Commerce Bancshares, Inc.
Compliance Department
922 Walnut Street; Mail Stop TB 12-1
Kansas City, MO 64106

May 4, 2005 Via e-mail: www.EGRPRA.gov

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

Attention: Docket No. 05-01

Ladies and Gentlemen:

Commerce Bancshares appreciates the opportunity to respond to the EGRPRA request for burden reduction recommendations. Commerce Bancshares, Inc. is a registered bank holding company with total assets of $14.1 billion at March 31, 2005, and four bank subsidiaries. Three of these banks are full-service banks, with approximately 190 branch locations in Missouri, Illinois, and Kansas. The other bank is a limited-purpose bank, with one office in Omaha, Nebraska. All of the banks are national banks.

The Agencies have requested comments and suggestions on ways to reduce regulatory burden in rules relating to Money Laundering, Safety and Soundness, and Securities. As a bank holding company of national banks, our comments generally address the OCC regulations in these areas.

Money Laundering

General Comments

- Any meaningful discussion of the regulatory burden related to Money Laundering should include the Financial Recordkeeping and Reporting of Currency and Foreign Transactions in 31 CFR Part 103. Some portions of this regulation, but not all, duplicate those regulations listed in the request for comments. Our comments may not be contained to the regulations on which you have requested comment, because the requirements are so interrelated.

Suspicious Activity Reports (SARs)

- 12 CFR §21.11(c)(4)(ii) requires SAR filing if the transaction is designed to evade BSA regulations. This requirement results in SAR filings in the event customers structure their transactions to avoid Currency Transaction Report (CTR) filing. FinCEN has issued guidance that a report of continuing suspicious activity should be filed at least every 90 days. We have legitimate bank customers who continually structure their transactions, apparently to avoid CTR filing. We have no reason to believe that these customers have any inherently threatening or illegal reason to structure their transactions, but assume that they do so in a cautious attempt to keep “the government” from knowing too much about their business.

  The bank’s cost to file SARs in this situation is considerable, while any benefit to FinCEN cannot be significant. These repetitive SAR filings on generally law-abiding, but misguided, customers are very burdensome and costly to our bank. The requirement to repeatedly file SARs on such customers inundates FinCEN with information that is of little or no value in the investigation of financial crimes or in law enforcement in general.

  Currently, our only means of eliminating the need for repeated SAR filings is to close the customer account, and that action isn't reasonable or desirable.

We request that the requirement for ongoing SARs be eliminated, if there are no reasonable grounds to suspect that the funds are derived from illegal activities, and if the filing is based solely on the structuring of transactions to avoid CTR filing. This should be clearly stated in the regulations, rather than having the issue addressed solely in FinCEN guidance.

- If it is not possible to eliminate ongoing SAR reporting solely for structuring transactions to avoid CTR filing, we request that the Agencies allow and provide guidance for advising customers about SAR filings.

  It appears to be common knowledge that banks are required to report on cash transactions over $10,000. [31 CFR §103.22.] However, customers don't seem to know that structuring their transactions to avoid CTR reporting causes banks to file both a CTR and a SAR about the transactions. [31 CFR §§103.18 and .22, and 12 CFR §21.11.] The customers in question do not appear to be acting with illegal or malicious intent, and are likely not the sorts of customers in which law enforcement agencies are interested, but we are prohibited from advising the customer about structuring or SAR reporting. [31 CFR 103.63.] We would like to see that prohibition clarified or eliminated so that we can advise our customers against structuring their transactions to avoid CTR filings.

- We request guidance in determining what is "suspicious" for purposes of filing SARs. Banks need to more clearly understand what they should be looking for and what should be considered suspicious. We sometimes struggle to determine if a situation warrants a SAR filing. If the doubt could be removed, the number of unnecessary SARs would be reduced, along with the excess compliance burden on banks. Greater guidance will ultimately reduce the government's burden by reducing the number of reports and by increasing the value of the reports received.

  Specifically, we request guidance on reporting on "high risk" accounts, such as non-resident aliens, foreign correspondent banks, etc.

- The SAR form instructions need to be updated to match SAR Activity Review 6. The current form instructions indicate that line items should be left blank if they do not apply, or if information is not available. However, the recent SAR Activity Review says in several places that critical fields, if unknown, should contain responses such as "none", "not available", "unknown".

<u>CTR threshold</u>

- The regulatory threshold requiring the filing of CTRs is outdated and should be increased to reflect inflation. The current level of $10,000 is no longer realistic, given the amount of currency-related activity by legitimate customers at and above that level. Raising the threshold would reduce the number of reports filed and the related compliance burden on financial institutions, and would increase the usefulness of the information received by FinCEN. We recommend a new threshold of no less than $20,000.

<u>Money Services Business (MSB) accounts</u>

- Bank responsibilities regarding Money Services Business accounts are creating a new class of unbanked businesses. Financial institutions like ours find that they must close the accounts of MSBs simply because the regulatory risks and associated costs are so great they can't afford to retain the accounts.

  FinCEN has recently addressed this issue, and has provided valuable guidance for banks. However, that guidance alone is not sufficient to induce us to reopen accounts for MSBs. The Agencies should significantly reduce the regulatory requirements on financial institutions in order to make MSB accounts worthwhile. Another method of policing MSBs must be found, because financial institutions can no longer shoulder that burden.

USA PATRIOT Act

- We request that regulations be issued to implement Section 311 of the USA PATRIOT Act. The current situation of trying to monitor the "Special Measure" restrictions relating to people, places, or transactions "of primary money laundering concern" is difficult at best. We do not have a clear understanding of what is expected when FinCEN issues the notices of proposed rulemaking to impose special measures, and we are never certain when the special measures have expired if final rules are not issued.

- We request that the Treasury Department, or FinCEN as their designee, create a controlled list of entities that are of primary money laundering concern at any given time. We recommend the online posting, or some other timely periodic publication, of a list of all entities of concern. The list should indicate the entity, its location, the special measure(s) imposed, and the dates of issuance and pending expiration. If the special measures are allowed to expire 120 days after issued, the list should indicate that the special measures have expired. Reference should be made to any final rule that makes the special measures or other requirements permanent.

Securities

Recordkeeping and Confirmation of Securities Transactions Effected by Banks

- The requirement for Recordkeeping and Confirmation of Securities Transactions Effected by Banks in 12 CFR §12 is outdated. Specifically, we suggest that §12.7(a)(4) be revisited, because the regulation requiring quarterly reports of personal securities transactions does not fulfill the apparent intended purposes.

  The regulation relies entirely on the word of employees to disclose any accounts over which they have authority to direct investments. If they do not accurately and completely disclose the information, there is no method to identify other existing accounts that have not been identified.

  The administration of the quarterly process involves tracking statements, updating quarterly forms, identifying new employees quarterly to add to the list, identifying terminated employees for removal from the list, and then tracking the return of the forms. This is a great deal of effort to expend on a process that tracks only those transactions that the employee chooses to reveal. The burden far outweighs the benefit in this case.

Again, thank you for providing the opportunity to comment.

Sincerely,

Sherri M. Beam
Compliance Officer