AUSTIN BANK, TEXAS NA

Proposal and Comment Information

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

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Submitter Information

Organization Name: Austin Bank, Texas NA

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See Attached.

Docket No. R-1835 | RIN 7100-AG78

Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

Re: Proposed Rule on Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) Program Requirements (Docket No. R-1835; RIN 7100-AG78)

Dear Members of the Board:

Austin Bank, Texas N.A. appreciates the opportunity to comment on the Board of Governors' proposed rule regarding AML/CFT program requirements for banking organizations. We support the Board's efforts to modernize AML/CFT regulations and align them with the evolving risk landscape. Below, we offer our comments organized by the sections outlined in the proposal.

I. An "Effective" AML/CFT Program (Section IV.B)

Questions 1 & 2

The description of an effective program is clearly explained. However, we encourage the Board to include additional language that reduces reliance on rigid measurements for effectiveness. While some general language exists in the proposal, it should be abundantly clear that "effectiveness" is based on a bank's size and complexity, not on a fixed set of measurable actions or events.

Regarding the allocation of resources, we strongly support the Board's determination that banks are best placed to identify risks and allocate resources accordingly. Banks should determine the allocation of their own resources without prescriptive requirements from the Board. Each institution is unique and requires differing levels of technology and innovation to accomplish AML/CFT compliance. Banks can typically rely on independent audits and examinations to determine if resource allocation is sufficient or needs attention, based on their specific knowledge of their markets, customer profiles, and historical behavior.

II. Establishing and Maintaining an AML/CFT Program (Section IV.C)

Questions 3-7

The distinction between "establishing" and "maintaining" a program is useful for banks to understand where potential deficiencies lie versus deeming the entire program inefficient. The current rule requires only that banks "establish" an AML program and is notably vague, while the proposed rule moves toward a risk-based approach that considers size and complexity. We view this shift favorably.

Currently, many banks do not distinguish between establishing and maintaining in practice. The fundamentals of establishing a program are found in satisfying the "Pillars" of the program, as contrasted with the ongoing adaptation and adjustments (the "maintaining") in response to changes in size, complexity, markets, products, or customer base.

We recommend the Board further distinguish between failures at the component level versus the whole program level. This would allow banks to make targeted policy changes without evaluating and overhauling an entire program. We do not want a finding that the whole program is inadequate simply because one component needs attention. Banks could more easily monitor specific elements of concern for repeat findings or ongoing issues, and we encourage the Board to require that regulators provide examples when maintenance is found lacking.

Additionally, we believe clarification is needed for banks to determine what constitutes a "significant or systemic failure" to implement an established AML/CFT program in all material respects. We note that "significant" and "systemic" are distinct concepts that warrant separate definitions, particularly because this is the threshold at which enforcement actions and fines may arise. Vague directions in regulations are harder to interpret, leaving banks to make risk-based decisions on their own that may not be consistent nationwide. We have observed that different regulators (OCC, FDIC, and FRB) may reach different conclusions when examining the same type of activity, such as SAR filing sufficiency, and this inconsistency underscores the need for clearer definitions. Similarly, clarification of what constitutes a "failure to establish an AML/CFT program" would be beneficial.

Harmonization Among Regulators

Question 8

We offer the following recommendations to ensure the regulations issued by FinCEN, the Board, and the Agencies function harmoniously:

1. Define the separate roles of FinCEN and the regulators. FinCEN is responsible for the AML/CFT program framework while regulators have the responsibility of conducting examinations.
2. Do not allow conflicting information to be left to "guidance" or rulemaking from individual regulators. Instead, provide a single source of truth through FinCEN.
3. Create a standard risk-based platform for BSA examinations that is consistent across all regulators.
4. Provide more examples when using the terminology "size and complexity" in published rulemaking or other guidance.

III. Internal Policies, Procedures, and Controls (Section IV.D.1)

Question 9

We expect that changes will be made to our bank's policies, procedures, and controls to reflect the preferred verbiage, incorporate the AML/CFT Priorities, and shift to a more risk-based theme. However, we note that our substantive practices are largely already aligned with what the proposed rule requires. We anticipate the changes will be primarily to language and framing (e.g., adding "risk-based approach" terminology in several areas) rather than major operational overhauls. We believe this will be the experience of many community banks that have already built sound compliance programs.

IV. Risk Assessment Processes (Section IV.D.1.i)

Flexibility in Processes

Question 10

The use of varying risk assessment processes rather than a single process does provide sufficient flexibility for banks, though it may be more time-consuming overall.

Additional Risk Criteria

Question 11

The Board should consider adding the risks associated with bank personnel, board members, and/or insiders as it pertains to work status, country of citizenship, and similar factors. These could be potential vectors for insider money laundering or terrorist financing. Additionally, products, services, and geographic area could be explicitly called out as required risk criteria. We note that many banks already identify these risks operationally even where regulation does not currently require it.

Time Frame for Incorporation

Question 12

The time frame for incorporating risk assessment results varies depending on whether changes need to be made to policy or procedures, and how those changes are implemented (board approval, vendor collaboration, etc.). Banks also have processes surrounding changes that are both cultural and technical. Adopting new processes should not just be implemented but also tested to gauge the success of implementation and adoption.

AML/CFT Priorities

Questions 13 & 14

As AML/CFT Priorities evolve, so too does a bank's overall risk exposure, potentially creating new demands for staffing and resources while rendering existing investments unnecessary. This shifting landscape places an undue burden on banks striving to maintain appropriately scaled programs, particularly when factoring in the associated costs of reputation management, strategic planning, software, and training. Additional guidance on incorporating AML/CFT Priorities into risk assessment processes would help alleviate this burden, as would the flexibility for banks to risk-weight certain areas based on their unique position and profile.

Updates to Risk Assessment Processes

Question 15

The requirement to update risk assessment processes "promptly" upon significant changes needs further clarification. As written, the term is too vague to implement consistently, particularly across banks of varying asset sizes. A workable definition should account for the nature and severity of the risk change, the complexity and concentrations of the bank, the scope of the impact, and the time reasonably needed to analyze and implement adjustments. We recommend the Board establish a set schedule for updates to ease this transition.

Regarding periodic reviews, we currently conduct ours annually and are not aware of any regulation outside GLBA requiring more frequent review cycles. Mandating reviews beyond that cadence may prove overly burdensome unless the risk is severe enough to significantly impact an institution's capital.

Finally, the distinction between "material changes" and "significant changes" remains unclear, as the terms are largely interchangeable in practice. We encourage the Board to refine this language to reduce ambiguity.

Feedback Loop

Question 16

As risks are identified after the initial risk assessment, they typically represent higher-risk findings, which in turn elevates the risk assessment grading. When this occurs, the bank identifies and implements mitigation tactics to address both the risk finding and the overall risk assessment grade. The time frame for this process varies significantly between institutions based on internal discussion, approval, implementation, and training requirements.

VII. Written AML/CFT Program and Approval (Section IV.E)

Questions 19 & 20

Clarifying which specific program components need to be "in writing" would help banks ensure compliance. In particular, we request clarity on whether the processes used to produce risk assessments (as distinct from the assessments themselves) must be documented in writing, or whether it is sufficient for banks to have those processes understood and practiced operationally.

Regarding approval requirements, we believe approval of the overall program framework by the board of directors would be sufficient. However, material revisions to certain components should also require re-approval when high-level program architecture changes are made, such as significant changes to policy or risk assessment methodology. Routine operational changes (e.g., adjusting alert parameters in monitoring software, modifying procedures) should not require board-level approval. Such changes are appropriately approved by senior management and documented for the record. Only significant changes to policy or risk assessments should require Board or Audit Committee review.

VIII. Supervision and Enforcement (Section IV.G)

Questions 21-26

Clarification is needed on what constitutes a "significant or systemic failure" to implement an established AML/CFT program. These terms appear to represent different degrees of failure, and because they are the thresholds at which enforcement actions and fines may arise, banks need clear definitions of both. Similarly, the relationship between "significant" supervisory action and "unsafe or unsound practices" should be clarified: is one a precursor to the other, or are they independent categories? These distinctions should be defined by the Board rather than left to interpretation by individual institutions or examiners.

The term "any written communication" in the definition of significant AML/CFT supervisory action is overly broad. As drafted, it could sweep in informal communications such as internal chats, texts, or routine emails not intended as formal regulatory actions. We recommend narrowing this to formal written communications from regulators, with a clear definition of what qualifies.

Finally, the Board should include provisions regarding consultation and information sharing with FinCEN, consistent with those in the other Agencies' proposed rules, so all regulators operate from the same framework.

IX. Tailoring to Size and Complexity

Question 29

We strongly encourage the Board to revise the rule to tailor program requirements or implementation timelines to the size, complexity, or risk profile of the bank. Smaller banks or banks with less of a risk appetite do not have nearly the same responsibilities as larger banks or banks that take on more risk. A tiered approach would be greatly appreciated and would better serve the diverse banking community.

X. Effective Date

Question 29

The proposed effective date of 12 months from the date of issuance of the final rule should provide a sufficient time frame for community banks to implement the new requirements. However, we acknowledge that larger, more complex institutions may require 18 to 24 months to fully implement changes across their organizations. The Board may wish to consider whether a tiered implementation timeline aligned with institutional complexity would be appropriate.

Conclusion

Austin Bank appreciates the Board's efforts to modernize AML/CFT regulations and the opportunity to provide feedback on this proposed rule. We support a risk-based approach that provides banks the flexibility to design programs appropriate to their size and complexity while maintaining robust protections against money laundering and terrorist financing. We respectfully urge the Board to provide additional clarity in the areas noted above and to adopt a tiered approach that recognizes the diversity of the banking industry.

We welcome further dialogue and are available to discuss any of these comments in greater detail.

Respectfully submitted,

Austin Bank, Texas N.A.