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National Association of Federally-Insured Credit Unions

January 8, 2018

The Honorable Michael Crapo
Chairman
Committee on Banking, Housing
& Urban Affairs
United States Senate
Washington, DC 20510

The Honorable Sherrod Brown
Ranking Member
Committee on Banking, Housing
& Urban Affairs
United States Senate
Washington, DC 20510

Re: Tomorrow's hearing "Combating Money Laundering and Other Forms of Illicit Finance: Opportunities to Reform and Strengthen BSA Enforcement"

Dear Chairman Crapo and Ranking Member Brown:

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), the only national trade association focusing exclusively on federal issues affecting the nation's federally-insured credit unions, I am writing regarding the hearing entitled "Combating Money Laundering and Other Forms of Illicit Finance: Opportunities to Reform and Strengthen BSA Enforcement."

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 requirements still remain a burden to implement, especially in the ever-growing tidal wave of new regulations since the financial crisis. We urge the Committee to continue to look for ways to provide credit unions with regulatory relief by reforming and strengthening BSA laws. The current system needs updating to ensure the focus is on catching illegal activity and not just paperwork and compliance for the next exam.

NAFCU believes that FinCEN could help 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 SARs filings from increasing beyond a manageable level, leading to more accurate FinCEN estimates for record keeping. We also support raising the threshold for Currency Transaction Reports (CTRs).

FinCEN should also encourage more coordination between law enforcement priorities and credit union examiners. Many of our members have indicated that prudential examiners are too heavily focused on auditing absolute numbers of 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 pure

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.

NAFCU believes that FinCEN can take certain actions that would minimize the burden of information collection for ongoing suspicious activities while still meeting the agency's overall objectives. We also recommend that FinCEN consider ways extend suspicious activity filing deadlines for financial institutions to ease reporting burdens, especially for ongoing activity. Concurrently, FinCEN could allow for simplified SAR "notice filings" that reference earlier, more detailed SAR reports regarding the same, ongoing activity. This will greatly reduce the number of hours spent by credit unions that continuously report on unchanging and ongoing circumstances and provide a more streamlined flow of information for law enforcement.

Many credit unions are affected by these 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 AML/BSA procedures in-place, thereby furthering FinCEN's goals.

As you are likely aware, credit unions and other financial institutions will soon be required to comply with new regulations intended to help curb illicit activity. The new regulations, promulgated by FinCEN will require credit unions to identify and verify the identity of beneficial owners of legal entity customers, such as corporations and limited liability companies. FinCEN promulgated this regulation under authority of the *Bank Secrecy Act* (BSA) to prevent bad actors and other criminals from obfuscating illegal activity behind shell companies.

It is with this in mind that NAFCU supports efforts to help facilitate more coordination between state agencies, law enforcement, and credit unions by ensuring that credit unions have access to beneficial ownership information collected by states, relating to corporations or limited liability companies formed under state laws.

NAFCU appreciates this opportunity to provide comments on ways to improve current BSA/AML Regulatory Compliance Regime. We look forward to collaborating with the Committee on this important issue. Should you have any questions or require any additional information, please do not hesitate to contact me or Gaurav Parikh, NAFCU's Associate Director of Legislative Affairs, at 703-842-2261.

Sincerely,



Brad Thaler,
Vice President of Legislative Affairs

cc: Members of the Senate Banking Committee