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Comptroller of the Currency  
Administrator of National Banks

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Washington, DC 20219

November 29, 2011

Mr. Cass Sunstein  
Administrator  
Office of Information and Regulatory Affairs  
Office of Management and Budget  
725 17th Street, NW  
Washington, DC 20503

Dear Mr. Sunstein:

I am writing to follow up on our conversation about the ongoing efforts of the Office of the Comptroller of the Currency (OCC) to increase regulatory effectiveness and reduce regulatory burden, consistent with the goals of Executive Order 13563. This letter highlights key aspects of our work in this regard. Most importantly, the OCC currently is reviewing all of its regulations for the purpose of integrating the rules governing Federal savings associations into the rules for national banks. As part of this comprehensive review program, we plan to seek public comment about ways to improve each of our rules to promote efficiency and reduce burden as we prepare the final, integrated rulebook. In addition, although Executive Order 13563 does not apply to the OCC by its terms, our agency is subject to a statutory requirement unique to the Federal banking agencies, pursuant to the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA)<sup>1</sup> that imposes regulation review requirements similar in scope and purpose to those in the Executive Order. We completed the last review over a period that ended December 2006, and, as the statute requires, we will complete the next EGRPRA review not later than 2016.

The OCC recognizes the importance of reviewing its rules to reduce unnecessary regulatory burden and is addressing that goal on a number of fronts. For example, Title III of the Dodd-Frank Wall Street Reform and Consumer Protection Act<sup>2</sup> (Dodd-Frank Act) transferred to the OCC all the functions of the Office of Thrift Supervision (OTS) and the Director of the OTS related to Federal saving associations, as well as OTS rulemaking authority related to both state and Federal savings associations. In connection with this transfer, the OCC has undertaken a comprehensive review of both OCC and OTS regulations to make them more effective by combining them where possible, reducing duplication, and eliminating unnecessary requirements.

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<sup>1</sup> Pub. L. No. 104-208, § 2222, 110 Stat. 3009, 3009-414 (Sept. 30, 1996), codified at 12 U.S.C. § 3311.

<sup>2</sup> Pub. L. No. 111-203 (July 21, 2010).

On May 26, 2011, in a *Federal Register* publication, we proposed revisions to OCC and OTS rules that relate to internal agency functions and operations and that implement certain provisions of the Dodd-Frank Act.<sup>3</sup> As the proposal stated, this issuance was part of the OCC's review of national bank and savings association regulations "to determine what changes [were] needed to facilitate a smooth regulatory transition."<sup>4</sup> The final rule was published on July 21, 2011,<sup>5</sup> the date on which OTS functions officially transferred to the OCC.

Shortly thereafter, in order to facilitate the OCC's administration and enforcement of the OTS rules and to make appropriate changes to these rules to reflect the OCC's supervision of Federal savings associations, the OCC republished as its own the former OTS regulations with nomenclature and other minor changes.<sup>6</sup> Recognizing this republication as the next, but not the final, step in the OCC's integration process, the republication notice stated that, going forward:

[T]he OCC will consider more comprehensive substantive amendments, as necessary, to the Republished Regulations. For example, we may propose to repeal or combine provisions in cases where OCC and former OTS rules are substantively identical or substantially overlap. In addition, we may propose to repeal or modify OCC or former OTS rules where differences in regulatory approach are not required by statute or warranted by features unique to either the national bank or Federal savings association charter. This substantive review also will provide an opportunity for the OCC to ask for comments suggesting revisions to the rules for both national banks and Federal savings associations that would remove provisions that are "outmoded, ineffective, insufficient, or excessively burdensome," consistent with the goals outlined in [Executive Order 13563].<sup>7</sup>

Consistent with this statement, OCC staff is currently undertaking a substantive review of all national bank and Federal savings association regulations in an effort to consolidate, where statutorily permissible and consistent with safety and soundness, two distinct sets of regulations (those of national banks and those of savings associations) into a single, streamlined set. In this effort, the OCC is also specifically seeking to identify regulations that are "outmoded, ineffective, insufficient, or excessively burdensome." We will then publish, as one or more Notices of Proposed Rulemaking, revised rules on which industry and the public can comment. After careful consideration of these comments, the OCC will issue a final rule.

As noted above, the OCC also is subject to EGRPRA, which requires the Federal Financial Institutions Examination Council (FFIEC) and each Federal banking agency to review its regulations every 10 years. The purpose of this review is to identify outdated or otherwise unnecessary regulatory requirements. This joint exercise provides the banking agencies with the opportunity to consider how to streamline the regulatory process for the financial institutions we regulate.

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<sup>3</sup> 76 Fed. Reg. 30557 (May 26, 2011).

<sup>4</sup> *Id.*, at 30558.

<sup>5</sup> 76 Fed. Reg. 43549 (July 21, 2011).

<sup>6</sup> 76 Fed. Reg. 48950 (Aug. 9, 2011).

<sup>7</sup> *Id.*, at 48951.

The OCC and the other Federal banking agencies began their most recent EGRPRA review in June 2003. Over a three-year period ending in December 2006, the agencies received public comments on over 130 regulations, carefully analyzed these comments, and proposed changes to their regulations, all with the goal of eliminating burden where possible. A final report was submitted to Congress on July 31, 2007. The next EGRPRA review is due to be completed in 2016. At the conclusion of the EGRPRA review, the final report will be submitted to Congress and made available to the public.

The OCC encourages and considers public comments concerning the impact of the rules we issue. We undertake analyses of costs and benefits consistent with the requirements of several statutes. Under the Paperwork Reduction Act,<sup>8</sup> the OCC assesses the anticipated cost of any paperwork associated with its regulatory provisions. Under the Congressional Review Act,<sup>9</sup> the OCC provides to Congress and others any cost-benefit or other impact analyses prepared as part of a final rulemaking. Under the Regulatory Flexibility Act,<sup>10</sup> the OCC conducts an analysis of any rule likely to have a significant economic impact on a substantial number of small entities. This includes, of course, small community banks.

In addition, the OCC's ongoing work with the other Federal financial regulatory agencies helps avoid duplication and promotes consistency in regulatory and supervisory approaches. As you know, the OCC participates in the Financial Stability Oversight Council and the FFIEC. In addition to these principal-level contacts, OCC staff – ranging from senior deputy comptrollers to staff members participating in interagency working groups – are in frequent contact with their counterparts at the other banking agencies and, increasingly, with the other financial sector regulators with whom we share implementation responsibilities for the Dodd-Frank Act. These less formal interactions provide multiple channels for coordinating efforts to facilitate consistent and comparable regulation, as appropriate in light of the structure and activities of the institutions under our respective jurisdictions.

As another way of gaining insight into how our regulations and other actions affect the Federal savings associations that were transferred to our supervision effective in July 2011, the OCC is carrying on the work of two advisory committees that the OTS had administered, the Mutual Savings Association Advisory Committee (MSAAC) and the Minority Depository Institutions Advisory Committee (MDIAC). With respect to the MSAAC, the OCC believes it is necessary and in the public interest for it to study the needs of and challenges facing mutual savings associations. With respect to the MDIAC, the OCC seeks to preserve the present number of minority depository institutions and to encourage the creation of new ones.<sup>11</sup>

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<sup>8</sup> 44 U.S.C. § 3501 *et seq.*

<sup>9</sup> 5 U.S.C. § 801 *et seq.*

<sup>10</sup> 5 U.S.C. § 601 *et seq.*

<sup>11</sup> With respect to both committees, the OCC is currently seeking nominations for persons to serve as committee members. Notices seeking nominations were published in the Federal Register. *See* 76 Fed. Reg. 71437 (Nov. 17, 2011) and 76 Fed. Reg. 71438 (Nov. 17, 2011).

Consistent with the Administrative Procedure Act (APA),<sup>12</sup> the OCC strongly encourages the public to participate in the rulemaking process. The OCC generally provides the public with at least a 60 day comment period for each proposed rulemaking and details numerous channels through which comments can be submitted. The OCC solicits comments on the regulatory burden associated with a proposal and encourages feedback on how any burden could be reduced. The agency values this feedback and carefully considers all the comments we receive as we formulate a final rule.

Finally, apart from any statutorily mandated regulatory review, the OCC has a longstanding and demonstrated commitment to regulation review. For example, during the mid-1990s (and prior to the enactment of EGRPRA), the OCC engaged in a three-year, top-to-bottom review of all of its regulations in a successful effort to streamline its regulatory process.<sup>13</sup> Consistent with this agency culture, the OCC views the integration of the national bank and savings association rules discussed above, along with all of its other interactions with the public, industry, and other agencies, as opportunities to inform its decisions to achieve rules that are both effective and efficient.

We appreciate the opportunity to share with you our on-going regulatory review efforts. Please do not hesitate to contact me if you have any questions.

Sincerely,

//signed//

John Walsh

Acting Comptroller of the Currency

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<sup>12</sup> 5 U.S.C. § 551 *et seq.*

<sup>13</sup> Since this time, the overwhelming majority of the regulations that the OCC has issued have been promulgated in response to an explicit congressional mandate. In these situations, the agency's discretion is limited by the parameters that Congress sets forth.