United States Internet Preservation Society
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April 10, 2026

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

Federal Deposit Insurance Corporation
James P. Sheesley, Assistant Executive Secretary
Attention: Comments—RIN 3064-AF34
550 17th Street NW, Washington, DC 20429

National Credit Union Administration
Melane Conyers-Ausbrooks, Secretary of the Board
1775 Duke Street, Alexandria, VA 22314-3428

Re: Docket ID OCC-2024-0005; RIN 1557-AF14; RIN 3064-AF34; RIN 3133-AG08
Anti-Money Laundering and Countering the Financing of Terrorism Programs

Dear regulators,

The United States Internet Preservation Society ("USIPS") submits these comments on the proposed rule to implement the Anti-Money Laundering Act of 2020 ("AML Act"). USIPS is a 501(c)(4) nonprofit dedicated to preserving open access to the infrastructure of American civic and commercial life, including fair access to financial services. USIPS writes from direct experience: it has been denied payment processing with the stated rationale "principal's background", a phrase that is not a BSA/AML concept, that cites no transaction, that quantifies no risk, and that was accompanied by no individualized assessment. It is a character judgment laundered through compliance terminology.

USIPS's experience is the empirical basis for the concerns that follow. The agencies have just finalized a rule prohibiting the use of reputation risk in supervision and stating expressly that "*the rule prohibits supervisors from using BSA and anti-money laundering concerns as a pretext for reputation risk*." *Prohibition on the Use of Reputation Risk by Regulators*, 91 Fed. Reg. 18279, 18287 (Apr. 10, 2026). That commitment is meaningful only if the present rulemaking operationalizes it. Without concrete anti-pretext mechanisms in the AML/CFT program rule, the reputation-risk prohibition merely reassigns the label

under which arbitrary denials are issued. This letter proposes five changes to close that gap.

I. The Statutory Effectiveness Standard Forbids Category-Based De-Risking

Congress did not write into 31 U.S.C. 5318(h) a standard of "defensible" or "conservative" program design. It wrote "effective" and "risk-based." These words have content. A program that exits a category of customers (whether by industry, by business model, by products lawfully sold, by demographic or associational characteristics) without individualized assessment is not running a risk-based program. It is running a *category-based* program disguised for legitimacy.

USIPS urges the agencies to state expressly in the rule text, not merely the preamble, that blanket category-based exits are presumptively inconsistent with the "risk-based" requirement of 31 U.S.C. 5318(h). A bank that cannot articulate a customer-specific, conduct-based finding has by definition failed to perform the risk assessment the statute demands. Examiner guidance should treat patterns of category exits as supervisory red flags warranting inquiry into whether a genuine risk assessment occurred.

This is not a constraint on bank discretion. It is a clarification of what the statutory standard already requires. The Financial Action Task Force has stated this position directly, warning that "de-risking" (the wholesale termination of customer categories) undermines rather than advances AML objectives by pushing suspicious actors into less-regulated channels while cutting off legitimate customers from the regulated financial system. *See* FATF, *Drivers of De-Risking* (2021). The agencies' own reputation-risk rulemaking acknowledged the same dynamic. The present rule should make it enforceable.

II. Debanking for a Principal's Background Must Be Prohibited

The specific pretext USIPS encountered ("principal's background") illustrates how BSA/AML terminology is used to cover decisions that have nothing to do with money laundering or terrorist financing. A principal's "background" is not a transaction. It is not a beneficial ownership disclosure. It is not a sanctions match. It is a judgment about a human being's identity, associations, or public statements, rendered without process and insulated from review by the compliance framing.

USIPS proposes that the rule prohibit adverse action against a business entity based on characteristics of its principal that are not tied to specific, documented AML/CFT risk findings about that principal's conduct. Specifically, the rule should bar denial, closure, or material modification of services on the basis of:

- A principal's political, social, cultural, or religious views or beliefs;
- A principal's constitutionally protected speech or associations;

- Media coverage, public reputation, or third-party commentary about a principal; or
- Any rationale that cannot be reduced to a quantified, auditable risk finding tied to the principal's specific conduct.

When a bank denies or terminates service to a business citing concerns about a principal, the customer file must contain the specific conduct-based risk finding and not a character or background judgment. This is a recordkeeping rule, unambiguously within the agencies' authority under 12 U.S.C. 1818 and the Bank Secrecy Act, and it creates the evidentiary trail required to detect pretext during examination.

III. Reputation-Based Denials Defeat the Effectiveness Standard as a Matter of Empirical Fact

There is a second-order harm to reputation-based and background-based denials that the agencies should consider directly, because it goes to the statutory effectiveness standard rather than to fairness concerns alone.

When a public figure or advocacy organization predicts they will be debanked for their views, and is then debanked with no articulable conduct-based rationale, the denial itself becomes evidence confirming that figure's narrative to their audience. The bank has not mitigated risk. It has *manufactured legitimacy* for the very ideology it purported to distance itself from. Each such denial measurably grows the audience and credibility of the debanked figure, a pattern documented across a decade of research on deplatforming and audience migration.

A genuinely risk-based program avoids this failure mode because conduct-based findings are defensible on their own terms and do not read as persecution. A character-based denial cannot be defended without revealing the character judgment, which is precisely what converts the denial into a recruitment tool for the debanked party. The effectiveness mandate of the AML Act therefore requires, not merely permits, individualized conduct-based findings. A program that produces propaganda victories for extremists is not an effective program under any honest reading of the statute.

USIPS urges the agencies to include in the preamble and in examiner guidance an express finding that reputation-based and background-based denials are presumptively inconsistent with the effectiveness standard, and to treat files lacking conduct-based risk findings as presumptive evidence of program failure.

IV. Adverse Action Transparency: A Customer's Right to Know

The documentation requirements proposed above are enforceable only if customers can see the rationale for decisions made about them. At present, banks routinely refuse to disclose the basis for adverse action by invoking "trade secret"

or “proprietary risk methodology” protections. This is a category error. A bank’s risk-*scoring methodology* and its customer-*specific findings* are different things. Banks may legitimately protect the former while being required to disclose the latter. The Fair Credit Reporting Act already works this way: adverse action notices disclose the reason for denial without exposing the credit bureau’s proprietary scoring.

USIPS proposes that the rule require, when a bank takes adverse action (denial, closure, or material modification) citing BSA/AML concerns, written notice to the customer stating:

- The specific conduct-based finding that supports the action, stated with sufficient particularity to be auditable, and not by category, character judgment, or boilerplate;
- The factual basis for that finding;
- An internal appeal path with a defined timeline for response.

Three narrow exceptions should apply, clearly enumerated so the rule cannot be dodged by broad claims of sensitivity:

(1) **SAR confidentiality.** Nothing in the notice may reveal whether a Suspicious Activity Report was or was not filed. 31 U.S.C. 5318(g)(2) remains absolute. The customer may be told the conduct-based concern without being told whether a SAR exists.

(2) **Active law enforcement matters.** Disclosure may be delayed when a specific ongoing investigation would be compromised, but *only* on written certification from the relevant law enforcement agency, not on the bank’s unilateral assertion.

(3) **Genuine national security determinations.** OFAC designations, classified determinations, and similar narrow categories. This is not a general “security” exemption and must be interpreted strictly.

“Trade secret” and “proprietary risk methodology” are not on this list because they do not need to be. The customer-specific facts required by the notice are not the methodology. A bank that cannot explain to a customer why a decision was made about that customer cannot credibly claim that the decision was risk-based in the first place.

V. Anti-Pretext Parallelism with the Reputation Risk Rule

Five days ago, the agencies finalized a rule stating that *“BSA/AML focused supervisory actions could indirectly address reputation risk”* and prohibiting that use. 91 Fed. Reg. at 18287. The prohibition runs in one direction. USIPS urges the agencies to complete the parallel here: the AML/CFT rule should state expressly that supervisory findings, MRAs, and adverse actions citing BSA/AML concerns

may not be used as pretext for what are in substance reputation-risk, political, or category-based concerns.

This is the same mechanism the agencies have already adopted, running the opposite direction. It costs the agencies nothing. It forecloses the most obvious evasion of both rules. And it places the agencies on record that the reputation-risk and AML/CFT frameworks are two sides of a single anti-pretext commitment, not independent regimes a creative supervisor can play against each other.

Conclusion

The AML Act of 2020 gave the agencies a statutory mandate to move bank supervision toward genuinely risk-based program design. The present rulemaking is the moment that mandate becomes operational or does not. USIPS's direct experience with "principal's background" as a denial rationale demonstrates that without the documentation, transparency, and anti-pretext mechanisms proposed above, the statutory standard will continue to be satisfied in form and evaded in substance.

USIPS respectfully urges the agencies to adopt the five changes described in this letter. Each is grounded in the statutory text, consistent with the agencies' existing authority, parallel to frameworks already in use elsewhere in federal financial regulation, and responsive to the pretext problem the agencies themselves identified in the reputation-risk final rule.

Thank you for your consideration.

Respectfully submitted,

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