



Regulatory Comment: FinCEN AML/CFT Programs Proposed Rule

THE ISSUE:

On April 10, the Financial Crimes Enforcement Network (FinCEN) issued a significant [proposed rule](#) that would update the anti-money laundering and countering the financing of terrorism (AML/CFT) program requirements with the intention of shifting expectations from technical compliance to overall program effectiveness. The proposal would formalize risk assessment requirements, incorporate AML/CFT Priorities into program design, distinguish between program establishment and maintenance, and expand FinCEN's role in certain supervisory and enforcement matters. Separately, the NCUA, OCC, and FDIC have issued a concurrent interagency proposal to revise their own AML/CFT program rules for supervised institutions to align with FinCEN's proposed changes.

IMPACT TO CREDIT UNIONS:

While credit unions already perform many of the activities reflected in the proposal, they would likely need to update AML/CFT frameworks, including governance, written policies, risk assessments, training, testing, and oversight processes. The proposal supports directing resources toward higher-risk areas, but it also creates new expectations around documentation, program updates, and demonstrating effectiveness. The proposal recognizes that AML/CFT expectations should be proportionate to an institution's size, complexity, and risk profile. The rule may result in a supervisory posture more tolerant of risk-based deviations from prescriptive practices.

KEY POINTS:

- Refocuses AML/CFT program requirements around effectiveness and the core purposes of the Bank Secrecy Act (BSA) rather than technical compliance alone.

- Distinguishes between “establishing” an AML/CFT program (designing the framework) and “maintaining” it (operating it in practice).
- Requires formal risk assessment processes that evaluate products, services, customers, channels, and geographic risks, and incorporate AML/CFT Priorities as appropriate.
- Retains core program pillars such as internal controls, independent testing, a designated U.S.-based compliance officer, and ongoing training.
- Creates a new consultation framework that would give FinCEN a larger role in certain significant supervisory actions involving financial institutions’ AML/CFT programs.

ACTION NEEDED: Deadlines and contacts

Please use the comment link below to respond to America’s Credit Unions’ survey. This will help shape the discussion and better address your needs in our comment letters.

- Comments due to America’s Credit Unions: May 25, 2026 – [Submit here](#)
- Comments due to FinCEN by June 9, 2026
- Questions? Contact [Luke Martone](#), Regulatory Advocacy Senior Counsel
- Agency contact: FinCEN [Regulatory Support Section](#)

QUESTIONS TO CONSIDER:

1. Would the proposal’s distinction between establishing an AML/CFT program and maintaining that program through implementation provide clearer supervisory expectations for credit unions? Why or why not?
2. Are the proposed risk assessment requirements appropriately tailored and workable for credit unions of different sizes, complexity, and risk profiles?

3. Would the proposal's emphasis on directing greater attention and resources toward higher-risk areas improve AML/CFT compliance, or create operational challenges for credit unions?
4. Does the proposal appropriately incorporate AML/CFT Priorities into program requirements, including the standard to consider them "as appropriate"? If not, what changes would you recommend?
5. Are the proposed written AML/CFT program and approval requirements clear and workable for credit unions, including approval by the board?
6. Would the proposed standards for independent testing, including the focus on objective criteria and examiner or auditor deference to risk-based decisions, improve the examination process? Why or why not?
7. Are there any aspects of the proposal that would create unnecessary burden, implementation challenges, or unintended consequences for credit unions?
8. Any other comments regarding these regulations.

BACKGROUND:

The BSA requires covered financial institutions, including credit unions, to maintain AML compliance programs. This proposal is part of Treasury's broader effort to modernize that framework and implement provisions of the AML Act of 2020, including requirements related to AML/CFT Priorities. The proposed changes are intended to better align program requirements, supervision, and enforcement with the core goals of identifying, preventing, and reporting illicit finance, while promoting a more risk-based and effective compliance approach. At the same time, the federal banking agencies and the NCUA have proposed corresponding amendments to their own program rules, reflecting that these changes are intended to work together as part of broader AML Act implementation.

SECTION-BY-SECTION ANALYSIS:

An “Effective” AML/CFT Program

FinCEN acknowledges that no financial institution can detect and report every potentially illicit transaction or prevent every minor instance of illicit finance misuse. Accordingly, the proposed rule would provide that an AML/CFT program is “effective” (and satisfies 31 U.S.C. 5318(h)(1)) so long as it is properly established and maintained in accordance with applicable requirements. FinCEN also emphasizes that an effective program must be more than a paper program that appears compliant on its face but does not meaningfully detect, prevent, or address illicit finance risks.

Under the proposal, a program would be effective if it meets two related standards. First, it must be properly established through the required risk-based framework, controls, governance, and related program elements. Second, it must be maintained by being implemented in all material respects. An effective program also must remain current as the institution’s risk profile changes over time.

The proposal also reflects Congress’s direction in the AML Act to encourage technological innovation that can more effectively combat money laundering and terrorist financing. FinCEN encourages institutions to consider tools such as machine learning, generative artificial intelligence, digital identity solutions, blockchain analytics, and APIs, particularly where they may help address illicit finance involving digital assets. At the same time, the proposal does not require any specific technology, recognizes that advanced tools may not be appropriate for every institution, particularly smaller institutions, and preserves flexibility so long as decisions are supported by sound risk assessment processes. Responsible use of innovative tools alone would not increase supervisory or enforcement risk.

Establishing and Maintaining an AML/CFT Program

A central feature of the proposal is the distinction between establishing an AML/CFT program and maintaining that program through implementation. FinCEN explains that existing

requirements have not always clearly separated weaknesses in program design from failures in execution, and the proposal is intended to create a more consistent supervisory and enforcement framework by treating those as different issues.

Under the proposal, a financial institution would not satisfy its obligations simply by adopting written policies or formally designating required elements, and isolated operational issues would not automatically mean it failed to establish an adequate program. Instead, FinCEN would evaluate whether the institution has designed an appropriate risk-based framework and whether it is implementing that framework in all material respects through its day-to-day operations.

Failures to establish a program relate to deficiencies in structure, governance, controls, and design, while failures to maintain a program relate to execution of that framework. Establishment is also an ongoing obligation, meaning a program may need to be updated as risks change.

For financial institutions, isolated, technical, or immaterial implementation issues generally would not justify significant supervisory or enforcement action, which instead would be directed at significant or systemic failures to maintain the program. Institutions therefore need more than a paper framework. They also need evidence that the program is functioning effectively, known weaknesses are being addressed, and resources are aligned with actual risks.

Program Establishment

This section outlines what is required to properly establish an AML/CFT program. FinCEN organizes these requirements around four core pillars: internal policies, procedures, and controls; independent testing; designation of an AML/CFT officer; and ongoing employee training. Each component must be reasonably designed to address the institution's risks and be updated as those risks change.

Internal Policies, Procedures, and Controls

This foundational pillar would require financial institutions to maintain internal policies, procedures, and controls reasonably designed to ensure compliance with the BSA and related

regulations. These controls must reflect the institution's business model and risk profile rather than be generic or static.

The proposal would also require documented risk assessment processes that identify, assess, and document money laundering and terrorist financing risks related to products, services, customers, distribution channels, geographic locations, and other business activities. Institutions would need to review FinCEN's AML/CFT Priorities and, as appropriate, incorporate them into those processes.

Risk assessments would need to be updated when material risk changes occur, and institutions would be required to mitigate identified risks consistent with those assessments, including directing greater attention and resources toward higher-risk customers and activities rather than lower-risk areas.

For credit unions and certain other covered financial institutions, existing ongoing customer due diligence obligations would be incorporated into this pillar. FinCEN states this does not substantively change existing CDD requirements.

Independent Testing

The proposal would retain the statutory requirement for independent testing of AML/CFT programs. Testing would assess whether the institution has effectively established, implemented, and appropriately resourced its program, must rely on objective criteria, and must remain independent and free from conflicts of interest. FinCEN also states auditors should not substitute their own judgment for the institution's risk-based decisions.

Designate an AML/CFT Officer Located in the United States

Each institution would be required to designate an AML/CFT officer responsible for establishing, implementing, and overseeing day-to-day compliance with BSA requirements. The officer would serve as the primary accountable individual for administration of the program and would need to be located in the United States and accessible to FinCEN and other appropriate regulators.

Ongoing Employee Training Program

The proposal would standardize training requirements by applying the statutory phrase “ongoing employee training program” across covered sectors, which FinCEN characterizes as primarily a clarifying change. Training would be expected to reflect the institution’s controls, risk assessments, regulatory obligations, and personnel responsibilities, with frequency and content remaining risk-based rather than uniformly prescribed.

Access to and Approval of a Written AML/CFT Program

This section would standardize requirements that institutions maintain a written AML/CFT program, make it available upon request to FinCEN, relevant federal regulators and obtain approval from the board of directors, an equivalent governing body, or appropriate senior management, depending on the institution’s structure. FinCEN states these changes are intended to promote consistency, accountability, oversight, and flexibility across different governance models, and are not intended to create new documentation obligations.

Supervision and Enforcement

This section would establish a new supervisory and enforcement framework for financial institutions’ AML/CFT programs. FinCEN states that once a financial institution has properly established an effective AML/CFT program, significant supervisory or enforcement action based solely on implementation issues generally should be reserved for significant or systemic failures rather than minor, technical, or immaterial deficiencies. Key terms such as significant AML/CFT supervisory and enforcement actions would be defined because those definitions determine when the framework’s consultation and heightened standards apply.

The proposal also expands FinCEN’s formal role in the supervisory process. Before taking certain significant AML/CFT supervisory actions under delegated authority, federal banking agencies generally would be required to provide FinCEN at least 30 days’ written notice, absent urgent circumstances, allowing FinCEN to review the matter and provide input that agencies must consider. When evaluating enforcement matters or proposed supervisory actions, FinCEN’s

Director would consider statutory factors under the AML Act, the extent to which a financial institution provides highly useful information supporting law enforcement or national security objectives, and whether the financial institution uses innovative tools such as artificial intelligence that demonstrate program effectiveness, among other relevant factors. Overall, the section reflects a more consistent, risk-focused supervisory framework that recognizes positive outcomes and responsible innovation.

Final Rule Effective Date

The proposed changes would become effective 12 months after issuance of the final rule, which is intended to give covered entities time to review and update their AML/CFT programs, policies, controls, and related processes.