

lease. These requirements enable the OCC to ensure that a bank is not holding the property for speculative reasons and that the value of the property is recorded in accordance with generally accepted accounting principles (GAAP).

#### Section 23.5

Under 12 CFR 23.5, leases are subject to the lending limits prescribed by 12 U.S.C. 84, as implemented by 12 CFR part 32, or, if the lessee is an affiliate of the bank, to the restrictions on transactions with affiliates prescribed by 12 U.S.C. 371c and 371c-1. See 12 CFR 23.6. Twelve U.S.C. 24 contains two separate provisions authorizing a national bank to acquire personal property for purposes of lease financing. Twelve U.S.C. 24(Seventh) authorizes leases of personal property (Section 24(Seventh) (Leases) if the lease serves as the functional equivalent of a loan. See 12 CFR 23.20. A national bank may also acquire personal property for purposes of lease financing under the authority of 12 U.S.C. 24(Tenth) (CEBA Leases). Section 23.5 requires that if a bank enters into both types of leases, its records must distinguish between the two types of leases. This information is required to prove that the national bank is complying with the limitations and requirements applicable to the two types of leases.

National banks use the information to ensure their compliance with applicable Federal banking law and regulations and accounting principles. The OCC uses the information in conducting bank examinations and as an auditing tool to verify bank compliance with laws and regulations. In addition, the OCC uses national bank requests for permission to extend the holding period for off-lease property to ensure national bank compliance with relevant laws and regulations and to ensure bank safety and soundness.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals; Businesses or other for-profit.

*Estimated Number of Respondents:* 370.

*Estimated Total Annual Responses:* 370.

*Frequency of Response:* On occasion.

*Estimated Total Annual Burden:* 685.

The OCC published this collection for 60 days of comment on October 5, 2012 (77 FR 61050). No comments were received. Comments continue to be invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: January 2, 2013.

**Michele Meyer,**

*Assistant Director, Legislative and Regulatory Activities Division.*

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## DEPARTMENT OF THE TREASURY

### Office of the Comptroller of the Currency

[Docket ID OCC-2013-0001]

#### Transition Period Under Section 716 of the Dodd-Frank Wall Street Reform and Consumer Protection Act

**AGENCY:** Office of the Comptroller of the Currency, Department of the Treasury.

**ACTION:** Notice of guidance.

**SUMMARY:** The Office of the Comptroller of the Currency (OCC) is notifying insured Federal depository institutions<sup>1</sup> that are or may become swap dealers that the OCC is prepared to consider favorably requests for a transition period pursuant to section 716(f) of the Dodd-Frank Act, provided that such requests conform to the procedures and conditions established in this notice.

**DATES:** This guidance is effective immediately. Written requests for transition periods should be submitted to the OCC by January 31, 2013.

**FOR FURTHER INFORMATION CONTACT:** Roman Goldstein, Senior Attorney, Ted Dowd, Assistant Director, or Ellen Broadman, Director, Securities and Corporate Practices Division, (202) 649-5510, 400 7th St. SW., Washington, DC 20219.

#### SUPPLEMENTARY INFORMATION:

<sup>1</sup> Insured Federal depository institution means an entity that is a Federal depository institution and an insured depository institution under the Federal Deposit Insurance Act. See 12 U.S.C. 1813(c)(2) and (4). National banks, Federal savings associations and insured Federal Branches are insured Federal depository institutions.

## A. Background

Section 716 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) prohibits providing Federal assistance to swaps entities, a term that includes Federal depository institutions<sup>2</sup> that are swap dealers.<sup>3</sup> The prohibition does not apply to insured depository institutions that limit their swap activities to those activities specified in section 716(d) (conforming swap activities). The OCC, Board of Governors of the Federal Reserve System (Board), and Federal Deposit Insurance Corporation (FDIC) jointly issued guidance that section 716's effective date is July 16, 2013.<sup>4</sup>

Section 716(f) provides that the appropriate Federal banking agency shall permit a transition period, as appropriate, for insured depository institution swap entities to divest or cease nonconforming swap activities.<sup>5</sup> The prohibition on Federal assistance does not apply during this transition period. The transition period, which begins on the effective date, initially may be up to 24 months, as determined by the insured depository institution's appropriate Federal banking agency<sup>6</sup> in consultation with the Commodity Futures Trading Commission (CFTC) and the Securities and Exchange Commission (SEC). The appropriate Federal banking agency, after consulting with the CFTC and SEC, may extend the transition period for up to one additional year.

In establishing the length of a transition period for an insured depository institution, the appropriate Federal banking agency must take into account and make written findings regarding the potential impact of the divestiture or cessation of nonconforming swap activities on the institution's (1) mortgage lending, (2) small business lending, (3) job creation, and (4) capital formation versus the potential negative impact on insured depositors and the FDIC's Deposit Insurance Fund (DIF). The appropriate Federal banking agency may consider such other factors as it deems appropriate.

<sup>2</sup> 12 U.S.C. 1813(c)(4).

<sup>3</sup> Except as otherwise specified, this notice refers to both swaps and security-based swaps as swaps, and both swap dealers and security-based swap dealers as swap dealers.

<sup>4</sup> Guidance on the Effective Date of Section 716, 77 FR 27465 (May 10, 2012).

<sup>5</sup> See Dodd-Frank Act section 716(f), 15 U.S.C. 8305(f).

<sup>6</sup> The OCC is the appropriate Federal banking agency of Federal depository institutions. 12 U.S.C. 1813(q)(1).

## B. Transition Period

For the following reasons, the OCC has concluded that transition periods should be provided to insured Federal depository institutions to provide sufficient opportunity for institutions to conform their swaps activities in an orderly manner. First, section 716 assumes a regulatory framework that is not yet complete. Further development of the Title VII regulatory framework is necessary for insured Federal depository institutions to make well-informed determinations concerning business restructurings that may be necessary for section 716 conformance.<sup>7</sup> Second, the provision of transition periods while the Title VII regulatory framework continues to develop will provide regulatory certainty for insured Federal depository institutions in the near term and will mitigate potential disruptions to client services.<sup>8</sup> Third, transition periods will mitigate operational and credit risks for insured Federal depository institutions.<sup>9</sup>

Section 716 anticipates that transition periods will be provided to avoid unwanted adverse consequences from premature implementation of section 716. For the reasons discussed above, the OCC believes that implementation of section 716 without transition periods would cause unwanted adverse consequences and that transition periods therefore are appropriate. Accordingly, an insured Federal depository institution that is or will be a swaps entity and that seeks a transition period for its nonconforming swaps activities should formally request

<sup>7</sup> Furthermore, mandatory clearing rules are not in place for many standardized credit default swaps (CDS) and the market has not moved to cleared CDS for a variety of products. Section 716(d)(3) provides that an insured depository institution may act as a swaps entity for CDS if they are cleared.

<sup>8</sup> The Commodity Futures Trading Commission recently exempted certain swap dealers from certain requirements imposed by title VII of the Dodd-Frank Act in order to ensure an orderly transition to the new regulatory regime and to provide greater legal certainty to market participants. Final Exemptive Order Regarding Compliance with Certain Swap Regulation, at 58 (Dec. 21, 2012), available at <http://www.cftc.gov/ucm/groups/public/@newsroom/documents/file/federalregister122112.pdf>.

<sup>9</sup> Transition periods will provide appropriate time for institutions to negotiate and document new master swap agreements individually with each of their clients, customers, and counterparties as necessary for section 716 conformance. Additionally, a transition period will provide more time for the transfer of non-conforming swaps activities to affiliates, including in some cases the establishment of new affiliates entailing requisite regulatory approvals from the SEC, CFTC, and state authorities, and in all cases the transfer of back-office functions and the making of necessary arrangements for the custody of customer margin collateral.

a transition period from the OCC.<sup>10</sup> The OCC is prepared to consider such requests favorably, provided that the requests conform to the guidance provided below.

Each request must be written and specify the transition period appropriate to the institution, up to a two-year transition period commencing from July 16, 2013. The request must also discuss:

1. The institution's plan for conforming its swap activities;
2. How the requested transition period would mitigate adverse effects on mortgage lending, small business lending, job creation, and capital formation;
3. The extent to which the requested transition period could have a negative impact on the institution's insured depositors and the DIF;
4. Operational risks and other safety and soundness concerns that a transition period would mitigate.
5. Other facts that the institution believes the OCC should consider.

An insured Federal depository institution that is unsure if or when it will be or become a swaps entity may request a transition period. The request must contain the elements described above and additionally explain why the institution believes it might be or become a swaps entity under the CFTC's definition of *swap dealer* or the SEC's definition of *security-based swap dealer*.<sup>11</sup> The OCC may require a requesting insured Federal depository institution to provide additional information before establishing a transition period. The OCC may impose such conditions on a transition period as it deems necessary and appropriate.<sup>12</sup>

**Authority:** 15 U.S.C. 8305.

Dated: December 31, 2012.

**Thomas J. Curry,**  
*Comptroller of the Currency.*

[FR Doc. 2013-00093 Filed 1-7-13; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF THE TREASURY

### United States Mint

### Privacy Act of 1974; Systems of Records

**AGENCY:** United States Mint, Treasury.

<sup>10</sup> An insured depository institution whose swap activities are presently limited to conforming swap activities is not eligible for a transition period because it would not be subject to the prohibition on Federal assistance. See Dodd-Frank Act section 716(f), 15 U.S.C. 8305(f).

<sup>11</sup> See Further Definition of *Swap Dealer*, 77 FR 30595 (May 23, 2012).

<sup>12</sup> See Dodd-Frank Act section 716(f), 15 U.S.C. 8305(f).

**ACTION:** Notice of systems of records.

**SUMMARY:** In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the United States Mint, Treasury, is publishing its inventory of Privacy Act systems of records.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a) and the Office of Management and Budget (OMB), Circular No. A-130, the United States Mint has completed a review of its Privacy Act systems of records notices to identify changes that will more accurately describe these records. The systems of records were last published in their entirety on July 22, 2008, at 73 FR 42662-42670.

The changes throughout the document are editorial in nature and reflect non-substantive updates to the United States Mint's management and retention of records.

### Systems Covered by This Notice

This notice covers all systems of records maintained by the United States Mint as of January 8, 2013. The system notices are reprinted in their entirety following the Table of Contents.

**Veronica Marco,**

*Acting Deputy Assistant Secretary for Privacy, Transparency, and Records.*

### Table of Contents

United States Mint
UNITED STATES MINT .001—Cash Receivable Accounting Information System.
UNITED STATES MINT .003—Employee and Former Employee Travel and Training Accounting Information System.
UNITED STATES MINT .004—Occupational Safety and Health, Accident and Injury Records, and Claims for Injuries or Damage Compensation Records.
UNITED STATES MINT .005—Employee-Supervisor Performance Evaluation, Counseling, and Time and Attendance Records.
UNITED STATES MINT .007—General Correspondence.
UNITED STATES MINT .008—Employee Background Investigations Files.
UNITED STATES MINT .009—Retail Sales System (RSS); Customer Mailing List; Order Processing Records for Coin Sets, Medals and Numismatic Items; Records of Undelivered Orders; and Product Descriptions, Availability and Inventory.
UNITED STATES MINT .012—Union and Agency Negotiated Grievances; Adverse Personnel Actions; Discrimination Complaints; Complaints and Actions before Arbitrators, Administrative Tribunals and Courts (Third Parties).
United States Mint