



**FEDERATION OF  
EXCHANGE  
ACCOMMODATORS**

# 49 Potter  
June 10, 2003

VIA ELECTRONIC MAIL  
Regcomments@fincen.treas.gov

Financial Crimes Enforcement Network  
U.S. Department of the Treasury  
P.O. Box 39  
Vienna, Virginia 22183-0039

Re: **Advance Notice of Proposed Rulemaking  
Section 352, USA Patriot Act  
“Financial Crimes Enforcement Network;  
Anti-Money Laundering Program Requirements  
for “Persons Involved In Real Estate Closings  
And Settlements”**

Dear Sir/Madam:

The Federation of Exchange Accommodators (“FEA”) is a non-profit corporation established to provide a trade organization for qualified intermediaries involved in real estate exchange transactions pursuant to Internal Revenue Code §1031 and their primary advisors. The FEA was incorporated in August, 1989, and maintains a non-profit status.

The FEA is designed to promote the discussion of ideas and innovations in the industry, to provide for and promote the establishment of ethical standards of conduct, to offer education to both the industry and the general public, and to work for the development of a uniformity of practice and terminology within the exchange industry.

Membership in the FEA is limited to those companies whose primary business is acting as a qualified intermediary in exchange transactions, and to the attorneys and accountants who advise them. Qualified intermediary members have a variety of backgrounds, including affiliates of escrow companies, titles companies, real estate brokers, attorneys, and accountants. At the time of this writing, the FEA has over 270 members with more than 360 separate office locations. FEA members act as qualified intermediaries in tens of thousands of deferred exchange transactions annually. The FEA is truly a national organization as its members maintain offices in all 50 states.

The FEA appreciates the enormous task presented to the Financial Crimes Enforcement Network (“FinCEN”) by the USA Patriot Act of 2001 (“Act”). The FEA is pleased to be able to provide comments to FinCEN in connection with the implementation of rules under Section 352 of the Act.

In connection with the preparation of these comments, the FEA has had the opportunity to review comments submitted to FinCEN by one of its larger members, Investment Property Exchange Services, Inc. (“IPX”), a title company affiliate, and also the comments of the Escrow Institute of California (“EIC”), a non-profit trade organization. The FEA echoes the concerns and positions taken by both IPX and EIC in their submittals.

In that regard, the FEA would like to emphasize the following points made in those submittals:

1. A real estate transaction qualifying for tax deferral under Internal Revenue Code §1031 is not a likely candidate for money laundering.
2. Little opportunity exists for a qualified intermediary to detect money laundering in the normal course of a qualified intermediary’s business.
3. Funds received by qualified intermediaries are already “clean,” coming from wire transfers, bank checks, or title company checks.
4. Reporting requirements to the Internal Revenue Service already exist in connection with exchange transactions in the form of Form 1099s and Form 8824 and additional reporting requirements to various state taxing authorities exist.
5. The vast majority of FEA members are small businesses with 10 or fewer employees and the inclusion of qualified intermediaries within the definition of “persons involved in real estate closing and settlements” would result in an unfair economic burden.

In conclusion, the FEA believes that qualified intermediaries should be exempt from coverage under Section 352 of the Act.

Thank you in advance for your consideration of the positions taken in this letter.

Very truly yours,

Federation of Exchange Accommodators

Andrew G. Potter,  
General Counsel

AGP/cea