



Invested in America

Via Electronic Mail

April 18, 2011

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

Re: Imposition of Special Measures Against the
Lebanese Canadian Bank SAL as a Financial
Institution of Primary Money Laundering
Concern
RIN 1506-AB11

Ladies and Gentlemen:

The Securities Industry and Financial Markets Association (“SIFMA”)¹ appreciates the opportunity to comment on the proposal issued by the Financial Crimes Enforcement Network of the Department of the Treasury (“FinCEN”) designating Lebanese Canadian Bank SAL (“LCB”) as a financial institution of primary money laundering concern and imposing a special measure on these banks pursuant to Section 311(a) of Title III of the USA PATRIOT Act of 2001.² SIFMA supports FinCEN’s determination to impose the special measures against LCB.

FinCEN’s proposed rule would prohibit a covered financial institution from establishing, maintaining, or managing any correspondent account in the United States for, or on behalf of, LCB.³ The proposal would also require covered financial institutions to: 1) provide notice to correspondent account holders that they may not provide LCB with access to the correspondent accounts maintained at the covered financial institution; and 2) take reasonable steps to identify any indirect use of their correspondent accounts by LCB to the

¹ The Securities Industry and Financial Markets Association (SIFMA) brings together the shared interests of hundreds of securities firms, banks and asset managers. SIFMA's mission is to develop policies and practices which strengthen financial markets and which encourage capital availability, job creation and economic growth while building trust and confidence in the financial industry. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA).

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).

³ 76 Fed. Reg. 9268 (Feb. 17, 2011)

extent that such use can be determined from transactional records maintained in the normal course of business.⁴

SIFMA appreciates FinCEN's concerns regarding LCB, and we are committed to assist in the government's efforts to detect and prevent money laundering and the financing of terrorist activity. We recommend, however, that FinCEN reconsider the necessity of the notice provision or consider permitting other methods of providing notice, or allowing sufficient flexibility so that firms can utilize systems already established under other provisions of the PATRIOT Act to provide the notice. If FinCEN finds the notice provision essential, we ask that FinCEN at a minimum provide clarification with regard to the timing of such notices. SIFMA member firms are requesting clarification as to the term "one-time notice" and whether the notice should be issued at the time of the final issuance of the rule by FinCEN, and circulated to all existing customers with whom a covered financial institution maintains correspondent relationships at that point in time, or at every new customer relationship or account opening, as subsequently established by a covered financial institution with a new correspondent customer. Based on prior practice, it is the industry's view that the rule was only intended to require notice at one time when the rule is finalized.

The special measures require a covered financial institution to notify those correspondent account holders that the covered financial institution knows or has reason to know provide services to LCB that such correspondents may not provide LCB with access to the correspondent account maintained at the covered financial institution. We believe this provision may be unnecessarily burdensome, redundant, and not the most effective way of achieving the goals of the proposal. Given that many US financial institutions have thousands of correspondent accounts -- most of which have no dealings with LCB -- it would seem to be an extremely inefficient use of resources to provide notice to all such account holders. The inefficiency of this process greatly increases every time FinCEN imposes special measures against additional foreign financial institutions, especially if the interpretation of the notice obligations means that U.S. institutions are required to send ongoing communications and additional rounds of notices to correspondent account holders.

As a result, many foreign banks will be inundated with the same notification from many different U.S. financial institutions that are required to send the notice because the foreign banks have correspondent relationships with them. Moreover, the notice would require in many cases a separate mailing, at considerable cost and expense with little, if any, added enforcement benefit, because firms do not regularly schedule mailings targeted solely to correspondent account holders.

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. SIFMA believes the goals of the notification provision could be achieved by FinCEN's efforts to publicize the special measure worldwide. We respectfully submit that FinCEN could accomplish this goal by working with foreign governments and central banks to provide notice to their financial institutions. Alternatively, all U.S. financial institutions could 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 holding correspondent accounts at

⁴ *Id.*

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

Another alternative would be to permit firms to use other means of notification, including through mechanisms already in place under other provisions of the PATRIOT Act, such as the certificate pursuant to Sections 313 and 310 of the Act. This flexibility will allow firms to build on current systems, and provide notice efficiently and effectively.

In any event, SIFMA requests that FinCEN clarify the meaning of the term “at one time” so that going forward industry members can be appropriately guided as to their obligations under this rule. In sum, we believe that this notice requirement may be unnecessarily burdensome, redundant, and not the most effective way of achieving the proposal’s goals given that many financial institutions may have thousands of correspondent accounts. Should FinCEN find the notice requirement to be essential, SIFMA asks for clarification as to the timing of the notice and the expectations on covered financial institutions going forward.

We are committed to working with FinCEN to find alternative methods to achieve the goals of the notice provision, and we stand ready to help FinCEN implement any of our suggestions.

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Respectfully submitted,

A handwritten signature in black ink, appearing to read "RDF", written in a cursive, stylized script.

Ryan D. Foster
Manager
Office of General Counsel