



DEPARTMENT OF THE TREASURY
FINANCIAL CRIMES ENFORCEMENT NETWORK

April 16, 2008

The Honorable Carolyn B. Maloney
Chairwoman
Subcommittee on Financial Institutions and Consumer Credit
2331 Rayburn House Office Building
Washington, DC 20515

The Honorable Joe Wilson
Committee on Foreign Affairs
212 Cannon House Office Building
Washington, DC 20515

Dear Chairwoman Maloney and Representative Wilson:

Thank you for your letter of February 20, 2008, raising the concerns of the House Financial Institutions and Consumer Credit subcommittee and House Committee on Foreign Affairs with respect to reports that American citizens abroad are being denied access to U.S. banks. I would like to assure you both that the Financial Crimes Enforcement Network ("FinCEN") is committed to understanding and correcting, where possible, any instance in which our regulations or guidance have led to unintended consequences.

I want to confirm your view that neither the PATRIOT Act nor FinCEN's regulations promulgated thereunder for the purposes of implementing the Bank Secrecy Act preclude U.S. citizens living abroad from having an account with a U.S. bank. Section 326 of the PATRIOT Act and FinCEN's implementing regulations at 31 CFR 103.121 require banks to have a written Customer Identification Program ("CIP"). The CIP rule requires procedures to enable a bank to form a reasonable belief that it knows the true identity of each customer. Although the rule does not require a bank to refuse the business of U.S. citizens living abroad, some banks may choose not to offer services to new customers or may choose to discontinue services to existing customers for any number of reasons, including but not limited to concerns that the bank may not have enough information about the customer to assess adequately credit risks or the risk of furthering money laundering, terrorist financing, or other illicit activity.

As FinCEN fosters a risk-based approach with respect to financial institution diligence against illicit activity, we are not generally in a position to advise banks whether and when they should enter into or close account relationships (aside from when such actions may be required by law or regulation). These decisions are better left to the institutions. Nevertheless, we would be interested in hearing from you or your staffs more of the details surrounding situations in which U.S. citizens living abroad have been denied access to U.S. banking services. To the

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extent that services are being denied to persons who have chosen not to provide requested background information to a bank about themselves or their financial activities, a bank under such circumstances might prudently choose not to extend services to such persons, regardless of citizenship or place of residence.

If I may be of further assistance on this or any other issue, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink that reads "James H. Freis, Jr." in a cursive style.

James H. Freis, Jr.

cc: Secretary Henry M. Paulson (Department of the Treasury)
Chairman Ben Bernanke (Federal Reserve Board)
Comptroller John C. Dugan (Office of the Comptroller of the Currency)
Chairwoman Sheila C. Bair (Federal Deposit Insurance Corporation)