



June 9, 2026

Regulatory and Strategic Affairs Division
Financial Crimes Enforcement Network
P.O. Box 39
Vienna, VA 22183
Docket No. FINCEN-2026-0034
RIN 1506-AB72

Chief Counsel's Office
Attention: Comment Processing
Office of the Comptroller of the Currency
400 7th Street SW
Suite 3E-218
Washington, DC 20219
Docket No. OCC-2024-0005
RIN 1557-AF14

Jennifer M. Jones, Deputy Executive Secretary
Attention: Comments/Legal OES
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429
RIN 3064-AF34

Melane Conyers Ausbrooks, Secretary of the
Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428
Docket No. NCUA-2024-0033
RIN 3133-AG08

Re: *Anti-Money Laundering and Countering the Financing of Terrorism Programs*

Dear Sir or Madam:

The Conference of State Bank Supervisors ("CSBS")¹ provides the following comments on the parallel proposals from the Financial Crimes Enforcement Network ("FinCEN")² and the Office of the Comptroller of the Currency ("OCC"), Federal Deposit Insurance Corporation ("FDIC"), and the National Credit Union Administration ("NCUA") (collectively, the "agencies")³ to reform anti-money laundering and countering the financing of terrorism ("AML/CFT") program requirements ("program rule").

The proposal aims to modernize Bank Secrecy Act ("BSA") requirements, promote a principles- and risk-based AML/CFT regime, and bring greater supervisory consistency, and focus on material AML/CFT program risks. CSBS supports these objectives and offers the following considerations and recommendations:

- Formally distinguishing between and separately evaluating AML/CFT program design and program implementation would benefit financial institutions and supervisors.
- A risk-based AML/CFT regime should support both the prioritization of higher risk activities and deemphasis of lower risk activities.
- An optional FinCEN consultation process for AML/CFT enforcement actions and significant supervisory actions balances consistency with examination efficiency and effectiveness.

¹ CSBS is the nationwide organization of state banking and financial regulators from all 50 states, the District of Columbia, and the U.S. territories.

² FinCEN, Proposed Rule, [Anti-Money Laundering and Countering the Financing of Terrorism Programs](#), 91 Fed. Reg. 18704 (Apr. 10, 2026).

³ OCC, FDIC, and NCUA, Notice of Proposed Rulemaking, [Anti-Money Laundering and Countering the Financing of Terrorism Programs](#), 91 Fed. Reg. 18304 (Apr. 10, 2026).



I. Formally distinguishing between and separately evaluating AML/CFT program design and program implementation would benefit financial institutions and supervisors.

The proposal would require financial institutions to 1) establish an AML/CFT program incorporating the four existing AML pillars;⁴ and 2) maintain the AML/CFT program by implementing it in all material respects. This two-pronged framework appropriately distinguishes between program design and program execution, and evaluating AML/CFT programs accordingly should improve both AML/CFT program compliance and supervision.

For example, the two-pronged framework should assist institutions as they evaluate whether their AML/CFT programs are reasonably designed, aligned with their risk profiles, and kept current (*i.e.*, properly established), as well as how well they implement their programs on a day-to-day basis (*i.e.*, materially maintained). Similarly, the proposed framework would promote more effective AML/CFT supervision by formally distinguishing between failures of program design, which are often more substantive and significant, and the more isolated and technical issues that typically arise during program implementation.

II. A risk-based AML/CFT regime should support both the prioritization of higher risk activities and deemphasis of lower risk activities.

FinCEN and the agencies correctly acknowledge that a risk-based AML/CFT framework should lead financial institutions to heighten their focus and resources on higher risk activities and customers, while simultaneously reallocating focus and resources away from lower risk activities and customers. Indeed, Congress envisioned this exact type of risk-based resource allocation in the AML Act of 2020.⁵ Unfortunately, the AML/CFT regime has often been administered in an additive manner, with financial institutions expected to invest in additional monitoring, documentation, and reporting to meet evolving risks, yet criticized and second-guessed when they reduce low yield processes in lower risk areas.

The success of transitioning to a risk-based AML/CFT regime will ultimately turn on how FinCEN and the agencies implement the proposed reforms during the supervisory process. CSBS encourages FinCEN and the agencies to work with state regulators to implement supervisory practices that enable financial institutions to direct resources toward higher risk activities while appropriately reducing emphasis on lower risk activities. Successful implementation will require meaningful updates to the FFIEC BSA/AML Examination Manual, extensive examiner training, and ongoing communication and coordination among FinCEN and state and federal regulatory agencies.

III. An optional FinCEN consultation process for AML/CFT enforcement actions and significant supervisory actions balances consistency with examination efficiency and effectiveness.

The proposed rule would establish a mandatory notice and consultation process whereby a federal agency would consult with FinCEN before initiating an AML/CFT enforcement action or significant AML/CFT supervisory action against a financial institution.⁶ FinCEN and the agencies state that this

⁴ The four pillars comprise: 1) internal controls; 2) independent testing; 3) designation of an AML compliance officer; and 4) ongoing employee training. See 31 U.S.C. § 5318(h)(1).

⁵ 31 U.S.C. § 5318(h)(2)(B)(iv)(II).

⁶ A “significant AML/CFT supervisory action” is broadly defined to include any written communication or other formal supervisory determination by FinCEN or a federal functional regulator, such as a Matter Requiring Attention (“MRA”), that identifies deficiencies, weaknesses, violations, or unsafe or unsound practices related to an AML/CFT requirement; communicates supervisory expectations related to addressing identified issues; and contemplates

notice and consultation process would promote consistency in AML/CFT enforcement and supervision. While an admirable goal, involving FinCEN more deeply in the supervisory process through the proposed consultation requirement could significantly reduce examination efficiency and lead to other unintended consequences.⁷ To avoid these outcomes, CSBS recommends that FinCEN and the agencies adopt the proposal's alternative optional consultation process.

- a. *Mandatory notice and consultation would lengthen examination timelines, delay closure of supervisory findings, and create uncertainty for institutions.*

The proposed notice and consultation process is overly cumbersome and would trigger voluminous supervisory documentation requirements, resulting in more unresolved supervisory matters, delayed reports of examination, and deferred remediation or enforcement. First, a federal agency would provide FinCEN with at least 30 days' advance notice of the potential AML/CFT enforcement action or significant supervisory action, accompanied by extensive examination documentation and confidential supervisory information ("CSI") related to the potential action. The federal agency would also provide FinCEN with any additional information requested related to the potential action. Finally, the federal agency would be required to consider (but not necessarily concur with or follow) any input or recommendations provided by FinCEN on the potential action.⁸

However, the proposal does not require FinCEN to respond to the agency's potential significant supervisory action. Should FinCEN and the agencies maintain the mandatory consultation process in a final rule, it should expressly state that the consultation requirement is deemed satisfied and the agency may proceed if FinCEN provides no feedback within the 30-day period. Similarly, a final rule should confine the entirety of FinCEN's review and feedback process, including any additional information requests, to 30 days beginning with the date that FinCEN was notified of a potential significant supervisory action.

- b. *Mandatory notice and consultation could create supervisory divergence and lead to overly expansive enforcement.*

In addition to examination delays, a mandatory notice and consultation process could increase supervisory divergence among regulators in a manner that frustrates AML/CFT program oversight. The Federal Reserve has not joined the agencies in this rulemaking, meaning state member banks' AML/CFT supervisory findings will be handled differently than those for state nonmember banks, national banks, and federally insured credit unions. Moreover, state nonmember banks are examined for AML/CFT program compliance by both their chartering state and the FDIC, and the proposed consultation could lead to these institutions' supervisors issuing significant AML/CFT supervisory actions according to different processes.⁹ In the context of joint state-FDIC examinations, the added complexity of FinCEN

significant or programmatic action by the financial institution. See FinCEN, *supra* note 2 (proposed 31 C.F.R. § 1020.221(a)(3)). See also Agencies, *supra* note 3 (proposed 12 C.F.R. §§ 21.21(a)(4), 326.8(a)(4), and 748.2(a)(5)).

⁷ FinCEN and the agencies acknowledge the notice and consultation requirement would add "costs," "logistical burdens," and "delays in exam report issuance." See FinCEN, *supra* note 2, at 18725-18726. See also Agencies, *supra* note 3, at 18319.

⁸ See FinCEN, *supra* note 2 (proposed 31 C.F.R. § 1020.221(c)). See also Agencies, *supra* note 3 (proposed 12 C.F.R. §§ 21.21(h), 326.8(h), and 748.2(h)).

⁹ In general, states derive their BSA/AML examination authority from their own chartering, licensing, and supervisory statutes and regulations, under which they examine for compliance with federal BSA/AML obligations. While FinCEN relies on the states' BSA/AML supervision, its delegation of BSA/AML examination authority is



consultation could result in state nonmember banks receiving separate, delayed, and conflicting examination reports, MRAs, and enforcement actions. This is not the AML/CFT consistency envisioned by FinCEN or the agencies.

Moreover, the proposed consultation framework could unintentionally increase enforcement risk for financial institutions over the long run. FinCEN would have new access to federal examination records, CSI, and other documentation regarding AML/CFT compliance issues and deficiencies provided during mandatory consultations. The proposal's goal is to leverage these materials to focus enforcement and significant supervisory actions on material program issues, but future FinCEN leadership could instead use these same records to pursue an expansive AML/CFT enforcement agenda at odds with the proposal's stated purpose.

- c. Financial institutions should be provided with the option to request that their federal supervisor consult with FinCEN regarding significant AML/CFT supervisory actions.*

Rather than establish the proposed mandatory notice and consultation process, FinCEN and the agencies should instead permit optional consultation at a financial institution's request regarding significant supervisory actions.¹⁰ If a financial institution believes an anticipated supervisory action is inconsistent with advancing a risk-based AML/CFT framework, that entity could request that its federal regulator consult with FinCEN before finalizing the action. This approach would balance the benefit of FinCEN providing a broader view of AML/CFT program consistency, without making FinCEN a mandatory participant in every federal agency's significant supervisory communication.

Conclusion

CSBS supports efforts by FinCEN and the agencies to advance a risk-based AML/CFT framework and focus supervisory attention on material AML/CFT program risks. Formally distinguishing between program design and implementation, implementing risk-based AML/CFT supervision, and adopting the alternative optional FinCEN consultation process will advance these objectives along with increased supervisory efficiency and effectiveness.

Sincerely,

Brandon Milhorn
President and CEO

limited to the federal functional regulators. Accordingly, states fall outside of and are not contemplated in the proposed notice and consultation process. *See* 31 U.S.C. § 5318(a)(6) (permitting FinCEN to rely on state BSA/AML examinations). *See also* 31 C.F.R. § 1010.810(b) (delegating FinCEN's BSA/AML examination authority to only the federal functional regulators).

¹⁰ FinCEN and the agencies offer this optional consultation framework as an alternative approach. *See* FinCEN, *supra* note 2, at 18725 (Question 24). *See also* Agencies, *supra* note 3, at 18319 (Question 23).