



Delivered by e-mail (<http://www.egrpra.gov>) May 10, 2005

RE: EGRPRA Burden Reduction: FDIC 12 CFR Chap. III

Dear Ladies and Gentlemen:

As part of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA), we welcome the opportunity to comment on the ways in which rules related to Money laundering, and Safety and Soundness may be outdated, unnecessary, or unduly burdensome and to submit recommendations in that regard. Accordingly, we submit the following.

Background Information

As background information, Ocean Bank is a 4.7 billion state chartered, FDIC insured commercial bank headquartered in Miami, Florida, with 22 offices located in Miami-Dade and Broward Counties. The bank currently has a total of 110,300 accounts of which 101,840 are deposit accounts.

During the year 2004, the bank filed 23,303 currency transaction reports (CTRs) compared with 25,808 for 2003. There were almost 13,000 new deposit accounts opened in 2004 compared to almost 15,600 for 2003. Additionally, for the first time in the last 10 years, the bank experienced a net loss of accounts, sustaining a net loss of some 360 deposit accounts due to more stringent new account procedures and the closing of certain types of high risk accounts.

The bank handles an average of approximately 75,000 items per day through its item processing department with individual daily highs ranging from 105,000 to 110,000 items. It also processes over 1,500 wire transfers per month on average as well as over a million ATM transactions during 2004. We submit this information also to provide some perspective as to the magnitude of the impact some of the money laundering and other requirements have on our operations. The relative impact in smaller institutions may be even greater because of staffing constraints.

Money Laundering

1. General

It is important to stress that we are supportive and dedicated to the underlying objectives to prevent or deter terrorism and money laundering and share these concerns.

At the same time, we believe there is a need to have objective, constructive discussion and evaluation of the unintended consequences of these regulations, some of which do not appear to effectively address the intended or apparent objectives.

2. Overall Burden

Based on our experience, we consider the Bank Secrecy Act and related anti-money laundering provisions, particularly as expanded and exacerbated by the U.S. Patriot Act, to be the most demanding, burdensome, intrusive, and risk-laden laws and regulations a bank currently encounters.

The burden and risks have been compounded by the lack of specific guidelines, consistency and clarity as to the measures a bank is expected to enforce to achieve compliance.

3. Currency Transaction Reports (CTRs)

As previously indicated, in 2004 we submitted 23,300 CTRs, down from the 25,800 filed in 2003. The decline in filings is primarily attributable to the closing of 115 accounts of money service businesses which the bank previously maintained.

We estimate that the total costs to prepare, review, file, retain, supervise, conduct compliance and audit reviews and other related expenses pertaining to CTRs amount to approximately \$25.00 per report. For us, that represents some \$582,500 for 2004. Based on a FinCEN report, from 1994 through 2002, there were 110 million CTRs filed. Applying the same approximate costs per form, the cost to the banking industry alone would have been approximately \$2.75 billion for the nine-year period. Again, that would not include costs incurred by FinCEN, IRS or other government agencies to process, review or follow up on these forms.

We believe that there is a serious need to reevaluate the efficacy and benefits of CTRs in relation to their costs. In the 2002 FinCEN Report, it was acknowledged that the number of CTRs were still extremely high at 12.3 million for FY 2002, having decreased from 13 million in FY 2000. A contributing factor to the high number of CTRs, in our opinion, is the fact that the \$10,000 threshold was established in 1979 and has not been adjusted for inflation. What would the equivalent threshold in today's dollars?

There is also a lack of information to establish that CTRs are providing the high degree of usefulness that was intended. For these reasons, we recommend that the reporting cutoff for CTRs, if they are to be continued, be increased to at least \$50,000 and that exemption requirements be simplified for established customers to avoid unnecessary reporting. It is important to note that the last time exemptions procedures were "simplified" to reduce filings, the new requirements were considered more onerous and resulted in increased filings.

4. U. S. Patriot Act Costs

a. Personnel

Implementation of the expanded BSA requirements and other provisions of the Patriot Act have resulted in a significant increase in staffing of our compliance function and related costs as well requiring additions to staff in other areas of the bank.

The compliance department itself has been increased from six staff members to a current total of 20, with two additional positions pending. The annual personnel expense for the compliance function has increased from \$256,000 to almost \$1.3 million.

These increases are directly attributable to the requirements for profiling of customers, monitoring their related activity and analyzing and investigating variances as well as increased SAR reporting.

b. Other Costs

In addition to staff increases, other expenditures for the purchase, installation and maintenance of special application software to profile and monitor account activity, revise manuals and procedures, hardware, and outside professional services have amounted to almost \$1.3 million.

We believe there is a strong need for specificity and greater clarity and consistency in establishing guidelines for monitoring account activity and risk rating of individual and business accounts to reduce this cost.

c. Money Service Business

By now the unintended consequences relating to the closing of accounts of money service businesses (MSBs) is well documented. We ourselves closed some 115 such accounts because of the costs to conduct the procedures and controls prescribed as well as the associated regulatory risk far exceeded any benefits to be gained from servicing these accounts. The recent guidelines issued seeking to clarify requirements to alleviate the issues related to MSBs in our opinion, do not provide sufficient relief of the costs, burden and exposure resulting from the maintenance of such accounts and has not affected our decision or changed our policy to not accept this type of business.

d. Foreign Correspondent Banks (FCBs)

Again, the costs, burden and regulatory risk associated with accounts of FCBs has caused us to close four of five the relationships we previously maintained. It is important to note that this was not considered a primary line of business for Ocean Bank, nonetheless, it was considered in our best interest to close the accounts for the reasons cited.

Enhanced due diligence requirements that placed the bank in a position of a defacto regulator of a foreign institution, combined with know your customer's customer approach made continuing the relationships untenable.

We believe this is an unintended consequence and combined with similar action taken by the other banks will create a situation similar to that of the MSBs. The loss here is not just of the direct balances involved, but also of trade financing, payment transfers and other services which eventually could adversely impact the economy unless measures are taken to provide relief from the attendant burden and regulatory risk.

Politically Exposed Persons (PEPs)

The requirement to conduct enhanced scrutiny of accounts of senior foreign political figures, their immediate family members or close associates places an inordinate responsibility on a bank to determine who these individuals are, particularly, when there is no authoritative source upon which the bank can rely to ascertain whether, in fact, the individual holds such a position, let alone close associates and family members and the monitoring burden imposed by enhanced due diligence.

Furthermore, there is the problem of duration which is currently interpreted as “once a PEP, always a PEP.”

The net result is, again, that this type of business will be considered undesirable and eliminated. There is a serious need to provide sources upon which a bank can rely in determining PEP status. Serious consideration should be given to eliminate the close associates and family member portions of this provision which are unduly burdensome and risk-laden.

Suspicious Activity Reports (SARs)

SARs represent the best vehicle by which to report truly suspicious activity to authorities pertaining to money laundering, criminal activity and possible terrorists financing. However, it is already established that the current regulatory pressure has resulted in defensive filing of SARs which undermines their effectiveness and usefulness to law enforcement.

During 2004, we filed 150 SARs, while in 2002, 33 were submitted. Again, we believe there is a serious need for clarification and consistency between FinCEN and examiners as to what constitutes truly suspicious activity to maximize the benefit of SAR filings.

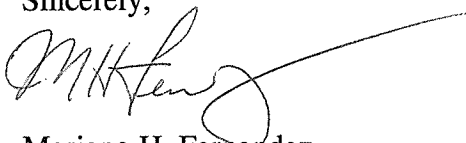
Additionally, there is a need to provide greater latitude and clarity in the time from which the meter starts to run for submitting a report. Often times, the regulatory interpretation has been that once a variance/deviation is reported by a system, the time begins to run for conducting the investigation and submitting a SAR. This also contributes to premature and unnecessary filing of SARs.

Summary

In summary, we appreciate the opportunity to comment on areas which we believe need to be addressed to relieve, eliminate unduly burdensome regulations or to provide improved clarity and consistency where necessary. We believe for greater effectiveness can be achieved if these issues are pursued as a partnership and we stand ready to assist in whatever way possible in that regard.

Please contact me should you have any questions or need additional information.

Sincerely,



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