FOR IMMEDIATE RELEASE
December 6, 2010

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FinCEN Proposes AML Plan for Non-Bank Mortgage Lenders
Mortgage Brokers and More Mortgage Bankers to File SARs

VIENNA, Va. – The Financial Crimes Enforcement Network (FinCEN) today proposed a requirement that non-bank residential mortgage lenders and originators, like other types of financial institutions, establish anti-money laundering (AML) programs and comply with suspicious activity report (SAR) regulations.

Under current FinCEN regulations the only mortgage originators that are required to file SARs are banks and insured depository institutions. Today's proposal would close a regulatory gap that allows other originators, such as mortgage brokers and mortgage lenders not affiliated with banks, to avoid having AML and SAR filing obligations. SARs are a critical source of information for law enforcement in investigating and prosecuting mortgage fraud related crimes. FinCEN believes that new regulations requiring non-bank residential mortgage lenders and originators to adopt AML programs and report suspicious transactions would be consistent with those business's due diligence and information collection processes to assess creditworthiness in lending, and could augment FinCEN's initiatives in this area. Additionally, the effectiveness of these proposed AML/SAR regulations may be enhanced by new rules imposed under the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act) that require development of a nationwide licensing system and registry for certain mortgage professionals.

"These lenders and originators generally deal directly with consumers. As important mortgage finance providers they are ideally positioned to assess and identify money laundering risks and possible mortgage fraud. This protects both their business interests and their customers from the abuses of fraud and financial crime," said FinCEN Director James H. Freis, Jr.

Based on its ongoing work directly supporting criminal investigators and prosecutors in combating mortgage fraud, most notably with the Financial Fraud Enforcement Task Force (FFETF), FinCEN believes that this regulatory measure will help mitigate some of the vulnerabilities that criminals have exploited. Analysis of SARs, periodically published in

FinCEN's mortgage fraud reports, shows that non-bank mortgage lenders and originators initiated many of the mortgages that were associated with SAR filings. In addition, today's Notice of Proposed Rulemaking (NPRM) is complementary to ongoing regulatory reform and is looking to guard against mortgage fraud including such activities as false statement, use of straw buyers, fraudulent flipping and even identity theft associated with mortgage borrowing. These illegal activities, and others, have been identified in information provided by SARs.

This Notice of Proposed Rulemaking was informed by comments received following an Advanced Notice of Proposed Rulemaking (ANPRM) issued last year. The NPRM, as submitted to the Federal Register, is available on www.FinCEN.gov. Comments are due to FinCEN 30 days after publication in the Federal Register.

CORRECTION: There is a 60-day comment period for this NPRM. The NPRM was published in the Federal Register on December 9, 2010. Public comments will be accepted by FinCEN until February 7, 2011.

The mission of the Financial Crimes Enforcement Network is to safeguard the financial system from the abuses of financial crime, including terrorist financing, money laundering, and other illicit activity. We achieve this mission by: administering the Bank Secrecy Act; supporting law enforcement, intelligence, and regulatory agencies through sharing and analysis of financial intelligence; building global cooperation with our counterpart financial intelligence units; and networking people, ideas, and information.