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February 4, 2011

The Honorable James H. Freis, Jr.
Director
Financial Crimes Enforcement Network
P.O. Box 39
Vienna, VA 22183

Re: RIN 1506-AB02 Docket Number FINCEN-2010-0001

[Electronically submitted: <https://www.regulations.gov>]

Dear Mr. Freis:

On behalf of 1.1 million members of the National Association of REALTORS® (NAR), I am pleased to submit comments to the United States Department of Treasury, Financial Crimes Enforcement Network (FinCEN) on the proposed rule to require the implementation of anti-money laundering (AML) programs and reporting of suspicious activities by non-bank residential mortgage lenders and originators.

The National Association of REALTORS® is America's largest trade association, including NAR's five commercial real estate institutes and its societies and councils. REALTORS® are involved in all aspects of the residential and commercial real estate industries and belong to one or more of some 1,400 local associations or boards, and 54 state and territory associations of REALTORS®.

NAR supports FinCen's continued efforts to combat money laundering and the financing of terrorism. The proposed rule would require non-bank residential mortgage lenders and originators to develop AML programs and file suspicious activity reports (SARs). NAR supports these rules and believes, like federally regulated financial depository institutions, residential mortgage lenders and originators are uniquely positioned and trained to achieve FinCEN's regulatory objectives. As lenders, these entities are well-positioned to assess and identify money laundering risks and fraud.

NAR also supports FinCEN's decision to defer regulations for real estate agents, brokers and others involved in real estate closings and settlements until further research and analysis can be conducted on their business operations and money laundering vulnerabilities. Future FinCEN rulemaking should continue to use a risk based assessment approach. We note that, in nearly all real estate purchase transactions in which real estate agents participate, funds are transferred using services of several different regulated entities, from payment of earnest money when the sales contract is executed through closing or settlement. This includes funds that are transferred by physical check or electronically, domestically or internationally. In the



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extremely rare case where earnest money is provided to the agent in cash, currency transaction reporting requirements already apply for amounts totaling more than \$10,000.

If potential vulnerabilities are identified with respect to others involved in real estate closings and settlements, FinCEN should assess the degree to which further regulation would achieve FinCEN's goal of preventing money laundering and terrorist financing, and make a reasoned determination, consistent with President Obama's objective, that the regulation's benefits justify its cost and avoids placing unreasonable burdens on business.

Thank you for your time and consideration of this matter. If you would like additional information or an opportunity to discuss our concerns, please contact Charlie Dawson, NAR's Associate Policy Representative, at cdawson@realtors.org or 202.383.7522.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron Phipps", with a stylized flourish extending from the end.

Ron Phipps, ABR, CRS, GRI, GREEN, e-PRO, SFR
2011 President, National Association of REALTORS®