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RVDA

The National
RV Dealers Association

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April 10, 2003

Financial Crimes Enforcement Network
Department of the Treasury

ATTN: ANPRM – Sections 352 and 326 – Vehicle Seller Regulations
31 CFR Part 103

Comments of the Recreation Vehicle Dealers Association

RVDA is a national trade association that represents recreation vehicle (RV) dealers that sell motorhomes, travel trailers, fifth wheel trailers, and truck campers in the U.S. The vast majority of these dealers are small business entities.

RVDA appreciates the Department of the Treasury's communication with RVDA staff prior to the advance notice of proposed rulemaking and respectfully provides the following comments:

What is the potential money laundering risk posed by RV dealers? Should vehicle dealers be exempt from coverage under Sections 352 and 326 of the Patriot Act?

RVDA supports the goals of the USA PATRIOT Act to promote the prevention, detection and prosecution of international money laundering. RVDA is prepared to assist the Department of the Treasury and FinCEN with efforts to educate RV dealers on any forthcoming regulatory requirements. However, RVDA believes the risk of money laundering through RV dealerships is minimal and cash reporting requirements already in place are sufficient to exempt RV dealers from coverage under Sections 352 and 326 of the Patriot Act.

There is an existing obligation for vehicle dealers to report cash or monetary instruments in excess of $10,000 to the Financial Crimes Enforcement Network (FinCEN), in addition to the Internal Revenue Service (IRS).

According to the February 2003 SAR Activity Review compiled by the Bank Secrecy Advisory Group, "structuring" financial transactions to avoid filing the IRS/FINCEN Form 8300 is the most common suspicious activity reported at vehicle and boat dealerships.

RVDA believes that the existing reporting requirements contain adequate safeguards to address "structuring," because Form 8300 must be filed whether the cash or monetary instruments are received in one transaction or a series of related transactions. The existing cash reporting requirements include "anti-structuring" provisions with steep penalties for businesses that fail or attempt to fail filing Form 8300. Structuring, or aiding in the structuring to avoid the reporting requirements, is a felony.

In addition to the existing regulatory environment, there are a number of market-driven factors that prevent money laundering activities at RV dealerships and make RV dealers highly motivated to ensure that their employees comply with existing anti-money laundering requirements. RV dealers have sales and service agreements with RV manufacturers. Illegal activity is grounds for termination of the agreement. Without vehicles to sell, the dealership is out of business.

In addition, the vast majority of RV dealers use wholesale or "floorplan" lenders to finance their inventory of vehicles. Again, illegal activity is grounds for termination of these financial agreements, which would also put the dealership out of business.

On the retail financing side of the business, RV dealers work with banks, finance companies, credit unions, credit reporting agencies, and other highly-regulated financial institutions to complete RV purchases for their customers. Additional requirements for these transactions would be an unnecessary use of resources for all parties involved. There is a significant document trail involved in these transactions that minimizes the risk of money laundering through RV purchases.

In light of these facts, RVDA requests that the Department of the Treasury make the exemption to under Sections 352 and 326 of the Patriot Act permanent.

What should be required in an Anti-Money Laundering Program?

RVDA has already devoted considerable resources toward educating dealers and their employees about proper procedures to prevent money laundering. If it is determined that a requirement must be imposed, RVDA suggests it focuses on education of dealership employees and that the program allow internal auditing for compliance.

To educate RV dealers about the importance of compliance with existing obligations, The RVDA Education Foundation distributes a publication entitled "RV Dealers and the Cash Reporting Rule." This booklet has detailed information describing cash, monetary instruments, anti-structuring information, and detailed examples of when to file Form 8300. RVDA also provides ongoing information about anti-money laundering requirements though the association Web site at www.rvda.org including a direct link to Form 8300.

In addition, RVDA recommends that dealers take a pro-active approach to combat money laundering by:

1. Conducting meetings with salespeople, managers, and office staff and review procedures for handling a cash transaction of more than $10,000.

2. Reviewing cash reporting policies and procedures with new employees.

3. Documenting all educational activities about cash reporting.

How should a vehicle seller be defined?

RV believes the definition of "vehicle seller" should not include RV dealers for the reasons stated above.

Do vehicle sellers maintain "accounts" for customers?

No. Each sale is generally an individual transaction. RVDA dealers do not maintain accounts for customers that meet the bank definition of "account" included in the advance notice.

To recap, RVDA believes the risk of money laundering through RV dealerships is minimal. The current regulatory and market environment keep RV dealers highly-motivated to ensure money laundering activities do not occur. RV dealers should continue to be exempt from coverage under Sections 352 and 326 of the Patriot Act.

RVDA looks forward to working with the Department of the Treasury to keep its members updated on cash reporting and other anti-money laundering best practices at RV dealerships.

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President