



36 Spizer

June 9, 2003

Financial Crimes Enforcement Network (FinCEN)
P.O. Box 39
Vienna, VA 22183-0039
regcomments@fincen.treas.gov
ATTN: Section 352-Real Estate Settlements

Dear Sir/Madam:

The CCIM Institute appreciates the opportunity to submit these comments in response to the above Advance Notice of Proposed Rulemaking (ANPR). The CCIM Institute is an affiliate of the National Association of REALTORS® (NAR) and confers the Certified Commercial Investment Member (CCIM) designation through extensive curriculum and experiential requirements. The CCIM designation was established in 1969 and is recognized as the mark of professionalism and knowledge in commercial investment real estate.

A CCIM is a recognized expert in the disciplines of commercial and investment real estate and is among an elite corps of 7,000 professionals across North America who holds the CCIM designation.

The CCIM Institute is very supportive of the Administration's efforts to implement and enforce rules to detect and prevent money laundering schemes and the financing of terrorism and appreciates the Financial Crimes Enforcement Network's (FinCEN's) attempt through this Advance Notice to collect as much information necessary before proceeding to regulate individuals involved in commercial real estate closings.

The CCIM Institute strongly supports the commentary submitted by its parent organization, NAR, to FinCEN, regarding anti-money laundering program requirements for "persons involved in real estate closings and settlements". The CCIM Institute wholeheartedly agrees with NAR that the prospect of imposing anti-money laundering obligations on real estate brokers is inappropriate when applied to small businesses that are not trained in law enforcement; is questionable due to a lack of evidence to support the need for expanding Anti-Money Laundering (AML) to real estate brokerage; and, is unnecessary due to current AML regulations and state real estate license laws.

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A commercial real estate broker supports his/her clients the same way as a residential real estate agent – they market a seller's property or assist a purchaser with identifying a suitable property for investment. While financial analysis is essential to the commercial real estate broker's skill set, it is better defined as a specialized activity related to the link between buyers and the best property for their investment, not finding or arranging financing. As a matter of fact, it is a common, recommended practice that brokers' obtain a "brokerage agreement" in writing that clearly spells out how and when commissions are paid because it cannot be assumed that a letter of intent or contract between a buyer and seller guarantees the broker a commission. More often than not, a commercial real estate broker is not present for a closing as their services to their client has already been fulfilled. For these reasons, a commercial real estate broker should not be defined as a person involved in real estate closings and settlements and should be exempted from the anti-money laundering program requirements.

As FinCEN proceeds with the analysis of commentary and drafting of a proposed rule, the CCIM Institute would be honored to answer any questions the agency might have or provide CCIMs for additional testimony if needed.

The CCIM Institute appreciates the opportunity to present our views and we look forward to working with FinCEN in the future on this very important issue.

Sincerely,

Barry Spizer, CCIM, 2003 President

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