

October 24, 2016

Policy Division  
Financial Crimes Enforcement Network  
P.O. Box 39  
Vienna, VA 22183

Re: Customer Identification Programs, Anti-Money Laundering Programs, and Beneficial Ownership Requirements for Banks Lacking a Federal Functional Regulator;  
RIN 1506-AB28

To Whom It May Concern:

On behalf of America's credit unions, I am writing regarding the Financial Crimes Enforcement Network's (FinCEN) proposed rule that would align certain requirements of "banks lacking a federal functional regulator" with those of federally-regulated banks. We support reasonable protections, including those under the Bank Secrecy Act (BSA), aimed at reducing financial crimes. The Credit Union National Association (CUNA) represents America's credit unions and their more than 100 million members.

FinCEN has issued a proposed rule that would remove the anti-money laundering program exemption for banks that lack a federal functional regulator, which includes roughly 125 privately insured, credit unions (PICU).<sup>1</sup> Specifically, the proposed rule would prescribe minimum standards for anti-money laundering programs for "banks lacking a federal functional regulator"<sup>2</sup> to ensure that all banks, regardless of whether they are subject to federal regulation and oversight, are required to establish and implement anti-money laundering programs. The proposal would also extend customer identification program requirements and beneficial ownership requirements to those banks not already subject to these requirements.

CUNA supports the proposed rule as issued. Over the years, CUNA has received questions from PICUs seeking clarification on their BSA requirements, including those addressed by the proposed rule. The proposed rule change should reduce confusion that has popped up from time to time regarding expectations and requirements of PICUs. Further, through discussions with individual PICUs, state credit union leagues, and the

---

<sup>1</sup> All federally-chartered credit unions are insured by the National Credit Union Administration's (NCUA) National Credit Union Share Insurance Fund (NCUSIF). While the vast majority of state-chartered credit unions are also insured by the NCUSIF, a small percentage in certain states are privately insured.

<sup>2</sup> As used in the proposed rule, the term "banks lacking a federal functional regulator" includes private banks, certain trust companies, and non-federally insured credit unions (also referred to as privately insured credit unions). 81 Fed. Reg. 58425, 58434.

National Association of State Credit Union Supervisors, it is our understanding that most—if not all—PICUs are required by their state financial regulator to comply with BSA requirements that parallel those required of federally insured credit unions by the National Credit Union Administration (NCUA).

In addition, CUNA supports the proposed rule because it will ensure that other—non-PICU—banks lacking a federal functional regulator (i.e., private banks and certain trust companies) will adhere to established requirements pertaining to anti-money laundering, customer identification, and beneficial ownership. Applying uniform standards across the entire banking system will improve FinCEN's ability to combat financial crime.

To further FinCEN's effectiveness at combating financial crime, we ask it to consider whether it would be appropriate to expand the scope of the proposed rule beyond "banks lacking a federal functional regulator" to also apply to certain payment and acceptance services, such as PayPal, Western Union, Apple Pay, and others, which collectively transfer and settle millions of dollars in payments without being subject to BSA requirements. Expansion of the beneficial ownership requirements to such entities would further enhance the overall transaction system compliance profile, while ensuring entities that fall outside the traditional banking model comply with the same standards as the banking system.

Again, it is our understanding that the majority of PICUs are already complying with most, if not all, of the requirements contemplated in this proposal. However, since these institutions will need to assess their current operations to determine whether changes are necessary, we ask FinCEN to provide a minimum of six months from the date of publication of a final rule in the *Federal Register* for compliance purposes.

## **Conclusion**

On behalf of America's credit unions and their more than 100 million members, we thank you for the opportunity to express these views to FinCEN regarding its proposed rule on banks lacking a federal functional regulator. If you have any questions about our comments, please do not hesitate to contact me at (202) 508-6743.

Sincerely,

A handwritten signature in blue ink, reading "Luke Martone". The signature is fluid and cursive, with the first name "Luke" and last name "Martone" clearly distinguishable.

Luke Martone  
Senior Director of Advocacy & Counsel