MICHIGAN
CREDIT UNION LEAGUE

June 9, 2026

"Notice of Proposed Rulemaking Anti-Money Laundering and Countering the Financing of Terrorism Programs"

Re: Docket ID NCUA-2024-0033
RIN 3133-AG08

On behalf of the Michigan Credit Union League and our Michigan credit union members, we appreciate the opportunity to comment on the proposed rule addressing Anti-Money Laundering and Countering the Financing of Terrorism Programs. These comments reflect the perspective of federally chartered and federally insured credit unions serving Michigan communities, including institutions of varying sizes, fields of membership, complexity, and risk profiles. Below are our responses to selected questions in the Notice of Proposed Rulemaking.

2. **The proposed rule reflects a determination by the Agencies that banks are best placed to identify risk and allocate resources, and that providing them with greater discretion in these areas will improve the quality of AML/CFT compliance and reporting to law enforcement. Is this correct or should the Agencies consider adding more requirements regarding allocation of resources? How might banks assess changes in the total allocation of resources devoted to an AML/CFT program in a changing risk and cost environment?**

   Michigan credit unions support a risk-based and flexible approach to AML/CFT compliance and generally agree that financial institutions should retain discretion to allocate resources based on their particular risk profile, products, services, delivery channels, geographic footprint, and member activity. Institutions are often best positioned to understand the risks reflected in the accounts and transactions they observe, and flexibility is important so that staffing, monitoring, training, and technology investments can be scaled as those risks evolve.

   At the same time, Michigan credit unions do not believe financial institutions should be viewed as the sole or complete source of risk identification. Credit unions can assess the risk evident within their own operations and transaction activity, but they do not have visibility into all information that may be relevant to law enforcement or national security agencies. Any framework for resource allocation therefore should recognize the practical limits of an individual institution's visibility and avoid placing the full burden of identifying and addressing illicit finance risk on the institution alone.

   For that reason, the Agencies should avoid imposing overly prescriptive requirements regarding resource allocation, because a one-size-fits-all model would not account for differences in institution size, complexity, field of membership, products, services, and delivery channels. Additional principles-based guidance would, however, be helpful. In particular, institutions would benefit from clearer expectations regarding baseline considerations for AML/CFT staffing, monitoring, training, and governance, while preserving flexibility for lower-risk and smaller institutions to use more manual or less complex processes when appropriate. Overall, Michigan credit unions support retaining institutional discretion,

but urge the Agencies to pair that flexibility with clearer supervisory guidance and scalable expectations tied to risk, size, and operational complexity.

3. **Do banks distinguish between establishing a program and maintaining a program by implementing the program? If so, how? Should the agencies add anything to further define these terms in the final rule?**

   Yes. Michigan credit unions distinguish between establishing a program and maintaining a program by implementing it. Establishing the program refers to designing and formally adopting the required framework, including policies, procedures, internal controls, governance, designated personnel, and the overall training structure. Maintaining the program refers to the ongoing execution, monitoring, testing, updating, and refinement of those elements as risks, products, staffing, and regulatory expectations evolve. Although the Agencies do not necessarily need to add extensive new definitions in the final rule, they should more clearly identify what is mandatory regulatory text versus supervisory guidance so institutions can distinguish between required program elements and recommended practices.

4. **Should the proposed rule's distinction between "establishing" and "maintaining" a program be modified? Is the distinction between "establishing" and "maintaining" a compliance program useful for banks?**

   We believe the distinction between establishing and maintaining a compliance program is useful and generally should not be modified. For credit unions, the distinction helps separate the act of putting the required AML/CFT framework in place from the ongoing responsibility to operate, test, update, and strengthen that framework over time. However, the final rule should more clearly describe what is required under each concept and what materials are intended only as guidance. That clarity would improve consistency in implementation and examinations and reduce uncertainty for institutions seeking to maintain programs that are both effective and reasonably designed.

5. **Should the proposed rule distinguish between "establishing" and "maintaining" at the program level and "establishing" and "maintaining" each individual element. For example, should the rule more clearly differentiate between a failure to establish the program, as a whole, versus a failure to establish an individual mandatory component of the program?**

   We believe the Agencies should distinguish between establishing and maintaining at the overall program level and at the level of individual mandatory components, particularly if a failure may result in a supervisory finding or document of resolution. A credit union may have a properly established program overall even if one component requires remediation, and the rule should make clear when a deficiency rises to the level of a failure to establish the program itself. In our view, establishing means that the institution has adopted the required policies, procedures, controls, and governance structure; maintaining means that the institution is following, testing, and updating those elements in practice. A more precise distinction would support more consistent examinations and more proportionate supervisory outcomes.

6. **Is clarification needed for banks to determine what constitutes a "significant or systemic failure" to implement in all material respects a properly established AML/CFT program?**

Yes. Additional clarification would be helpful regarding what constitutes a "significant or systemic failure" to implement a properly established AML/CFT program in all material respects. Without further explanation, those terms may be applied inconsistently across examinations. The final rule or related guidance should provide clearer thresholds, factors, or examples that distinguish isolated or remediable weaknesses from broader failures that meaningfully impair program effectiveness. That would help credit unions better calibrate remediation efforts and would promote more consistent supervisory outcomes.

7. **Is clarification needed for banks to determine what constitutes a "failure to establish an AML/CFT Program"?**

   Yes. Clarification is needed regarding what constitutes a "failure to establish an AML/CFT program." At a minimum, that concept should refer to the absence of one or more required foundational elements of the program, such as appropriate policies, procedures, controls, governance, designated personnel, or required training and testing structures. We also encourage the Agencies to continue emphasizing that programs must be effective, risk-based, and reasonably designed, while distinguishing clearly between a failure to establish the framework and deficiencies in how an otherwise established program is being maintained or executed.

8. **How should the proposed rule ensure that the regulations issued by FinCEN and the appropriate Agencies function harmoniously? How should the proposed rule differentiate between the Secretary of the Treasury's responsibility for regulations on establishing AML/CFT programs and the Agencies' responsibilities for regulations on establishing and maintaining programs?**

   To ensure that regulations issued by FinCEN and the appropriate Agencies function harmoniously, future changes should be coordinated across the relevant agencies and, to the extent possible, issued on parallel timelines using aligned terminology and consistent supervisory concepts. Credit unions benefit when the same core expectations are expressed consistently in FinCEN rules, agency regulations, examination procedures, and related guidance. The final rule should also make clear where FinCEN's role ends and where agency-specific supervisory expectations begin so institutions can comply efficiently without navigating overlapping or potentially inconsistent directives.

9. **Do banks expect any change to their existing internal policies, procedures, and controls under the proposed rule, which requires that internal policies, procedures, and controls be "risk-based" and "reasonably designed" to ensure compliance with the BSA?**

   Yes. We expect the proposed rule to require changes to existing internal policies, procedures, and controls, particularly because institutions may be expected to review and incorporate multiple publications, priorities, and guidance materials into their AML/CFT framework. That exercise may be manageable for larger institutions, but for small and mid-sized credit unions it could create meaningful operational burden and uncertainty about what sources are mandatory versus merely informative. We therefore encourage the Agencies to identify which publications must be considered, which are optional reference materials, and how institutions can document their consideration of those sources in a scalable manner.

10. **The proposed rule refers to risk assessment processes rather than a risk assessment process. This leaves banks free to use findings from one or more processes to assess their ML/TF risk. Does this**

description of how banks assess their ML/TF risk provide sufficient flexibility? How should the Agencies describe "risk assessment processes" to better reflect how bank assess ML/TF risks?

The proposed reference to plural "risk assessment processes" is a welcome acknowledgment that financial institutions do not rely on a single, static method to assess money laundering and terrorist financing risk. Michigan credit unions generally support this approach because it reflects operational reality: institutions often rely on a combination of enterprise risk assessments, product and service reviews, transaction monitoring outputs, internal audit findings, suspicious activity trends, and management reporting to inform their risk understanding.

At the same time, the Agencies should reconsider or further clarify the guidance referenced in footnote 42. While that guidance may be informative, including it in this section of the proposed rule could create uncertainty about whether those materials are expected components of a credit union's risk assessment processes. If numerous guidance documents are effectively incorporated by implication, the flexibility the Agencies appear to be offering could be undermined—particularly for smaller and mid-sized Michigan credit unions with more limited compliance resources.

It is also important for the Agencies to reinforce that "risk assessment processes" must be scalable and risk based. The scope, formality, and frequency of those processes should reflect the institution's size, complexity, field of membership, products and services, delivery channels, and overall risk profile, rather than a one-size-fits-all approach.

To better reflect industry practice, the Agencies should describe "risk assessment processes" as flexible, scalable, and aligned with supervisory expectations, while avoiding prescriptive requirements and allowing institutions to adapt their approaches based on operational realities.

11. **Should risk assessment processes be required to take into account additional or different criteria or risks than those listed in the proposed rule? If so, what additional factors should the Agencies consider requiring?**

The Federal Financial Institutions Examination Council BSA/AML risk assessment framework should be taken into account as part of the risk assessment process. The FFIEC Manual already informs examination practice and describes a comprehensive risk assessment process that considers products, services, customers, and geographic locations, and written documentation of that assessment is treated as sound practice. Incorporating that framework by reference—or at a minimum acknowledging its continued relevance—would better align the final rule with existing supervisory practice and provide institutions with a more familiar baseline for implementation.

12. **How long does it generally take a bank to incorporate the results of a risk assessment into its AML/CFT program? What factors determine this time frame?**

This is difficult to quantify because the time required will vary significantly by institution and by the nature of the change identified through the risk assessment process. Relevant factors include the institution's size, complexity, staffing model, governance structure, products and services, transaction volume, technology environment, and whether the change requires revisions to policies, monitoring rules, training, or board or management approval. For that reason, a rigid timeline would likely not be helpful. A flexible standard that allows institutions to act in a timeframe commensurate with the significance of the risk and the scope of the required changes would be more appropriate.

14. What additional guidance on how to incorporate the AML/CFT Priorities into a bank's risk assessment processes would it be useful for the Agencies to provide?

Additional guidance would be most useful if it included practical implementation support, such as a template, sample framework, or illustrative examples showing how the AML/CFT Priorities may be incorporated into an institution's risk assessment processes in a risk-based and scalable manner. That would help institutions understand what the Agencies expect without converting the Priorities into a checklist that must be addressed identically by every institution. For smaller credit unions in particular, examples of proportional implementation would reduce uncertainty and help avoid unnecessary compliance burden.

15. The proposed rule requires that risk assessment processes are updated promptly upon any change that the bank knows or has reason to know significantly changes the bank's money laundering, terrorist financing, and other illicit finance activity risks. Would the proposed update requirement change the way banks currently update their risk assessment processes, and if so how? Is additional explanation needed concerning when a financial institution would be required to update its risk assessment? In particular, how might the Agencies, clarify how risk assessment processes would be updated "promptly"? Would an alternative approach such as periodic updates or a set schedule for updates, be preferable? Would an alternative standard, such as "materially changes," be clearer than "significantly changes"?

Additional clarification is needed regarding when updates to a risk assessment process require approval by the board versus when those updates may appropriately be approved by senior management. That distinction is important because the operational burden associated with board review can materially affect how "promptly" changes can be implemented. The final rule should make clear that only material changes—such as significant changes in methodology, governance, or risk exposure—require higher-level approval, while more routine adjustments can be handled through management processes. A flexible, risk-based standard would better accommodate differences in size, scope, complexity, and governance structure across credit unions.

17. Under the proposed rule, a bank is required to conduct independent AML/CFT program testing. This requirement is already reflected in existing AML program rule requirements as is the requirement to include "an independent audit function to test programs". The Agencies solicit comment on how financial institutions may interpret and carry out this requirement, based on the proposed rule's description of an effective AML/CFT program. Are further clarifications on the independent AML/CFT program testing requirement necessary to ensure that audits carried out by bank personnel or outside third parties are well-tailored, risk-based, and focused on effectiveness?

Michigan credit unions generally do not believe substantial additional clarification is needed regarding the independent AML/CFT program testing requirement. Existing expectations around independent testing or audit are already well understood and, in practice, provide sufficient flexibility for institutions to tailor the scope and frequency of testing to their size, complexity, and risk profile. If the Agencies provide any further clarification, it should reaffirm that independent testing may be performed by qualified internal personnel or external parties, so long as the testing remains appropriately independent, risk-based, and focused on program effectiveness.

18. Under the proposed rule, while the AML/CFT officer must be located in the United States, personnel located outside of the United States would still be permitted to perform certain AML/CFT functions. This language does not alter existing regulations and guidance that generally prohibit the sharing of SARs with personnel located outside of the United States other than limited circumstances such as a bank's foreign head office or controlling company. Are any further clarifications on this issue needed?

Additional clarification would be helpful to distinguish between personnel located outside the United States and personnel who are located within the United States but work remotely. Many institutions, including credit unions, rely on remote work arrangements as part of their workforce model. The final rule and related guidance should make clear that domestic remote workers are not implicated by restrictions aimed at the sharing of SAR information with personnel located outside the United States, while preserving the confidentiality safeguards already applicable to SAR-related information.

19. The proposed rule standardizes the long-standing requirement that an AML/CFT program be written. Should the Agencies further clarify which specific elements of an institution's AML/CFT program must be written, or is this requirement generally understood in its current form? In particular: (a) which program components—such as risk assessment processes; internal policies, procedures, and controls; transaction monitoring rules and parameters; escalation and reporting protocols; independent testing results; training materials; and documentation of designated personnel—should be required in writing; (b) what form (e.g., narrative descriptions, checklists, system configurations, or electronic (records) such documentation should take; and (c) what level of detail is appropriate for each component? Should the Agencies instead alter the requirement that an AML/CFT program be expressly required to be "written"? What would be the benefits or drawback of any such alterations to this requirement?

The requirement that an institution's AML/CFT program be "written" is appropriate and reflects long-standing practice; however, additional clarification would help ensure more consistent interpretation and examination application. The list of potential components included in the question may be useful, but it also could be viewed as prescriptive if not properly framed. The Agencies should clarify that those components are illustrative rather than mandatory in every case and reaffirm that written documentation should be risk-based and tailored to each institution's size, complexity, and risk profile.
It would also be helpful for the Agencies to confirm that written documentation may take different forms, including narratives, checklists, system configurations, or other electronic records, depending on the institution's processes and systems. Clarifying that flexibility would reduce subjectivity in examinations and help institutions document their programs in a practical and proportionate manner. While the requirement is generally understood, clearer guidance emphasizing flexibility and a risk-based approach would improve consistency and reduce regulatory uncertainty.

20. The proposed rule would require that a bank's written AML/CFT program be approved by the board of directors, an equivalent governing body within the bank, or appropriate senior management. Should the Agencies further clarify which aspects of the AML/CFT program must be subject to such approval? In particular: (a) should approval be required for each of the core program components (e.g., the risk assessment processes framework; internal policies, procedures, and controls; transaction-monitoring and escalation frameworks; independent testing structure; training program; and designation of responsible personnel), or would approval of the overall

program framework be sufficient; (b) should material revisions to particular components (such as significant changes to the institutions risk assessment methodology, monitoring architecture, or governance structure) require reapproval at the same level; and, (c) what level of specificity should the approving body be required to review and approve (e.g., high-level program architecture versus detailed procedures or parameter-level settings)? Should the Agencies instead eliminate the specified approval requirement, allowing banks flexibility in determining how leadership oversight of the AML/CFT program is structured? What would be the benefits or drawbacks of not prescribing a mandatory approval requirement in the regulation? If the Agencies do not eliminate the specified approval requirement, should the agencies consider amending the requirement? Are there alternatives to the board of directors or an equivalent governing body, such as "appropriate senior management: that would be more appropriate?

The Agencies should more clearly identify which aspects of the AML/CFT program warrant board or equivalent governing body approval, and which may appropriately be approved by senior management. In our view, approval of the overall program framework and material changes to core components—such as significant revisions to the risk assessment methodology, governance structure, or monitoring architecture—may appropriately require board-level oversight, while more operational items, such as training content updates or routine procedural refinements, may be handled by appropriate senior management. Greater clarity on this point would help institutions structure oversight in a manner that is both effective and operationally practical.

23. **The proposed rule would add a requirement of an agency to notify and consider information provided by FinCEN before initiating a significant AML/CFT supervisory action when acting pursuant to authority delegated under this chapter. Should the proposed consultation process include an asset threshold—e.g., consultation required for any significant AML/CFT actions involving banks with $10 billion or more in assets? In addition, or as an alternative, should the proposed rule not require but instead provide the option for banks to request their agency consult with FinCEN prior to initiating a significant AML/CFT supervisory action?**

Coordination between the Agencies and FinCEN is important, but we do not believe an asset threshold is the appropriate trigger for consultation. Asset size alone does not capture the complexity of an institution's products, services, delivery channels, staffing model, or risk exposure, and therefore is not a reliable proxy for when consultation would be warranted. A risk-based trigger tied to the nature and significance of the identified AML/CFT concern would be more appropriate and would better reflect the realities of smaller institutions that may face complex issues despite more modest asset size.

24. **The definition of significant AML/CFT supervisory action includes the term "any written communication." Is the term "any written communication" too broad? Are there downsides and negative consequences to including the term "any written communications" in the proposed regulatory text? If so, please describe. Should the term "any written communication" be more clearly defined or removed altogether?**

The term "any written communication" should be more clearly defined because, as drafted, it could be interpreted too broadly and applied inconsistently. Without further explanation, the phrase could encompass a wide range of supervisory correspondence, including communications that were not intended to trigger consultation with FinCEN. The Agencies should either define the term with greater

precision or replace it with narrower language that more clearly identifies the types of supervisory actions or written findings that would qualify.

25. **As describe above, the purpose of the FinCEN consultation requirement is to ensure consistency in BSA/AML enforcement and supervision across banks, and for FinCEN to provide relevant information on the effectiveness and impact of an institution's AML/CFT program. While Treasury, FinCEN, and the Agencies believe the benefits of a required consultation process outweigh the costs, the parties recognize this adds additional layers of review for banks and the Agencies during an examination. Are there any avenues, communication channels, or methods in which FinCEN and the Agencies can streamline the consultation process and prevent logistical burdens for banks or delays in exam report issuance?**

A structured consultation requirement may be beneficial if it promotes consistency, but the process should be clearly limited to matters that truly involve significant AML/CFT supervisory concerns. If the process is triggered too broadly or without clear timelines, it could extend examinations and increase burden for institutions without producing meaningful supervisory benefit. The Agencies and FinCEN should therefore establish defined points of contact, standard communication channels, and reasonable response timelines so the consultation process can occur efficiently and without unnecessary delay in examination findings or reports.

To the extent consultations are needed, the use of secure virtual tools, standardized information requests, and clear documentation protocols would likely reduce burden on both institutions and regulators. Those measures could help ensure that consultations are timely, focused, and proportionate, while minimizing the risk that the process becomes a source of unnecessary logistical delay.

26. **Is the definition of the term "significant AML/CFT supervisory action" sufficiently clear? Does the inclusion of "unsafe or unsound practices or conditions" introduce confusion about what types of supervisory actions would be subject to the FinCEN consultation requirement, since those terms are not found in the BSA?**

The definition of "significant AML/CFT supervisory action" would benefit from additional clarification. The inclusion of "unsafe or unsound practices or conditions" does not, by itself, provide sufficient precision and may create confusion because those terms are not drawn directly from the BSA framework. We encourage the Agencies to provide clearer criteria and, if possible, examples of the types of actions that would qualify. Without additional clarity, the term may be interpreted differently across examinations, which could lead to inconsistent supervisory practices and greater uncertainty for institutions.

27. The Agencies invite comment on the two options for permitting greater information sharing with the FinCEN Director regarding AML/CFT enforcement actions or significant AML/CFT supervisory actions. In particular, would the disclosure of confidential supervisory information to FinCEN compromise attorney-client privilege, other applicable privileges, or otherwise undermine the preservation of privilege in 12 U.S.C. 1821(t)?

We believe that disclosure of confidential supervisory information to FinCEN, when made through an established and authorized supervisory or regulatory channel, should not compromise attorney-client privilege or other applicable privileges. However, we urge the Agencies to establish and clearly articulate a formal process for transmitting confidential supervisory information to FinCEN that is expressly aligned with the protections contemplated by 12 U.S.C. §1821(t). That process should confirm that the information sharing occurs within authorized supervisory channels, includes appropriate confidentiality safeguards, and does not result in any waiver of privilege.

28. Should the rule be revised to tailor program requirements or implementation timelines to the size, complexity, or risk profile of the bank?

Michigan credit unions feel that the rule should establish clear, consistent baseline program requirements applicable to all institutions. While we appreciate the Agencies' intent to incorporate flexibility by tailoring requirements to an institution's size, complexity, and risk profile, such an approach may introduce unnecessary uncertainty, and in practice, increase compliance burden. We encourage the Agencies instead to articulate a defined set of core requirements within the rule that all institutions must implement and maintain. Institutions can then supplement those requirements, as appropriate, through risk-based adjustments to enhance and tailor their programs.

In addition, we recommend a uniform implementation timeline for all institutions. A tiered or phased approach based on size, complexity, or risk profile is not necessary and may create operational inefficiencies.

29. The Agencies are proposing an effective date of 12 months from the date of issuance of the final rule to allow sufficient time for financial institutions to review and implement their requirements. The Agencies solicit comment on the proposed effective date.

The Agencies' proposed 12-month implementation period following issuance of the final rule may, at a high level, appear sufficient for financial institutions to review and implement the requirements. However, implementation timelines are often constrained not by internal readiness, but by technology limitations. Many institutions rely on third-party systems to support AML/CFT compliance functions, and necessary system enhancements, integrations, and updates may require extended development and deployment timelines. As a result, depending on the scope and complexity of the required system changes, a 12-month compliance window may not be sufficient, and additional implementation time may be warranted to ensure full and effective compliance.

Closing Remarks

We appreciate the opportunity to comment on the Agencies' effort to modernize the AML/CFT program framework. A risk-based approach that preserves institutional discretion and recognizes differences in size, complexity, products, services, and risk profile is essential to an effective and workable framework. At the same time, the final rule should provide clearer distinctions between establishing and maintaining a program, define

key supervisory terms with greater precision, and more clearly distinguish between mandatory regulatory requirements and supervisory guidance. The rule should also preserve flexibility in risk assessment processes, written program documentation, governance and approval structures, and implementation expectations, while offering practical examples and scalable guidance that institutions of all sizes can reasonably apply.

In addition, coordination among the Agencies and FinCEN should be clear, efficient, and limited to truly significant matters, with appropriate confidentiality safeguards and express protection against waiver of privilege when confidential supervisory information is shared through authorized channels. Finally, we urge the Agencies to replace the term "bank" with "financial institution" throughout the final rule as this term more accurately reflect the full range of covered entities. We respectfully encourage the Agencies to incorporate these changes in the final rule to promote clarity, consistency, and practical implementation across covered institutions.

Sincerely,

Patty Corkery
President and CEO
Michigan Credit Union League