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DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 563

[No. 96-6]

RIN 1550-AA62

Operations-Suspicious Activity Reports and
Other Reports and Statements

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final Rule.

SUMMARY: The Office of Thrift Supervision (OTS) is amending its regulations that require savings associations and service corporations to file criminal referral and suspicious transaction reports. This final rule streamlines reporting requirements by providing that savings associations and service corporations file a new Suspicious Activity Report (SAR) with the OTS and the appropriate federal law enforcement agencies by sending SARs to the Financial Crimes Enforcement Network of the

Department of the Treasury (FinCEN) to report a known or suspected criminal offense or a transaction that an institution suspects involves money laundering or violates the Bank Secrecy Act (BSA).

EFFECTIVE DATE: April 1, 1996.

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SUPPLEMENTARY INFORMATION:

Background

The OTS, the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (FRB) and the Federal Deposit Insurance Corporation (FDIC) (collectively, the Agencies) issued for public comment substantially similar proposals to revise their regulations on the reporting of known or suspected criminal conduct and suspicious activities by the institutions under their supervision.¹ The Department of the Treasury, through FinCEN, issued for public

¹ 60 FR 36366 (July 17, 1995)(OTS), 60 FR 34476 (July 3, 1995)(OCC), 60 FR 34481 (July 3, 1995)(FRB) and 60 FR 47719 (September 14, 1995)(FDIC).

comment a substantially similar proposal to require the reporting of suspicious activities.²

The OTS's proposed regulation noted that the interagency Bank Fraud Working Group, consisting of representatives from the Agencies, law enforcement agencies, and FinCEN, has been working on the development of a single form, the SAR, for the reporting of known or suspected federal criminal law violations and transactions that an institution suspects involve money laundering or violate the BSA. The new SAR reporting system will: (1) combine the current criminal referral rules of the Agencies with the Department of the Treasury's suspicious activity reporting requirements; (2) create a uniform reporting form, the new SAR, for use by financial institutions in reporting known or suspected criminal offenses and transactions that an institution suspects involve money laundering or violate the BSA; (3) provide a system whereby an institution need only refer to the SAR and its instructions in order to complete and file the form in conformance with the Agencies' and FinCEN's reporting regulations; (4) require the filing of only one form with FinCEN; (5) eliminate the need to file supporting documentation with a SAR; (6) enable a filer, through computer software that the OTS will provide to all savings associations, to prepare a SAR on a computer

² 60 FR 46556 (September 7, 1995).

and file it by mailing a computer disc or tape; (7) establish a database that will be accessible to the Federal and state financial institutions regulators and law enforcement agencies; (8) raise the thresholds for mandatory reporting in two categories and create a threshold for the reporting of transactions that an institution suspects involve money laundering or violate the BSA in order to reduce the reporting burdens on banking organizations; and (9) emphasize recent changes in the law that provide a safe harbor from civil liability to financial institutions and their employees when they report known or suspected criminal offenses or suspicious activities, by filing a SAR or by reporting by other means, and that provide criminal sanctions for the disclosure of such a report to any party involved in the reported transaction.

Comments Received

The OTS received letters from eight commenters, including four savings associations, two holding companies, one trade association and one law firm. We have also considered comments received by the other Agencies. The large majority of commenters expressed general support for the proposal. None of the commenters opposed the proposed new suspicious activity reporting rules, although, as discussed below, a number of commenters made suggestions for improving the rule and requests for clarification.