New York State
Credit Union League, Inc.
and Affiliates

"Serving and supporting credit unions since 1917."

August 17, 2006

Ms. Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, DC 20551

Dear Ms. Johnson:

I am writing this letter to share the views of the New York State Credit Union League (hereinafter "The League") regarding the Joint Advanced Notice of Proposed Rulemaking that suggests lowering or eliminating the $3,000 threshold triggering the wire transfer recordkeeping and travel rules.

Since the passage of the Bank Secrecy Act in 1970, regulators have attempted to balance the needs of law enforcement to deter and effectively prosecute criminal activity involving or facilitated by financial transactions against the twin concerns of consumer privacy and placing burdensome mandates on financial institutions. In the aftermath of 9\11 this balance has become even more challenging. However, it is still a balance that must be struck: overregulation may, in fact, hinder law enforcement by forcing credit unions to replace vigilance with rote recordkeeping requirements having little or no value in deterring crime.

In preparation for this comment letter, the League examined the experiences of some of our credit unions regarding wire transfer recordkeeping. Many of our smaller credit unions do not directly perform wire transfers and therefore would not be directly impacted by this proposal. Of the anecdotal evidence we gathered from a sample of larger credit unions acting as originators for wire transfers:

- 42% of all wire transfers are less than $3,000.
- By definition, credit unions deal almost exclusively with "established customers." Credit unions have a defined field of membership and those members are the primary users of this service.
- As for the incoming wire transfers (credit union acts as the beneficiary financial institution), 58% are less than $3,000. In addition, credit unions do not differentiate information obtained on a payment or transmittal order for dollar amounts of less than $3,000. The payment and transmittal orders are standard.

Several important points can be drawn from this information. First, credit unions are more likely than other financial institutions to know their customers and are less vulnerable to the type of criminal manipulation this proposal seeks to deter. Furthermore, for many smaller credit unions directly engaging in wire transfers represents an inefficient burden that would only be exacerbated by increased recordkeeping requirements.

19 British American Boulevard, Latham, NY 12110
P.O. Box 15118 ● Albany, NY 12212-5118
(518) 437-8100 ● (800) 342-9835 ● www.nyscul.org

In 1995 when the wire transfer recordkeeping and travel rules were first promulgated, serious consideration was given to either having no threshold or a threshold lower than $3,000. In deciding on the current threshold, regulators concluded that it represented an appropriate balance between the needs of law enforcement and the legitimate concerns of financial institutions not to be unduly burdened.

Many of the same concerns that militated against lowering the threshold still exist today. In fact over the last 11 years an explosion of BSA related mandates have been effective in both deterring crime and assisting law enforcement activity, but have also put increasing demands on the compliance activities of credit unions. For instance, examiners are now emphasizing that all credit unions develop and implement BSA policies tailored to the unique circumstances of their credit unions; 33 CFR 103.18, requiring the filing of Suspicious Activity Reports, wasn't even existent in 1995 and FinCen now receives an estimated 600,000 SARs annually. Potential structuring activity involving wire transfers is already subject to SAR reporting requirements.

Furthermore, the existing regulatory environment has already had a deterrent effect. In 2005, on the federal level alone the U.S. prosecuted 1,075 people for money laundering violations and 54 persons for terrorist financing with more than 70 cases still pending. Given these statistics it is hard to see how the existing system isn't robust enough or that drastic vulnerabilities need to be addressed. In contrast, the regulatory burden on credit unions has exploded.

To the extent that a regulation is to be promulgated in this area it should be tailored to specific types of transactions rather than simply a specific dollar amount. For instance, a wire transfer to another country could potentially raise greater terrorist and criminal concerns than would a purely domestic transaction. Or, in the alternative, perhaps an exception could be made for persons with an established relationship similar to that which already exists for CTR's.

In summary, the existing legal and regulatory environment already places rigorous and effective reporting and recordkeeping mandates on credit unions. Many of the same concerns that prompted federal regulators to set a $3,000 threshold in 1995 have increased under the existing framework. Therefore, proposals in this area should only go forward upon a showing by law enforcement that they address a proven vulnerability in our existing security and that they will enhance rather than simply duplicate existing reporting requirements. Furthermore, a one-size fits all approach would simply ignore the fact that many credit unions have a relationship with the members that is among the most unique in the financial service area.

Thank you for giving the League the opportunity to express our views on this important subject.

Sincerely,

William Mellin
President and Chief Executive Officer