



Credit Union National Association

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December 29, 2010

Financial Crimes Enforcement Network
Department of Treasury
P.O. Box 39
Vienna, VA 22183

Submitted on the Internet: <http://www.regulations.gov/search/index.jsp>

Re: Docket Number RIN 1506-AB01: Cross-Border Electronic Transmittals of Funds

To Whom It May Concern:

This comment letter represents the views of the Credit Union National Association (CUNA) on the Financial Crimes Enforcement Network's (FinCEN's) proposal on the reporting of certain cross-border electronic transmittals of funds (CBETFs). By way of background, CUNA is the largest credit union advocacy organization in this country, representing approximately 90 percent of our nation's 7,700 state and federal credit unions, which serve more than 93 million members.

While we generally support FinCEN's objective to track money laundering and terrorist financing through CBETFs for the purposes of the Bank Secrecy Act (BSA), we have concerns about aspects of the proposal and offer recommendations for FinCEN's consideration to improve the proposal.

Background

FinCEN issued this proposal to implement the Intelligence Reform and Terrorism Prevention Act of 2004, which amended the Bank Secrecy Act (BSA), regarding certain cross-border electronic transmittals of funds (CBETFs).

Specifically under the proposal, credit unions and banks that exchange payment instructions directly with foreign institutions would either have to provide copies of certain standard format transmittal orders or provide the required data elements to FinCEN in an electronic system. Third-party filing, such as via SWIFT, would also be permitted. FinCEN is exploring other reporting methods, such as Internet based reporting, for institutions unable to use the electronic system.



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In addition, under a separate but related proposal, credit unions would have to file an annual report of Tax Identification Numbers (TINs) for accountholders that have maintained consumer accounts that were credited or debited for sending or receiving a CBETF, for any amount, during the previous calendar year.

Before addressing our concerns, there are several aspects of the proposal that CUNA believes could be positive. We support efforts to properly safeguard the collection of highly sensitive data as FinCEN seeks to do in the proposal. We agree with FinCEN that proper safeguards are critical to minimize misuse of highly sensitive data about the financial activity of private individuals.

Further, we support guidance from FinCEN to help identify and prioritize higher risk transactions for BSA purposes. This will help credit unions, especially smaller institutions, which have limited resources for compliance.

We also support adequate implementation timeframes, because FinCEN, along with credit unions and other financial institutions will require adequate time to develop proper reporting systems and technology to meet the requirements of the proposal.

Regulatory Burdens and Compliance Costs

However, CUNA has significant concerns about the regulatory burdens and compliance costs to credit unions that the proposed requirements for CBETFs would impose, as well as under the separate proposal for the annual report of TINs. To alleviate potential reporting burdens, FinCEN should continue to accept weekly batch reports, without any changes to the reporting frequency, to avoid the additional costs related to reporting requirements under the proposal.

Threshold

Under the proposal, credit unions and banks would be required to report all CBETFs, regardless of dollar amount. However, money services businesses (MSBs) would be required to report only those transactions equal to or greater than \$1000. Despite FinCEN's suggestions that a reporting threshold for credit unions and banks would be more costly, we believe that having to report all CBETFs will place credit unions and banks at a disadvantage in comparison to MSBs.

Remittances

We also support minimizing unintended consequences for legitimate remittances. For example, the proposal would deter consumers from using credit unions and banks to send remittances in comparison to MSBs, because only credit unions and banks would have to report CBETFs that are less than \$1000. In addition, both the proposed CBETF reporting requirements and the annual report of TINs would deter consumers from remittances in general because of privacy concerns. FinCEN should also coordinate with the Federal Reserve Board and the Consumer Financial Protection Bureau for the rulemakings regarding remittance transfers under the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Hybrid Model

Under the “Hybrid Reporting Model,” a financial institution can fulfill the reporting requirement by providing copies of certain standard format transmittal orders or providing the required data to FinCEN through SWIFT reports. We commend FinCEN’s “Hybrid Model” for reporting, which we believe is more efficient and would minimize duplicate reporting.

Conclusion

We appreciate that the general purpose of FinCEN’s rules is to facilitate efforts to police money laundering and terrorist financing. However, as discussed, we encourage FinCEN to minimize the costs to and impact on credit unions to meet these proposed reporting requirements.

Thank you for the opportunity to comment on this proposal. If you have any questions concerning our letter, please feel free to contact Senior Vice President and Deputy General Counsel Mary Dunn, Federal Compliance Counsel Nichole Seabron, or me at (202) 508-6733.

Sincerely,

A handwritten signature in blue ink that reads "Dennis Tsang". The signature is written in a cursive, flowing style.

Dennis Tsang
Regulatory Counsel
Credit Union National Association