

(a) The board of directors or a committee thereof shall review the savings association’s interest-rate-risk exposure and devise a policy for the savings association’s management of that risk.

(b) The board of directors shall formally adopt a policy for the management of interest-rate risk. The management of the savings association shall establish guidelines and procedures to ensure that the board’s policy is successfully implemented.

(c) The management of the savings association shall periodically report to the board of directors regarding implementation of the savings association’s policy for interest-rate-risk management and shall make that information available upon request to the OCC.

(d) The savings association’s board of directors shall review the results of operations at least quarterly and shall make such adjustments as it considers necessary and appropriate to the policy for interest-rate-risk management, including adjustments to the authorized acceptable level of interest-rate risk.

Subpart G—Reporting and Bonding

§ 163.180 Suspicious Activity Reports and other reports and statements.

(a) [Reserved]

(b) *False or misleading statements or omissions.* No savings association or director, officer, agent, employee, affiliated person, or other person participating in the conduct of the affairs of such association nor any person filing or seeking approval of any application shall knowingly:

(1) Make any written or oral statement to the appropriate Federal banking agency or to an agent, representative or employee of the appropriate Federal banking agency that is false or misleading with respect to any material fact or omits to state a material fact concerning any matter within the jurisdiction of the appropriate Federal banking agency or

(2) Make any such statement or omission to a person or organization auditing a savings association or otherwise preparing or reviewing its financial statements concerning the accounts, assets, management condition, owner-

ship, safety, or soundness, or other affairs of the association.

(c) [Reserved]

(d) *Suspicious Activity Reports—(1) Purpose and scope.* This paragraph (d) ensures that savings associations and service corporations file a Suspicious Activity Report when they detect a known or suspected violation of Federal law or a suspicious transaction related to a money laundering activity or a violation of the Bank Secrecy Act.

(2) *Definitions.* For the purposes of this paragraph (d):

(i) *FinCEN* means the Financial Crimes Enforcement Network of the Department of the Treasury.

(ii) *Institution-affiliated party* means any institution-affiliated party as that term is defined in sections 3(u) and 8(b)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1813(u) and 1818(b)(9)).

(iii) *SAR* means a Suspicious Activity Report.

(3) *SARs required.* A savings association or service corporation shall file a SAR with the appropriate Federal law enforcement agencies and the Department of the Treasury on the form prescribed by the appropriate Federal banking agency and in accordance with the form’s instructions, by sending a completed SAR to FinCEN in the following circumstances:

(i) *Insider abuse involving any amount.* Whenever the savings association or service corporation detects any known or suspected Federal criminal violation, or pattern of criminal violations, committed or attempted against the savings association or service corporation or involving a transaction or transactions conducted through the savings association or service corporation, where the savings association or service corporation believes that it was either an actual or potential victim of a criminal violation, or series of criminal violations, or that it was used to facilitate a criminal transaction, and it has a substantial basis for identifying one of its directors, officers, employees, agents or other institution-affiliated parties as having committed or aided in the commission of a criminal act, regardless of the amount involved in the violation.

(ii) *Violations aggregating \$5,000 or more where a suspect can be identified.*

Whenever the savings association or service corporation detects any known or suspected Federal criminal violation, or pattern of criminal violations, committed or attempted against the savings association or service corporation or involving a transaction or transactions conducted through the savings association or service corporation and involving or aggregating \$5,000 or more in funds or other assets, where the savings association or service corporation believes that it was either an actual or potential victim of a criminal violation or series of criminal violations, or that it was used to facilitate a criminal transaction, and it has a substantial basis for identifying a possible suspect or group of suspects. If it is determined prior to filing this report that the identified suspect or group of suspects has used an alias, then information regarding the true identity of the suspect or group of suspects, as well as alias identifiers, such as drivers' license or social security numbers, addresses and telephone numbers, must be reported.

(iii) *Violations aggregating \$25,000 or more regardless of potential suspects.* Whenever the savings association or service corporation detects any known or suspected Federal criminal violation, or pattern of criminal violations, committed or attempted against the savings association or service corporation or involving a transaction or transactions conducted through the savings association or service corporation and involving or aggregating \$25,000 or more in funds or other assets, where the savings association or service corporation believes that it was either an actual or potential victim of a criminal violation or series of criminal violations, or that it was used to facilitate a criminal transaction, even though there is no substantial basis for identifying a possible suspect or group of suspects.

(iv) *Transactions aggregating \$5,000 or more that involve potential money laundering or violations of the Bank Secrecy Act.* Any transaction (which for purposes of this paragraph (d)(3)(iv) means a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit,

or other monetary instrument or investment security, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected) conducted or attempted by, at or through the savings association or service corporation and involving or aggregating \$5,000 or more in funds or other assets, if the savings association or service corporation knows, suspects, or has reason to suspect that:

(A) The transaction involves funds derived from illegal activities or is intended or conducted in order to hide or disguise funds or assets derived from illegal activities (including, without limitation, the ownership, nature, source, location, or control of such funds or assets) as part of a plan to violate or evade any law or regulation or to avoid any transaction reporting requirement under Federal law;

(B) The transaction is designed to evade any regulations promulgated under the Bank Secrecy Act; or

(C) The transaction has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the institution knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction.

(4) *Service corporations.* When a service corporation is required to file a SAR under paragraph (d)(3) of this section, either the service corporation or a savings association that wholly or partially owns the service corporation may file the SAR.

(5) *Time for reporting.* A savings association or service corporation is required to file a SAR no later than 30 calendar days after the date of initial detection of facts that may constitute a basis for filing a SAR. If no suspect was identified on the date of detection of the incident requiring the filing, a savings association or service corporation may delay filing a SAR for an additional 30 calendar days to identify a suspect. In no case shall reporting be delayed more than 60 calendar days after the date of initial detection of a reportable transaction. In situations

involving violations requiring immediate attention, such as when a reportable violation is ongoing, the savings association or service corporation shall immediately notify, by telephone, an appropriate law enforcement authority and the appropriate Federal banking agency in addition to filing a timely SAR.

(6) *Reports to state and local authorities.* A savings association or service corporation is encouraged to file a copy of the SAR with state and local law enforcement agencies where appropriate.

(7) *Exception.* A savings association or service corporation need not file a SAR for a robbery or burglary committed or attempted that is reported to appropriate law enforcement authorities.

(8) *Retention of records.* A savings association or service corporation shall maintain a copy of any SAR filed and the original or business record equivalent of any supporting documentation for a period of five years from the date of the filing of the SAR. Supporting documentation shall be identified and maintained by the savings association or service corporation as such, and shall be deemed to have been filed with the SAR. A savings association or service corporation shall make all supporting documentation available to appropriate law enforcement agencies upon request. A savings association or service corporation shall make all supporting documentation available to the appropriate Federal banking agency, FinCEN, or any Federal, state, or local law enforcement agency, or any Federal regulatory authority that examines the savings association or service corporation for compliance with the Bank Secrecy Act, or any state regulatory authority administering a state law that requires the savings association or service corporation to comply with the Bank Secrecy Act or otherwise authorizes the state authority to ensure that the institution complies with the Bank Secrecy Act, upon request.

(9) *Notification to board of directors—(i) Generally.* Whenever a savings association (or a service corporation in which the savings association has an ownership interest) files a SAR pursuant to this paragraph (d), the management of the savings association or service cor-

poration shall promptly notify its board of directors, or a committee of directors or executive officers designated by the board of directors to receive notice.

(ii) *Suspect is a director or executive officer.* If the savings association or service corporation files a SAR pursuant to this paragraph (d) and the suspect is a director or executive officer, the savings association or service corporation may not notify the suspect, pursuant to 31 U.S.C. 5318(g)(2), but shall notify all directors who are not suspects.

(10) *Compliance.* Failure to file a SAR in accordance with this section and the instructions may subject the savings association or service corporation, its directors, officers, employees, agents, or other institution-affiliated parties to supervisory action.

(11) *Obtaining SARs.* A savings association or service corporation may obtain SARs and the instructions from the appropriate Federal banking agency.

(12) *Confidentiality of SARs.* A SAR, and any information that would reveal the existence of a SAR, are confidential, and shall not be disclosed except as authorized in this paragraph (d)(12).

(i) *Prohibition on disclosure by savings associations or service corporations.* No savings association or service corporation, and no director, officer, employee, or agent of a savings association or service corporation, shall disclose a SAR or any information that would reveal the existence of a SAR. Any savings association or service corporation, and any director, officer, employee, or agent of any savings association or service corporation that is subpoenaed or otherwise requested to disclose a SAR, or any information that would reveal the existence of a SAR, shall decline to produce the SAR or such information, citing this section and 31 U.S.C. 5318(g)(2)(A)(i), and shall notify the following of any such request and the response thereto:

(A) Director, Litigation Division, Office of the Comptroller of the Currency or the appropriate FDIC region, as appropriate and

(B) The Financial Crimes Enforcement Network (FinCEN).

(ii) *Rules of construction.* Provided that no person involved in any reported

suspicious transaction is notified that the transaction has been reported, paragraph (d)(1) of this section shall not be construed as prohibiting:

(A) The disclosure by a savings association or service corporation, or any director, officer, employee or agent of a savings association or service corporation of:

(1) A SAR, or any information that would reveal the existence of a SAR, to FinCEN or the appropriate Federal banking agency or any Federal, state, or local law enforcement agency; or any Federal regulatory authority that examines the savings association or service corporation for compliance with the Bank Secrecy Act, or any state regulatory authority administering a state law that requires compliance with the Bank Secrecy Act or otherwise authorizes the state authority to ensure that the institution complies with the Bank Secrecy Act; or

(2) The underlying facts, transactions, and documents upon which a SAR is based, including, but not limited to, disclosures:

(i) To another financial institution, or any director, officer, employee or agent of a financial institution, for the preparation of a joint SAR; or

(ii) In connection with certain employment references or termination notices, to the full extent authorized in 31 U.S.C. 5318(g)(2)(B); or

(B) The sharing by a savings association or service corporation, or any director, officer, employee, or agent of a savings association or service corporation, of a SAR, or any information that would reveal the existence of a SAR, within the corporate organizational structure of the savings association or service corporation, for purposes consistent with title II of the Bank Secrecy Act as determined by regulation or in guidance.

(iii) *Prohibition on disclosure by the appropriate Federal banking agency.* The appropriate Federal banking agency will not, and no officer, employee or agent of appropriate Federal banking agency shall disclose a SAR, or any information that would reveal the existence of a SAR, except as necessary to fulfill official duties consistent with title II of the Bank Secrecy Act. For purposes of this section, “official du-

ties” shall not include the disclosure of a SAR, or any information that would reveal the existence of a SAR, in response to a request for use in a private legal proceeding or in response to a request for disclosure of non-public information under 12 CFR 4.33 or 12 CFR part 309, as appropriate.

(iv) *Limitation on liability.* A savings association or service corporation and any director, officer, employee or agent of a savings association or service corporation that makes a voluntary disclosure of any possible violation of law or regulation to a government agency or makes a disclosure pursuant to this section or any other authority, including a disclosure made jointly with another institution, shall be protected from liability for any such disclosure, or for failure to provide notice of such disclosure to any person identified in the disclosure, or both, to the full extent provided by 31 U.S.C. 5318(g)(3).

(13) *Safe harbor.* The safe harbor provision of 31 U.S.C. 5318(g), which exempts any financial institution that makes a disclosure of any possible violation of law or regulation from liability under any law or regulation of the United States, or any constitution, law or regulation of any state or political subdivision, covers all reports of suspected or known criminal violations and suspicious activities to law enforcement and financial institution supervisory authorities, including supporting documentation, regardless of whether such reports are filed pursuant to this paragraph (d), or are filed on a voluntary basis.

(e) *Adjustable-rate mortgage indices—*

(1) *Reporting obligation.* Upon the request of a Federal Home Loan Bank, all savings associations within the jurisdiction of that Federal Home Loan Bank shall report the data items set forth in paragraph (e)(2) of this section for the Federal Home Loan Bank to use in calculating and publishing an adjustable-rate mortgage index.

(2) *Data to be reported.* For purposes of paragraph (e)(1) of this section, the term “data items” means the data items previously collected from the monthly Thrift Financial Report or Consolidated Reports of Condition and Income, as appropriate, and such data

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items as may be altered, amended, or substituted by the requesting Federal Home Loan Bank.

(3) *Applicable indices.* For the purpose of this reporting requirement, the term “adjustable-rate mortgage index” means any of the adjustable-rate mortgage indices calculated and published by a Federal Home Loan Bank or the Federal Home Loan Bank Board on or before August 9, 1989.

(f) *Exemptions.* (1) The OCC may grant a Federal savings association or service corporation an exemption from the requirements of this section. A Federal savings association or service corporation 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 the purposes of the Bank Secrecy Act (if applicable) and safe and sound banking, and may consider other appropriate factors. Any exemption will apply only as expressly stated in the exemption. (A Federal savings association or service corporation requesting an exemption that also requires relief from the requirements of applicable regulations issued by the Department of the Treasury at 31 CFR chapter X must submit a request in writing to both the OCC and FinCEN for approval.)

(2) The OCC will respond in writing to the Federal savings association or service corporation that submits a request pursuant to paragraph (f)(1) of this section after considering whether the exemption is consistent with the factors in paragraph (f)(1) of this section. Any exemption granted by the OCC under paragraph (f)(1) of this section will continue for the time specified by the OCC.

(3) The OCC may extend the period of time or may revoke an exemption granted under paragraph (f)(1) of this section. Exemptions or extensions may be revoked in the sole discretion of the OCC. Before revoking an exemption, the OCC will provide written notice to the Federal 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 Federal savings association or service corporation to submit a re-

sponse to the OCC. The OCC will consider any response before deciding whether or not to revoke an exemption and provide written notice to the Federal savings association or service corporation of the OCC’s final decision to revoke an exemption.

(4) With respect to requests for exemptions that will also require relief from the requirements of applicable regulations issued by the Department of the Treasury at 31 CFR chapter X, upon receiving approval from both the OCC and FinCEN, the requestor will be relieved of its obligations under this section to the extent stated in such approvals.

[76 FR 49047, Aug. 9, 2011, as amended at 82 FR 8111, Jan. 23, 2017; 85 FR 42643, July 14, 2020; 87 FR 15332, Mar. 18, 2022]

§ 163.200 Conflicts of interest.

If you are a director, officer, or employee of a Federal savings association, or have the power to direct its management or policies, or otherwise owe a fiduciary duty to a Federal savings association:

(a) You must not advance your own personal or business interests, or those of others with whom you have a personal or business relationship, at the expense of the savings association; and

(b) You must, if you have an interest in a matter or transaction before the board of directors:

(1) Disclose to the board all material nonprivileged information relevant to the board’s decision on the matter or transaction, including:

(i) The existence, nature and extent of your interests; and

(ii) The facts known to you as to the matter or transaction under consideration;

(2) Refrain from participating in the board’s discussion of the matter or transaction; and

(3) Recuse yourself from voting on the matter or transaction (if you are a director).

§ 163.201 Corporate opportunity.

(a) If you are a director or officer of a Federal savings association, or have the power to direct its management or policies, or otherwise owe a fiduciary duty to a Federal savings association,