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National Association of Federally-Insured Credit Unions

March 12, 2019

The Honorable Emanuel Cleaver
Chairman
Subcommittee on National Security,
International Development and Monetary Policy
Committee on Financial Services
United States House of Representatives
Washington, D.C. 20515

The Honorable Steve Stivers
Ranking Member
Subcommittee on National Security,
International Development and Monetary Policy
Committee on Financial Services
United States House of Representatives
Washington, D.C. 20515

Re: Tomorrow's hearing on "Promoting Corporate Transparency: Examining Legislative Proposals to Detect and Deter Financial Crime"

Dear Chairman Cleaver and Ranking Member Stivers:

I write today on behalf of the National Association of Federally-Insured Credit Unions (NAFCU) in regard to tomorrow's hearing entitled "Promoting Corporate Transparency: Examining Legislative Proposals to Detect and Deter Financial Crime." NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve over 115 million consumers with personal and small business financial service products.

NAFCU has consistently recognized the importance of the Financial Crimes Enforcement Network (FinCEN), *Bank Secrecy Act* (BSA), and Anti-Money Laundering (AML) requirements in assisting in the prevention of tax evasion, money laundering and terror financing. Credit unions support efforts to combat criminal activity in the financial system. Our members have a good working relationship with FinCEN, and they consistently inform us that the publication of periodic AML/BSA guidance is very helpful. However, BSA/AML requirements still remain a burden to implement. We believe that the BSA/AML system is in need of improvements and reform, and we are pleased that the Subcommittee is examining draft legislation to strengthen and improve the system as part of tomorrow's hearing.

BSA/AML Reform

NAFCU supports FinCEN encouraging more coordination between law enforcement priorities and credit union examiners. Our members have consistently reported a lack of consistency among examiners in reviewing BSA policies and procedures, which makes it difficult to accurately anticipate how extensively to prepare for an exam. Additionally, many of our members have indicated that prudential examiners are too heavily focused on auditing absolute numbers of Suspicious Activity Report (SAR) filings and absolute compliance. As an example, many of our members have experienced situations where an examiner makes a finding on a SAR based on a purely technical issue, such as a strict timing deadline, which does not truly affect the usefulness of the SAR. Instead, NAFCU believes that FinCEN should encourage prudential examiners to conduct more holistic and systemic audits, such as reviewing a credit union's procedures and practices. We are pleased to see the focus on training for examiners on countering the financing of terrorism (CFT) and AML issues found in Section 202 of the draft legislation and believe that this is an important step to help improve the credit union experience with examiners in this area.

We are also pleased to see the focus on modernizing the AML system found in Title III of the draft legislation, such as encouraging innovation and providing exemptive relief to facilitate the testing of new technologies and innovations. For example, some of NAFCU's member credit unions would like to see

an updated database for SAR and Currency Transaction Report (CTR) filings to streamline the narrative reporting that law enforcement often requests from financial institutions. We also support the efforts in the bill to increase information sharing and allow the sharing of compliance resources in this area. Taken together, these steps can help strengthen and improve the system.

NAFCU would also encourage the Subcommittee to consider expanding and improving the draft legislation in two areas.

First, NAFCU believes that FinCEN could minimize the burden of information collection by raising the required SAR reporting threshold. The current threshold of \$5,000 was set in 1996, which today equates to approximately \$8,000 due to inflation. As more transactions cross the threshold, more SARs are filed in response. This increased volume potentially obfuscates the activities of bad actors. Increasing the threshold and indexing it for inflation would help to prevent the frequency of SAR filings from increasing beyond a manageable level, leading to more accurate FinCEN estimates for record keeping. We also support raising the threshold for CTRs.

Second, many credit unions are affected by BSA/AML compliance burdens and must spend significant time and resources on BSA/AML compliance. NAFCU believes that FinCEN could provide opportunities for technical grants or training to help assist with the cost of software or technological capabilities to reduce the number of man-hours involved. Such a move would be in direct alignment with FinCEN's objectives, as training and technological subsidies would enable more credit unions to have robust BSA/AML procedures in place, thereby furthering FinCEN's goals.

Corporate Transparency

NAFCU also supports efforts such as the draft *Corporate Transparency Act of 2019* from Representative Carolyn Maloney. The bill would help financial institutions, including credit unions, comply with the new Customer Due Diligence (CDD) Rule by requiring companies to disclose their true “beneficial owners” to FinCEN for creation of a database of beneficial ownership information that would be available to law enforcement agencies and financial institutions. We believe this draft legislation is an improvement over previous versions of the bill. We encourage the Subcommittee to further examine the “customer consent” requirement for financial institutions to obtain beneficial ownership information from FinCEN, as well as any potential costs associated with financial institutions’ requests to access this important information. We want to ensure that these issues do not become a hurdle to credit unions accessing beneficial ownership information as it would hamper their ability to comply with the requirements of the CDD rule.

NAFCU appreciates this opportunity to provide comments on ways to improve the current BSA/AML regulatory compliance regime, and we are pleased to see the draft legislation before the Subcommittee today. We look forward to collaborating with the Subcommittee as it continues to examine this issue. Should you have any questions or require any additional information, please do not hesitate to contact me or Alex Gleason, NAFCU’s Associate Director of Legislative Affairs, at 703-842-2237.

Sincerely,



Brad Thaler,
Vice President of Legislative Affairs

cc: Members of the Committee on Financial Services