

RESCINDED

OCC 2011-23

**Subject: Deposit-Related Consumer Credit
Deposits**
Date: June 8, 2011

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

Description: Proposed Guidance

OCC 2011-23 was replaced by OCC 2013-11

Summary

The Office of the Comptroller of the Currency (OCC) is seeking comment on the attached proposed supervisory guidance on deposit-related consumer credit products. The guidance details the principles the OCC would expect national banks to follow in connection with such products to address potential operational, reputational, compliance, and credit risks. The OCC anticipates that this guidance would be applicable to federal savings associations once such organizations become subject to OCC supervision and regulation.

The proposed guidance is principles-based and is intended to provide a high degree of flexibility for banks to structure and operate their programs in a prudent and safe and sound manner that provides for fair treatment of customers without dictating specific product terms. The key principles address concerns related to product disclosure and enrollment; legal compliance; program availability and prudent eligibility standards; prudent limitations on product costs and usage; ongoing monitoring and risk assessment; and management oversight. Appendixes to the proposed guidance illustrate the application of these principles to two specific consumer credit products—automated overdraft protection products and deposit advance products.

The proposed guidance was published in the *Federal Register* on June 8, 2011. Comments are due by July 8, 2011.

Further Information

For more information, please contact; Michael S. Bylsma, Director for Community and Consumer Law, at (202) 874-5750; Kevin Russell, Director for Retail Credit Risk, at (202) 874-5170; or Grovetta Gardineer, Deputy Comptroller for Compliance Policy, at (202) 874-4428.

Timothy W. Long
Senior Deputy Comptroller for Bank Supervision Policy
and Chief National Bank Examiner

Related Link

- [Supervisory Guidance](#) (PDF)

advanced air bags has been delayed 24 months because the cost of the Evora project was greater than expected, Lotus's revenues were less than expected, and its financial constraints were exacerbated by the global economic recession and automobile market downturn in late 2008. As a result, Lotus alleges that it was unable to fully fund the next-generation Elise program while developing the Evora.

Lotus also reiterates that the Evora's advanced air bag system does not carry over to the next generation Elise. Lotus notes that, after discovering this, it reexamined the possibility of equipping the current Elise with advanced air bags, in light of changes in the supplier situation since its last effort in 2005. However, Lotus concluded that advanced air bags for the current Elise remain infeasible.

Lotus also contends that an extension is in the public interest and consistent with the objectives of the Safety Act, citing the reasons stated in the September 2006 grant. Lotus states that the air bags in the Elise do not pose a safety risk. In support, Lotus cites the fact that there are no known injuries or deaths to infants, children, or other occupants caused by its air bags; that its crashworthy design provides a high level of safety without advanced air bags; and that its passenger seat is fixed in the rearmost position. In addition, Lotus makes clear in its owner's manual that it does not recommend the Elise be used for transporting children. Lotus also notes that, if an exemption is not granted, consumers would be adversely affected due to the loss of the Elise from the marketplace. Further, Lotus notes that the Elise is fuel efficient and it will comply with all other FMVSSs.

IV. Completeness and Comment Period

Upon receiving a petition, NHTSA conducts an initial review of the petition with respect to whether the petition is complete and whether the petitioner appears to be eligible to apply for the requested petition. The agency has tentatively concluded that the petition from Lotus is complete and that Lotus is eligible for an extension of its temporary exemption. The agency has not made any judgment on the merit of the application, and is placing a non-confidential copy of the petition in the docket.

We are providing a 30-day comment period. After considering public comments and other available information, we will publish a notice of final action on the application in the **Federal Register**.

Issued on: June 1, 2011.

Christopher J. Bonanti,

Associate Administrator for Rulemaking.

[FR Doc. 2011-14180 Filed 6-7-11; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket ID OCC-2011-0012]

Guidance on Deposit-Related Consumer Credit Products

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

ACTION: Proposed guidance with request for comment.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is proposing guidance on safe and sound banking practices in connection with deposit-related consumer credit products. Such products include automated overdraft protection and direct deposit advance programs.

DATES: Comments must be submitted on or before July 8, 2011.

ADDRESSES: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by e-mail, if possible. Please use the title "Guidance on Deposit-Related Consumer Credit Products" to facilitate the organization and distribution of the comments. You may submit comments by any of the following methods:

- *E-mail:* regs.comments@occ.treas.gov.
- *Mail:* Office of the Comptroller of the Currency, 250 E Street, SW., Mail Stop 2-3, Washington, DC 20219.
- *Fax:* (202) 874-5274.
- *Hand Delivery/Courier:* 250 E Street, SW., Mail Stop 2-3, Washington, DC 20219.

Instructions: You must include "OCC" as the agency name and "Docket ID OCC-2011-0012" in your comment. In general, OCC will enter all comments received into the docket and publish them on the Regulations.gov Web site without change, including any business or personal information that you provide 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 enclose 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 notice by any of the following methods:

- *Viewing Comments Personally:* You may personally inspect and photocopy comments at the OCC, 250 E Street, SW., Washington, DC. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 874-4700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

- *Docket:* You may also view or request available background documents and project summaries using the methods described above.

FOR FURTHER INFORMATION CONTACT:

Michael S. Bylsma, Director, Community and Consumer Law Division, (202) 874-5750; Grovetta Gardineer, Deputy Comptroller for Compliance Policy, (202) 874-4428; or Kevin Russell, Director, Retail Credit Risk, (202) 874-5170, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

The Office of the Comptroller of the Currency (OCC) is proposing supervisory guidance to clarify the OCC's application of principles of safe and sound banking practices in connection with deposit-related consumer credit products such as automated overdraft protection and direct deposit advance programs. This guidance details the principles that the OCC expects national banks to follow in connection with any deposit-related consumer credit product to address potential operational, reputational, compliance, and credit risks. This approach provides a high degree of flexibility for banks to structure and operate their programs in a prudent and safe and sound manner that provides for fair treatment of customers without dictating specific product terms. The OCC expects national banks to apply the principles set forth in this guidance to any deposit-related consumer credit product they offer. Appendixes to this guidance illustrate application of these principles to two specific consumer credit products—automated overdraft protection products and deposit advance products.

Pursuant to Title III of the Dodd-Frank Wall Street Reform and Consumer Protection Act, effective July 21, 2011, all functions of the Office of Thrift Supervision (OTS) and the Director of the OTS relating to Federal savings associations is transferred to the OCC.

As a result, the OCC will assume responsibilities for the ongoing examination, supervision, and regulation of Federal savings associations. Any final guidance on deposit-based credit products in effect for national banks on or after July 21, 2011 will also apply to Federal savings associations.

Text of Proposed Guidance

The text of the proposed Supervisory guidance on deposit-related consumer credit products follows:

Supervisory Guidance On Deposit-Related Consumer Credit Products

Purpose

The Office of the Comptroller of the Currency (OCC) is issuing guidance to clarify the OCC's application of principles of safe and sound banking practices in connection with deposit-related consumer credit products such as automated overdraft protection and direct deposit advance programs. This bulletin details the principles that the OCC expects national banks to follow in connection with any deposit-related consumer credit product to address potential operational, reputational, compliance, and credit risks. This approach provides a high degree of flexibility for banks to structure and operate their programs in a prudent and safe and sound manner that provides for fair treatment of customers without dictating specific product terms.

The principles articulated in this guidance are predicated on the premise that bankers should provide their customers with products they need, and that bankers should not use these products to take advantage of their customer relationship. Through its supervisory process, the OCC has found that a small percentage, but not an insignificant number, of banks are administering deposit-related consumer credit programs without proper attention to these risks. In some cases, these program weaknesses are strikingly apparent.

The OCC accordingly expects national banks to apply the principles outlined in this bulletin to any deposit-related consumer credit product they offer. The OCC expects bankers and examiners to use sound judgment and common sense when applying these principles to specific programs and products. Appendixes to this bulletin illustrate application of these principles to two specific consumer credit products—automated overdraft protection products and deposit advance products.

Supervisory Principles Applicable To Deposit-Related Consumer Credit Products

- **Disclosure**—Customers should be provided clear and conspicuous disclosures prior to enrollment, consistent with applicable law, about program costs, terms, and material limitations before they are provided a deposit-related credit product. Customers also should be provided information about alternative deposit-related credit products, if any, offered by the bank.
- **Legal compliance**—Any deposit-related credit product, and the manner in which it is offered or marketed, must comply with applicable law, including the prohibition against unfair and deceptive practices in the Federal Trade Commission Act.¹
- **Affirmative request**—Customers should not be automatically enrolled in programs for deposit-related credit products. Enrollment should occur only after the customer has received appropriate disclosures, has made an affirmative request for the product, and has agreed to abide by product terms, including associated fees.² Before approving the customer for the product, the bank should have sufficient information about the customer to evaluate that the customer meets the bank's eligibility standards, as described below. Account materials and marketing should not mislead customers about the optional nature of the product or otherwise promote routine use or undue reliance on deposit-related credit products.
- **Program availability and prudent eligibility standards**—Policies and procedures should set forth the eligibility criteria that must be met by a depositor to obtain the deposit-related credit product. An appropriate degree of analysis should be conducted before the request is approved to determine whether the customer will be able to manage and repay the credit obligations arising from the product appropriately.
- **Prudent limitations on product costs and usage**—Deposit-related credit products should be subject to prudent limitations on credit extensions, customer costs, and usage. Fees should be based on safe and sound banking

¹ See OCC Advisory Letter 2002-3, "Guidance on Unfair or Deceptive Acts or Practices," (Mar. 22, 2002).

² Unless otherwise specified in regulation or guidance, banks have flexibility in how they obtain a customer's affirmative request, including through clear and conspicuous language in an application, separate opt-in form, or account agreement whereby the customer affirmatively consents to be enrolled in the program and to pay any related fees for the service.

principles,³ and take into account other appropriate factors including reputation and strategic risks to the bank. For example, a bank should consider the significance of revenue from a particular product and monitor for any undue reliance on the fees generated by that product for its revenue and earnings.

- **Monitoring and risk assessments**—The volume of, and revenue from, deposit-related credit products and changes in customer usage should be regularly monitored to identify risks. Appropriate action should be taken to address any risks that are identified including excessive usage and nonperformance, such as reassessing a customer's creditworthiness; adjusting credit terms, fees, or limits; suspending or terminating the credit feature; or closing accounts.
- **Management oversight**—Bank management should exercise appropriate oversight of new products and services, through receipt and review of regular reports on product usage, fee income, and legal compliance, and through periodic audits. Appropriate oversight includes monitoring of third-party vendors that provide services related to the product. Bank management should be vigilant in assuring adherence to these principles and should take immediate steps to address noncompliance and reputation risks.
- **Account management and charge-offs**—Applicable guidelines on account management and charge-offs of uncollectible balances also should be followed.

Appendix A

Safe and Sound Banking Practices in Connection with Automated Overdraft Protection Programs

Retail overdraft protection programs have evolved in significant ways since the federal banking agencies issued the "Joint Agency Guidance on Overdraft Protection Programs" in 2005.⁴ With the increasing volume of electronic transactions during this period, overdraft protection has evolved from a program that functions primarily in the context of check-based overdrafts to one that functions increasingly in the context of electronic payments-based overdrafts. These developments, in turn, have presented new operational risks and increasing credit risks posed by customers who use the product extensively. The OCC is concerned with

³ See 12 CFR 7.4002.

⁴ 70 FR 9127 (Feb. 24, 2005). <http://www.gpo.gov/fdsys/pkg/FR-2005-02-24/pdf/05-3499.pdf>

several practices that have developed during this intervening time, including:

- Excessive reliance on fee income from overdraft protection programs;
- Failure to impose responsible limits on customer costs and imposition of fees that cumulatively exceed a customer's overdraft credit limit;
- Failure to assess a customer's ability to manage and repay overdraft protection before it is made available to the customer;
- Failure to monitor overdraft protection usage to identify excessive usage and credit risks and to take steps to address credit risks;
- Failure to charge off overdrafts in a timely manner;
- Failure to ensure adequate risk management of overdraft protection programs, with appropriate internal audits and compliance reviews;
- Failure to monitor and control promotional and sales practices for potentially misleading statements; and
- Payment processing intended to maximize overdrafts and related fees.

While certain new rules have been implemented recently affecting overdraft protection programs,⁵ the OCC believes additional supervisory guidance is warranted to address the heightened safety and soundness risks that have arisen over time affecting the broad range of retail transactions covered by overdraft protection programs. This appendix describes how the OCC will apply the safety and soundness principles applicable to deposit-related consumer credit products to overdraft protection.

This appendix updates and expands on the 2005 "Joint Agency Guidance on Overdraft Protection Programs" (joint agency guidance). The OCC expects national banks to develop policies and procedures governing automated retail overdraft protection programs that implement both this guidance and the joint agency guidance, including the section entitled "Best Practices," as applicable.⁶

Scope

All automated overdraft protection plans that cover overdrafts from electronic (including ATM, point of sale (POS), preauthorized debits, and online banking transactions) and check-based consumer transactions are subject to the

⁵ See 12 CFR 205.17 (Regulation E) and 12 CFR 230.11 (Regulation DD).

⁶ This joint agency guidance describes the circumstances concerning when overdraft protection programs may be subject to certain requirements in the Truth in Lending Act and the Equal Credit Opportunity Act. This appendix is not intended to affect whether or when such laws may apply to a particular program.

principles described in this appendix. Ad hoc and accommodation payment of overdrafts to an individual customer are not addressed in this appendix.⁷

Program Availability and Prudent Eligibility Standards

National banks should adopt policies and procedures concerning the availability of overdraft protection that set forth eligibility criteria that must be met by a depositor to obtain automated overdraft protection. Such policies and procedures should provide that a customer must "opt-in" to the program, such as by making an affirmative request or application to be enrolled in the service and affirmatively agreeing to pay any fee that may be imposed for payment of overdrafts arising from debits, checks, POS and ACH transactions, as applicable.⁸ Account materials and marketing should not mislead customers about the optional nature of the program or otherwise promote routine use or undue reliance on the program.⁹

If not already conducted as part of the initial deposit account opening, prudential criteria for enrolling a customer in an overdraft protection program should include an initial assessment of the customer's risk with respect to overdraft account privileges. The scope and rigor of this assessment may vary depending on the credit and deposit profile of the customer and other relevant risk factors, but an objective should be to determine whether the customer poses undue risks as indicated by, for instance, a history of overdrawing an account or information suggesting an inability or unwillingness to repay credit.

A customer should be permitted to "opt-out" of program coverage at any time after which no additional overdraft fees may be imposed, and be provided clear notice of this ability.

⁷ National banks that authorize overdrafts on an ad hoc and accommodation basis should control for and manage any related reputational and compliance risks.

⁸ Regulation E prohibits financial institutions from assessing a fee or charge on a customer's account for paying an overdraft resulting from an ATM or one-time debit transaction unless the institution has obtained the customer's affirmative written consent. 12 CFR 205.17(b). For overdraft programs that are not already covered by the Regulation E opt-in requirements, such as check-based overdrafts, affirmative consent need only be obtained from new account holders. Banks have flexibility in how they obtain a customer's affirmative request, provided that there is clear disclosure of the terms and fees and customer consent.

⁹ See OCC Bulletin 2010-15, "Overdraft Protection: Opt-In Requirements and Related Marketing Issues."

Disclosures

Customers who apply for and obtain overdraft protection should be provided sufficient information about a product's costs, risks, and limitations when the product is offered to make an informed choice. Customers also should be provided information about alternative overdraft services and credit products, if any, offered by the bank. In addition to receiving cost information, as required by the joint agency guidance, customers also should receive disclosure of the following information to manage their account prudently:

- Clear disclosure about the order of processing transactions and the fact that the order can affect the total amount of overdraft fees incurred by a customer.
- Notice when overdraft protection is suspended or terminated, and when it is reinstated, as applicable.

As required by the Truth in Savings Act regulations, banks that provide periodic statements to customers must disclose the total dollar amount of overdraft fees that have been imposed during the period and year-to-date.¹⁰

Prudent Limitations

National banks should establish prudent programmatic limitations on the amount of credit that may be extended under an overdraft protection program, the number of overdrafts and the total amount of fees that may be imposed per day and per month, and any transaction amount below which an overdraft fee will not be imposed. These limitations should be established taking into account general ability to repay and safety and soundness considerations and the order in which the bank processes transactions. These limitations should be clearly disclosed to customers at the time the product is offered.¹¹

The order in which transactions will be processed also should be subject to standards to ensure that transaction processing is not solely designed or generally operated to maximize overdraft fee income. For example, such standards may provide for processing individual or batched items in the order received, by check or serial number sequence, or in random order.

Monitoring and Risk Assessments

Accounts should be subject to monitoring and segmentation by customer usage to detect indications of excessive overdrafts (and related

¹⁰ 12 CFR 230.11.

¹¹ Other prudential limitations may include offering a grace period of one or more days to allow a customer to return the account to a positive balance before any overdraft fee may be imposed.

overdraft protection fees) and/or potential changes to repayment capacity with respect to the overdraft product. A national bank should review and evaluate the account as they deem appropriate, such as in the following circumstances:

- The account has incurred overdrafts in excess of the overdraft credit limit applicable to the account;
- The account has incurred the daily maximum number of overdraft transactions repeatedly during any month, whether or not a fee is imposed;
- The account has incurred the daily maximum number of overdraft fees repeatedly during any month; and
- The accountholder is exhibiting excessive usage of other credit products connected to the account.

In such circumstances, the bank should determine whether the account continues to be viable or whether credit and aggregate fee limits need to be reduced, and take appropriate action. Such a determination should include a more in-depth analysis of the borrower's ability to manage and repay overdraft protection. The customer also should be notified of alternatives to overdraft protection, such as linked deposit accounts, or other lines of credit.

If, after account review and making any appropriate changes to an account, the account continues to demonstrate excessive overdrafts, overdraft privileges should be terminated and, if appropriate, the account should be closed.

Management Oversight

Bank management should receive regular reports on overdraft volume, profitability, and credit performance. These reports should segment accounts by level of overdrafts to identify excessive overdraft protection usage. Management also should receive reports that describe the status and outcome of internal reviews and evaluations of accounts identified as demonstrating excessive usage.

Charge-Offs

Overdraft protection should be suspended or terminated when the customer no longer meets the eligibility criteria, has declared bankruptcy, or is in default on repayment of an overdraft or on any other loan with the bank. Overdraft balances should be charged off when considered uncollectible, but no later than 60 days from the date first overdrawn. If an account has been continually overdrawn for 60 days or more, it must be closed and charged off.

Appendix B

Safe and Sound Banking Practices in Connection with Deposit Advance Programs

“Deposit advance” products are short-term, open-end lines of credit that are generally made available to retail account holders with recurring direct deposits. These products typically operate as follows: advances under the line of credit are made only upon request by the customer and are limited to the amount, or a portion of the amount, of the anticipated deposit. Advances are made in fixed dollar increments and a flat fee is assessed for each advance. For example, a customer may obtain advances in increments of \$10 or \$20 for \$1 or \$2 per increment borrowed. Multiple advances can be outstanding at any time up to any credit limit that has been established. Full repayment typically is required during a single deposit cycle—the amount advanced, plus the applicable finance charge, is usually repaid when the next direct deposit is credited to a customer's account. If a deposit is insufficient to repay the advance in full, repayment may be made with the next or subsequent deposits.

There are various practices associated with deposit advance products that raise operational and credit risks and supervisory concerns, including:

- Failure to evaluate the customer's ability to repay the credit line appropriately, taking into account the customer's recurring deposits and other relevant information;
- Requiring full repayment of the advance out of a single deposit, which reduces the funds available to customers for daily living expenses, which can cause overdrafts;
- Steering customers who rely on direct deposits of federal benefits payments as their principal source of income to deposit advance products;
- Failure to disclose the costs of deposit advances; and
- Failure to monitor accounts for excessive usage and costs.

This appendix describes how the OCC will apply the safety and soundness principles applicable to deposit-related consumer credit products to deposit advance products.

Product Availability and Prudent Eligibility Standards

National banks should adopt policies and procedures that set forth eligibility criteria that must be met by a retail depositor to obtain the deposit advance service. Such policies and procedures also should provide that a customer must “opt-in” to the program, by making

an affirmative request or application for enrollment in the deposit advance program and affirmatively agreeing to pay any fee imposed for the service.¹² Account materials and marketing should not mislead customers about the optional nature of the program or otherwise promote routine use or undue reliance on the product.

Prudential criteria for enrolling a customer in a deposit advance program should include risk assessment criteria. Such criteria would include an assessment of the customer's willingness and ability to repay the advance based on information about the customer's continued employment or other recurrent source(s) of income from which the direct deposit is derived and other relevant information.

A customer should be permitted to “opt-out” of program coverage at any time, after which no future advances may be made or related fees imposed, and be provided clear notice of this ability.

Disclosures

Customers should receive clear and conspicuous disclosures—before the customer is enrolled—about key program criteria and limitations, costs, and risks. For example, these disclosures would:

- Describe the operation, fees, costs, and any limitations on the program;
- Explain that direct deposit advances can be costly and inform customers of alternative deposit-related credit products, if any, offered by the bank.
- Explain transaction-processing policies for repayment of a credit advance including, as applicable, the fact that repayment may take priority over the processing of other items such as checks and could result in overdrafts or returned items and associated fees;
- Explain how the loan must be repaid if a deposit is insufficient; and
- Describe key program features affecting program protections, including any rescission or refund policies, cancellation policies, and cooling-off periods.

Prudent Limitations

National banks should establish prudent programmatic limitations that generally take into account the amount of the customer's recurring direct deposits; the need for a portion of deposited funds to remain available to the customer for daily expenses; account usage; and credit extended to

¹² Affirmative consent need only be obtained in connection with new enrollments in a deposit advance program.

the customer, including other deposit-based loans, if applicable. These include limits on:

- The number of periods that back-to-back advances may be made before a cooling-off period will be triggered;
- The number of months in which advances may be outstanding;
- The total amount or percentage of any deposit that may be advanced in any period; and
- The total amount or percentage of any deposit that may be used for repayment of the advance.

These limits should be adjusted, as appropriate, based on risks identified through account monitoring. For example, if a customer's direct deposits stop, no further extensions of credit should be permitted under the program.

Repayment Terms

Deposit advances should be permitted to be repaid by direct deposit or by separate payment in advance of the date a deposit would be debited without any additional fee. When program terms allow for substantial advances relative to the regular deposit amount, advances should be permitted to be repaid in more than one installment over an extended period of more than one month. National banks should not permit repayments of deposit advances that would overdraw the account or permit additional advances during any periods of account overdraft.

Monitoring and Risk Assessments

Deposit-advance accounts should be subject to reasonable periodic monitoring to ensure that circumstances have not changed that adversely affect credit risk and to identify excessive usage. Monitoring should include overdraft and returned-item activity in the account. There should be appropriate follow up with the customer, if warranted, about use of the account, repayment options, and credit alternatives.

Management Oversight

Bank management should receive regular reports on volume, profitability, and credit performance of the deposit advance program. These reports should segment accounts by level of line usage to identify excessive deposit-advance usage. Management also should receive reports that describe the status and outcome of internal reviews and evaluations of accounts identified as demonstrating excessive usage.

Charge-Offs

Deposit advances that are not repaid in accordance with the account terms should be charged off.

Dated: June 1, 2011.

John Walsh,

Acting Comptroller of the Currency.

[FR Doc. 2011-14093 Filed 6-7-11; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

Proposed Renewal Without Change; Comment Request; Nine Bank Secrecy Act Recordkeeping Requirements

ACTION: Notice and request for comments.

SUMMARY: As part of our continuing effort to reduce paperwork and respondent burden, we invite comment on a proposed renewal, without change, to recordkeeping requirements found in existing regulations requiring financial institutions to keep records pertaining to Bank Secrecy Act (BSA) reportable activities. This request for comments is being made pursuant to the Paperwork Reduction Act of 1995, Public Law 104-13, 44 U.S.C. 3506(c)(2)(A).

DATES: Written comments are welcome and must be received on or before August 8, 2011.

ADDRESSES: *Written comments should be submitted to:* Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183, *Attention:* BSA Recordkeeping Requirements Comments. Comments also may be submitted by electronic mail to the following *Internet address:* regcomments@fincen.gov, again with a caption, in the body of the text, "BSA Recordkeeping Requirements Comments."

FOR FURTHER INFORMATION CONTACT: Financial Crimes Enforcement Network, Regulatory Policy and Programs Division at (800) 949-2732, option 6.

SUPPLEMENTARY INFORMATION:

Abstract: The Director of the Financial Crimes Enforcement Network (FinCEN) is the delegated administrator of the BSA. The BSA authorizes the Director to issue regulations to require all financial institutions defined as such in the BSA to maintain or file certain reports or records that have been determined to have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, or in the conduct of intelligence or counter-intelligence activities, including analysis, to protect against international terrorism, and to implement anti-money

laundering programs and compliance procedures.¹

Regulations implementing section 5318(h)(1) of the BSA are found in part at 31 CFR chapter X. In general, the regulations require financial institutions, as defined in 31 U.S.C. 5312(a)(2) and 31 CFR 1010.100 to maintain financial records of BSA covered transactions.

1. *Title:* Special rules for casinos 31 CFR 1021.210(b), 31 CFR 1021.100(a)-(e)(Old Ref. 31 CFR 103.64), and 31 CFR 1010.430 (Old Ref. 31 CFR 103.38).

OMB Number: 1506-0051.

Current Action: There is no change to the existing regulation.

Type of Review: Extension without change of a currently approved information collection.

Affected Public: Businesses and other for-profit institutions.

Burden: The estimated number of recordkeepers is 925. The estimated annual recordkeeping burden per recordkeeper is 100 hours, for a total estimated annual recordkeeping burden of 92,500 hours.

2. *Title:* Additional records to be made and retained by currency dealers or exchangers (31 CFR 1022.410 (Old Ref. 31 CFR 103.37) and 31 CFR 1010.430 (Old Ref. 31 CFR 103.38) .

OMB Number: 1506-0052.

Current Action: There is no change to the existing regulation.

Type of Review: Extension without change of a currently approved information collection.

Affected Public: Businesses and other for-profit institutions.

Burden: The estimated number of recordkeepers is 2,300. The estimated annual recordkeeping burden per recordkeeper is 16 hours, for a total estimated annual recordkeeping burden of 368,000 hours.

3. *Title:* Additional records to be made and retained by brokers or dealers in securities (31 CFR 1023.410 (Old Ref. 31 CFR 103.35) and 31 CFR 1010.410 (Old Ref. 103.38).

OMB Number: 1506-0053.

Current Action: There is no change to the existing regulation.

Type of Review: Extension without change of a currently approved information collection.

Affected Public: Businesses and other for-profit institutions.

¹Public Law 91-508, as amended and codified at 12 U.S.C. 1829b, 12 U.S.C. 1951-1959 and 31 U.S.C. 5311-5332. Language expanding the scope of the BSA to intelligence or counter-intelligence activities to protect against international terrorism was added by section 358 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001, Public Law 107-56.