



November 15, 2011

Mr. James H. Freis Jr., Director
Financial Crimes Enforcement Network
Department of the Treasury
PO Box 39
Vienna, Virginia 22183

Re: PRA Comments – BSA Required Electronic Filing

Dear Mr. Freis,

On behalf of the League of Southeastern Credit Unions (LSCU), representing approximately 300 state and federal credit unions throughout Alabama and Florida, and the 6 million consumers and small businesses they serve, I appreciate the opportunity to comment on the proposal requiring the electronic filing of BSA reports effective June 30, 2012.

It will come as no surprise to you that the past several years have seen regulatory change on a scale not seen in this country in the past 25 years. The subsequent regulatory burdens are front and center in just about every credit union's agenda for 2012. The number of regulatory changes facing credit unions overwhelm many and the mountain of regulatory requirements under which they must now operate or adopt going forward make it exceedingly difficult to operate effectively. We are concerned about new requirements credit unions will be tasked with implementing, including those from FinCEN, the Consumer Financial Protection Bureau, the Federal Reserve Board and other agencies that now will have a negative effect on their institutions. Now, more than ever, more and more resources are being redirected to new regulatory requirements such as the proposed BSA electronic filings. These efforts could divert credit unions from their stated mission of serving the needs of their members and the communities in which they are located.

I fully understand that many regulations are often revised in an effort to remain current with the advancements made in the technology that serves our industry. However, it is our belief that while the intent is appropriate the timeline proposed for its implementation is flawed. We are working with our affiliate members to better recognize their regulatory burdens in order to advance their abilities to adjust to measures designed to improve their operating capabilities. I do acknowledge your proposal as one whose time has probably come and agree that the proposal seek to eliminate errors and delays in the reporting of sensitive financial transaction data and bring

more credit unions “online” to better communicate activities. We support those efforts and believe they are well intentioned. We also support allowing for the retooling of operational capabilities but we are concerned that the amount of time presented is insufficient to effectively achieve the desired goal. In addition, we are also concerned that there appears to be confusion over the consistent application in what constitutes a “small credit union” for reporting purposes and the lack of clarification of the how the small business emergency extension present in the proposal will apply to credit unions with less than \$175 million in assets.

Adequate Time Constraints on Credit Unions

A growing number of credit unions support a moratorium on all new regulatory requirements of at least six months and my conversations with industry leaders across the country convince me that such a step should be strongly considered. In light of the fact that there has been no new systemic problems discovered within our credit union system, current safety and soundness concerns appear to be manageable, and the number of strongly situated and well managed credit unions have actually increased, I can see no compelling reason to dismiss such an industry request. The improved performance of credit unions demonstrate to each supervisory agency that they do in fact have options available that, if applied will serve to reduce the impact of its regulations on performing credit unions. However, we urge the agency to consider what additional steps can be taken to alleviate credit unions’ BSA reporting burdens to a much greater extent. We recognize that the agencies are free to issue rules during this time period to address significant concerns or technical matters, as determined by that agency. With that agency capability in place, we strongly urge the adoption of a moratorium on new BSA regulatory revisions but absent any action on that recommendation, it is our position that the implementation date for the proposed electronic filing requirement be rescheduled for December 31, 2012 at the earliest.

Bank Secrecy Act Compliance Clarified

Bank Secrecy Act (BSA) requirements under Part 748 of NCUA's regulations supplement BSA regulations from the Department of the Treasury's Financial Crimes Enforcement Network (FinCEN). Compliance with BSA requirements remains one of the top regulatory issues for a number of credit unions. LSCU supports a strong and vibrant BSA program within all credit unions. We encourage regulators to provide additional guidance on BSA compliance where possible and to minimize duplication with FinCEN's regulations. For example, the Credit Union National Association’s Small Credit Union Committee, chaired by Frank Michael, President and CEO of Allied Credit Union, California, will be following up to provide recommendations on the definition of “small credit unions.” LSCU supports this action. The current definition contained within 12 U.S.C. § 1790 d (f) (2) (Section 216 of the FCU Act) of \$10,000,000 is not comparable to other financial regulators’ definitions of small institutions. For instance, for banks, the level is \$175 million and since both banks and credit unions must both adhere to numerous regulations this discrepancy puts credit unions at a disadvantage.

This is important because there is confusion with the current proposal and its reference to “temporary hardship exemptions”. It has been reported that FinCEN will provide a temporary

exemption to a small business as defined by the Small Business Administration (e.g., a credit union with less than \$175 million in assets) that can demonstrate hardship with electronic filing. Also, FinCEN may grant an additional extension of up to 1 year from the effective date if there are “serious problems” with electronic filing. Clarification of the applicability of the exemption to small credit unions will serve to eliminate potential problems at a later date. We ask FinCEN to work to expand the guidance available for this proposal that will assist credit unions.

Conclusion

Credit unions that are making every effort to comply in good faith with BSA requirements are nonetheless the victims of its contradictions and unnecessary complexities. Our comments are not intended to convey that we prefer relaxing the effectiveness of the Bank Secrecy Act or urging the FinCEN to ignore issues. The regulation was enacted and revised over the decades to combat a threat to our industry from those that would use it in a corrupt manner. Congress directed FinCEN to aid in that effort and LSCU supports that. Moreover, when the components are applied effectively and efficiently, the credit union system itself is strengthened and our members benefit. LSCU supports the efforts of FinCEN and other agencies to perform its stated duties, but credit unions need assistance to be able to do our jobs as well—with the necessary time and guidance we can.

We do not doubt that the proposal put forth by FinCEN was presented with the best of intentions. However, if the march toward technical advancement is not implemented properly; many small credit unions will be severely disadvantaged and some forced out by the improvements touted as beneficial to them. With this in mind, the LSCU urges FinCEN to revisit our concerns about the timeline of the implementation of electronic filing and the definition of an actual “small credit union”. Given the complexities of the proposal, we consider further review prudent and the least objectionable option among credit unions. Requiring this technical requirement in the timeframe provided places an almost unreasonable regulatory burden on many our credit unions with the smallest of those institutions impacted the most.

If you have any questions, please feel free to contact me directly.

Sincerely,



Patrick La Pine