

June 9, 2003

FinCEN
P.O. Box 39
Vienna, VA 22183-0039

Re: Section 352 – Real Estate Settlements

Dear Sir/Madam:

Navy Federal Credit Union appreciates the opportunity to comment on the Financial Crimes Enforcement Network's (FinCEN) advanced notice of proposed rulemaking concerning anti-money laundering requirements for persons involved in real estate closings and settlements. Navy Federal is the nation's largest natural person credit union with over 2.3 million members and \$19 billion in assets. We are a cooperatively organized not-for-profit organization that serves military and civilian employees of the Department of Navy and their families. We originate mortgage loans and, through our subsidiary, offer real estate settlement services to our members.

We believe false appraisals represent the biggest opportunity for money laundering in the real estate closing and settlement process. A corrupt appraiser may purposefully inflate the value of real estate to justify a higher loan amount. After the loan proceeds are remitted, various corrupt parties to the transaction could pocket the fraudulently obtained funds. We believe that proper quality controls could avert such schemes.

The Agency requested comment on which participants in the real estate closing and settlement process are in a position where they can effectively identify and guard against money laundering. We believe loan originators, settlement agents, and underwriters are in good positions to identify potential money laundering schemes. In particular, the lender, by virtue of its review for determining credit worthiness (i.e. verification of employment, verification of deposits, credit bureau report, etc.), is uniquely positioned to identify potential borrower abuses; however, in this age of instant mortgage credit approval, the safeguards that formerly provided protection against abuse may be less prevalent. Notaries and settlement attorneys may also be in favorable positions to identify potential money laundering schemes because they typically conduct their business in person with the borrower(s) and seller (s). An in-person transaction can sometimes reveal information not previously known such as whether the borrower or seller is reluctant or unwilling to disclose the purpose or use of the real estate being purchased or sold, whether the person conducting the transaction is in fact the borrower/seller or a third party representative, and the reason for using a third party representative.

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The Agency requested comment on whether any persons involved in real estate closings or settlements should be exempted from coverage under Section 352 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act. We agree with the Agency's position that buyers and sellers of their own property should be exempt; however, it should be clarified that this exemption also applies to persons or entities appointed to represent buyers or sellers, such as those holding Powers of Attorney. We are not aware of any other participants who should be exempt.

The Agency solicited comment on whether different standards should be applied to different participants in the real estate closing and settlement process. In particular, the Agency asks whether or not small businesses should be subject to different standards. We believe different standards, if any, should be commensurate with a participant's risk exposure. Risk is generally determined by a confluence of numerous variables. Size, location and activities are only a few such factors. If persons or entities involved in real estate closings and settlements maintain sufficient checks and balances to deter fraud and money laundering activities, variables such as size and location should not be significant determinants of program standards.

Navy Federal has implemented measures to safeguard against money laundering in real estate transactions. For example, we check all loan applicants against the Office of Foreign Assets Control Specially Designated Nationals list to make sure he or she is not a known or suspected terrorist or drug trafficker. During the underwriting process, we compare the applicant's application information against information provided by a consumer reporting agency, and we investigate discrepancies. In addition to our "no cash" policy for the payment of loan-related fees, our settlement services company requires settlement payments to be made by bank wire, certified funds, or, if less than \$1,000, by check. Cash payments are not permitted at settlement. We believe this "no cash" policy guards against the likelihood that funds derived from illegal activities will be used as payment in a real estate transaction.

If you have any questions concerning our comments, you may contact me at (703) 255-8203, or Bill Briscoe, Assistant Vice President, Regulatory Compliance, at (703) 255-7496.

Sincerely,



W. A. Earner
Chief Operating Officer

WAE/scs