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June 9, 2026

The Honorable Andrea Gacki
Director, Financial Crimes Enforcement Network
Attn: FINCEN-2026-0034/RIN 1506-AB72
P.O. Box 39
Vienna, VA 22183

RE: Notice of Proposed Rulemaking on Anti-Money Laundering and Countering the Financing of Terrorism Programs ("Proposed Rule" or "NPRM"), Docket No. FINCEN-2026-0034/RIN 1506-AB72

Dear Director Gacki:

The Crypto Council for Innovation ("CCI") appreciates the opportunity to submit comments on the Notice of Proposed Rulemaking on Anti-Money Laundering ("AML") and Countering the Financing of Terrorism Programs ("CFT") (the "Proposed Rule" or "NPRM"), Docket No. FINCEN-2026-0034.

CCI is a global alliance of leading companies across the digital asset ecosystem — including stablecoin issuers, financial institutions, technology providers, and investors — with a mission to advance the responsible regulation of digital assets and demonstrate their transformational potential to unlock economic opportunities, promote financial inclusivity, safeguard national security, and counter illicit finance. Achieving these shared goals requires informed, evidence-based policy developed through collaborative and constructive engagement with regulators and policymakers. To that end, CCI respectfully submits the following comments and recommendations addressing the Proposed Rule.

I. Summary

CCI strongly supports FinCEN's effort to modernize the Bank Secrecy Act ("BSA") through this rulemaking focused on AML/CFT Program effectiveness. The Proposed Rule represents a significant and welcome step toward aligning U.S. AML/CFT obligations with risk-based principles while providing financial institutions discretion to tailor AML/CFT Programs to their risk profile and encouraging the responsible use of innovative technologies. A well-calibrated final rule will deliver the regulatory clarity necessary to enable consistent application of supervisory expectations for all covered financial institutions and strengthen the detection and prevention of illicit activity.

CCI's comments address the following areas:

- To ensure holistic risk-based program effectiveness, the two-prong framework set out in the Proposed Rule should be extended to specifically address other applicable BSA obligations, such as Customer Identification Program ("CIP"), Customer Due Diligence ("CDD") and Suspicious Activity Report ("SAR") reporting, and apply equally to all covered financial institutions.
- Clarifications are necessary to guide covered financial institutions in the development and implementation of risk assessment processes as well as to guide supervisors and examiners evaluating risk-based AML/CFT Programs.
- The supervision and enforcement provisions of the Proposed Rule should be extended beyond banking institutions for consistent calibration of examinations and supervisory outcomes.
- The adoption of innovative technologies should be part of the evaluation of program effectiveness for all covered financial institutions, bank and non-bank alike.
- Additional recommendations and considerations to meet the policy goals of the Proposed Rule.

CCI respectfully requests that FinCEN consider the clarifications and recommendations set forth below in finalizing this rule.

II. Achieving Overall AML/CFT Program Effectiveness for all Covered Financial Institutions

Expansion of Risk-Based Framework

The Proposed Rule is a critical first step in modernizing the BSA by codifying risk-based AML/CFT Program effectiveness. In order to apply this framework more holistically and consistently, the final rule should specify that this risk-based approach also applies to the most operationally burdensome aspects of AML/CFT Programs, namely the CIP, to the extent applicable to the covered financial institution, and CDD obligations. The Proposed Rule currently advances the risk-based framework for AML/CFT program design generally but leaves CIP and CDD largely untouched by the same principles. This gap significantly limits the practical impact of the modernization effort for many covered institutions under such obligations.

By extending the risk-based framework to CIP and CDD, each applicable covered financial institution can calibrate due diligence programs according to their risk profiles, customer base, product offerings and geographies served. For example, although the CIP currently applies uniform standards regardless of customer risk, a modernized approach would be to provide relevant covered financial institutions with greater discretion on how and when to identify and

verify customers and broaden permissible CIP reliance. Similarly, whilst there are already enhanced due diligence obligations for high risk customers, applying the risk-based framework of the Proposed Rule to CDD would explicitly support decisions to apply simplified due diligence to low-risk customers. CCI recommends that FinCEN use this rulemaking to codify simplified due diligence for demonstrably low-risk customers.

Other beneficial program impacts to broadening the risk-based framework to specific underlying BSA obligations could include the modernization of SAR filing standards by recognizing that the risks presented in SARs may differ, and thereby warrant different monetary thresholds or filing timelines. CCI recommends that FinCEN use this rulemaking to re-evaluate existing SAR reporting thresholds, identify categories of lower-risk SARs that could be subject to different monetary or timing standards.

Taken all together a holistic risk-based AML/CFT Program will permit covered financial institutions to more comprehensively allocate resources across BSA obligations in accordance with the risks identified and the internal controls developed to mitigate them.

Financial Institution Discretion

CCI commends FinCEN's determination that financial institutions are best placed to identify risks and allocate resources. The risk-based framework grants financial institutions meaningful discretion encouraging effective, targeted compliance rather than uniform checkbox requirements that may be ill-suited to the range of business models, risk profiles, and technological architectures which exist today. CCI particularly welcomes the Preamble's recognition that FinCEN does not contemplate regulatory second-guessing of reasonable determinations. CCI urges that this principle of financial institution discretion and flexibility be codified in the rule text itself rather than left only to the Preamble, as it is a foundational component of modernization efforts. A Preamble statement, while instructive, does not have the binding effect of regulatory language and may not carry equivalent weight in enforcement proceedings or examination contexts. Codifying the discretion standard in the rule text would provide institutions with a more durable protection against second-guessing and signal clearly to examiners that this flexibility is a deliberate design feature of the rule.

It should also be recognized that resource allocation decisions are not driven solely by risk classification; the effectiveness of existing controls is an equally important variable that financial institutions take into consideration when evaluating overall program staffing. An institution that has deployed strong, well-tested controls in a particular area may rationally direct fewer resources there than an institution whose controls in that area are newer or less proven.

Establishment and Maintenance of AML/CFT Programs

The Proposed Rule draws a distinction between "establishing" a program and "maintaining a program by implementing the program." CCI finds this framework useful, as it maps to two well-established compliance concepts: *design effectiveness* (whether a program is reasonably designed based on applicable requirements) and *operating effectiveness* (whether the program is implemented as designed in practice). CCI recommends that FinCEN utilize and incorporate these recognized principles into the text of the final rule when describing the two-prong framework, in order to align with existing practice and nomenclature. A program that is reasonably designed to comply with the BSA is effectively established; deficiencies in policies, procedures, or controls at the implementation level do not retroactively call into question the soundness of the program's design.

CCI notes, however, that the distinction between "maintaining" and "implementing" a program is not sufficiently clear in the current rule text. FinCEN should clarify whether these concepts are distinct and explain the compliance and enforcement significance of each.

Critically, CCI urges FinCEN to confirm explicitly that this two-prong framework — and any enforcement consequences that flow from it — extends to ***all*** covered financial institutions, not only to banks. This protection is especially important for newer and unique types of institutions that are building formal AML/CFT programs for the first time and need confidence that good-faith program design will not be treated as deficient simply because implementation is still maturing.

Extending the two-prong approach to all covered financial institutions delivers on a key objective of the Proposed Rule, namely, creating an effective and consistent supervisory and regulatory regime that achieves the purposes of the BSA and promotes better outcomes for law enforcement and national security agencies.

Independent Testing & Audit

The Proposed Rule's clarification that independent auditors and examiners cannot substitute their own subjective judgment for an institution's properly designed, risk-based program is a meaningful advancement. CCI supports this principle. However, its practical effectiveness depends entirely on a clear definition of what constitutes a "properly designed" program and the appropriate guidance and training of examination and audit staff.

CCI recommends that FinCEN define the criteria for a "properly designed" program and confirm the extent to which documented institutional decision-making satisfies that standard. More broadly, CCI also recommends that FinCEN provide examiners with specific instructions, practical examples, and enhanced training on how to evaluate an institution's risk-based approach consistently and objectively — without substituting regulatory preferences for institutional judgment. The purpose of a risk-based framework is to allow institutions to tailor their programs

to their actual risk profiles. That purpose is defeated if supervisory evaluation is not itself grounded in consistent, principles-based standards.

III. Clarifying Expectations for Risk Assessment Processes

Risk Assessment Processes in General

The Proposed Rule's reference to risk assessment "processes" — in the plural — appropriately reflects the reality that covered financial institutions use multiple, overlapping frameworks to identify and mitigate ML/TF risks. CCI supports this flexible approach and urges FinCEN to preserve it in the final rule. The criteria set forth in the rule are sufficiently broad to permit institutions to determine the best mechanisms for evaluating their risk profiles, and CCI does not recommend adding mandatory criteria that would constrain that flexibility. As noted below, however, CCI does recommend further clarifications of particular language in the Proposed Rule.

National AML/CFT Priorities

CCI welcomes the Preamble's clarification that the National AML/CFT Priorities ("Priorities") may not be applicable in whole or in part to a particular financial institution, and that their incorporation is "as appropriate." Covered institutions should have the flexibility and discretion to allocate proportionate attention to the Priorities based on their own risk assessments; not all Priorities can or should be given equal weight, and some may have limited or no relevance to a given institution's business model.

CCI further urges FinCEN to confirm that institutions are not required to treat each Priority as an independent risk-assessment category if those Priorities are meaningfully embedded in the institution's overall risk assessment framework, or are reasonably documented as not applicable to the institution's business. FinCEN should also illustrate what a sufficient, non-perfunctory Priority review looks like in practice, particularly when an institution reasonably determines that a Priority has limited relevance to its operations.

Additionally, given that FinCEN updates its National AML/CFT Priorities every four years, CCI requests that FinCEN clarify the expected timeline or grace period for institutions to review and address any material changes to their risk assessments following each such update. Without a defined grace period, institutions may face uncertainty about their compliance obligations in the interval between a Priority update and the completion of their risk assessment review cycle.

Risk Assessment Updates and Timing

The Proposed Rule requires that risk assessment processes be updated "promptly" upon any change that the institution knows or has reason to know significantly changes its money laundering/terrorist financing risks. CCI understands this to mean that a risk assessment should be updated when the institution's risk profile is fundamentally altered. As a result, the term "material" more accurately reflects the nature of a change that would trigger an update than "significant".

CCI recommends that FinCEN explicitly confirm that a change to a business's products, geographic footprint, or customer base may not in and of itself be "material" and therefore would not require a formal risk assessment update. Instead, such changes should be evaluated holistically, taking into account the design and strength of existing internal controls and the magnitude of the change's impact on the overall risk profile to determine materiality. Similarly, CCI cautions against any regulatory expectation that findings from internal testing or internal audit would automatically necessitate updating or amending a risk assessment. The criticality and materiality of any given finding must be a matter for the covered institution to determine, viewing its program holistically. An internal audit finding, or even multiple findings, may reflect issues that are already addressed by compensating controls elsewhere in the program, or were appropriately self-identified by the financial institution, and therefore may not warrant a formal risk assessment update. With these points in mind, CCI recommends that FinCEN define and/or provide examples of what constitutes a "material change" that would trigger the required updates, and just as importantly, what would not be considered material.

CCI urges FinCEN to explicitly reject any expectation of routine, calendar-driven annual risk assessment updates as a regulatory default. Such a requirement would undermine the risk-based rationale of the rule and generate compliance activity without necessarily improving program quality. Instead, FinCEN should define what "promptly" means in practical terms, and offer guidance on documentation requirements for ongoing risk monitoring and ad hoc assessment updates. Moreover, it should be recognized that the strength of a financial institution' s self-identification of issues and, once identified, its management of such issues to resolution, is a more effective measure of risk mitigation than a stringent risk assessment update cycle.

IV. Extending Supervision and Enforcement Provisions to all Covered Financial Institutions

The Proposed Rule's new supervision and enforcement framework under proposed § 1020.221 applies only to banks and the federal banking agencies. CCI strongly urges FinCEN to extend this framework to all covered financial institutions. If the goal is consistency in supervisory outcomes,

limiting the framework to banks creates an uneven compliance landscape in which non-bank covered institutions are subject to materially different enforcement standards for the same AML/CFT obligations. CCI recognizes that for MSBs and other institutions licensed at the State level, the purview of this framework could be constrained unless a non-banking federal agency such as the IRS is involved. CCI urges FinCEN to work with the relevant agencies to address this jurisdictional challenge rather than leaving non-bank institutions outside the supervision and enforcement framework entirely.

CCI also recommends that FinCEN expand the scope of the 30-day inter-agency notification and consultation requirement beyond "significant AML/CFT supervisory actions" to include other supervisory actions that impose burden on financial institutions, such as deficiency letters and examiner findings memoranda, defined in the Proposed Rule as "AML/CFT enforcement actions." During this 30-day window, FinCEN should provide the financial institution with an opportunity to respond to and correct supervisory findings, rather than limiting the framework to inter-agency communication alone. CCI further urges that the inter-agency notification requirement be extended beyond federal banking agencies to all agencies that regulate covered financial institutions under the BSA, consistent with the recommended expansion of § 1020.221 to non-banks.

As for "significant AML/CFT supervisory actions", it would be beneficial for FinCEN to confirm that non-material gaps or deficiencies in program implementation do not rise to the level of such actions. For example, temporary transaction monitoring data gaps, delays in KYC refresh, or limited vendor outages should not result in "significant AML/CFT supervisory actions", particularly where such deficiencies are self-identified and self-reported, with appropriate remediation plans in place. More broadly, as part of the overall supervisory and enforcement framework, FinCEN should explicitly recognize in the final rule that effective self-identification and remediation of issues is a meaningful consideration before moving forward with any possible action against a financial institution for program deficiencies.

V. Augmenting the Recognition of the Use of Innovative Tools as Part of an Effective AML/CFT Program for all Covered Financial Institutions

CCI applauds Treasury's broad support for exploring innovative technologies and engaging in responsible experimentation and use. FinCEN's explicit encouragement in the Preamble for financial institutions to evaluate whether new technology or innovative approaches, such as generative AI, digital identity, and blockchain analytics, might more effectively combat financial

crime is vital for the continued advancement of the financial services industry in the United States. Such clear regulatory direction also incentivizes critical investments in effective and efficient compliance infrastructure.

Expand Consideration of the Use of Innovative Technologies to Non-Banks

As part of § 1020.221, in determining whether to take an AML/CFT enforcement action or significant AML/CFT supervisory action, FinCEN will evaluate the extent to which the bank provided highly useful information to law enforcement or performed "other innovative activities producing demonstrable outputs evincing the effectiveness of the bank's AML/CFT program (including the effective use of artificial intelligence, federated learning, and other advanced monitoring tools". CCI strongly urges FinCEN to extend this evaluation to all covered financial institutions, not just banks, when considering possible supervisory and enforcement actions, and that the same evaluation apply equally in the examination context for all covered entities, not only in formal enforcement proceedings. Also beneficial would be clarification on how FinCEN will assess and credit innovative compliance activities in practice, so that institutions can invest in novel tools with confidence. For example, explaining how FinCEN would evaluate the effective use of AI in the investigative and SAR-filing processes.

CCI also recommends that FinCEN clarify the "demonstrable outputs" language in the Proposed Rule. FinCEN should confirm that "demonstrable outputs" is a flexible, risk-based, principles-based standard — not a prescriptive performance benchmark — and that the protection it provides explicitly covers institutions that are piloting, testing, refining, or even discontinuing tools as part of a genuine innovation process, without supervisory penalty for iteration. FinCEN should signal clearly that it views responsible innovation as an evolving process and that encouraging iteration is a necessary feature, not a risk, of the use of innovative tools.

VI. Additional Considerations Supporting Policy Goals

De-Prioritization of Lower-Risk Activities: The Need for an Explicit Safe Harbor

The Proposed Rule directs institutions to focus attention and resources "toward higher-risk customers and activities … rather than toward lower-risk customers and activities." While this is a welcome directive as part of FinCEN's modernization efforts, it is not accompanied by a corresponding protection for institutions that act on it. FinCEN acknowledges in the Preamble

that the rule does not contemplate regulatory second-guessing of an institution's reasonable resource allocation determinations — but that assurance appears only in the Preamble and does not have the force of a regulatory safe harbor.

CCI recommends that FinCEN include explicit language in the final rule adopting a safe harbor when covered financial institutions reallocate resources away from lower-risk activities, with appropriate requirements to evidence a reasonable, documented determination to do so. Without such protection, institutions face the continuing risk that examiners will second-guess resource allocation decisions that were entirely consistent with the rule's objectives, undermining the very risk-based approach the Proposed Rule is designed to advance.

Model Risk Management for AI-Driven AML/CFT Tools

The Proposed Rule's encouragement of innovative compliance tools, including AI, creates an important but unresolved question: to what extent do existing Model Risk Management (MRM) frameworks apply to AI-driven AML/CFT systems? FinCEN acknowledges this concern in the Preamble and states its intention to work with the relevant agencies on these issues. In the interim, financial institutions are left to deploy or experiment with AI compliance tools without clear guidance on their validation and governance obligations or whether the adoption of such tools triggers full Model Risk Management requirements.

This gap is not merely a technical one. Traditional MRM frameworks were designed for static, deterministic models used in credit, market risk, and capital adequacy assessments. They require validation approaches, documentation standards, and governance processes that do not translate cleanly to the non-deterministic, adaptive systems that characterize modern AI compliance tools. Applying traditional MRM requirements to AML/CFT AI tools without modification would impose a significant compliance burden, create uncertainty about whether validation can ever be "completed," and potentially deter institutions from adopting the very tools the Proposed Rule is designed to encourage.

CCI requests that FinCEN provide interim guidance as it works with relevant agencies to confirm whether and to what extent MRM principles apply to AI-driven AML/CFT tools — and, if they do, provide AML/CFT-specific guidance that is distinct from the credit-and-capital-model framework. Such guidance should address what constitutes "acceptable validation" and "responsible adoption" for AI compliance systems in the AML/CFT context, and should reflect the iterative, probabilistic nature of these tools. Without this clarity, institutions face a genuine chilling effect on AI adoption, which is the opposite of the outcome the Proposed Rule is designed to produce.

Expanded SAR-Sharing Provisions

CCI notes that the Proposed Rule does not alter existing regulations and guidance that generally prohibit the sharing of SARs with personnel located outside the United States, except in limited

circumstances such as sharing with a bank's foreign head office or controlling company. CCI requests that FinCEN revisit SAR-sharing limitations for money services businesses and other non-bank entities as part of this rulemaking or in future guidance, consistent with positions CCI has previously advanced.[1] FinCEN should also consider the operational efficiencies gained by more expansive SAR-sharing guardrails for those covered financial institutions with non-U.S. resources supporting their AML/CFT Programs.

VII. Conclusion

CCI appreciates the opportunity to engage with FinCEN on this foundational rulemaking to modernize the BSA. An effective, risk-based AML/CFT Program rule will define the compliance framework for a broad and diverse community of covered financial institutions at a pivotal moment for both the financial services industry and U.S. leadership in responsible innovation.

CCI looks forward to continued engagement with FinCEN as this rulemaking progresses and stands ready to provide additional technical assistance or operational information to support the agency's work. We are committed to being a constructive resource as Treasury works to finalize this rule.

Respectfully submitted,

Ji Hun Kim
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Crypto Council for Innovation

[1] Crypto Council for Innovation, *CCI Comment Letter on FinCEN 2024 Program* NPRM, September 23, 2024. https://cryptoforinnovation.org/wp-content/uploads/2024/09/CCI-Response-to-FINCEN-5.pdf.