#21 Hopkins

July 11, 2003

VIA FEDEX and FACSIMILE

Judith R. Starr, Chief Counsel
Office of the Chief Counsel
Financial Crimes Enforcement Network
Department of the Treasury
P.O. Box 39
Vienna, VA 22183-1618

Attention: Section 352 Investment Adviser Rule Comments

Dear Ms. Starr:

The T. Rowe Price group of investment advisers[1] ("**T. Rowe Price**") welcomes the opportunity to comment on the proposal to require investment advisers to establish anti-money laundering ("**AML**") programs pursuant to Section 352 of the USA Patriot Act (the "**Proposed Rule**"). T. Rowe Price fully supports the goal of preventing and detecting money laundering and terrorist financing activities through the existence and maintenance of strong anti-money laundering procedures within the financial services industry. We believe that a flexible rule applicable to investment advisers would further such goal. In general, we support the Proposed Rule subject to our comments below. Such comments focus on: (i) ensuring that no regulatory duplication exists; (ii) recognizing foreign AML regimes; and (iii) clarifying various aspects of the Proposed Rule, including suspicious activity, "look-through" requirements, delegation responsibilities; and audit requirements.

T. Rowe Price strongly supports the comment letter submitted by the Investment Counsel Association of America ("**ICAA**"). In particular, T. Rowe Price believes that due to the unique relationship between an adviser and its clients, as well as the differences in client types, any final rule should remain flexible and risk-based, as opposed to requiring specific identification, verification, training or other mandates. Therefore, T. Rowe Price is encouraged by the current framework of the Proposed Rule. In addition, prior to adoption of a final rule, we believe it is important to ensure there are no duplicative or

[1] The T. Rowe Price group of advisers includes T. Rowe Price Associates, Inc.; T. Rowe Price International Inc.; T. Rowe Price Global Investment Services Limited; and T. Rowe Price Global Asset Management Limited. As of March 31, 2003, the aggregated assets under management of the advisers were $139.9 billion. T. Rowe Price serves as investment manager for both proprietary and non-proprietary U.S. registered mutual funds and non-U.S. registered foreign funds.

unnecessary, burdensome regulatory requirements imposed on investment advisers. In this regard, we have the following comments.

Suspicious Activity and Training.

As the ICAA noted in its letter, it is unusual for investment advisers to maintain custody of client assets. Instead, a client will engage the investment adviser to manage the assets, but separately engage a bank or broker-dealer to act as the custodian for such assets. Therefore, although an investment adviser has the authority to make investment decisions and to instruct the custodian with regard to the settlement of such decisions, the investment adviser is not generally in a position to identify "classic" suspicious activity. For example, an investment adviser will be notified of inflows and outflows from the account, but will not usually have specific information as to the source of funds, the destination of withdrawals, or possible "structuring" arrangements. However, we believe appropriate staff should be trained to identify activity that could come to the adviser's attention. For example, it could be deemed "suspicious" if a client with a tax-sensitive investment mandate suddenly engaged in a pattern of behaviour that would expose the portfolio to significant taxable events.

Duplicative Regulation.

Regarding duplication, we are pleased that the Proposed Rule provides for an exclusion from AML programs for advisory clients that are pooled investment vehicles subject to Bank Secrecy Act ("**BSA**") rules. However, we are concerned that the exclusion does not extend to pooled investment vehicles subject to non-U.S. AML requirements. Failure to extend such exemption will result in the imposition of both duplicative and inconsistent regulatory requirements, with no tangible improvement in the prevention of money laundering.[2]

Many pooled vehicles are domiciled in jurisdictions which maintain effective anti-money laundering rules. For example, Luxembourg Undertakings for Collective Investment in Transferable Securities ("**UCITS**"), a mutual fund vehicle, must comply with strict rules regarding money laundering prevention. Many European countries and the European Union have been focusing their efforts in this regard for many years. An additional layer of U.S. regulation would be of little to no value but would result in unnecessary hardship on advisers whose clients are already complying with anti-money laundering regimes, especially when the adviser also acts as the sponsor of such vehicles.

Therefore, T. Rowe Price strongly urges Treasury to extend the exemption to all pooled investment vehicles domiciled in jurisdictions with comparable anti-money laundering requirements. Although we believe that there are many such jurisdictions, at a minimum the exception should apply to all Financial Action Task Force ("**FATF**") countries.

[2] Consistent with the ICAA's letter, we also believe that the exemption as proposed should be expanded to include: (i) all subadvised relationships where the adviser delegating management is subject to the BSA or substantially equivalent AML regulation; and (ii) wrap account clients sponsored by broker-dealers subject to the BSA.

"Look Through" Clarification.

Further, although we are encouraged by the risk-based approach of the Proposed Rule, we are concerned that the proposal can be read as potentially requiring a "look-through" to the ultimate shareholders or beneficial owners of certain pooled investment vehicles, including those sponsored by third parties.[3] We believe that any final rule should clarify that an adviser's duty is to look to the client itself (e.g., the pooled vehicle or its sponsor) and not ultimate owners, in assessing money laundering risks. Typically, the adviser will not be in a position to identify such owners. We believe this approach is consistent with other Patriot Act requirements, such as the rules applicable to omnibus or beneficiary accounts. In addition, failure to clarify the obligation in this manner could put an adviser in a competitive disadvantage – potentially requiring a pooled investment vehicle sponsor to breach its local law,[4] or declining the business altogether.

We also believe that the same clarification should apply to clients that are pooled investment vehicles created, administered or sponsored by the adviser. The vehicles themselves can be identical structures to those of third parties, subject to identical regulation. In addition, although it can be argued that the adviser would be in a better position to discover information about underlying shareholders or beneficial owners, generally the sponsor outsources the administration of the vehicle, pursuant to contract and applicable regulation. Further, the same local law concerns noted above would be present. Also, there would be additional burdens associated with trying to identify ownership where, for example, investments are made via distributors through omnibus accounts, or directly through a "fund of funds" vehicle. Therefore, there should be no "look through" requirement for "self-sponsored" vehicles (to the extent the exemption would not apply).[5]

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[3] See Proposal at page 14: "As the entity's potential vulnerability to money laundering increases, the adviser's procedures would need to reasonably address these increased risks, such as by obtaining and reviewing information about the identity and transactions of the investors in the vehicle."

[4] There are certain local law issues (e.g., privacy) that limit the use and extraterritorial dissemination of ownership information.

[5] We also request Treasury to consider the comments it received on the earlier proposal regarding unregistered investment companies. We believe it is very important to consider the impact the earlier proposal would have on certain unregistered vehicles (and their sponsors), especially in light of the flexible, risk-based approach being proposed for investment advisers. We continue to be concerned that adoption of the earlier proposal in its current form would subject a vehicle (or its sponsor) to two competing regulatory regimes, or encourage foreign regulators to apply their regulation to U.S. entities, without demonstrable benefit in certain cases. As noted in our letter regarding the unregistered investment company proposal, dated November 25, 2002, we believe these concerns can be adequately addressed with changes to the proposed definition of unregistered investment company, or exemptions for certain funds.

Clarification on Delegation.

The Proposal contains a discussion regarding the delegation of the implementation and operation of an adviser's AML program. An investment adviser that delegates such responsibilities remains fully responsible for the effectiveness of its AML program. We request clarification that "delegation" in this respect, does not include a situation where an adviser relies on another entity covered by the BSA, or other exempted entity, in determining not to subject a client to the adviser's AML program.

Audit Requirement.

The ICAA, in its letter, noted the burdens the proposed audit requirement would have on small advisers. In addition to such concerns, we believe it is important to recognize possible burdens on advisers with large independent audit departments as well. The Proposal includes a provision that the program be tested "periodically" - the frequency being dependent on the size and complexity of the adviser's business. As the internal audit requirement is an important risk management function for many large advisory firms, we want to ensure that the AML auditing requirement would not impact an auditing department's ability to satisfy its overall firm obligations. To this end, we request that Treasury clarify, for advisers as well as the SEC, that the periodic auditing requirement is not meant to be any more frequent than an adviser's normal audit cycle.

Prospective Application and Effective Date.

We believe that the Proposed Rule was written to apply to advisory client relationships established after the effective date. We understand that firms likely will have information about older relationships, but that the specific requirements of the rule will not be applicable to such relationships. We request clarification on this point.

Finally, regarding the proposed effective date, we request that the 90 day grace period for implementation be extended to 180 days. We believe this time period is appropriate given the significance of the changes likely to be introduced by the final rules. We think it is important to provide advisers with enough time to establish effective programs rather than rush to implement a program based, in large part, on an aggressive timetable.

Conclusion.

We appreciate the opportunity to comment on the Proposed Rule. We believe that the Proposal, with the suggestions noted above and in the ICAA letter, will be a useful tool in the fight against money laundering and terrorist financing activities. We would be happy to assist you as you continue to work on the Proposed Rule. If you have any questions, please feel free to contact me, David Oestreicher at extension 2628, or Laura Chasney at extension 4882.

Sincerely,

Henry H. Hopkins
Vice President and Chief Legal Counsel

David Oestreicher
Vice President and Associate Legal Counsel

Cc: Charles D. Klingman