

May 4, 2005

Office of the Comptroller of the Currency
Federal Deposit Insurance Corporation
Board of Governors of the Federal Reserve System
Office of Thrift Supervision
EGRPRA Burden Reduction Comment

DELIVERED VIA E-MAIL

RE: Request for Burden Reduction Recommendations

Thank you for the opportunity to present recommendations on how to reduce the burden of rules categorized as Money Laundering, Safety and Soundness and Securities. Wells Fargo is pleased to comment on this important topic. We therefore respectfully request the Agencies to consider implementing changes in the following areas:

Currency Transaction Reports (CTR)

The current CTR threshold is \$10,000, and has been at that level for many years. It is our belief that this level is no longer representative of a cash transaction that is "large" or out of the ordinary for many customers. We recommend raising the CTR threshold to \$20,000. A higher reporting threshold would reduce the burden both on banks and government agencies by eliminating the need to report cash transactions of a size that have become too commonplace to warrant close government attention.

We believe that many financial institutions consider the time and expense associated with identifying and documenting exempt persons and the compliance risk of making an error when granting an exemption and many times conclude that it is easier and less risky to file a CTR than it is to grant an exemption. Therefore, in addition to raising the reporting threshold, we recommend that the process for granting CTR exemptions be made less burdensome and that a safe harbor be provided to protect financial institutions from good faith errors.

Suspicious Activity Reports (SAR)

As with many institutions and commentators, we are concerned with the escalating number of SARs being filed. These increasing number impose burdens both on financial institutions and FinCEN. We believe these increasing numbers are the result of a number of factors, including regulatory pressure, unclear requirements and an expectation that if a financial institution cannot prove activity reviewed by an examiner was not suspicious, the institution may be at a heightened risk of being cited for failing to file a SAR.

For example, an elderly customer seeks to open a new account with a "large" cash deposit of \$25,000. The customer states that the money was "kept under my mattress," which appears to be a reasonable explanation given the age of customer, the community in which the person lives, as well as the appearance and mannerisms of the customer. In this example, because there is no proof the money was indeed kept under the mattress or we do not know where the money originally came from an institution will need to consider how an examiner will view the transaction in retrospect. The resulting uncertainty will likely cause the institution to err on the side of caution and file a SAR, even though the banker did not view the transaction as suspicious.

If a customer presents a reasonable explanation given the surrounding circumstances, a banker should be able to exercise sound, informed judgment and decide whether or not to file a SAR without risk of being

second guessed. We recommend guidance that provides a safe harbor for decisions made in good faith and that give proper deference to the person in the best position to consider all of the factors involved in the transaction: the banker who personally conducted the transaction with the customer.

Money Service Businesses (MSB)

MSBs are currently the “hot topic” in the banking community. Regulators are applying enhanced scrutiny to MSB accounts, and new Guidance has recently been issued. While the guidance has helped to clarify some issues, it will still be a costly and burdensome task to accept and maintain MSB accounts. There is still considerable risk to banks that decide to maintain MSB accounts. And while the guidance did provide some factors to consider in the risk ranking, much of this area remains unclear.

The type of account monitoring that is necessary and the expectations of examiners also need to be very clearly defined. This will help banks to better understand the consequences of accepting and maintaining account relationships with MSBs. Moreover, this will help to prevent MSBs from advancing claims of discrimination and unfair competition by providing a regulatory basis for implementing stringent requirements. Our recommendation is to issue rules and regulations on MSBs that are very specific and precise as to what should be considered high or low risk types of MSBs and MSB activity. We believe that the comment period that is available through the process of implementing regulations helps to clarify issues that are missed when guidance is issued through bulletins, advisory letters, etc.

Enhanced Due Diligence for Private Banking Customers with Required \$1 million

The definition for the enhanced due diligence customers indicates that it is for accounts that require a minimum aggregate deposit of \$1 million. Yet most banks understand that the actual amount is less than \$1 million. It has been publicly stated by the regulators that banks “cannot hang their hats” on the million dollar requirement. We recommend that the Agencies more clearly define the conditions that trigger enhanced due diligence for high risk customers, including private banking customers.

Politically Exposed Person (PEP) Monitoring

Currently the regulatory requirement for PEPs is to apply enhanced scrutiny for high net worth customers. However, the expectation from examiners is that enhanced scrutiny is applied to any account or transaction involving a PEP regardless of the associated risk. We recommend clarification as to whether the same level of monitoring is expected for PEPs associated with low risk lines of business and products as it is for high risk.

Customer Identification Program (CIP)

The current exception for existing customers does not provide as much relief as it could. Banks are now allowed to use the “existing customer exception” as long as they are able to establish that they have a reasonable belief that they know the true identity of the customer. While there has been some guidance issued as to what constitutes a “reasonable belief,” this area is still unclear. We recommend that guidance be issued to further define the factors constituting a “reasonable belief” as it pertains to the existing customer exception. We recommend that specific guidelines be issued that provide a “safe harbor” for banks to exempt existing customers from the CIP requirements. It is difficult for large banks with multiple acquisitions to identify all the procedures in place at any given point in time for every customer.

Section 352 Effective Anti-Money Laundering Program

As we all know, banks must have an AML program. However, it is unclear as to what exactly constitutes an effective program.

We recommend the issuance of guidance on assessing, identifying, and managing the risk, as well as what are effective controls.