptions if circumstances change related to the factors set out above (*e.g.*, consistency with the BSA and safety and soundness) or any imposed conditions. The OCC invites comments on the proposed rule, including whether any additional detail relating to the procedures that would be followed in

considering, granting, or revoking exemptions is necessary. The OCC welcomes comments on any aspect of the proposed rule, in particular, with regard to whether additional or different factors or standards should be applied in the determination whether to grant an exemption request, as well as the form and manner of the OCC's response to an exemption request.

IV. Administrative Law Matters

A. Solicitation of comments and use of plain language

Section 722 of the Gramm-Leach-Bliley Act¹² requires the federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The OCC has sought to present the proposed rule in a simple and straightforward manner, and invite comment on the use of plain language. For example:

- Has the OCC organized the material to suit your needs? If not, how could the OCC present the proposed rule more clearly?
- Are the requirements in the proposed rule clearly stated? If not, how could the proposed rule be more clearly stated?
- Do the regulations contain technical language or jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the regulation easier to understand? If so, what changes would achieve that?
- Would more, but shorter, sections be better? If so, which sections should be changed?

¹² Pub. L. 106-102, sec. 722, 113 Stat. 1338, 1471 (1999).

- What other changes can the OCC incorporate to make the regulation easier to understand?

B. Paperwork Reduction Act analysis

Certain provisions of the proposal contain “collection of information” requirements within the meaning of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3521) (PRA). In accordance with the requirements of the PRA, agencies may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC reviewed the proposed rulemaking and determined that it revises information collection requirements previously approved by OMB under OMB Control No. 1557-0180. The OCC has submitted the revised information collection to OMB for review under section 3507(d) of the PRA (44 U.S.C. 3507(d)) and section 1320.11 of the OMB’s implementing regulations (5 CFR 1320).

Current Actions. The proposal would revise 12 CFR 21.11 and 12 CFR 163.180 to allow national banks and federal savings associations to submit written requests for exemptions from the requirements of the OCC’s SAR regulations. The burden estimates below are based on the estimated number of banks and savings associations that might request such exemptions each year and the estimated number of hours required to submit such a request. National banks and federal savings associations may submit written requests for exemptions from the requirements of the OCC’s SAR regulations. 12 CFR 21.11(m) and 163.180(f).

Title of Information Collection: Minimum Security Devices and Procedures, Reports of Suspicious Activities, and Bank Secrecy Act Compliance Program.

Frequency: Event generated.

Affected Public: Businesses or other for-profit.

Estimated number of respondents: 5.

Total estimated annual burden: 250 hours.

Comments are invited on:

- a. Whether the collections of information are necessary for the proper performance of the agencies' functions, including whether the information has practical utility;
 - b. The accuracy or the estimate of the burden of the information collections, including the validity of the methodology and assumptions used;
 - c. Ways to enhance the quality, utility, and clarity of the information to be collected;
 - d. Ways to minimize the burden of the information collections on respondents, including through the use of automated collection techniques or other forms of information technology;
- and
- e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

All comments will become a matter of public record. Comments on aspects of this notice that may affect reporting, recordkeeping, or disclosure requirements and burden estimates should be sent to the addresses listed in the ADDRESSES section of this document. A copy of the comments may also be submitted to the OMB desk officer for the agencies by mail to U.S. Office of Management and Budget, 725 17th Street NW., #10235, Washington, DC 20503; facsimile to (202) 395-6974; or e-mail to oir_submission@omb.eop.gov, Attention, Federal Banking Board Desk Officer.

C. Regulatory Flexibility Act analysis

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, (RFA), requires an agency, in connection with a proposed rule, to prepare an Initial Regulatory Flexibility Analysis describing

the impact of the rule on small entities (defined by the SBA for purposes of the RFA to include commercial banks and savings institutions with total consolidated assets of \$600 million or less and trust companies with total consolidated assets of \$41.5 million or less) or to certify that the proposed rule would not have a significant economic impact on a substantial number of small entities.

As part of our analysis, we consider whether the proposal would have a significant economic impact on a substantial number of small entities, pursuant to the RFA. The OCC currently supervises approximately 745 small entities.¹³ Because the proposal imposes no new mandates, it would have only de minimis costs to OCC-supervised small entities. Therefore, the OCC certifies that the proposal would not have a significant economic impact on a substantial number of small entities.

D. Riegle Community Development and Regulatory Improvement Act of 1994

Pursuant to section 302(a) of the Riegle Community Development and Regulatory Improvement Act (RCDRIA), in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions, each federal banking agency must consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on insured depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations.¹⁴ In addition, section 302(b) of RCDRIA requires new regulations and amendments

¹³ The OCC calculated the number of small entities using the SBA's size thresholds for commercial banks and savings institutions, and trust companies, which are \$550 million and \$38.5 million, respectively. Consistent with the General Principles of Affiliation, 13 CFR 121.103(a), the OCC counted the assets of affiliated financial institutions when determining whether to classify a national bank or federal savings association as a small entity.

¹⁴ 12 U.S.C. 4802(a).

to regulations that impose additional reporting, disclosures, or other new requirements on insured depository institutions generally to take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form.¹⁵ The OCC requests comment on any administrative burdens that the proposed rule would place on depository institutions, including small depository institutions, and their customers, and the benefits of the proposed rule that the OCC should consider in determining the effective date and administrative compliance requirements for a final rule

E. OCC Unfunded Mandates Reform Act of 1995 Determination

Consistent with the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1532, the OCC considers whether the proposed rule includes a Federal mandate that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million adjusted for inflation (currently \$157 million) in any one year. The proposed rule does not impose new mandates. Therefore, the OCC concludes that implementation of the proposed rule would not result in an expenditure of \$157 million or more annually by state, local, and tribal governments, or by the private sector.

List of Subjects

12 CFR Part 21

Crime, Currency, National banks, Reporting and recordkeeping requirements, Security measures.

12 CFR Part 163

Accounting, Administrative practice and procedure, Advertising, Crime, Currency, Investments, Mortgages, Reporting and recordkeeping requirements, Savings associations.

¹⁵ 12 U.S.C. 4802(b).

Authority and Issuance

For the reasons stated in the Supplementary Information, the OCC proposes to amend 12 CFR part 21 and 12 CFR part 163 as follows.

PART 21—MINIMUM SECURITY DEVICES AND PROCEDURES, REPORTS OF SUSPICIOUS ACTIVITIES, AND BANK SECRECY ACT COMPLIANCE PROGRAM

1. The authority citation for part 21 is revised to read as follows:

Authority: 12 U.S.C. 1, 93a, 161, 1462a, 1463, 1464, 1818, 1881-1884, and 3401-3422.

2. In 12 CFR 21.11, add a new paragraph (m) to read as follows:

§ 21.11 Suspicious Activity Report.

* * * * *

(m) Exemptions.

(1) The OCC may exempt any national bank from the requirements of this section. A national bank requesting an exemption must submit a request in writing to the OCC. In reviewing such requests, the OCC will consider whether the exemption is consistent with safe and sound banking and may consider other appropriate factors. An exemption shall be applicable only as expressly stated in the exemption, may be conditional or unconditional, may apply to particular persons or to classes of persons, and may apply to transactions or classes of transactions. A national bank requesting an exemption that also requires an exemption from the requirements of FinCEN's SAR regulation must submit a request in writing to both the OCC and FinCEN for approval. In reviewing such requests, the OCC will consider whether the exemption is consistent with the purposes of the Bank Secrecy Act, with safe and sound banking, and any other appropriate factors.

(2) The OCC will provide a written response to the national bank that submitted the exemption request. A national bank that has received an exemption under paragraph (m)(1) of this section may rely on the exemption for a period of time to be communicated by the OCC in its granting of the exemption.

(3) The OCC may extend the period of time or may revoke an exemption granted under paragraph (m)(1) of this section. Exemptions may be revoked at the sole discretion of the OCC. The OCC will provide written notice to the national bank of the OCC's intention to revoke an exemption. Such notice will include the basis for the revocation and will provide an opportunity for the national bank to submit a response to the OCC. The OCC will consider the response prior to deciding whether to revoke an exemption and will notify the national bank of the OCC's decision to revoke an exemption in writing.

(4) With respect to requests for exemption that will also require an exemption from the requirements of FinCEN's SAR regulation, upon receiving approval from both the OCC and FinCEN, the requestor shall be relieved of its obligations under this section to the extent stated in such approvals.

PART 163—SAVINGS ASSOCIATIONS—OPERATIONS

3. The authority citation for part 163 is revised to read as follows:

Authority: 12 U.S.C. 161, 1462a, 1463, 1464, 1467a, 1817, 1820, 1828, 1831o, 3806, 5101 *et seq.*, 5412(b)(2)(B); 42 U.S.C. 4106.

2. In 12 CFR 163.180, add a new paragraph (f) to read as follows:

§ 163.180 Suspicious Activity Reports and other reports and statements.

* * * * *

(f) *Exemptions.*

(1) The OCC may exempt any savings association or service corporation from the requirements of this section. A savings association or service corporation requesting an exemption from the provisions of this section, must submit a request in writing to the OCC. In reviewing such requests, the OCC will consider whether the exemption is consistent with safe and sound banking, and may consider other appropriate factors. An exemption shall be applicable only as expressly stated in the exemption, may be conditional or unconditional, may apply to particular persons or to classes of persons, and may apply to transactions or classes of transactions. A federal savings association requesting an exemption that also requires an exemption from the requirements of FinCEN's SAR regulation must submit a request in writing to both the OCC and FinCEN for approval. In reviewing such requests, the OCC will consider whether the exemption is consistent with the purposes of the Bank Secrecy Act, with safe and sound banking, and any other appropriate factors.

(2) The OCC will provide a written response to the savings association or service corporation that submitted the exemption request. A savings association or service corporation that has received an exemption under paragraph (f)(1) of this section may rely on the exemption for a period of time to be communicated by the OCC in its granting of the exemption.

(3) The OCC may extend the period of time or may revoke an exemption granted under paragraph (f)(1) of this section. Exemptions may be revoked at the sole discretion of the OCC. The OCC will provide written notice to the savings association or service corporation of the OCC's intention to revoke an exemption. Such notice will include the basis for the revocation and will provide an opportunity for the savings association or service corporation to submit a response to the OCC. The OCC will consider the response prior to deciding whether to revoke

an exemption and will notify the savings association or service corporation of the OCC's decision to revoke an exemption in writing.

(4) With respect to requests for exemption that will also require an exemption from the requirements of FinCEN's SAR regulation, upon receiving approval from both the OCC and FinCEN, the requestor shall be relieved of its obligations under this section to the extent stated in such approvals.

Brian P. Brooks

Acting Comptroller of the Currency