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National Association of Federally-Insured Credit Unions

April 27, 2022

The Honorable Maxine Waters
Chairwoman
Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

The Honorable Patrick McHenry
Ranking Member
Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

Re: Tomorrow's Hearing: "Oversight of the Financial Crimes Enforcement Network"

Dear Chairwoman Waters and Ranking Member McHenry:

I write to you today on behalf of the National Association of Federally-Insured Credit Unions (NAFCU) to share our thoughts on issues of importance to credit unions ahead of tomorrow's hearing entitled "Oversight of the Financial Crimes Enforcement Network." NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve over 130 million consumers with personal and small business financial service products. We would like to thank you for holding this important hearing and the opportunity to provide input from credit unions as it relates to the Financial Crimes Enforcement Network (FinCEN).

NAFCU has repeatedly requested the modernization and streamlining of suspicious activity reports (SARs), including increasing the reporting thresholds, streamlining the SAR form to remove redundant and obsolete provisions, and providing a simplified SAR form for continuous filings. Modernizing and increasing the required reporting thresholds is the highest priority of NAFCU members in producing reports and records that are highly useful in countering financial crime. NAFCU encourages FinCEN to tie the reporting thresholds to inflation and increase them in order to decrease the burden on credit unions. The SAR reporting thresholds have remained unchanged for decades even though inflation is occurring at a rapid rate. To address this, NAFCU recommends that FinCEN immediately begin studying the impacts of tying the SAR reporting thresholds to inflation. The outdated thresholds cause some SARs to be useless to law enforcement because behavior that was once thought of as suspicious has since become common transaction practice. We also urge Congress to consider action to modernize the thresholds.

As you know, Section 6403 of the *Corporate Transparency Act* (CTA) requires reporting companies to provide beneficial ownership information to FinCEN, which must maintain the information in a secure, non-public database. Members routinely rely on their credit unions to assist with all financial matters, and as their trusted financial partner, credit unions will likely help in explaining beneficial ownership reporting requirements. However, under no circumstances should any burden of notifying reporting companies of any obligation fall on credit unions. Respondents to NAFCU's 2021 Federal Reserve Meeting Survey reported that their *Bank Secrecy Act/Anti-Money Laundering* (BSA/AML) regulatory burden has increased by more than 68 percent in the past five years, and they expect that increase to

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reach over 79 percent in the next five years. Imposing even greater BSA/AML-related regulatory burdens on community financial institutions through additional obligations to ensure companies are reporting beneficial ownership information to FinCEN's new database would not only increase costs on already resource-strapped institutions, but also make it harder for credit unions to serve their communities by offering affordable products and services.

As cryptocurrency and digital assets become more prevalent in our financial system, they may become a target for suspicious activity and the facilitation of illicit finance. FinCEN has previously indicated that the agency views itself as "technology neutral" and regulates the activity of money transmission and not just certain types of transactions. NAFCU supports this approach and encourages FinCEN to maintain this viewpoint. As FinCEN and other federal agencies work together on an initial government-wide strategy regarding digital assets regulation and supervision, it is important that FinCEN maintain its technology neutral stance. Credit unions continue to abide by BSA/AML regulations and rules as their members begin to conduct transactions with exchanges and purchase digital assets and are experiencing an increasing number of wire transfer and Automated Clearing House (ACH) transactions. Risks associated with digital assets remain a significant concern until FinCEN provides additional transparency regarding the monitoring of these transactions. FinCEN has listed cryptocurrency as a national priority; thus, it is important that financial institutions have sufficient guidance regarding integration of this priority into their risk assessments.

We thank you for the opportunity to share our thoughts and recommendations and look forward to continuing to work with you as you conduct oversight on FinCEN. Should you have any questions or require any additional information, please contact me or Janelle Relfe, NAFCU's Associate Director of Legislative Affairs, at jrelfe@nafcu.org.

Sincerely,

A handwritten signature in cursive script that reads "Brad Thaler".

Brad Thaler

Vice President of Legislative Affairs

cc: Members of the U.S. House Committee on Financial Services