



Jim Nussle  
President & CEO

Phone: 202-508-6745  
jnussle@cuna.coop

99 M Street SE  
Suite 300  
Washington, DC 20003-3799

May 21, 2019

The Honorable Mike Crapo  
Chairman  
Committee on Banking, Housing and Urban  
Affairs  
United States Senate  
Washington, DC 20510

The Honorable Sherrod Brown  
Ranking Member  
Committee on Banking, Housing, and Urban  
Affairs  
United States Senate  
Washington, DC 20510

Dear Chairman Crapo and Ranking Member Brown:

On behalf of America's credit unions, I am writing today regarding the Senate Banking Committee's hearing entitled, "Combating Illicit Financing by Anonymous Shell Companies Through the Collection of Beneficial Ownership Information." The Credit Union National Association (CUNA) represents America's credit unions and their 115 million members. CUNA and our nation's credit unions support reasonable protections, including those under the Bank Secrecy Act (BSA), aimed at reducing financial crimes.

#### **FinCEN's Customer Due Diligence Rule**

The Financial Crimes Enforcement Network's (FinCEN) Customer Due Diligence (CDD) Rule went into effect for credit unions and other financial institutions a little over a year ago.<sup>1</sup> The rule requires financial institutions to obtain identifying information about the beneficial owners of their legal entity accounts. The CDD Rule amends BSA regulations to improve financial transparency and prevent criminals and terrorists from misusing companies to disguise illicit activities and launder ill-gotten gains. CUNA strongly supports these objectives.

Specifically, the CDD Rule requires covered financial institutions to establish and maintain written policies and procedures that are reasonably designed to (1) identify and verify the identity of customers; (2) identify and verify the identity of the beneficial owners of companies opening accounts; (3) understand the nature and purpose of customer relationships to develop customer risk profiles; and (4) conduct ongoing monitoring to identify and report suspicious transactions and, on a risk basis, to maintain and update customer information.

While implementation of the changes necessary to comply with the CDD Rule were challenging, the two-year implementation period as well as several exemptions included in the final CDD Rule have provided some relief for credit unions on an on-going basis. We urge this Committee to continue to encourage FinCEN to work with the industry on compliance issues as they arise. Doing so will continue to allow the financial industry to meet the compliance requirements of the rule while at the same time aiding FinCEN in achieving the objectives of the rule, including in the area of anonymous shell companies.

#### **BSA/AML Concerns Generally**

We support efforts to track money laundering and terrorist financing, but also believe it is important to strike the right balance between the costs to financial institutions, like credit unions, and the benefits to the federal government from the BSA, anti-money laundering (AML), and Office of Foreign Assets Control (OFAC) regulations. As such, we support legislative and regulatory changes to address the redundancies, unnecessary burdens, and opportunities for efficiencies within the BSA/AML statutory framework. We support changes to:

1. Minimize the duplication of the same or similar information;
2. Provide additional flexibility based on the reporting institution type or level of transactions;
3. Curtail the continually enhanced CDD requirements;
4. Increase the threshold requiring Currency Transaction Reports (CTRs);

5. Reduce and simplify the reporting requirements of Suspicious Activity Reports (SARs) that have limited usefulness to law enforcement; and
6. Allow for greater regulatory and examination consistency among regulators, including the National Credit Union Administration (NCUA) and state credit union regulators, in order to help with interpretations of BSA requirements and guidance and to minimize regulatory overlap.

BSA regulations, administered by FinCEN, are the foundation of all efforts by our government to stop criminal money laundering and terrorist financing. These have been strengthened through AML laws, which include part of the USA PATRIOT Act. These laws require financial institutions such as banks, credit unions, and non-depository financial institutions to keep records of events that could signal money laundering and terrorist financing.

Unfortunately, the current BSA requirements are not proving to be all that effective. “The United Nations Office on Drugs and Crime estimates that financial crimes now yield about \$1.6 trillion annually, of which only 1% is caught . . . Furthermore, catching this 1% costs banks [and credit unions] an estimated \$50 billion a year. This means that [financial institutions] incur astronomical costs and risks for poor results.”<sup>2</sup>

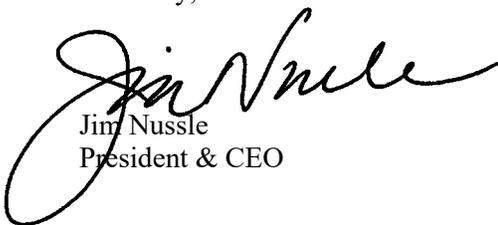
The reality is the cost of technology for monitoring and ensuring compliance with BSA/AML laws and regulations is disproportionately burdensome on smaller and less complex institutions, such as credit unions. Often, credit unions choose not to serve certain markets because of the complexities of compliance. Money Service Businesses are a prime example of where many credit unions have difficulty providing needed services because of the BSA and AML ongoing due diligence requirements associated with serving these businesses. Nevertheless, our government can ease the compliance burden for smaller or less complex financial institutions, such as credit unions, while maintaining the protections needed.

### **Conclusion**

Credit unions take BSA/AML compliance seriously and dedicate significant resources to it. However, when credit unions are spending their limited resources disproportionately on compliance, this means they are spending fewer resources on innovating and providing safe and affordable products and services. We recognize that regulatory agencies—whether it be the NCUA, the Consumer Financial Protection Bureau, or bank regulators—have a renewed focus on BSA/AML compliance, particularly on issues such as cybersecurity and mobile payments. However, we encourage a regulatory regime that recognizes the time and effort that goes into good faith compliance with laws and does not unduly punish financial institutions for unintentional technical or minor errors. The seemingly never-ending stream of regulatory expectations for credit unions, often with small and stretched staffs, must be considered in agency examinations and when laws and requirements are enacted.

On behalf of America’s credit unions and their 115 million members, we appreciate the Committee’s commitment to combating illicit financing. Thank you for considering our views.

Sincerely,



Jim Nussle  
President & CEO