July 2, 2002

#32

Financial Crimes Enforcement Network
P.O. Box 39
Vienna, VA 22183-1618
Attn: Section 312 Regulations

Re: 31 CFR Part 103
Financial Crimes Enforcement Network; Due Diligence Anti-Money Laundering Programs for Certain Foreign Accounts; RIN 1506-AA29

Ladies and Gentlemen:

ABN AMRO North America, Inc. ("AANA") appreciates the opportunity to comment on the Financial Crimes Enforcement Network's ("FinCEN") proposed rule addressing due diligence programs for certain foreign person correspondent and private banking accounts, as authorized by Section 312 of the USA PATRIOT Act (the "Act").

AANA is an indirect subsidiary of ABN AMRO Bank N.V. ("Bank"), which is headquartered in Amsterdam, the Netherlands. The Bank has over $519 billion in assets, approximately 111,000 employees and a network of approximately 3,500 offices in over 60 countries. The Bank maintains several branches, agencies, and offices in the United States.

AANA is a financial holding company headquartered in Chicago, Illinois. AANA owns LaSalle Bank National Association, located in Chicago, Illinois, and Standard Federal Bank National Association, located in Troy, Michigan. These banks maintain over 400 offices in Illinois, Michigan, and Indiana.

AANA strongly supports the coordinated global effort, as strengthened by the Act, to combat money laundering and to curtail the financing of terrorist activities.

AANA submits the following comments and requests for clarification regarding the proposed rule §§103.175, 103.176, 103.178 (Special Due Diligence for Correspondent Accounts and Private Banking Accounts):

Effective Date

We understand that Section 312 of the Act mandates an effective date of July 23, 2002. We also understand and agree with the government's concern for urgency and immediate action to prevent money laundering and terrorism. However, given the proposed rule's extensive requirements for the due diligence programs, absolute compliance by covered financial institutions ("CFIs") by July 23rd may be practically impossible. Compliance is further complicated because, from AANA's perspective, a number of terms and requirements need to be clarified. We recommend that, to the extent possible, either the Treasury Department extend the compliance date altogether, or preserve the July 23rd date as the date by when CFIs must have a compliance program, procedures, and policies in place, but extend the date by when due diligence for customers must be completed.

Definitions

Correspondent Account

Consistent with the other proposed rules implementing various sections of the Act, this proposed rule should focus on a risk based approach, permitting each CFI to use discretion in making risk assessments based on CFI and foreign financial institution ("FFI") factors. The definition of "correspondent account" is very broad and includes potentially every type of account or transaction. Instead, the definition should be limited to types of accounts that are reasonably at risk for money laundering. For example, escrow, custody, and pension fund accounts are lower risk and should be excluded from coverage. The definition should also be consistent with the definition in Sections 313 and 319 of the Act.

Foreign Financial Institution

The definition of "foreign financial institution" is also very broad and should be limited to the types of institutions reasonably at risk for money laundering. AANA suggests that the definition be consistent with those institutions that are required to file suspicious activity reports.

Senior Foreign Political Figure

AANA believes that the definition of a senior foreign political figure is too broad and that determining whether a person is "widely and publicly known to be a close personal or professional associate" of a senior foreign political figure may be impracticable. It is also unclear what steps should be taken to determine if a business was formed for the benefit of a senior foreign political figure.

Program Requirements

Foreign Financial Institutions

- The fifth prong of the minimum required due diligence procedures for FFIs may be overbroad. The fifth element requires CFIs to review public information to ascertain whether an FFI has been the subject of criminal action or money laundering related–regulatory action. The breadth of the term, "public information," includes every potential public source of information, including sources originating from the foreign countries, some of whose media is government controlled. Also, CFIs may have no way of knowing the reputation or reliability of the information source. The term "criminal action of any nature" is also extremely broad, including both accusations and well-founded factual assertions, and allegations versus convictions. It may also include alleged criminal conduct that is unrelated to money laundering or terrorism. If this element will remain a requirement, we recommend that the definitions of "public information" and 'criminal conduct of any nature" be limited.

- One element of the first prong of the enhanced due diligence requirements for certain foreign banks ("foreign banks") requires CFIs to "obtain and review the foreign bank's anti-money laundering program and the extent to which it will prevent money laundering." The rule should provide that there is no ongoing requirement to audit the foreign banks' anti-money laundering programs. For competitive or other reasons, many foreign banks may be hesitant or may outright refuse to provide their complete anti-money laundering programs. Consistent with Sections 313 and 319 of the Act, we recommend that the rule permit FFIs to certify that they have an anti-money laundering program in place that includes certain reasonable requirements (such as verifying customer identity, source of funds, suspicious activity monitoring, training, and audit).

- Another element of the first prong of the enhanced due diligence requirements for foreign banks requires the CFIs to identify persons with authority to direct transactions through the correspondent account, and the sources and beneficial ownership of the funds of such persons. From AANA's perspective, this requirement would be appropriate for a payable-through account, rather than for a correspondent account. Per Section 313, foreign banks already certify that they are not shell banks and either do not do business with shell banks or do not use the correspondent accounts to transfer funds of shell bank customers, and, therefore, the money laundering risks connected with the correspondent accounts are already lessened. It may be difficult (or impossible) to identify the sources and ownership of funds flowing through the accounts.

- Implementing the second prong of the enhanced due diligence requirements which requires CFIs to identify the foreign bank correspondent customers of its foreign bank customers may also be practically impossible. Privacy rules of foreign countries may prohibit such disclosures. Foreign banks, for competitive reasons, may not want to make such disclosures. AANA suggests at least excluding from this prong, customers' customers whose funds will not be transferred through the correspondent account.

- The third prong of the enhanced due diligence requirements requires the CFIs to identify the owners of non-publicly traded shares of the foreign bank. AANA recommends that the definition of "owner" be consistent with Section 319 and the 319 rule, and that due diligence in connection with this prong be covered by the 319 certification.

Foreign Private Banking Accounts

The due diligence procedures to identify the owners and fund sources should exempt accounts established by intermediaries in solid anti-money laundering jurisdictions. The CFIs should be entitled to rely on the due diligence performed by these intermediaries.

General Comments

Consistent with know your customer principles and other rules implementing the Act, AANA encourages the Treasury to issue rules that require CFIs to use a risk based due diligence program, but only suggest or strongly encourage, rather than require, use of the minimum listed requirements. This will permit the CFIs to conduct reasonable diligence on low risk customers, while focusing efforts on conducting enhanced due diligence on higher risk customers. However, if the Treasury issues a final 312 rule with mandatory minimum due diligence requirements, the rule definitions should be clearer and narrower and certain elements of the requirements should be further defined, as outlined above.

Again, AANA appreciates the opportunity to comment on the proposed rule. We hope that these comments will contribute to the goals set forth in the Bank Secrecy Act, as well as the PATRIOT Act.

Sincerely,

Willie J. Miller, Jr.

WJM:ccd

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bcc: Norman R. Bobins
Harrison F. Tempest