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To: [Comments_Regulation](#)
Subject: Attention: CTR Database
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Attention: CTR Database

Ladies and Gentlemen:

FinCEN has issued a comment request regarding its proposed collection of significant amounts of new data for Currency Transaction Reports (CTRs). FinCEN proposes to cost the industry millions, and even billions, of dollars, for very little apparent value to law enforcement. Its proposal should be withdrawn.

FinCEN's notice contains an important statement, which any industry insider would consider to be false: "This notice does not propose any new regulatory requirements or changes to the requirements related to currency transaction reporting." Everyone in the industry knows that when FinCEN changes a form in any way, this effectively and permanently changes the regulatory requirements. Examiners will judge filing institutions based on any and all changes of any type – therefore every change of any type is a changed regulatory requirement. Further, the changes proposed for this form are not minor, technical changes, but instead are a general overhaul of regulatory requirements for CTRs. Thus, since the statement is false, this update to the form should have to go through the regular rulemaking process, not simply an announcement and request for comments.

FinCEN has again chosen to invite comments only on the less critically important aspects of its proposal, while not requesting any comment on the major changes it is proposing. FinCEN has requested comments on only five points, which are addressed herein as follows.

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility: The information is clearly not necessary for the proper performance of the functions of the agency, and the information will not have practical utility.

One significant changed regulatory requirement is represented by the fact that whereas currently an institution with a hundred branches can file just one Part III, which identifies any one of the branch locations of the transaction(s), FinCEN seeks to cause institutions to repeat Part III "as many times as necessary to report an unlimited number of financial institutions and/or branches." Thus, the current requirement to report any one of the branch locations will be changed to a requirement to report an unlimited number of branch locations. Commonly, a CTR with only one part III will change to a CTR with three or more Part IIIs.

This change would cause a significant regulatory burden, requiring the institution to research and obtain such information. Currently, a filer might be reporting that multiple transactions totaling \$15,000 in currency were conducted. It may know one, or

none, of the branches where the transactions occurred, and from the filer's standpoint, the branch locations are totally irrelevant. All the filing institution needs to know is the grand total in currency, and to find out and report the location of any one of the branch locations. By implementing a requirement to repeat the branch location again and again until all branches are listed, FinCEN would be implementing a requirement for the filer to research and obtain that data. This may require viewing the back of each check or transaction to read and transcribe the data encoded there, and report it to FinCEN. This single change represents millions in expenses for the industry annually.

As an illustration of how this information has zero practical utility, consider that in many instances, non-exempt business customers are using six or seven branches on any given day – and not always the same branches – to make deposits from the several locations of the business. This information is of no utility to law enforcement. Also, in practically all institutions, transaction records supporting a CTR filing are obtainable and available only at the main office. Thus, law enforcement wishing to research a given CTR should contact only the main office – which renders meaningless and useless all information about the “locations where transaction(s) took place.”

Further, the information supporting each CTR – such as the dollar amount of each transaction, and the branch locations where each transaction was conducted – is already available to law enforcement via a valid subpoena issued by a court. FinCEN should not seek to circumvent that important legal safeguard and legal process by merely making a “minor technical revision” to its required CTR form.

(b) The accuracy of the agency's estimate of the burden of the collection of information: The request for comments contains a gross underestimate of the time burden of CTRs, which is stated as, “Estimated Reporting Burden: Average of 20 minutes per report and 20 minutes recordkeeping per filing.” In our experience, a typical CTR costs at least: 20 minutes to complete, 10 minutes for a secondary review by another person, 5 minutes to transmit to the main office, 10 minutes for the main office recipient to review, 5 minutes for the main office to prepare a copy for a final review, 10 minutes for a final review, 5 minutes to transmit to the person who files the CTRs, 5 minutes to file the CTR, 5 minutes to check the status on E-filing and/or receive and retain a confirmation email, 10 minutes for an auditor to review, 10 minutes to obtain supporting documentation for the auditor, and later, 10 minutes to obtain supporting documentation for regulator examiners for a total of 1 hour and 45 minutes of lost labor per CTR. (Lost labor refers to labor that generates no income for the filing institution).

(c) Ways to enhance the quality, utility, and clarity of the information to be collected: There does not appear to be a regulatory requirement or need for FinCEN to achieve the specified enhancement. FinCEN is already collecting a massive amount of information – millions of CTRs per year – which everyone in the industry knows are largely ignored by law enforcement, unless a given customer is already under investigation because of other known or suspected crimes. Rather than beating the dead horse represented by the CTR, FinCEN should instead seek to reduce filing burden and the number of CTRs required to be filed, by seeking to

have the threshold raised from \$10,000.01 to \$25,000.01, and by eliminating certain useless sections, such as Part III – the location where a transaction took place.

(d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology: FinCEN should reduce reporting burden by championing the aim of having the filing threshold increased by Congressional action or another rulemaking process, and by eliminating useless sections of the CTR, effectively shortening it.

(e) Estimates of capital or start-up costs and costs of operation, maintenance and purchase of services to provide information: As FinCEN is well aware, such estimates are generally unavailable and unobtainable, but clearly, any proposal that will cost for-profit institutions, which are businesses in business to make money, an “Estimated Total Annual Reporting and Recordkeeping Burden” of “9,407,733 hours,” is a ridiculously expensive way to provide information. Using a very conservative estimate, each filed CTR costs a typical institution at least \$10, in consideration of the labor required to research, complete, review repeatedly, file, audit, etc. Thus, FinCEN proposes to cause the industry to spend, out of its own pockets with no related income or incentive, nearly 941 million dollars per year. This is yet another example of how over-regulation by the federal government is bankrupting this country.

Now, on to the meat of the proposed changes: FinCEN's changes constitute significant new regulatory reporting burdens, including the following entirely new requirements:

Type of filing – Initial report or Correct/Amend Prior Report. Currently there is no “Initial report” checkbox. The current logic is that if “amends prior report” is left unchecked, then obviously the report is an initial filing. The unnecessary invention of a checkbox to essentially identify a CTR as a CTR will lead to hundreds of thousands of dollars per year spent by the industry, simply clicking a mouse, then having someone else review the form to make sure the checkbox was not inappropriately left unchecked, then having someone else perform a final review of that checkbox, then auditing it, and so on. This field should be eliminated from the proposal.

Type of filing – FinCEN directed Backfiling. This situation is totally unheard of in the industry. To date, IRS has been the sole entity to “direct” backfiling. Why FinCEN would seek to assume this power by inclusion of a checkbox on a form is mysterious. This field should be eliminated from the proposal. Unnecessary and entirely new inventions for Part I, which describes the Person benefiting from, and the person conducting, the transaction(s), include:

Item 6. Middle initial (middle name for electronic filers) – This supposedly minor revision will again cost filing institutions millions of dollars in increased CTR expenses, by changing a requirement to file a middle initial to a requirement to OBTAIN and file a middle name. FinCEN should not assume that filing institutions already know the middle names of their customers. Most institutions require a new customer, at the time of account opening, to provide a first and last name, and sometimes a middle

initial, but the entire middle name is almost never known. This field should not change, and should require only a middle initial, not a full name, for all filers.

Item 7. Gender – This represents a serious regulatory problem. Institutions subject to Fair Lending, Equal Credit Opportunity, and Equal Housing Lender laws are not supposed to “know” (or have on file) the gender of their customers. The value of this information to law enforcement is nonexistent. Clearly, FinCEN should seek comment from other regulatory agencies, before forging ahead with what is essentially an unintentional sabotage of the Fair compliance efforts of the industry and regulators. This field should be eliminated from the proposal.

Item 8. Alternate name, e.g., AKA—Individual or DBA – again, a new regulatory requirement is created merely by inclusion of a supposedly “clarifying label” for an existing field, which is really a concept change for that field. Currently, filers must identify only DBA names, i.e., John Dough DBA Currency Express. Now, FinCEN wants all aliases and nicknames for individuals too? This will lead to a massive amount of research to ensure known aliases are not wrongfully omitted from CTRs. The proposal that institutions will have to report that “William” is AKA “Will, Willie, Buddy, and Mac,” is absurd, as well as ridiculously expensive for filing institutions. This change should be eliminated from the proposal.

9a. NAICS Code for Occupation or type of business – The vast majority of filing institutions do not use NAICS Codes (arbitrary, six digit codes, of which there are at least hundreds). That field alone would cost millions for most institutions to implement. Further, the selection of which of the hundreds of NAICS codes to apply to an account, customer, or CTR, is highly subjective – which will lead to criticisms from examiners for choosing the “wrong” NAICS code. Anyway, why would this code be useful to law enforcement? Put simply: It isn't. This is purely for FinCEN's statistical tracking/research. This change should be eliminated from the proposal.

FinCEN has not provided enough information on the meaning of the phrase “Derived through third party data as enhanced data” in order to allow meaningful comment. If this data is derived by FinCEN, after filing, then filers need not concern themselves with commenting. If FinCEN expects institutions to derive such data through third parties, then that is a major problem, in terms of expenses. This applies to numerous fields such as the +4 digits at the end of a ZIP code, County, Geocoding data (to obtain MSA, County, and Census Tract), HIFCA coding, HIDTA coding, etc. Therefore, this change should be eliminated from the proposal.

15. TIN (enter number in space provided and check appropriate type below). Institutions would have to know and indicate whether a TIN is a TIN, EIN, SSN, or ITIN. Institutions neither have nor need this information. Such changes to the CTR would generate millions in expenses for filing institutions. The utility of such information to law enforcement is nonexistent. For the law enforcement agencies who need to know if a person's TIN is an EIN or SSN or ITIN, they already have the resources necessary to make that determination on their own. This change should be eliminated from the proposal.

18. Contact phone number (if available) and 18a. Ext (if any), and 19. E-mail address (if available): Why on earth would FinCEN or law enforcement need a “contact phone number” or “email address” for a CTR transactor or the person benefiting? Why would they be

calling them about the CTR or contacting them via email? These fields are extremely bizarre new reporting requirements. In many cases, transactors are non-customers, where the institution neither has nor needs a contact phone number. Weakening the phone number field with "if available" does nothing to lessen examiner expectations that the field will also be populated with data. Customers and non-customers alike will be extremely resistant to the idea of providing such details for a CTR. Picture the conversation, "I'm processing your deposit, uh, can I have your email address and phone number?" Answer: "No!" or "What would you need that for?" FinCEN's arbitrary inclusion of this personal and private information on the CTR will inadvertently cause more structured transactions designed to evade CTRs. This change should be eliminated from the proposal.

Other bits of data that are not currently collected, yet are presented as proposed new requirements: Courier service (private), Check if individual is an entity, Check if individual is unknown, Check if first name is unknown, and Suffix. These changes should be eliminated from the proposal.

Also note that FinCEN should post all comments publicly.

I'm sure I've missed some of the important changes that should be argued against. I'm sure I could go on, but frankly, this is exhausting. FinCEN needs to take a big step back and reexamine both their motives and the consequences of their actions.

FinCEN proposes to cost the industry incalculably vast sums of money, for little to no apparent value to law enforcement. Its proposal should be entirely withdrawn.

Sincerely Submitted.