



global witness

July 25, 2005

William J Fox
Director,
Financial Crimes Enforcement Network
Department of Treasury
Washington DC

Dear Mr Fox:

Re: Comments on RIN 1506-AA58

We are writing both on the specific issues open for comment and more generally on the Interim Final Rule requiring that dealers in precious metals, stones or jewels must establish anti-money laundering programs.

This interim final rule is an important step forward to helping ensure that diamonds are not used for money laundering purposes or for financing terrorism. Global Witness itself has carried out investigations showing that al Qaeda had developed a strategy for using diamonds to finance local cells in East Africa as early as 1993. These investigations also showed how al Qaeda devised and carried out a ten-year strategic move into the unregulated diamond trade in East and West Africa. Given the links between diamonds and terrorism and the ease in which diamonds and other precious gems can be used to earn money, move money and store money, it is crucial for the US to adopt and effectively enforce strong anti-money laundering regulations for dealers in diamonds as well as other precious stones, metals or jewels.

We have comments on some of the specific issues that FinCEN is requesting public comments on:

- *Minimum price per carat:* It is not necessary or appropriate to have a minimum price per carat. This could be a potential loophole in the regulation that could undermine its effectiveness in preventing money laundering.
- *Effects on small businesses:* It is important that the rule apply equally to small businesses. Exempting small businesses from the regulation would present

another potential loophole that would adversely affect the rule's effectiveness in combating money laundering. The rule has been designed in such a manner as to minimize burden to businesses, so it should not be burdensome for small businesses to comply with the rule. We also note that the Treasury Department received no comments from small dealers on the impact of the rule.

We also have comments on other issues in the interim rule that we believe should be addressed in order for the rule to be effective:

- Suspicious Activity Reports – We are very concerned that the interim rule does not require dealers to file Suspicious Activity Reports. In the report on interim rule, it is stated that FinCEN is considering proposing a suspicious activity reporting rule “given the importance of ensuring that information relevant to the use of covered products for financial crime or the financing of terrorism is provided to law enforcement”. In order for this rule to be effective and credible, it is crucial for FinCEN to require dealers to file suspicious activity reports so that law enforcement agencies receive the information needed to adequately enforce this rule. Europe's anti-money laundering law requires that suspicious activity reports be filed and we see no reason why the US law should be any different.
- We are concerned that testing of a company's anti-money laundering program can be done by a company employee. There is a need for outside spot-checks or other monitoring to be done externally to ensure that companies are complying with the rule. While it is stated that this proposal helps to relieve the burden from small companies to pay for an external audit, we believe that it would be no further burden for companies to request their financial auditors to check records to help ensure that the company is in compliance with its anti-money laundering program.

If you have any questions or require additional information, please contact me at 202 721 5670 or by e-mail: cgilfillan@globalwitness.org.

Sincerely,

Corinna Gilfillan
Head of US Office
Global Witness