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Proposal and Comment Information

Title: Anti-Money Laundering and Countering the Financing of Terrorism Programs, R-1835

Comment ID: FR-0000-0133-02-C03

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Submitted Date: 07/09/2026

I. The Paradigm Shift: Unipolar Regimes vs. Multipolar Realities

The Board's proposed rule seeks to modernize the AML/CFT framework to focus on outcome-oriented effectiveness rather than check-the-box procedural compliance. However, the proposal contains a systemic, macro-strategic blind spot: it constructs a defensive architecture tailored exclusively for a unipolar, SWIFT-centric financial system, entirely ignoring the geopolitical bifurcation of global clearing infrastructure occurring in 2026.

By failing to account for sovereign-backed, non-dollar distributed ledger settlement platforms, this rule forces Board-supervised banks to allocate resources toward traditional, highly visible transaction vectors while remaining structurally blind to an emerging, parallel global financial architecture.

II. The Project mBridge Blind Spot in Risk Assessment

The proposed rule mandates that banks implement "risk assessment processes" that evaluate the money laundering, terrorist financing, and illicit finance activity risks of their business activities, including "products, services, distribution channels, customers, and geographic locations". Yet, the text completely omits any analytical framework for dealing with alternative, cross-border tokenized clearing systems.

Project mBridge allows foreign central banks and commercial entities to execute instant, peer-to-peer wholesale transactions using central bank digital currencies (mCBDCs) completely outside the jurisdictional, regulatory, and surveillance reach of Fedwire, CHIPS, and Western sanctions.

When capital flows out of an unmonitored, non-dollar tokenized network and interfaces with domestic banking infrastructure through layered correspondent accounts, the true origin of those funds is effectively washed. By ignoring this distribution channel, the proposed rule leaves U.S. institutions highly vulnerable. Banks cannot execute a "reasonably designed" risk assessment process when the foundational plumbing of global liquidity is fragmenting under their feet.

III. Operational Gaps in the Qualitative "Promptly" Mandate

Proposed section (c)(1)(i)(C) requires that a bank's risk assessment processes be updated "promptly upon any change that the bank knows or has reason to know significantly changes the bank's... risks".

In a modern macro economy where capital vectors can shift non-linearly over a 48-hour window due to geopolitical realignments, the term "promptly" is dangerously ambiguous. Without clear quantitative materiality thresholds or volatility benchmarks, institutions cannot distinguish whether a geopolitical event (e.g., a foreign trade bloc migrating bulk commodity clearing to non-dollar, tokenized rails) requires an immediate, real-time recalculation of their risk plane or if it can be deferred to a standard internal audit cycle. Leaving this metric qualitative grants individual field examiners excessive discretion to penalize institutions using post-hoc hindsight bias.

IV. The Resource Allocation Paradox and Asymmetric Threats

The proposal explicitly instructs banks to mitigate risks by "directing more attention and resources toward higher-risk customers and activities... rather than toward lower-risk customers and activities". While intended to provide banks with operational flexibility, this mandate creates an asymmetric risk paradox.

If a Board-supervised institution overallocates resources to monitor high-profile international channels highlighted by FinCEN Priorities, it must systematically deprioritize baseline domestic channels. In an era of machine-speed financial crime and automated zero-day exploits, sophisticated syndicates will deliberately exploit these deprioritized, low-risk baselines. If a major breach occurs within a deprioritized channel, examiners can retrospectively declare that the bank's program was not "reasonably designed," completely stripping the institution of the implementation safe harbor intended under paragraph (g).

V. Specific Technical Recommendations for the Final Rule

To ensure this rule modernizes national security architecture rather than creating compliance traps, the Board should incorporate the following explicit revisions into the final regulatory text:

Define Tokenized Distribution Channels: Amend the definition of "distribution channels" in section (c)(1)(i)(A) to explicitly include a risk framework for multi-CBDC networks, digital asset platforms, and off-SWIFT clearing systems.

Quantify Materiality Benchmarks: Replace the vague phrase "significantly changes" with clear, percentage-based volatility benchmarks regarding transaction volume changes to define precisely what triggers a mandatory update to the risk plane.

Clarify Safe Harbor Boundaries: Provide explicit statistical parameters separating isolated, non-systemic compliance operational defects from a "significant or systemic failure" to protect compliant institutions from arbitrary supervisory or enforcement actions.