

#2 Received via email

FinCen
Vienna, VA

ATTENTION: SECTION 312 REGULATIONS

Ladies and Gentlemen:

This comment is submitted in response to the Notice of Proposed Rulemaking to implement Section 312 of the USA PATRIOT Act of 2001. Among other things, Section 312 and the proposed regulations will require "covered financial institutions" to establish, by July 23, 2002, due diligence policies, procedures and controls designed to detect and report money laundering through private banking accounts established or maintained for non-US persons.

The term "covered financial institution" is defined in Section 103.175(c) of the proposed regulations. That definition includes a list of 12 types of institutions which will be considered "covered financial institutions." While the list includes an "insured bank" and a "commercial bank," it does not include a "trust company."

Many states, including, for example, the State of Connecticut, permit the organization of a trust company or a bank whose activities will be limited to trust and fiduciary services. Such institutions are not required to obtain FDIC insurance and do not accept FDIC-insured deposits. Accordingly, such institutions are not "insured banks." Additionally, such institutions do not engage in commercial banking activities and are not "commercial banks."

As noted in footnote 6 to the Notice of Proposed Rulemaking, trust companies are subject to some of the other requirements of the PATRIOT Act. To avoid any confusion about the applicability of Section 312 to non FDIC-insured trust companies, the final rulemaking should clarify, either in the regulation itself or in the preamble to the rulemaking, that trust companies which are not otherwise "insured banks" are not "covered financial institutions" and are not subject to Section 312.

Thank you for the opportunity to submit this comment. We would be pleased to provide any further information that you desire or otherwise to expand upon this comment in any manner that you might request.

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