



## **CUNA & Affiliates**

# 28 Dunn

June 9, 2003

Via E-Mail: [regcomments@fincen.treas.gov](mailto:regcomments@fincen.treas.gov)

FinCEN

PO Box 39

Vienna, Virginia 22183-0039

### **ATTN: Section 352 – Real Estate Settlements**

Dear Sir or Madam:

The Credit Union National Association appreciates this opportunity to comment on the advanced notice of proposed rulemaking (ANPRM) regarding anti-money laundering program requirements for “persons involved in real estate closings and settlements” issued by the Financial Crimes Enforcement Network (FinCEN). Section 352 of the USA PATRIOT Act mandates that financial institutions must establish anti-money laundering programs that include certain minimum requirements. Under the Bank Secrecy Act, the term “financial institution” includes “persons involved in real estate closings and settlements.” FinCEN is issuing this ANPRM pursuant to its delegated authority under the PATRIOT Act to implement this requirement. The ANPRM seeks comments on a number of issues pertaining to this requirement, including: how to define “persons involved in real estate closings and settlements,” the money laundering risks posed by such persons, and whether any such persons should be exempted from this requirement. CUNA represents over 90% of our nation’s 10,000 state and federal credit unions.

CUNA wholeheartedly supports the objective of an anti-money laundering rule for “persons involved in real estate settlements,” which is to protect the real estate industry from abuse by money launderers, including those who finance terrorist activity. As noted in the ANPRM, the phrase “persons involved in real estate closings and settlements” is “potentially broad, even in the simplest residential real estate transaction.” The definition could conceivably cover participants in real estate transactions other than those who actually conduct the real estate settlement or closing, such as credit unions.

In particular, CUNA would like to respond to the solicitation for comments on whether there should be an exemption for any category of persons involved in real estate closings and settlements. The ANPRM states, “[i]n this connection, FinCEN anticipates that persons that are already subject to separate anti-money laundering program rules...will not also be subject to the anti-money laundering rules for persons involved in real estate closings and settlements.” The ANPRM provides the example of banks as financial institutions that would be exempt from any requirement in a final rule for “persons involved in real estate closing and settlements” given that they already are required by federal regulation to comply with the BSA’s anti-money laundering rules. Currently, all federally-insured depository institutions, including credit unions, must have a Bank Secrecy Act (BSA) program under which they must record and retain certain records as well as report certain financial transactions to the federal government. Part 748 of the National Credit Union Administration’s Rules (12 C.F.R. §748) requires all federally-insured credit unions to establish and maintain procedures reasonably designed to assure and monitor compliance with the BSA requirements. In addition, all federally-insured financial institutions are required by the Bank Secrecy Act to implement an anti-money laundering program (31 USC 5318(h)).

CUNA would like to reinforce our support for FinCEN’s position on this exemption. Credit unions have done a good job of implementing their BSA programs and reporting suspicious activity via Suspicious Activity Reports (SARs) and Currency Transaction Reports (CTRs). Further, while credit unions realized at the time of its passage that the PATRIOT Act would result in additional regulatory burdens for them, the industry was generally supportive of this initiative. CUNA worked on behalf of credit unions with the Department of Treasury on the recently finalized Customer Identification and Verification rule mandated by the PATRIOT Act to make it as effective as possible in protecting the United States and the nation’s financial system from being preyed upon by terrorists seeking to finance their despicable activities through credit unions and other traditional financial institutions.

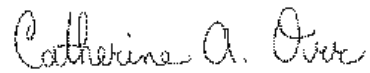
In conclusion, credit unions have been and will continue to help fight the war on terrorism through the various means at their disposal. For the reasons stated above, CUNA firmly believes there is no necessity for including credit unions under an anti-money laundering rule for “persons involved in real estate closings and settlements.”

Thank you for the opportunity to share our comments. If you have any further questions, please contact Mary Dunn ([mdunn@cuna.com](mailto:mdunn@cuna.com)) or Catherine Orr ([corr@cuna.com](mailto:corr@cuna.com)) at our e-mail addresses or at (202) 638-5777.

Sincerely,

A handwritten signature in cursive script that reads "Mary Mitchell Dunn".

Mary Mitchell Dunn  
Associate General Counsel

A handwritten signature in cursive script that reads "Catherine A. Orr".

Catherine Orr  
Senior Regulatory Counsel