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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

June 23, 2009

James H. Freis, Jr.
Director
Financial Crimes Enforcement Network
U.S. Department of the Treasury
Vienna, VA 22183

Re: Docket No. TREAS-FinCen-2009-0002
Notice of Proposed Rulemaking No. RIN 1506-AA97
To Strengthen Anti-Money Laundering Oversight of Money Service Businesses

Dear Mr. Freis:

The purpose of this letter is to offer strong support for the rule proposed by the Financial Crimes Enforcement Network (FinCen) to strengthen U.S. anti-money laundering oversight of money service businesses.

The U.S. Senate Permanent Subcommittee on Investigations, which I chair, has conducted a number of money laundering investigations over the years, including investigations into domestic and foreign financial institutions that were misused, facilitated, or failed to report money laundering activity to government authorities. The Subcommittee is aware of the importance of data collection and oversight efforts to identify, prevent, and halt money laundering activity. The proposed rule would make at least four important reforms to strengthen U.S. anti-money laundering (AML) oversight and enforcement.

First, the proposed rule would make it clear that U.S. AML laws and regulations apply equally to all activity by a money service business (MSB) operating in the United States, regardless of where that business' physical headquarters are located or where it is incorporated. See Section III.A - Foreign Located MSBs. Technological advances and U.S. openness to foreign investment make it easy for foreign MSBs to conduct business here, and many do. U.S. AML safeguards should apply uniformly to all MSBs, both foreign and domestic, if they engage in transactions in the United States. Allowing foreign MSBs to be excused from the AML obligations that apply to domestic MSBs would create an unfair competitive advantage with no economic, legal, or law enforcement justification.

Second, in the proposed rule, FinCEN is seeking comment whether there is a need for a separate rule that would enable FinCen to examine and adjust the dollar activity threshold for money service businesses to bring more MSBs under Bank Secrecy Act (BSA) requirements and

AML regulations. See Section III.A - Dollar Threshold. Given the billions of dollars transmitted through MSBs and the presence of many small MSBs across the country, it is critical to increase the amount of information available to law enforcement and regulatory agencies to identify fraud and money laundering activity being conducted, wittingly or unwittingly, through these businesses. FinCen should be able to adjust the dollar activity threshold to capture activity that warrants oversight.

Third, FinCEN seeks comment on whether to require check cashers to report suspicious activity to FinCen under existing BSA requirements. See Section III.C - Meaning of the Term "Check Cashier." Presently, MSBs that redeem money orders and travelers checks are required to report suspicious activity, but check cashers are not. This gap in suspicious activity reporting has no rational basis and should be closed.

Finally, the proposed rulemaking addresses the issue of stored value. See Section IV - Request for Comments. According to the 2007 Federal Reserve Payments Study, approximately \$13 billion in stored value card transactions occurred in 2006. Criminals are apparently exploiting current gaps in federal AML regulations by using stored value devices to transport large sums across U.S. borders without reporting the funds to U.S. authorities, access foreign funds through U.S. automatic teller machines and banks, and otherwise facilitate criminal misconduct. It is time to close the regulatory gap by spelling out how federal AML laws and regulations apply to stored value devices. Recently enacted credit card reform legislation, Public Law 111-24, directs Treasury to issue stored value regulations by no later than February 2010. It is critical that these regulations establish clear, strong, and comprehensive AML requirements for stored value devices, including making it clear that stored value transmissions of funds must be reported on Currency Transaction Report, Currency and Monetary Instrument Report, and Suspicious Activity Report filings.

Thank you for this opportunity to comment on the proposed rulemaking.

Sincerely,

A handwritten signature in dark ink, appearing to read "Carl Levin", written in a cursive style.

Carl Levin

Chairman

Permanent Subcommittee on Investigations