

August 22, 2002

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Financial Crimes Enforcement Network
Department of the Treasury
P.O. Box 39
Vienna, VA 22183

Attention: Section 312 Interim Regulations

Dear Sir or Madam:

Mellon Financial Corporation, Pittsburgh, Pennsylvania ("Mellon"), welcomes this opportunity to comment on the interim final rule implementing Section 312 of the USA PATRIOT Act of 2001 ("Patriot Act") regarding due diligence for foreign correspondent and private banking accounts. Mellon strongly supports the federal government's goal of implementing measures making it easier to prevent, detect and prosecute international money laundering and the financing of terrorism. However, Mellon wishes to reiterate certain key points raised in our July 1, 2002 comment letter on the proposed Section 312 Regulations insofar as they relate to compliance efforts during this interim period.

First, Mellon believes that covered financial institutions can more readily facilitate achievement of the government's goal if they focus on areas with the greatest potential for money laundering and terrorist activity. One way to do this is to adopt the reasonably narrow definition of "correspondent account" used by the New York Clearing House Association. Similarly, Mellon urges a narrow interpretation of the term "foreign financial institution" generally and the range of foreign financial institutions subject to the enhanced due diligence requirements specifically. Also, an account should only be considered a private banking account if the individual accountholder is required to have an initial deposit of \$1,000,000 with the covered financial institution. Finally, Mellon advocates a narrow interpretation of the "beneficial owners" subject to the private banking due diligence requirements. Though not specifically mentioned in Mellon's earlier comment letter, Mellon urges FinCEN to consider adopting some of the narrower definitions of beneficial owner set forth in the Wolfsberg Group's "Global Anti-Money Laundering Guidelines for Private Banking : Wolfsberg AML Principles." For example, the Wolfsberg AML Principles specify that for trust accounts a beneficial owner includes the settlor, the trustee and persons with the authority to remove the trustee, but not the beneficiaries of the trust.

Second, Mellon reiterates its view that the federal government should take an active role in compiling and sharing with covered financial institutions certain information that they need to

meet their obligations under Section 312. This includes assisting covered financial institutions to identify those institutions properly categorized as foreign financial institutions.

Third, Mellon again urges FinCEN to allow covered financial institutions to rely on certifications to comply with certain Section 312 requirements. Specifically, in the absence of actual knowledge of, or willful blindness to, their falsity covered financial institutions should be able to rely on certifications by foreign entities that they are or are not "foreign financial institutions" and by individuals that they are or are not "non-United States persons" or "senior foreign political figures."

Once again, Mellon is appreciative of the opportunity to submit these comments. If you have any questions, please feel free to contact me at 412-234-1537 or, in my absence, Moira Hogan Murphy at 215-553-2363.

Respectfully submitted,

Michael E. Bleier
General Counse

cc: M. H. Murphy