



**America's
Credit Unions**

Jim Nussle
President & CEO
202-508-6745
jnussle@americascreditunions.org

99 M Street SE
Suite 300
Washington, DC 20003

February 14, 2024

The Honorable Patrick McHenry
Chairman
Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

Re: Today's Hearing: "Oversight of the Financial Crimes Enforcement Network (FinCEN) and the Office of Terrorism and Financial Intelligence (TFI)"

Dear Chairman McHenry and Ranking Member Waters:

On behalf of America's Credit Unions, I am writing regarding the Committee's hearing entitled, "Oversight of the Financial Crimes Enforcement Network (FinCEN) and the Office of Terrorism and Financial Intelligence (TFI)," and the Committee's review of the Beneficial Ownership Reporting Effectiveness Act of 2024. America's Credit Unions is the voice of consumers' best option for financial services: credit unions. We advocate for policies that allow the industry to effectively meet the needs of their nearly 140 million members nationwide.

America's Credit Unions strongly supports the Financial Crimes Enforcement Network's (FinCEN) efforts to track and investigate financial crimes involving money laundering and terrorist financing. Credit unions are not-for-profit financial cooperatives with a statutory mission to promote thrift and provide access to credit for provident purposes. Unlike other financial institutions, credit unions do not issue stock or pay dividends to outside stockholders. Instead, earnings are returned to members in the form of lower interest rates on loans, higher interest on deposits, and lower fees. Credit unions exist only to serve their members, and as a result, credit unions' interest in their members' financial well-being and advancing the communities they serve takes on paramount importance.

Beneficial Ownership Information Regulatory Requirements

Credit unions are keenly interested in the Beneficial Ownership Information (BOI) rulemakings that have been promulgated under the Corporate Transparency Act (CTA). Thus far, FinCEN has finalized two of three rulemakings required by the CTA:

- The BOI Reporting Rule, finalized in September 2022, requires certain entities to file with FinCEN reports that identify (1) the beneficial owners of the entity, and (2) the individuals who legally created the entity.
- The BOI Access Rule, finalized in December 2023, prescribes how entities may access BOI from the BOI database.

The third rulemaking necessary under the CTA, which FinCEN has yet to propose, will make conforming amendments to the beneficial ownership requirements of FinCEN's existing Customer Due Diligence (CDD) Rule.¹

Credit unions are highly supportive of the creation of the beneficial ownership database and hope it will greatly ease meeting customer due diligence obligations under the Bank Secrecy Act (BSA) and its implementing regulations. As FinCEN works on the CDD rulemaking, as well as any other related regulatory changes, America's Credit Unions urges FinCEN to design reporting requirements with the goal of easing CDD obligations in mind, and, at a minimum, align all reporting requirements with the BSA and anti-money laundering/countering the financing of terrorism (AML/CFT) regimes under which credit unions operate. Anything less will only create confusion and inefficiencies.

BSA/AML compliance is expensive and places a tremendous burden on credit unions. While larger banks and non-bank mortgage lenders can afford to absorb the significant regulatory and compliance costs from the AML/CFT framework, it has made it significantly more difficult for credit unions to provide the affordable financial services credit union members depend on and deserve. Credit unions hope the database envisioned in the CTA will provide significant and important relief from the burden created by the CDD Rule. The likelihood of that outcome is dependent on a database that aligns with CDD requirements and a framework that includes appropriate safe harbors to ensure financial institutions that access it are both obtaining accurate and useful information more efficiently.

The Beneficial Ownership Reporting Effectiveness Act of 2024

The Beneficial Ownership Reporting Effectiveness Act would require FinCEN to report quarterly to Congress certain information related to the BOI database. Specifically, the Act would require FinCEN to report the number of reporting companies that have submitted information for purposes of entry into the BOI database, as well as the measures FinCEN has taken to identify and penalize companies that fail to report or report false information.

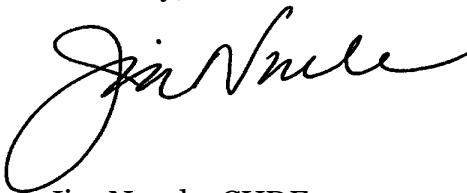
America's Credit Unions believes that greater transparency and information sharing would be helpful for both credit unions and law enforcement. Currently, credit unions file reports (*e.g.*, the Suspicious Activity Report and Currency Transaction Report) that disappear into a black hole. Receiving detailed information about relevant law enforcement cases and prosecutions related to reporting would help credit unions more effectively implement BSA/AML compliance programs. Receiving information indicating what reporting is helpful would create a better understanding of how BSA reports may have aided in preventing certain criminal activity, establishing a feedback loop that would improve the quality of reporting. Further, greater transparency and communication between the regulatory agencies, law enforcement, and the industry will ensure all stakeholders have consistent goals and improve the value of the information collected and reported.

¹ 31 CFR §1010.230.

America's Credit Unions has consistently advocated for such enhanced transparency and communication directly from FinCEN, as doing so would likely increase the amount and relevance of information reported back to FinCEN, as noted above. Further, we believe transparency between FinCEN and Congress would also be a positive step toward achieving our collective effort to combat AML/CFT. As such, we support the Beneficial Ownership Reporting Effectiveness Act, particularly the mandatory reporting that would be required of FinCEN.

On behalf of America's Credit Unions and the 140 million credit union members, thank you for holding this important hearing and considering our views on the subject.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Nussle". The signature is fluid and cursive, with a large loop at the beginning.

Jim Nussle, CUDE
President & CEO

cc: Members of the Committee on Financial Services