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April 18, 2003

Financial Crimes Enforcement Network
Department of the Treasury
ATTN: Section 352 – Jewelry Dealer Regulations
P.O. Box 39
Vienna, Virginia 22813

Re: Anti-Money Laundering Programs for Dealers in Precious Metals, Stones, or Jewels
68 FR 8480 (February 21, 2003)

Dear Madam or Sir:

America's Community Bankers ("ACB")¹ is pleased to comment on the Financial Crimes Enforcement Network's ("FinCEN") proposed rule implementing section 352 of Title III of the USA PATRIOT Act of 2001 ("Patriot Act"). Under the Bank Secrecy Act, "dealers in precious metals, stones, or jewels" are considered financial institutions and are therefore subject to the Act's anti-money laundering program requirements.² The proposal defines the term "dealer," establishes minimum standards for anti-money laundering programs, and provides guidance to such entities.³

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 dealers in precious metals, stones, or jewels. Although dealers do not perform the same functions as banking institutions, the industry presents identifiable money laundering risks. Precious metals, stones, and jewels are easily transportable, highly concentrated forms of wealth that can serve as an international medium of exchange.

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 31 U.S.C. 5312(a)(2)(N).

³ 68 FR 8480 (February 21, 2003).

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 dealers of precious metals, stones, or jewels. While we cannot thoroughly comment on the types of dealers and their businesses, we strongly urge FinCEN to weigh the costs and benefits of any anti-money laundering regulation and evaluate how compliance would be monitored.

While dealers have an existing obligation to file currency transaction reports for cash transactions exceeding \$10,000,⁴ it is questionable whether most dealers, particularly small businesses, are aware of this responsibility. Moreover, we question the level of enforcement that has been given to this requirement and the extent to which dealers understand how illicit funds can be laundered through their business.

Similarly, we do not believe anti-money laundering compliance of all dealers can be effectively monitored. We do not understand how Treasury will ensure that precious metal and jewel dealers, vehicle dealers, travel agencies, finance companies, insurance companies, real estate settlement service providers, and others adhere to the applicable anti-money laundering regulations. As a result, FinCEN should tailor its regulatory requirements to precious metal, stone, or jewel 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 such dealers should result in additional burdens on community banks.

Once the final rule is promulgated, ACB strongly urges the Treasury to ensure that the level of enforcement given to the anti-money laundering programs of dealers in precious metal, stones, or jewels 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.