TRANSPARENCY INTERNATIONAL U.S.
fighting corruption, promoting democracy

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U.S. Department of the Treasury
Regulatory and Strategic Affairs Division
Financial Crimes Enforcement Network
P.O. Box 39
Vienna, VA 22183

Re: Anti-Money Laundering and Countering the Financing of Terrorism Programs, Docket No. FINCEN-2026-0034; RIN 1506-AB72

Dear Director Gacki:

Transparency International U.S. appreciates the opportunity to comment on the Financial Crime Enforcement Network's (FinCEN's) proposed rule to modernize anti-money laundering and countering the financing of terrorism (AML/CFT) programs for financial institutions.[1]

TI US is part of the world's largest global coalition dedicated to fighting corruption. With more than 100 national chapters worldwide, Transparency International (TI) works with citizens, governments, and the private sector to promote transparency and accountability, strengthen the rule of law, and curb the abuse of power in all its forms.

Writ large, we strongly support FinCEN's effort to move the Bank Secrecy Act (BSA) framework toward a more effective, risk-based model. That is—without question—the right goal. A truly modernized AML/CFT regime should not reward box-checking, and should ensure financial institutions prioritize higher risk activities such as corrupt officials, sanctions evaders, drug cartels, fentanyl traffickers, kleptocrats, money launderers, or professional intermediaries who move dirty money through the U.S. financial system.

That being said, "modernization" cannot serve as a stand-in for deregulation. And "risk-based" cannot be used as a permission slip for looking away from the risks that the BSA has been designed to address.

At its best, this rule can make the U.S. AML/CFT framework more useful to law enforcement, more focused on national security threats, and more effective at stopping the corrupt and other criminal actors who rely on U.S. financial channels to move, hide, and enjoy their money. To that end, FinCEN is right to emphasize programs that generate "highly useful information" for law enforcement and national security agencies, and to direct resources toward higher-risk customers and activities.[2] Yet at its worst, if not strengthened, the final rule risks lowering expectations, narrowing enforcement, and weakening the ability of examiners to respond when a financial institution has a polished AML/CFT program on paper, and a broken one in practice.

For this reason, we strongly encourage FinCEN to make the following targeted changes before finalizing the rule.

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[1] FinCEN, "Anti-Money Laundering and Countering the Financing of Terrorism Programs," 91 Fed. Reg. 18704 Apr. 10, 2026, Docket No. FINCEN-2026-0034, RIN 1506-AB72, https://www.federalregister.gov/documents/2026/04/10/2026-07033/anti-money-laundering-and-countering-the-financing-of-terrorism-programs.

[2] *Id*. at 18713; *see also* FinCEN, "FinCEN Proposes Rule to Fundamentally Reform Financial Institution Programs Designed To Fight Illicit Finance", Apr. 7, 2026, https://www.fincen.gov/news/news-releases/fincen-proposes-rule-fundamentally-reform-financial-institution-programs.

I. FinCEN should expressly recognize corruption as a core illicit finance risk.

Concern: The proposed rule repeatedly frames AML/CFT programs around money laundering and terrorism financing (ML/TF) risks. It also recognizes in the regulatory analysis that money laundering and illicit finance are related to "public corruption," along with human trafficking, drug trafficking, terrorism, proliferation, fraud, and other crimes.[3]

That recognition of corruption is important, but it is also inappropriately underdeveloped. Corruption is not a side category of illicit finance; it is one of the central reasons that illicit finance exists. Bribes, embezzled public funds, procurement kickbacks, stolen state assets, sanctions evasion, and other corruption schemes all require access to financial systems. Corrupt officials and their networks do not usually walk into banks with bags labeled "bribe money." Instead, they rely on anonymous companies, professional enablers, real estate transactions, investment vehicles, foreign accounts, and luxury purchases.

FinCEN has already recognized corruption as one of the first national AML/CFT priorities.[4] Similarly, the U.S. Department of the Treasury's (Treasury's) national risk assessments identify persistent money laundering threats involving professional enablers, fraud, drug trafficking, legal entities, and other channels that overlap with corruption-related finance.[5] A truly modern AML/CFT program rule must develop that prioritization explicitly.

As such, the final rule should make clear that, where relevant to a financial institution's risk profile, an institution's identifying, assessing, documenting, and mitigating ML/TF risks includes corruption— including bribery, embezzlement of public funds, kleptocracy, state capture, sanctions evasion, the laundering of proceeds through legal entity and professional enabler networks, and other related risks.

Suggested changes: FinCEN should add the following sentence to the proposed rule's preamble and, where appropriate, to supervisory guidance that is issued with the final rule:

> For purposes of identifying, assessing, documenting, and mitigating money laundering and illicit finance risks, financial institutions should consider corruption-related risks, including risks involving bribery, embezzlement of public funds, kleptocracy, state capture, sanctions evasion, politically exposed persons, state-owned or state-linked enterprises, and the exploitation of legal entities or professional intermediaries to move or conceal the proceeds of corruption.

FinCEN should also revise the relevant risk assessment provision. Proposed 31 CFR 10XX.210(b)(1)(i) should be revised to read:

> Identify, assess, and document the financial institution's money laundering, terrorist financing, and other illicit finance risks, including, where relevant to the financial institution's products, services, customers, geographic exposure, and transaction channels, corruption-related risks such as bribery, embezzlement of public funds, kleptocracy, state capture, sanctions evasion, politically exposed persons, state-owned or state-linked enterprises, and the exploitation of legal entities or professional intermediaries.

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[3] 91 Fed. Reg. at 18743.
[4] FinCEN, "Anti-Money Laundering and Countering the Financing of Terrorism National Priorities", June 30, 2021, https://www.fincen.gov/sites/default/files/shared/AML_CFT%20Priorities%20%28June%2030%2C%202021%29.pdf.
[5] Treasury, "2026 National Money Laundering Risk Assessment" March 2026, https://home.treasury.gov/system/files/246/2026-NMLRA.pdf; Treasury, "2024 National Money Laundering Risk Assessment", February 2024, https://home.treasury.gov/system/files/136/2024-National-Money-Laundering-Risk-Assessment.pdf.

This language would not require every financial institution to treat every corruption risk the same way. Instead, it would do what the proposed rule otherwise says it's seeking to do: require institutions to understand their real risk profile, and direct attention where danger is greatest.

II. FinCEN should preserve the proposed rule's emphasis on effectiveness and law enforcement usefulness.

Concern: FinCEN is right to emphasize that AML/CFT programs should provide information that is "highly useful" to law enforcement and national security agencies.[6] That should remain at the center of the final rule.

For corruption cases, useful financial intelligence is often the difference between an abstract suspicion and a case that can be investigated, prosecuted, sanctioned, or used to recover assets. Corruption schemes often depend on layers of transactions that look ordinary in isolation, but a wire to an anonymous company, a real estate purchase, a consulting payment, a transfer through an intermediary, or an account held by a relative of a foreign official may not tell the full story. So when financial institutions identify suspicious patterns and report them clearly, they can give law enforcement a highly useful map.

Suggested changes: FinCEN should retain the proposed rule's emphasis on outcomes and usefulness, and it should also sharpen the point: Usefulness does not mean simply filing fewer reports. It means filing better reports, allocating resources to higher risks, and maintaining systems capable of detecting complex illicit finance. Our core concern here is that some institutions may read the proposed rule's burden-reduction framing as permission to reduce program intensity without demonstrating that the remaining program is in fact more effective. Treasury's own public rollout framed the proposal as a move away from measuring success by paperwork volume and toward actually stopping illicit finance threats.[7] That can be a useful frame, but it needs additional guardrails. Put another way, a bank can reduce false positives in a way that improves the system. But it can also reduce alerts by turning down the sensitivity of its monitoring, cutting staff, ignoring high-risk customers, or narrowing what it chooses to see. FinCEN must draw the appropriate line here.

To that end, FinCEN should add the following important clarification to the preamble:

> FinCEN does not intend for the proposed rule's emphasis on effectiveness, risk-based compliance, and highly useful information to be interpreted as a general reduction in AML/CFT obligations. Rather, the rule is intended to direct financial institutions to allocate compliance attention and resources toward the risks, customers, transactions, products, services, and geographies that present the greatest illicit finance concerns, including corruption-related money laundering, sanctions evasion, terrorist financing, fraud, trafficking, and other serious crimes.

FinCEN should also add language that makes clear that a decline in reporting volume is not, by itself, evidence of improved effectiveness:

> A reduction in the volume of BSA reports or alerts shall not, standing alone, demonstrate that a financial institution's AML/CFT program is effective. Examiners should consider whether program changes improve the institution's ability to identify, investigate, escalate, and report suspicious activity that is relevant to law enforcement, national security, and the AML/CFT Priorities.

III. FinCEN should strengthen the rule's treatment of beneficial ownership, legal entities, and intermediary risk.

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[6] 91 Fed. Reg. at 18713, 18717, 18718, 18743.
[7] FinCEN, "FinCEN Proposes Rule to Fundamentally Reform Financial Institution Programs Designed To Fight Illicit Finance", Apr. 7, 2026, https://www.fincen.gov/news/news-releases/fincen-proposes-rule-fundamentally-reform-financial-institution-programs.

Concern: Anonymous entities, intermediaries, and related structures are the basic infrastructure of modern corruption. They're used to hide the proceeds of bribery, steal public funds, evade sanctions, disguise conflicts of interest, and purchase high-value assets. FinCEN has long warned that anonymous companies can be used for illicit purposes.[8] Congress also recognized this problem when it enacted the Corporate Transparency Act (CTA) with strong bipartisan support.[9]

The final AML/CFT program rule shouldn't treat legal entity risk as generic background noise. Instead, financial institutions should be required to evaluate whether their customers, products, and services create heightened exposure to anonymous companies, complex ownership structures, nominee arrangements, trusts, intermediaries, and other structures that can obscure the true party in interest.

This is especially important given Treasury's March 2025 announcement that, with respect to the CTA, it would not enforce penalties or fines against domestic companies and U.S. persons who are beneficial owners of foreign reporting companies, and FinCEN's subsequent interim final rule removing beneficial ownership reporting requirements for U.S. companies and U.S. persons.[10] If fewer legal entities report beneficial ownership information to FinCEN, the risk assessment obligations of financial institutions become even more important.

Suggested changes: FinCEN should revise the risk assessment provision to include legal entity and intermediary risk as *express* factors:

> In identifying, assessing, and documenting ML/TF and other illicit finance risks, a financial institution shall consider, as appropriate, risks arising from customer type; beneficial ownership and control structures; legal entities, trusts, nominees, and other arrangements that may obscure ownership or control; intermediaries; products and services; distribution channels; geographic exposure; transaction activity; and the AML/CFT Priorities.

FinCEN should also clarify that unavailable or incomplete beneficial ownership information cannot be treated as a reason to ignore risk. The absence of information *is* often the risk. As such, the preamble should be amended to include:

> Where beneficial ownership, control, source-of-funds, or source-of-wealth information is unavailable, incomplete, inconsistent, or difficult to verify, financial institutions should consider whether that fact itself increases the customer's risk profile and whether additional controls, due diligence, monitoring, or escalation are warranted.

IV. FinCEN should clarify that "risk-based" does not mean "customer-friendly at all costs."

Concern: We support FinCEN's statement that financial institutions should manage customer relationships on a case-by-case basis and avoid broad de-risking that can push activity outside the regulated financial system.[11] But FinCEN needs to be careful here—there is a real difference between improper de-risking and appropriate risk management.

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[8] FinCEN, "Potential Money Laundering Risks Related to Shell Companies", Nov. 9, 2006, https://www.fincen.gov/resources/statutes-regulations/guidance/potential-money-laundering-risks-related-shell-companies.
[9] Corporate Transparency Act, 31 U.S.C. § 5336.
[10] Treasury, "Treasury Department Announces Suspension of Enforcement of Corporate Transparency Act Against U.S. Citizens and Domestic Reporting Companies", Mar. 2, 2025, https://home.treasury.gov/news/press-releases/sb0038; FinCEN, "FinCEN Removes Beneficial Ownership Reporting Requirements for U.S. Companies and U.S. Persons", Mar. 21, 2025, https://www.fincen.gov/news/news-releases/fincen-removes-beneficial-ownership-reporting-requirements-us-companies-and-us.
[11] 91 Fed. Reg. at 18713.

The proposed rule states that account closure decisions should be based on legitimate ML/TF risks and relevant facts and circumstances. That language is useful, but it must be strengthened so that financial institutions and examiners understand that avoiding "debanking" does not mean retaining customers when the institution cannot reasonably manage the risk. This is especially important for corruption cases: A politically exposed person, foreign official, state-owned enterprise, procurement-linked entity, offshore company, or intermediary tied to a high-corruption jurisdiction should not be denied services automatically, but neither should the institution be pressured to keep the relationship if it cannot understand the source of funds, beneficial owner(s), purpose of transactions, or broader corruption risk.

Suggested changes: FinCEN should add the following clarification to the preamble:

> Nothing in the final rule should be read to discourage financial institutions from declining, restricting, or terminating customer relationships when the institution determines, based on relevant facts and circumstances, that it cannot reasonably manage the customer's money laundering, terrorist financing, sanctions, corruption, fraud, or other illicit finance risks.

FinCEN should also add:

> Case-by-case risk management requires meaningful assessment, not automatic retention. A financial institution may reasonably determine that it cannot manage a customer relationship where the customer refuses to provide information necessary to understand ownership, control, source of funds, source of wealth, transaction purpose, or other facts material to illicit finance risk.

This would preserve FinCEN's appropriate concern about de-risking while avoiding a rule that could be invoked by high-risk actors to pressure banks to maintain relationships that they cannot responsibly manage.

V. FinCEN should narrow and clarify the proposed bank enforcement limitation.

Concern: Perhaps the most concerning part of the proposal is the new distinction between establishing an AML/CFT program and maintaining it through implementation. For banks that have established a program, the proposed rule would limit FinCEN and the federal banking agencies from bringing certain AML/CFT enforcement or significant supervisory actions based on the program rule unless there is a "significant or systemic failure" to implement the program in all material respects.[12]

We understand the problem that FinCEN is trying to solve. Banks should not face major enforcement exposure for minor documentation issues that do not reflect real illicit finance weakness.

Yet this provision needs guardrails. For example, a bank may have a formally established program that looks adequate on paper, while failing *in practice* to staff, test, update, monitor, escalate, investigate, or report in a way that actually matters. Corruption-related money laundering is often not detected because a policy is missing; it's missed because red flags are ignored, alerts are closed too quickly, customer risk ratings are stale, beneficial ownership information is not verified, or high-risk activity is not escalated. If the final rule makes implementation failures harder to address, it could weaken enforcement in exactly the cases where enforcement is most needed. This isn't theoretical: The proposed rule's regulatory analysis expressly anticipates that focusing on significant or systemic failures may reduce the time that institutions and supervisors spend on enforcement or supervisory actions.[13] That can be positive when it strips out non-substantive issues, but will be dangerous if it delays action until serious weaknesses have already caused harm.

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[12] *Id*. at 18714, 18718, 18747, 18758; proposed 31 CFR 1020.221(b).

[13] *Id*. at 18742-43.

Suggested changes: FinCEN should clarify that "significant or systemic failure" includes repeated, unresolved, or risk-relevant implementation failures even if each individual failure might be characterized as non-systemic in isolation. To accomplish this, the following should be added to proposed 31 CFR 1020.221(b):

> For purposes of this paragraph, a significant or systemic failure includes a failure, pattern of failures, or combination of deficiencies that materially impairs the bank's ability to identify, assess, monitor, escalate, investigate, or report money laundering, terrorist financing, sanctions, corruption, fraud, or other illicit finance risks, including risks associated with high-risk customers, products, services, geographies, transaction channels, legal entities, or beneficial ownership.

FinCEN should also add:

> A failure does not need to affect all business lines, branches, products, or customers to be significant or systemic. A failure may be significant or systemic where it materially affects a high-risk business line, customer segment, product, service, geography, or activity.

This is essential language. A bank's AML/CFT program can fail in a way that matters without failing everywhere. For example, if a bank's monitoring works for ordinary retail accounts, but fails for private banking, correspondent banking, foreign politically exposed persons, digital assets, or high-risk legal entity customers, that may be a serious program problem. The rule must reflect that.

VI. FinCEN should require risk assessments to be updated when external threats change, not only when the institution notices internal changes.

Concern: The proposed rule would require updates to risk assessment processes when a financial institution knows, or has reason to know, of a change that significantly changes its ML/TF risks.[14] And while FinCEN already states that external factors may trigger updates,[15] the final rule should be more explicit about what that means *in practice*.

This is because corruption and other illicit finance threats change quickly. For example, a country may become subject to sanctions, a foreign official may be indicted for a corruption crime, a government may change, or a new payment technology may become a preferred tool for laundering dirty money. If the institution's risk profile changes because such things have changed in the real world, the risk assessment should change as well.

Suggested change: FinCEN should revise the update standard to say:

> A financial institution must review and, where appropriate, update its risk assessment and related processes when it knows or has reason to know of internal or external developments that significantly change, or may reasonably be expected to significantly change, the institution's money laundering, terrorist financing, sanctions, corruption, fraud, or other illicit finance risks.

The phrase "reason to know" should include information made available through FinCEN, Treasury, law enforcement, supervisory agencies, sanctions authorities, and credible public sources.

FinCEN could also include examples in the preamble:

> Relevant developments may include changes in products, services, customers, geographies, beneficial ownership information, sanctions designations, law enforcement advisories, FinCEN

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[14] *Id*. at 18716; proposed 31 CFR 10XX.210(b)(1)(i)(C).
[15] *Id*. at 18716.

alerts, national risk assessments, AML/CFT Priorities, or credible public reporting indicating elevated illicit finance risk.

VII. FinCEN should ensure innovation actually improves detection.

Concern: FinCEN is right to recognize that innovation in financial technology can improve AML/CFT programs. New technologies can help institutions identify networks, connect related accounts, and reduce noise, among other benefits. Used well, those tools can make financial intelligence far more useful.

But technology can also be used to justify staff cuts, reduce scrutiny, or weaken human reviews. Artificial intelligence and other tools can miss corruption risk if the underlying data is incomplete or poorly informed, if training data reflects old enforcement priorities, or if the model is set to optimize for efficiency above all else.

While the proposed rule welcomes the consideration of proactive analytics and advanced monitoring tools, including artificial intelligence and federated learning,[16] that's only appropriate if the final rule makes clear that these tools must remain *accountable*.

Suggested changes: FinCEN should add the following preamble language:

> FinCEN supports responsible innovation that improves the ability of financial institutions to identify, assess, monitor, investigate, and report illicit finance risks. However, the use of artificial intelligence, federated learning, or other tools does not reduce a financial institution's obligation to maintain an effective AML/CFT program. This does not mean that institutions must maintain duplicative or parallel legacy systems where new tools are properly governed, tested, validated, and documented. It does mean that institutions must be able to demonstrate that any new technology preserves or improves their ability to detect, investigate, and report suspicious activity. Institutions using such tools should maintain governance, testing, validation, human oversight, and documentation sufficient to make that showing.

FinCEN should also add:

> Technological innovation should not be evaluated solely by reductions in alerts, reports, personnel, or compliance costs. Supervisors should assess whether the technology improves the institution's ability to identify high-risk activity, including complex schemes involving money laundering, terrorism financing, legal entities, corruption-related proceeds, sanctions evasion, fraud, trafficking, and other illicit finance typologies.

That language would help ensure that modernization means better detection writ large.

VIII. FinCEN should require meaningful law enforcement feedback loops.

The proposed rule rightly emphasizes usefulness to law enforcement and national security agencies, but the private sector can't align its programs with law enforcement priorities if it receives little real feedback.
For example, financial institutions may know what they reported in a suspicious activity report (SAR), but not whether it was actually useful, whether a particular risk area is rising, or whether law enforcement needs different information.

FinCEN already states that feedback from FinCEN, law enforcement, and financial regulators can inform risk assessment processes, including feedback on reports filed or potential risks at a financial institution.[17] The final rule should solidify that concept into a true and consistent commitment.

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[16] *Id*. at 18718; proposed 31 CFR 1020.221(d)(2).
[17] *Id*. at 18716.

Suggested changes: FinCEN should commit to regular feedback mechanisms in the final rule's preamble by stating:

> FinCEN recognizes that financial institutions can better produce highly useful information when they receive timely and meaningful feedback from government authorities. FinCEN intends to support implementation of the final rule through regular feedback, typology updates, and sector-specific information concerning reporting that has assisted law enforcement or national security agencies, consistent with the protection of sensitive information and ongoing investigations. That feedback should include corruption-related money laundering typologies, including exploitation of legal entities, politically exposed persons, foreign procurement corruption, sanctions evasion, and the movement of stolen public assets.

IX. FinCEN should not allow this rule to become a substitute for expanding AML coverage to high-risk enablers of corruption.

Concern: This rule will apply to existing categories of covered financial institutions under the BSA, but it does not address, let alone solve, the broader problem of the enablers of corruption. Corrupt officials and other criminal networks routinely use corporate service providers, lawyers, accountants, investment advisers, art dealers, and other intermediaries to move, hide, and grow their illicit funds.

FinCEN should acknowledge that strong AML/CFT programs for banks and other covered institutions are necessary, but not sufficient. As we explained in our 2024 comment on FinCEN's earlier AML/CFT program proposal, risk-based programs must meaningfully address corruption, enablers of corruption, and U.S. financial system vulnerabilities that allow dirty money to move, hide, and be invested.[18]

This is especially true in light of the delayed AML rule for investment advisers, which FinCEN moved from January 1, 2026, to January 1, 2028.[19] Investment advisers can and do serve as key gatekeepers to the U.S. financial system, and delaying their AML obligations has left a dangerous gap.

Suggested changes: FinCEN should add the following language to the final rule preamble:

> FinCEN recognizes that AML/CFT program requirements for currently covered financial institutions are only one part of the U.S. illicit finance framework. FinCEN will continue to assess and, as appropriate, address illicit finance risks posed by intermediaries and other high-risk sectors, including lawyers, accountants, corporate service providers, art dealers, investment advisers, and other services that may be used to move or conceal illicit proceeds.

FinCEN should also make clear that financial institutions' risk assessments should account for exposure to uncovered or lightly regulated intermediaries:

> Where a financial institution provides services involving intermediaries or other entities not subject to comparable AML/CFT obligations, the institution should consider whether those relationships create heightened illicit finance risk requiring additional controls, due diligence, monitoring, or escalation.

Conclusion

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[18] TI US, "TI US Comment on Strengthening and Modernizing Financial Institutions' AML and CFT Programs," Sept. 3, 2024, https://us.transparency.org/resource/ti-us-comment-aml-cft-program/.
[19] FinCEN, "FinCEN Issues Final Rule to Postpone Effective Date of Investment Adviser Rule to 2028", Dec. 31, 2025, https://www.fincen.gov/news/news-releases/fincen-issues-final-rule-postpone-effective-date-investment-adviser-rule-2028.

FinCEN has a real and rare opportunity to build a rule that is more efficient, more effective, and that truly modernizes the U.S.'s fight against dirty money. But this rulemaking must not simply be an exercise in paperwork reduction; it must be a decision point for focusing on the risks that matter most—including corruption.

Thank you for the opportunity to comment on this rulemaking. For additional information or questions, please contact Scott Greytak, Deputy Executive Director of Transparency International U.S., at sgreytak@us.transparency.org.

Respectfully submitted,

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