



Securities Industry Association

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Via Electronic Mail

June 17, 2004

Financial Crimes Enforcement Network
Department of the Treasury
P.O. Box 39
Vienna, VA 22183-1618

Re: Imposition of Special Measure Against Commercial
Bank of Syria as Primary Money Laundering
Concern – Section 311 – RIN 1506-AA64

Ladies and Gentlemen:

The Securities Industry Association (“SIA”)¹ appreciates the opportunity to comment on the proposal issued by the Financial Crimes Enforcement Network of the Department of the Treasury (“FinCEN”) designating the Commercial Bank of Syria, and its subsidiary, Syrian Lebanese Commercial Bank (collectively “CBS”) as a financial institution of primary money laundering concern and imposing a special measure on CBS pursuant to 311(a) of Title III of the USA PATRIOT Act of 2001.² SIA supports FinCEN’s determination to impose the special measure against CBS.

The proposal designates CBS as a financial institution of primary money laundering concern pursuant to 31 U.S.C. § 5318A of the Bank Secrecy Act (as added by Section 311(a) of the PATRIOT Act) and indicates FinCEN’s intent to impose the special measure described in 31 U.S.C. § 5318A(b)(5) on CBS. Specifically, the proposal states that FinCEN intends to propose regulations requiring a covered financial institution to “terminate any correspondent account that

¹ The Securities Industry Association, established in 1972 through the merger of the Association of Stock Exchange Firms and the Investment Banker's Association, brings together the shared interests of nearly 600 securities firms to accomplish common goals. SIA member-firms (including investment banks, broker-dealers, and mutual fund companies) are active in all U.S. and foreign markets and in all phases of corporate and public finance. According to the Bureau of Labor Statistics, the U.S. securities industry employs 780,000 individuals. Industry personnel manage the accounts of nearly 93-million investors directly and indirectly through corporate, thrift, and pension plans. In 2003, the industry generated an estimated \$209 billion in domestic revenue and \$278 billion in global revenues. (More information about SIA is available on its home page: www.sia.com.)

² “Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001,” (“PATRIOT Act”) Pub. L. No. 107-56 (2001), signed into law by President Bush on October 26, 2001. 69 Fed. Reg. 28,098 (May 18, 2004).

is established, maintained, administered, or managed in the United States for, or on behalf of," CBS. 67 Fed. Reg. at 28,104. The proposal would also require covered financial institutions to apply special due diligence to their correspondent accounts to guard against their indirect use by CBS, including: 1.) providing notice to correspondent account holders that they may not provide CBS with access to their accounts maintained at the covered financial institution; and 2.) taking reasonable steps to identify any indirect use of their correspondent accounts by CBS to the extent that such use can be determined from transactional records maintained in the normal course of business.

We appreciate FinCEN's concerns regarding CBS. Syria's support of terrorist organizations and terrorist activities is well known. Reports have indicated that Syria allows terrorist groups to carry out illegal weapon sales, money laundering and drug dealing worldwide. Given Syria's support of terrorist organizations, FinCEN's actions against CBS, as the government owned bank, are appropriate. SIA is committed to assisting the government's efforts against CBS, and to detect and prevent money laundering and the financing of terrorist activity.

SIA recommends, however, that FinCEN reconsider the necessity of the notice provision or allow sufficient flexibility so that firms can utilize systems already established under other provisions of the Patriot Act to provide the notice.

The special measure requires a covered financial institution to notify all of its correspondent account holders that they may not provide CBS with access to the correspondent accounts maintained at the covered financial institution. We believe that this provision may be unnecessarily burdensome, redundant, and not the most effective way of achieving the goals of the proposal. Given that many U.S. financial institutions have thousands of correspondent accounts -- most of which have no dealings with CBS -- it would seem to be an extremely inefficient use of resources to provide notice to all such account holders. Moreover, many foreign banks will be inundated with the same notification from many different U.S. financial institutions that are all required to send the notice because they have correspondent relationships with these firms. Furthermore, the notice would require, in many cases, a separate mailing at considerable cost and expense because firms do not regularly schedule mailings targeted solely to correspondent account holders, and would have little added sanction enforcement benefit. The economic sanctions programs administered by the Office of Foreign Assets Control ("OFAC") do not have similar notification provisions, and this has not hindered OFAC's ability to enforce its sanctions programs.

We suggest that FinCEN reconsider the necessity of the notification provision, or alternatively, consider permitting other methods by which institutions can comply with the notice requirement. SIA believes the goals of the notification provision could be achieved by FinCEN's efforts to publicize the special measure worldwide. To that end, we respectfully submit that FinCEN work with foreign governments and central banks. All U.S. financial institutions should also be encouraged or required to post the notice on their website in order to help publicize the special measure. Through such efforts, those foreign banks having

correspondent accounts at U.S. financial institutions can become fully knowledgeable about the special measure and the designation of CBS as a primary money laundering concern.

In the alternative, we suggest that FinCEN permit firms to use other means of notification, including through mechanisms already in place under other provisions of the Patriot Act. This flexibility will allow firms to build on current systems, and provide notice efficiently and effectively. FinCEN should consider permitting as one of the appropriate means of meeting this requirement, the inclusion of a notice provision in the certificates utilized by covered financial institutions as part of their compliance with Sections 313 and 319 of the PATRIOT Act. Firms have already implemented the systems to satisfy Sections 313 and 319 through these certificates, and could include the CBS notice as the certificates are renewed. Firms could provide other or sooner notice to certain correspondent accounts on a risk-based basis. Some firms may find it effective to provide the notice as they implement the due diligence required by Section 312, which is expected to be finalized this summer.

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We appreciate the time FinCEN has given to consider industry's views and appreciate the opportunity to comment on the proposal. If you wish to receive additional information related to our comments, please feel free to contact us.

Sincerely,

Alan E. Sorcher
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Associate General Counsel
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