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ALTERNATIVES

April 27, 2026

Chief Counsel's Office
Office of the Comptroller of the Currency
400 7th Street SW
Suite 3E-218
Washington, DC, 20219

Re: Anti-Money Laundering and Countering the Financing of Terrorism Programs
Docket ID: OCC-2024-0005, RIN 1557-AF14; RIN 3064-AF34; NCUA-2024-0033, RIN 3133-AG-08.

To Whom It May Concern:

My name is Nicholas Anthony and I am a Research Fellow at the Cato Institute's Center for Monetary and Financial Alternatives. I appreciate the opportunity to provide input to assist the Office of the Comptroller of the Currency (OCC), Federal Deposit Insurance Corporation (FDIC), and National Credit Union Administration (NCUA) in their effort to modernize the Bank Secrecy Act alongside the Financial Crimes Enforcement Network (FinCEN).¹ The Cato Institute is a public policy research organization dedicated to the principles of individual liberty, limited government, free markets, and peace, and the Center for Monetary and Financial Alternatives focuses on identifying, studying, and promoting alternatives to centralized, bureaucratic, and discretionary monetary and financial regulatory systems. The opinions I express here are my own.

Shifting the focus of the Bank Secrecy Act and its related policies (henceforth, the Bank Secrecy Act regime) from compliance theatre to risk-based policy is a welcome change. However, the changes proposed by FinCEN today leave much to be desired.

Five Years of Breaking the Law

As FinCEN noted, Treasury Secretary Scott Bessent "has identified [Bank Secrecy Act] reform and modernization as one of Treasury's top priorities." However, oversight of this modernization process appears as absent as the modernization itself. It has been five years since Congress passed the Anti-Money Laundering Act of 2020. Included within this legislation was a requirement for regular reports on the effectiveness of the Bank Secrecy Act regime.²

¹ Financial Crimes Enforcement Network, "Anti-Money Laundering and Countering the Financing of Terrorism Programs," Federal Register, April 10, 2026, <https://www.federalregister.gov/documents/2026/04/10/2026-07033/anti-money-laundering-and-countering-the-financing-of-terrorism-programs>.

² Effectiveness of a law enforcement program should be measured in terms of investigations, arrests, convictions, and other relevant outputs against the cost of administering the program.



By all accounts, these reports appear to be missing in action. Perhaps FinCEN has done enough with its new reporting series to earn a “good faith defense,” but much more is needed to follow the law.³

Getting FinCEN into compliance with the law goes deeper than the irony of a law enforcement agency breaking the law. It should be step one for the entire modernization process. The information regarding the effectiveness of the Bank Secrecy Act regime is critical for understanding what changes need to be made. Instead, Congress, financial institutions, and the broader public are stuck in the dark.

The Treasury’s Vision, Refined

While the public has been left to guess how beneficial financial surveillance truly is, there is data on the costs. Estimates suggest that complying with this regime costs US financial institutions \$59 billion a year as they file more than 27 million reports. Yet, despite the cost and intrusion, limited data suggests that the reports only helped the Internal Revenue Service initiate 370 criminal investigations.⁴

With this information in mind, the Treasury’s vision “of a modernized [Bank Secrecy Act] regulatory and supervisory regime” should be refined.⁵ The Treasury currently envisions four pillars for the future where financial institutions:

1. Comply with Bank Secrecy Act laws and regulations;
2. Are examined for the design of their compliance programs;
3. Direct more resources to higher-risk areas; and
4. Generate highly useful information for law enforcement.

The Treasury should be bolder. As part of the Treasury’s effort to embrace Executive Order 14192, it should, at the very least, significantly increase the threshold for all Bank Secrecy Act reports.⁶ The benchmark for increasing these thresholds is inflation.

Executive Order 14192 announced a policy to “significantly reduce the private expenditures required to comply with Federal regulations to secure America’s economic prosperity and

³ Nicholas Anthony, “Reporting FinCEN’s Suspicious Activity, Again,” Cato Institute, July 9, 2025, <https://www.cato.org/blog/reporting-fincens-suspicious-activity-again>.

⁴ Nicholas Anthony, “Reporting FinCEN’s Suspicious Activity, Again,” Cato Institute, July 9, 2025, <https://www.cato.org/blog/reporting-fincens-suspicious-activity-again>.

⁵ Financial Crimes Enforcement Network, “Anti-Money Laundering and Countering the Financing of Terrorism Programs,” Federal Register, April 10, 2026, <https://www.federalregister.gov/documents/2026/04/10/2026-07033/anti-money-laundering-and-countering-the-financing-of-terrorism-programs>.

⁶ The White House, “Unleashing Prosperity Through Deregulation,” January 31, 2025, <https://www.whitehouse.gov/presidential-actions/2025/01/unleashing-prosperity-through-deregulation/>.

national security and the highest possible quality of life for each citizen” and “alleviate unnecessary regulatory burdens placed on the American people.”⁷ Adjusting the reporting thresholds for inflation will achieve all of these goals while also ensuring that Bank Secrecy Act compliance is more “than mere technical compliance.”⁸ As it stands, the vast majority of Bank Secrecy Act reports are filed because people cross the \$10,000 threshold. No data has been provided to show that this number is the perfect amount to catch criminal activity and the Supreme Court only approved its use because it was considered “abnormally large” in the 1970s.⁹

Given that one could buy two corvettes for \$10,000 when the number was first set, it is clear we are talking about a very different number today. If FinCEN publishes data that suggests otherwise, there may be a different debate to be had. However, given the state of affairs, this change should be a clear priority.

Conclusion

The painful irony here is that FinCEN is proposing requirements for banks when the agency itself is not in compliance with the law. Publishing data on the results of the Bank Secrecy Act and adjusting reporting thresholds for inflation should be two of the first steps in the modernization process.

Instead, America has a system that is designed to “measure success by the volume of paperwork rather than their ability to stop illicit finance threats.”¹⁰ If the Treasury wants to “devote more attention and resources toward higher risks,” then it needs to dramatically reform the Bank Secrecy Act regime.¹¹

Sincerely,

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⁷ The White House, “Unleashing Prosperity Through Deregulation,” January 31, 2025,

<https://www.whitehouse.gov/presidential-actions/2025/01/unleashing-prosperity-through-deregulation/>.

⁸ Financial Crimes Enforcement Network, “Anti-Money Laundering and Countering the Financing of Terrorism Programs,” Federal Register, April 10, 2026, <https://www.federalregister.gov/documents/2026/04/10/2026-07033/anti-money-laundering-and-countering-the-financing-of-terrorism-programs>.

⁹ California Bankers Association v. Shultz, 416 U.S. 21 (1974).

¹⁰ Financial Crimes Enforcement Network, “FinCEN Proposes Rule to Fundamentally Reform Financial Institution Programs Designed to Fight Illicit Finance,” April 3, 2026, <https://www.fincen.gov/news/news-releases/fincen-proposes-rule-fundamentally-reform-financial-institution-programs>.

¹¹ Financial Crimes Enforcement Network, “FinCEN Proposes Rule to Fundamentally Reform Financial Institution Programs Designed to Fight Illicit Finance,” April 3, 2026, <https://www.fincen.gov/news/news-releases/fincen-proposes-rule-fundamentally-reform-financial-institution-programs>.