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National Association of Federally-Insured Credit Unions

June 10, 2021

Ms. Melane Conyers-Ausbrooks
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314

RE: RFI on Compliance with Bank Secrecy Act/Anti-Money Laundering and Office of Foreign Assets Control Requirements (Docket No. NCUA-2021-0007)

Dear Ms. Conyers-Ausbrooks:

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), I am writing in response to the Request for Information (RFI) issued by the National Credit Union Administration (NCUA), along with the Office of the Comptroller of the Currency (OCC), Board of Governors of the Federal Reserve System (Board), Federal Deposit Insurance Corporation (FDIC), and Financial Crimes Enforcement Network's (FinCEN) (collectively the agencies), on the extent to which the principles discussed in the Interagency Supervisory Guidance on Model Risk Management (MRMG) support compliance with the *Bank Secrecy Act*/Anti-Money Laundering (BSA/AML) and Office of Foreign Assets Control (OFAC) requirements. NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve 124 million consumers with personal and small business financial service products. NAFCU and its member credit unions appreciate the opportunity to provide input on this interagency RFI and support the agencies' acknowledgement of the need to enhance the understanding of financial institutions' practices in these areas to increase transparency, effectiveness, and efficiency. NAFCU requests that the NCUA minimize examination burdens and understand the difficulties in obtaining independent validations of BSA and OFAC models employed at credit unions. In addition, the NCUA and other agencies should consult the Federal Financial Institutions Examination Council's (FFIEC) examination reports and supervisory information through regular information sharing to better assess changes to the MRMG principles to reflect current practices.

General Comments

Since the passage of the *Currency and Foreign Transactions Reporting Act* (commonly referred to as the BSA), NAFCU members continue to experience evolving threats of illicit finance, money laundering, terrorist financing, and related financial crimes. Credit unions' compliance departments put a lot of time and resources into establishing and maintaining BSA compliance programs. However, BSA/AML compliance continues to be a large source of compliance burden, especially for smaller credit unions. NAFCU's 2020 *Federal Reserve Meeting Survey* shows that over 52 percent of respondents expect to increase the number of full-time equivalent staff members devoted to BSA/AML compliance. This represents a 20 percent increase from 2019 and will likely continue to grow, as compliance requirements become more intricate and vigilance to threats evolve. In addition, NAFCU continues to hear about examination issues regarding BSA.

According to NAFCU's November 2020 *Economic & CU Survey*, the results of examinations related to BSA/AML issues varied depending on both the credit union and the examiner. But respondents' most common feedback was that examiners focused on the details of BSA reporting and filing. When asked in the same survey about credit unions' biggest exam issues in the current environment, a common answer was BSA/AML compliance. NAFCU members have historically experienced a disjointed approach to BSA/AML examinations, and we have supported legislative efforts to improve exams, including provisions of the *National Defense Authorization Act* that provide opportunities for examiner training.

NCUA should not add to examination burdens with model validation requests

Most credit union compliance programs employ vendors to streamline the process of BSA/AML and OFAC compliance. Many of these programs use models such as automated account/transaction monitoring and customer risk rating/scoring through artificial intelligence and machine learning to support BSA/AML and OFAC compliance. The MRMG suggest that models come with risks and one suggestion to avoid those risks is adjusting or revising models over time. Although well-intentioned, this suggestion is not helpful to credit unions that use vendor technology to complete modeling as some vendors do not provide credit unions with much control over changing settings and inputs on their end and they also make it difficult to convey requested changes back to the vendor. Although the MRMG provides useful principles for model development, implementation, and use, the ability to develop models is likely limited.

Credit unions are also not able to independently validate the modeling provided through vendor technology. Oftentimes, vendors are unable or unwilling to independently validate their BSA and OFAC models. Those credit unions that have embarked on validation efforts have highlighted the resource-intensive nature of these validation efforts, which can take several years and almost always include hiring an outside third-party. Given the capabilities of these models it is difficult to limit the scope of validation efforts. This complicated process can result in additional costs to and burdens on the credit union. Moreover, validation by an outside third party is duplicative of due diligence procedures that credit unions take in ensuring a vendor is complying with regulatory requirements and procedures. Credit unions continue to fulfill their BSA and OFAC compliance obligations and ensure that the vendors they use meet regulatory requirements. Additionally, the BSA tasks credit unions with diligently monitoring the risks associated with money laundering, terrorist financing, and other related financial crimes. This includes a robust system of internal controls to assure regulatory compliance. These controls and due diligence, combined with periodic exams from the NCUA are sufficient to evaluate any potential risks posed by vendor models.

Recently, examiners have asked some credit unions to independently validate the models employed by the technology provider. Due to the difficulties in having a vendor validate models, this can lead to frustrations during the examination process. Successful model validation can lead to a full-scale vendor audit that can take years to complete. Credit unions should not have to validate a vendor's model if they perform sufficient due diligence in the decision to utilize the vendor. Model validation requests during an examination only exacerbate overall burdens on credit unions given the increasing complexities of BSA and OFAC compliance.

As previously highlighted, BSA/AML compliance is an area where costs have increased a considerable amount year-over-year. Increased costs, coupled with the NCUA's continued supervisory priority of BSA/AML with a focus on detailed regulatory requirements, and examination requests for model validation only increase burdens on credit unions. To alleviate some of this burden, credit unions take a responsible approach in utilizing vendors for BSA and OFAC compliance, while maintaining their core regulatory responsibilities and risk management. NAFCU urges the NCUA to bear in mind the difficulties in validating models employed by credit unions for BSA and OFAC compliance when making these requests during examinations. Although most credit unions employ a vendor to provide BSA and OFAC models, the MRMG principles can be a valuable tool for those institutions that do use a vendor and NAFCU urges the NCUA and other agencies to consult the FFIEC examination reports and supervisory information through regular information sharing to better assess changes to the MRMG principles.

Conclusion

NAFCU appreciates the opportunity to comment on the interagency RFI regarding compliance with BSA/AML and OFAC supported by the MRMG. NAFCU requests that the NCUA minimize examination burdens by not making requests for model validations. In addition, NAFCU encourages the NCUA and other agencies to consult the FFIEC's examination reports and supervisory information through regulator information sharing to assess MRMG changes. If you have any questions or concerns, please do not hesitate to contact me at (703) 842-2249 or kschafer@nafcu.org, or Aminah Moore, Regulatory Affairs Counsel, at (703) 842-2268 or amoore@nafcu.org.

Sincerely,

Kaley Schafer
Senior Regulatory Affairs Counsel

cc: FinCEN