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April 15, 2003

Financial Crimes Enforcement Network
Department of the Treasury
ATTN: ANPRM – Sections 352 and 326 – Vehicle Seller Regulations
P.O. Box 39
Vienna, Virginia 22813

Re: Anti-Money Laundering Programs for Businesses Engaged in Vehicle Sales
68 FR 8568 (February 24, 2003)

Dear Madam or Sir:

America's Community Bankers ("ACB")[1] is pleased to comment on the Financial Crimes Enforcement Network's ("FinCEN") advance notice proposed rule making implementing section 352 and section 326 of Title III of the USA PATRIOT Act of 2001 ("Patriot Act"). The proposal seeks public comments on money laundering risks posed by vehicle dealers, whether these businesses should be subject to anti-money laundering requirements, and if so, how the requirements should be structured.[2]

Under the Bank Secrecy Act, "businesses engaged in vehicle sales" are considered financial institutions and are therefore subject to that act's anti-money laundering program requirements.[3] Vehicle dealers include sellers of new automobiles, new aircraft, new boats and ships, as well as used vehicles and those who broker the sale of used vehicles.

ACB Position

ACB believes that the development of an effective reporting system to detect the placement, layering, and integration of illicit funds into the financial system is key to identifying and preventing money laundering and terrorist financing. As money launderers become more aware of the reporting and recordkeeping requirements already imposed on community banks and other traditional financial institutions, attempts will be made to develop new methods of laundering funds. Accordingly, a more thorough system for money laundering prevention must include all types of financial institutions, including businesses engaged in vehicle sales, if it is determined that these entities pose a significant risk of money laundering.

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[1] America's Community Bankers represents the nation's community banks. ACB members, whose aggregate assets total more than $1 trillion pursue progressive, entrepreneurial, and service-oriented strategies in providing financial services to benefit their customers and their communities.
[2] 68 FR 8568 (February 24, 2003).
[3] 31 U.S.C. 5312(a)(2)(T).

ACB continues to be concerned about the cumulative cost that Patriot Act regulations place on community banks. Likewise, FinCEN should not impose unnecessary, burdensome requirements on businesses engaged in the sale of vehicles. While we cannot thoroughly comment on the types of businesses engaged in vehicle sales or the risk of money laundering to which they are exposed, we strongly urge FinCEN to weigh the costs and benefits of any anti-money laundering regulation and evaluate how compliance would be monitored.

Businesses engaged in vehicle sales provide jobs, valuable services, and are important community bank customers. While these entities have an existing obligation to file currency transaction reports for cash transactions exceeding $10,000,[4] it is doubtful that most new car or boat dealers or sellers of used vehicles are aware of this responsibility. Moreover, we question the level of enforcement that has been given to this requirement and the extent to which vehicle dealers understand how illicit funds can be laundered through their business.

Similarly, we do not believe anti-money laundering compliance of all vehicle dealers can be effectively monitored. For example, used car and boat businesses frequently change location or do business using different names, making compliance monitoring difficult. As a result, FinCEN should tailor its regulatory requirements to vehicle dealers that pose a significant risk of money laundering and whose compliance can be monitored effectively. We also do not believe that any requirements developed for businesses engaged in vehicle sales should result in additional burdens on community banks.

If FinCEN determines that anti-money laundering programs and customer identification programs are required for the vehicle sales industry, ACB strongly urges the Treasury to ensure that the level of enforcement given to the anti-money laundering programs and customer identification requirements parallels the level of scrutiny given to community banks.

Conclusion

ACB stands ready to work with the Treasury throughout the remainder of the Patriot Act rulemaking process to ensure that regulations are effective without being unduly burdensome. Thank you for the opportunity to comment on this important matter. Should you have any questions, please contact the undersigned at 202-857-3121 or via e-mail at cbahin@acbankers.org, or Krista Shonk at 202-857-3187 or via e-mail at kshonk@acbankers.org.

Sincerely,

Charlotte M. Bahin
Director of Regulatory Affairs
Senior Regulatory Counsel

[4] 31 U.S.C. 5331 and 31 CFR 103.30.