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Melane Conyers-Ausbrooks
Secretary of the Board
National Credit Union Administration
1175 Duke Street
Alexandria, VA 22314-3428

Re: Request for Information and Comment: Extent to Which Model Risk Management Principles Support Compliance With Bank Secrecy Act/Anti-Money Laundering and Office of Foreign Assets Control Requirements (RIN 3064-ZA23; Docket No. NCUA-2021-0007)

To Whom It May Concern:

The Credit Union National Association (CUNA) represents America's credit unions and their more than 120 million members. On behalf of our members, we are writing in response to the recent Request for Information (RFI) and Comment regarding the extent to which model risk management principles support compliance with Bank Secrecy Act/Anti-Money Laundering (BSA/AML) and Office of Foreign Assets Control (OFAC) requirements recently issued by the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Federal Reserve Board), the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), and the Financial Crimes Enforcement Network (FinCEN) (collectively, the Agencies).

Background

In 2011, the Federal Reserve Board and OCC issued the Model Risk Management Guidance (MRMG).[1] The FDIC subsequently adopted the guidance in 2017.[2] To date, the NCUA has not adopted this guidance, and as such, the guidance does not explicitly apply to federally-insured credit unions.

General Comments

Credit unions employ a variety of systems to support BSA/AML and OFAC compliance. The majority of these systems and models are third-party systems, which include their own stratified risk models, analytical models, and artificial intelligence and machine learning based on mathematical and statistical models. When credit unions seek to secure a third-party system, they design criteria for a sufficient system according to credit union needs and then compare available

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[1] *See Supervisory Guidance on Model Risk Management*, Federal Reserve Supervision and Regulation Letter 11-7 and OCC Bulletin 2011-12.
[2] *See Supervisory Guidance on Model Risk Management*, FDIC Financial Institution Letter-22-2017.

products to those criteria.[3] A credit union's ability to customize the system to meet its needs is an important consideration in selecting a system. Customization can include alteration of some stratified and very basic risk modeling or adjusting rules and configurations that generate alerts, but the majority of the sophisticated modeling in these third-party systems are closely held and cannot be altered or directly examined by the credit unions purchasing or licensing these systems. Even if doing so was possible, a credit union could lose important warranties made by the third-party in doing so.

In using these third-party systems and their models, credit unions design in-house processes and procedures tailored to the individual credit unions' risk taking into consideration its members, products, services, geographies, and the needs of a particular credit union's compliance program. Credit unions will customize the system to fit the needs of their individual compliance programs. One credit union estimated that 80% of its BSA/AML and OFAC compliance program is based on such a customized, third-party system. Credit unions use these systems to complete OFAC checks on new accounts, transaction monitoring, wires, customer identification programs (CIP) and risk profiling, and information sharing, in additional to a variety of other business purposes, such as fraud monitoring. Credit unions report that these systems operate using artificial intelligence (AI) and risk-based monitoring and notification systems. The risk modeling algorithms used by these systems are complex, difficult for credit union staff to decipher and often closely held by the third-party. Credit unions are therefore often unable to entirely align the system in-house processes. For that reason, in-house processes are often performed and used as a second layer of review.

Credit unions report using an overlay of in-house and third-party processes to ensure accuracy, often using the core system to perform a countercheck against third-party systems. Credit unions report that updates of BSA/AML and OFAC systems are performed frequently, if not daily, and performing checks in conjunction with those updates is critical to maintaining a functioning compliance program. For example, one credit union reported that in its process, third-party system alerts regarding activity triggering currency transaction reports (CTRs) and suspicious activity reports (SARs) are validated against core system reports, which are examined concurrently with BSA/AML monitoring software daily. Similarly, for OFAC monitoring in BSA and wire compliance systems, whenever an OFAC update is complete, credit union staff perform a testing sample of the changes to confirm the update. These checks are performed in addition to independent testing and auditing. BSA risk assessments of members and accounts may also be compared to BSA/AML systems to ensure that monitoring frequencies are appropriately mapping based on assessed risk.

Credit unions also perform periodic audits and review, both internal and external. For example, one credit union reported that its BSA/AML, OFAC, CIP, new accounts, and wire systems were all externally tested. Credit unions generally report that they will perform a model validation for BSA/AML systems once during every examination cycle, though it may be performed more often depending on the risk of the model. Conducting a validation usually involves hiring a third party, as most credit unions do not have necessary software to conduct a validation in-house. A credit union staff member stated a third-party is necessary "to provide a true unbiased perspective on

[3] NCUA's Letter to Credit Unions 01-CU-20, *Due Diligence Over Third Party Service Providers* provides guidance on conducting due diligence and oversight regarding third-party providers.

necessary potential adjustments to the model in order to provide optimum results." Reported costs can range between $2,500 and $20,000 depending on the validation. As most credit unions use third-party models in their BSA/AML Compliance Programs, there may be significant efficiencies and cost savings if these third-party models could be validated and those reports provided to FinCEN or the Agencies directly. Credit unions also report periodically engaging third-parties for SAR scenario analyses to evaluate whether system results continue to be effective.

While credit unions are not directly governed by the MRMG, it nonetheless has a direct impact on credit unions BSA/AML and OFAC compliance programs as these are often third-party systems that must meet the requirements of the Agencies' expectations for the financial sector as a whole. For that reason, the Agencies must ensure that expectations are tied to the individual risk of the institution, so that the cost of these systems is not unnecessarily inflated. Further, that prevents small- and medium-sized credit unions, which may rely more heavily on in-house processes, from experiencing excessive burden out of line with their assessed BSA/AML risks. To this end, the Agencies' recent *Interagency Statement on Model Risk Management for Bank Systems Supporting BSA/AML Compliance* is appreciated as it clarifies the guidance serves as potential framework, not a supervisory expectation.[4]

Conclusion

On behalf of America's credit unions and their more than 120 million members, thank you for your consideration of this feedback. If you have questions or require additional information, please do not hesitate to contact me at (202) 503-7184 or elaberge@cuna.coop.

Sincerely,

EYoung LaBerge

Elizabeth M. Young LaBerge
Senior Director of Advocacy & Counsel

[4] Federal Reserve Supervision and Regulation Letter 21-8, OCC Bulletin 2021-19, FDIC Financial Institution Letter-27-2021.