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Diamond Manufacturers & Importers Association of America
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Via Electronic Mail - regcomments@fincen.treas.gov

Financial Crimes Enforcement Network
P.O. Box 39
Vienna, Virginia 22183-0039

Att.: Section 352 - Jewelry Dealer Regulations

Gentlemen:

On behalf of the Diamond Manufacturers and Importers Association of America (DMIA), we want to express our appreciation for the opportunity to submit comments regarding Section 352 of the proposed Jewelry Dealer Regulations.

Toward that end, we have also joined together with the Jewelers Vigilance Committee, the Jewelers of America and other responsible jewelry industry groups in submitting a joint letter containing comments and suggestions relative to the proposed Jewelry Dealer Regulations. Although our concerns relative to the definition of a "dealer" under the proposed rules is already addressed in our joint letter, we nevertheless want to amplify our concerns relative to that issue and to urge your consideration of the proposed revisions.

By way of background, the DMIA, founded in 1931, is the association of America's leading diamond manufacturers, importers and dealers. The association is committed to promoting the highest ideals and best practices in the American diamond industry and to advance the United States as an important world center for diamond manufacturing, importing and distribution. Central to our mission is the maintenance of high ethical and legal standards for the entire industry. We fully appreciate the devastating impact on consumer confidence in diamonds, which would result from any link between our industry and terrorism or organized crime.

Paragraph (a)(1)(ii), provides that a retailer (a person engaged in the business of selling to the public jewels, precious metals, or precious stones or jewelry composed of jewels, precious metals, or precious stones) (for example, from a wholesaler) would not fall within the definition of "dealer," even if its gross sales exceeded $50,000 in the prior calendar or tax year. The reported rationale for what is characterized, as a "limited exception" is that "in order to abuse this industry, a money launderer must be able to sell as well as purchase the goods." The comments rationalize that "there is substantially less risk that a retailer who purchases goods exclusively or almost exclusively from dealers subject to the proposed rule will be abused by money launderers."

In recent years, the increasing globalization of the diamond and jewelry industry has enabled retailers to purchase diamonds, gemstones and jewelry from dealers located outside of the United States. Indeed, such purchase has become a routine and growing practice for many

retailers. We submit that purchases from dealers beyond the jurisdiction of the laws of the United States and/or who are not "doing business" in the United States, presents a higher risk of those transactions being subject to money laundering, particularly since these foreign dealers not within the jurisdiction of the United States and therefore, are not subject to the U.S. Patriots Act or the proposed Jewelry Dealer Regulations.
In the joint industry association letter, a number of important industry-wide concerns were addressed. However, we would urge your particular attention to the comments regarding the definition of a "dealer" and the limited exception afforded to retailers under that definition. As currently proposed, the proposed regulations do not address purchases by retailers from overseas dealers, dealers who in most cases are not subject to the jurisdiction of the laws of the United States and who are unlikely to have reliable AML programs in place. As pointed out in our joint letter, the risk for abuse by these foreign companies is theoretically more acute. We believe these transactions engender a higher risk for purposes of money laundering in support of terrorism or organized crime.

While we strongly support the "limited exception" afforded retailers under the proposed rules, we nevertheless want to underscore our concerns regarding the importance of strengthening the regulations as they regard retailer transactions with dealers who are beyond the jurisdiction of the laws of the United States. Should Treasury decide to take jurisdiction along these lines, one possible way to address this issue is to require retailers who buy from dealers not subject to the jurisdiction of the proposed rules, to require from the dealer written assurance that the dealer has taken steps to prevent and detect money laundering. Accordingly, we join in urging modification of the proposed rules in respect to the definition of a "dealer" so as to provide that "A dealer includes any retailer that purchases in an amount in excess of $50,000 in jewels, precious metals, or precious stones, or jewelry composed thereof, from dealers that have not represented in writing that they either are in compliance with the provisions of this rule or, if not subject to this rule, have programs in place designed to prevent and detect money laundering. As a further measure, retailers should require in all cases the provision of a U.S. Tax Identification number from all dealers otherwise obligated to acquire such U.S. Tax Identification number. These additional requirements would serve to strengthen the regulations and would further insure that all dealers, whether or not in the United States, are implementing programs that further the goal of protecting this industry from exploitation for the purposes of funding terrorism.

We would welcome the opportunity to meet with representatives of FINCEN to discuss our comments in greater detail and of course, we will also be pleased to provide any further or additional information you may require.

Very truly yours,

Leon Cohen
President