BANK POLICY INSTITUTE

Testimony of John Court

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"Modernizing the BSA for Financial Crime in the 21st Century"

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Chairman Davidson, Ranking Member Beatty and Honorable Members of the Subcommittee, my name is John Court and I am the General Counsel and Chief Operating Officer of the Bank Policy Institute (BPI). BPI is a research and advocacy group supported by banks with more than $100 billion in U.S. assets. Collectively, our banks employ nearly two million Americans, make half of the nation's small business loans and are an engine for economic growth. On behalf of BPI's member companies, I appreciate the opportunity to discuss modernizing the Bank Secrecy Act (BSA) and the anti-money laundering (AML) and countering the financing of terrorism (CFT) regime.

For decades, our member banks have played an integral role in preventing, identifying, investigating and reporting criminal activity, including terrorist financing, money laundering and tax evasion. BPI has been a longstanding champion of modernizing and improving the effectiveness of the BSA so that our members can continue to contribute meaningfully to U.S. national security and law enforcement priorities as financial crime evolves.

More than five years ago, Congress enacted a comprehensive reform law to modernize the nation's AML/CFT framework. The Anti-Money Laundering Act (AMLA) called for a major rethink of the AML framework, reporting requirements, examiner training and innovation. At the time, that law held out the promise of an AML regime that would embrace innovative technologies and focus financial institutions and regulators on the most urgent law enforcement and national security priorities. However, for several years, no implementing rules had been adopted, several deadlines have been missed and examiners' focus on compliance for compliance's sake has become even more intense.

In the past year, BPI has been encouraged by the Administration's public statements and regulatory proposals toward establishing an AML/CFT framework that focuses on national security priorities and higher-risk activity, and that expressly allows financial institutions to de-prioritize lower-risk areas—all in line with AMLA's original intent. For years, our members have been bogged down by inconsistent supervisory expectations and an incessant focus on technical compliance and examiner benchmarking

rather than the freedom and clear authority to use risk-based judgment to determine how best to meaningfully contribute to fighting crime.

We have a once-in-a-generation opportunity to rationalize this system and refocus tens of thousands of bank employees on identifying serious criminal activity rather than checking boxes. A few key reforms should guide that broader effort.

Building on prior engagement with the agencies, we support expediting AML Program Rule revisions to give banks clear authority to run effective, risk-based programs tailored to their activities and risk profiles, with exam and supervisory expectations aligned to that standard. Regulators should also align suspicious activity reporting (SAR) requirements with FinCEN's National Priorities, clarify vague filing expectations that encourage over reporting and update the SAR form to let banks identify—on a best-efforts basis—when activity relates to those priorities. As this is underway, FinCEN should move expeditiously to implement automated BSA reporting, and the federal banking agencies should take actual AML risk into account before issuing supervisory actions. The currency transaction report (CTR) framework should be modernized by eliminating the aggregation requirement, while reviewing outdated CTR thresholds. And simplifying SAR and CTR forms so they are more standardized and easier to complete would free up investigators' time from box-checking. Finally, regulators should explicitly encourage responsible use of innovation and AI—supported by strong model governance—so banks can better detect complex illicit finance patterns while reducing unnecessary friction for law-abiding customers.

AML Program Rulemaking and Risk-Based Programs

The Treasury Department's re-proposed Program Rule is a vast improvement on its 2024 predecessor, which would have enshrined the status quo in violation of both the letter and spirit of AMLA. The most recent proposed rulemaking aims to provide banks with clear authority to implement effective, risk-based programs tailored to their specific activities and risk profiles. It reflects a meaningful reorientation of AML/CFT programs that better aligns with the underlying statutory mandate—to identify and mitigate significant illicit finance risks and to create a structure that allows financial institutions to provide information that is "highly useful" to law enforcement agencies. Just as importantly, the proposal acknowledges the role of technology and innovation in mitigating illicit financial activity—a meaningful step forward in BSA/AML modernization.

The proposed rule appropriately reflects a principles-based approach by affording banks meaningful discretion in the risk-based design and implementation of their AML/CFT programs. This deference recognizes that banks are uniquely positioned to understand their own risk profiles, including the nuances of their customer base, products, services, geographic exposure, controls, and overall risk appetite. By allowing banks flexibility to tailor their programs, the NPRM reinforces a risk-based framework that is both more effective, operationally practical and useful to federal agencies in combatting illicit finance.

Examination

Overall, the re-proposed rule acknowledges that banks are not perfect, and also that perfection is not a reasonable standard. A bank should not be deemed noncompliant simply because it does not meet every technical requirement or detect and report every item of suspicious activity. Examination practices must mirror regulatory changes if reform is to be successful.

AMLA mandated a clear and deliberate shift away from the status quo. However, current supervisory practices remain misaligned with that mandate. Examinations continue to emphasize exhaustive documentation and zero-error tolerance across all areas of a program, rather than prioritizing risk and outcomes. As a result, banks are not rewarded for producing high-value intelligence, and in some cases examiners' priorities discourage them from doing so. One bank that has been commended by law enforcement for high-impact work has simultaneously faced criticism from examiners for documentation shortcomings related to that same activity. Other banks have gone above and beyond regulatory expectations to support national security objectives—through expanding investigative lookbacks, building expansive casework or focusing resources on priority typologies—only to be penalized for deviating from prescriptive processes or discouraged from this top-tier investigative work in order to focus on low-value compliance check-the-box processes. Those banks should have been rewarded, not penalized.

Our banks describe to us inconsistent supervision across agencies, duplicative demands and examiners second-guessing reasonable risk decisions even when banks have conducted enhanced due diligence. This dynamic has driven banks to take the most conservative approach, often leading to customer exits and overclassifying everyday customers as "high risk"—with that designation coming with compliance burdens and enforcement risk that generally make it infeasible to retain the customer.

And that's why it is important that the proposed rule not only be finalized, but faithfully implemented by the federal banking agencies, whose examination teams that have traditionally resisted its risk-focused approach in favor of a process- and governance-focused "gotcha" approach. Examiners should be directed to focus on higher-risk areas and to apply proportionate expectations for lower-risk activities, including reduced documentation requirements. Minor documentation errors should not form the basis for Matters Requiring Attention or other examination sanctions absent systemic weaknesses. We believe the re-proposed rule attempts to codify this.

Critically, a bank's AML program should be evaluated in coordination with FinCEN, law enforcement and national security stakeholders, with explicit recognition given to outcomes such as producing SARs that contribute to priority investigations, support OFAC designations or FinCEN enforcement actions, identify new typologies or generate high-value "super SARs" and actionable intelligence.

To address these disconnects, FinCEN should establish and operationalize a centralized office, as contemplated by AMLA, to oversee AML examinations conducted by the banking agencies. This office

should coordinate closely with law enforcement and national security partners to ensure that examinations are aligned with national priorities. FinCEN should also exercise its authority to review and concur in significant BSA/AML findings and enforcement actions, ensuring consistency and preventing misaligned supervisory outcomes. It is critical for FinCEN to review matters requiring attention (MRAs) and enforcement actions, because FinCEN is responsible for setting national AML/CFT priorities and is directly connected to law enforcement and national security, giving it a holistic view of program effectiveness that front-line examiners simply do not have—especially since examiners are not permitted to know how SARs are ultimately used and therefore cannot see the benefits of particular compliance decisions.

The FinCEN-federal banking agency consultative mechanism concept introduced in the Program Rule NPRM is a promising foundation from which to build. Concurrently, there should be a formal feedback loop that allows banks to provide input when examiner judgments appear inconsistent with a risk-based AML/CFT framework. As FinCEN has recognized, banks are best positioned to design and implement programs that reflect their own risk profiles and risk assessment processes, and their explanation of those decisions should be treated as important evidence in any significant supervisory or enforcement action. Further, enhanced examiner training, led by FinCEN, would further promote consistency and better align supervisory practices with the objectives of the AML Act.

In parallel with enhanced FinCEN-banking agency coordination, institutions should be expressly permitted to streamline or discontinue documentation-heavy processes that provide little risk management or law enforcement value. Further, existing model risk management (MRM) guidance—designed for capital planning and financial reporting—should not be applied to AML/CFT monitoring in a manner that impedes timely adoption of innovative technologies, including artificial intelligence (AI). Recent banking agency guidance to the effect of exempting AI models is a promising start and will have real benefits for AML programs as they seek to incorporate new, innovative technologies into their systems.

BSA Reporting Reform

One of the more delinquent elements of BSA modernization is in BSA reporting reform. In particular, reform of SAR and CTR requirements is urgently needed, as current frameworks are yielding limited law enforcement value in a majority of filings. We need to modernize SAR and CTR requirements so banks can spend less time on low-value, highly manual reporting and more time producing actionable intelligence for law enforcement.

Currency Transaction Reports (CTRs)

CTRs consume substantial bank resources while yielding limited investigative value, since most filed CTRs are not accessed by law enforcement and often relate to innocent cash activity. The current CTR threshold captures a high volume of transactions that are overwhelmingly non-suspicious, creating significant opportunity costs and contributing to downstream SAR overproduction. Financial institutions

file tens of millions of CTRs annually (with about 300 million filed previously that are already available to law enforcement).

Several reforms would make an immediate difference in banks' abilities to quickly provide to law enforcement highly useful information about cash transactions. Simplifying the CTR filing process to eliminate extraneous and unused data fields, abolishing the CTR aggregation requirement, or at minimum raising the CTR threshold to reflect inflation and modern transaction patterns, would be preferable. Further, simplifying the fields on the CTR form would allow for more automated filings, freeing up resources, especially for smaller and community banks.

Suspicious Activity Reports (SARs)

On SARs, change is needed to reduce repetitive, low-value filings. Supervisory expectations drive a substantial share of SAR filings, despite generating minimal law enforcement value. The current regime creates strong incentives for over-reporting, as institutions face penalties for inadvertent omissions, resulting in large volumes of low-value filings. As one example, the overly broad "no business or apparent lawful purpose" SAR filing category puts the onus on banks to identify the lawful purpose for a transaction; if they cannot do so, they must file a SAR, contributing to excessive filings and downstream debanking concerns. Regulatory expectations that automatically classify certain products or customer types as "high risk" should also be eliminated in favor of more tailored, risk-based approaches. And similar to CTRs, thresholds for SAR filings should also be meaningfully increased to match current inflation levels.

Of additional importance, FinCEN in October 2025 released four Frequently Asked Questions (FAQs) to pare down low-value and defensive SAR filings. These FAQs clarified that activity near the CTR threshold did not in and of itself require a SAR; that banks had discretion on continuing activity reviews rather than being bound to particular follow-up timing; and that institutions were not required to document decisions not to file a SAR. If examiners abide by this guidance, the benefits to AML/CFT efficacy would be substantial. For that reason, we strongly urge FinCEN to adopt these FAQs as a rule, either in conjunction with the final program rule or independently.

Innovation and Technology

AMLA explicitly encouraged "technological innovation and the adoption of new technology by financial institutions to more effectively counter money laundering and the financing of terrorism." We support Treasury's steps toward embracing technological innovation in the AML/CFT regime by recognizing tools such as machine learning, generative AI, digital identity, blockchain analytics and APIs. Enabling responsible innovation would improve detection capabilities, enhance the quality and timeliness of reporting, and reduce false positives—the misidentification of legitimate activity as suspicious.

However, we still need a clear framework for what responsible innovations means and how its use will be treated in supervision and enforcement. Institutions that adopt advanced monitoring technologies should not be required to operate legacy systems in parallel absent a clear, risk-based justification—which is what is happening now. Banks should be comfortable developing technologies appropriate to

their size, business model and risk profile—with the explicit assurance that that compliant use of such technology will not, by itself, create supervisory risk. As an alternative, FinCEN or Treasury should consider publishing testing standards for AML/CFT technologies so that financial institutions know how new tools will be evaluated are not penalized for adopting and testing them in good faith.

Conclusion

We strongly support the government's initiative to prioritize the investigation and reporting of activity that fulfills the Bank Secrecy Act's core purpose of providing highly useful information to law enforcement. Done well, this approach would allow financial institutions to deliver more valuable information by redirecting resources toward more proactive AML/CFT work, including identifying emerging illicit finance typologies and investing in new technologies, such as machine learning.

Banks operate some of the most sophisticated detection and investigative systems available, and their information has directly supported high-value prosecutions and the disruption of emerging criminal activity. Their efforts should be more closely aligned with this Administration's highest priorities, including Iran, fentanyl and narcotics trafficking, terrorism and proliferation financing.