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Public Information Room  
Office of the Comptroller of the Currency  
250 E Street, SW  
Mailstop 1-5  
Washington, DC 20219  
Docket Number 05-01

Jennifer J. Johnson, Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue, NW  
Washington, DC 20551  
Docket Number OP-1220

Robert E. Feldman, Executive Secretary  
Federal Deposit Insurance Corporation  
550 17<sup>th</sup> Street, NW  
Washington, DC 20429  
Re: EGRPRA burden reduction comment

Regulation Comments  
Chief Counsel's Office  
Office of Thrift Supervision  
1700 G Street, NW  
Washington, DC 20552  
Docket Number 2005-02

Dear Sir or Madam:

State Street Corporation is pleased to have the opportunity to comment on the Request for Burden Reduction Recommendations related to money laundering regulations published by the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), the Federal Deposit Insurance Corporation (FDIC) and the Office of Thrift Supervision (OTS) (the Agencies) on February 3, 2005. We appreciate the Agencies' interest in identifying outdated, unnecessary and burdensome regulatory requirements pursuant to the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA).

State Street Corporation is the world's leading specialist in providing institutional investors with investment servicing, investment management and investment research and trading. With \$9.5 trillion in assets under custody and \$1.4 trillion in assets under management, State Street operates in 25 countries and more than 100 markets worldwide.

State Street supports the goals of the Bank Secrecy Act (BSA) and anti-money laundering regulations under Title III of the USA PATRIOT Act, and understands the important role the banking industry plays in combating money laundering. We believe, however, that the BSA could be made more effective by distinguishing between individual and institutional customers, eliminating duplicative and unnecessary requirements, and providing simplification and greater clarification of many rules. The result of such changes would be a more effective anti-money laundering regulatory regime, and reduced compliance cost and burden for banks.

We are very encouraged by a recent letter from the Agencies to the American Bankers Association which indicates that banks should take "a risk-based approach in developing and administering their BSA/AML compliance programs, and acknowledges that such programs do not lend themselves to a "prescriptive, one-size-fits-all approach."

The following are State Street's recommendations for improving the Agencies' approach to BSA/AML compliance for banks like State Street that primarily serve large, institutional investors.

#### **Individual vs. Institutional Customers**

Current regulations fail to recognize the significant differences between banks' relationships with individual customers and institutional customers. Many BSA requirements which may be necessary for relationships with individual customers are simply not appropriate for institutional customers. Under standard business practices, unrelated to BSA compliance, the initiation of a bank's relationship with an institutional customer requires considerable exchange of information and due diligence, making many of the requirements for a Customer Identification Program (CIP) unnecessary and duplicative. For example, the requirement to provide notice to the customer regarding the CIP program while not overly burdensome in itself, is awkward since our typical process of taking on institutional customers involves multiple meetings with the customer, provision by the customer of the legal documents evidencing their organization and the

negotiation of specific contracts. Many of these institutional customers are themselves subject to compliance with the BSA and are already aware of the CIP requirements. Other U.S. regulations acknowledge differences between retail and institutional customers. For example, privacy notices required under the Gramm-Leach-Bliley Act must only be sent to retail customers, not institutions. In the United Kingdom, financial institutions may rely upon the fact that institutional customers are regulated by the FSA, and, as a consequence, are not required to collect the extensive identification documentation. Similar distinctions should be created for BSA/AML compliance programs.

### **Unnecessary Duplication**

#### ***Foreign Shell Bank Certifications***

Section 313(a) of the USA PATRIOT Act requires financial institutions to take reasonable steps to ensure that they do not open correspondent accounts for foreign shell banks and that the foreign banks are not being used to provide banking services indirectly to foreign shell banks. The safe harbor afforded in the final rule requires certification in order to open an account and recertification every three years.

For a global bank like State Street that works with large institutional customers, this certification process is considered costly and burdensome by our non-U.S. customers and trading partners that we deal with regularly. Foreign banks established in well regulated jurisdictions do not look favorably on this certification process mandated by U.S. regulators. In addition, banks are often duplicating the certification process already completed by other banks that are dealing with the same foreign institution. These foreign banks are now beginning to charge for these certifications, adding to the financial burden. Alternative methods exist that could replace the certification requirement.

- FinCEN could maintain a central depository where foreign banks could lodge their certification and U.S. banks could access the certification directly through FinCEN.
- FinCEN could perform due diligence on each foreign institution once and qualify those institutions to do business with U.S. regulated banks.
- The certification requirements and the CIP could be eliminated for regulated financial institutions subject to compliance with anti-money launderings laws similar to the BSA and supervised in a manner similar to U.S. financial institutions. This would allow U.S. banks to gain greater efficiencies with no additional risk. This practice is already common among many foreign regulators. For example, the U.K.'s Financial Services Authority (FSA) exempts institutions from know-your-customer checks if they are a credit institution or financial institution covered by the Money Laundering Directive, an authorized professional firm, or regulated by an overseas regulatory authority and based or incorporated in a country whose law contains comparable provisions to those contained in the Money Laundering Directive.

**Clarification of Current Rules*****Identification/Verification***

More clarification is needed regarding customer identification standards, such as acceptable forms of identification and verification. Clarification is also needed on what form of identification is acceptable for foreign customers. For example, there is no tax identification number in tax haven countries, a common form of identification in most countries.

***International coordination***

As noted above, State Street operates in 100 markets in 25 countries. We expect much of the growth in our business to continue to be in overseas markets. Differing or inconsistent AML standards across borders increase our regulatory burden, and decrease the effectiveness of global law enforcement efforts. We encourage the Agencies to continue to work with their overseas counterparts, as well as international organizations such as the Financial Action Task Force (FATF) to develop consistent, global AML standards.

***Suspicious Activity Reports (SARs)***

Clearer guidance is needed on when a bank must file a SAR and when it must file subsequent reports on the same customer. Providing such increased clarity will help eliminate the current industry tendency toward "defensive filings," which both dilute the quality of SAR data used by law enforcement agencies, and create unnecessarily high compliance burdens for banks. The requirement that a bank must file a SAR every 90 days after the first SAR has been filed should be eliminated.

***Simplification of Rules***

Published rules are often complex and confusing for readers. Currently, comments received on the proposal are blended in with the final rule, often leaving the reader unable to distinguish between the two. Putting the comments into an easy to understand, separate Q&A format would reduce confusion significantly and provide a succinct publication of the actual final rule.

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In conclusion, State Street recognizes the vital importance of the BSA and the USA PATRIOT Act in combating money laundering across the globe. We believe, however, that this goal can be better accomplished through revisions to current rules aimed at creating a more targeted, risk-based approach.

We appreciated this opportunity to submit recommendations on reducing regulatory burdens and would be pleased to answer any questions you may have.

Sincerely,



Sharon Baker Morin  
Executive Vice President and Chief Compliance Officer