

MEMORANDUM

TO: Board of Directors

FROM: Ryan Billingsley
Acting Director
Division of Risk Management Supervision

Matthew P. Reed
Acting General Counsel
Legal Division

DATE: June 24, 2025

SUBJECT: Customer Identification Program Rule Exemption Order

SUMMARY:

The attached proposed Order is presented for consideration and approval by the FDIC Board of Directors (Board). The proposed Order, which would be issued jointly by the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), and the National Credit Union Association (NCUA and, collectively with the OCC and FDIC, the Agencies),¹ with the concurrence of the Financial Crimes Enforcement Network (FinCEN), would provide an exemption in certain circumstances for banks subject to the jurisdiction of the Agencies² from the requirements of the Customer Identification Program Rule (CIP Rule)³ to obtain Taxpayer Identification Number (TIN)⁴ information from the customer prior to

¹ In addition to staffs of the Agencies and FinCEN, the proposed Order was developed in consultation with staff of the Board of Governors of the Federal Reserve System.

² The proposed Order would be applicable to banks, as that term is defined by 31 C.F.R. § 1010.100(d), and their subsidiaries that are subject to the jurisdiction of the Agencies. The term “bank” includes each agent, agency, branch, or office within the United States of banks, savings associations, credit unions, and foreign banks. References to banks in the remainder of this memorandum means to banks, as that term is defined by 31 C.F.R. § 1010.100(d), and their subsidiaries that are subject to the jurisdiction of the Agencies.

³ See 31 C.F.R. § 1020.220 (FinCEN); 12 C.F.R. § 21.21(c)(2) (OCC); 12 C.F.R. § 326.8(b)(2) (FDIC); and 12 C.F.R. § 748.2(b)(2) (NCUA).

⁴ See 31 C.F.R. § 1020.220(a)(2)(i)(A)(4); see also 31 C.F.R. § 1010.100(yy). A TIN is defined by section 6109 of the Internal Revenue Code of 1986 (26 U.S.C. § 6109) and the Internal Revenue Service regulations implementing that section (e.g., Social Security Number (SSN), individual taxpayer identification number (ITIN) or employer identification number (EIN)).

opening an account.⁵

The proposed exemption will permit banks to instead use an alternative collection method to obtain TIN information from a third-party source rather than the customer for all accounts,⁶ provided that the bank otherwise complies with the CIP Rule, which requires written procedures that (1) enable the bank to obtain TIN information prior to opening an account; (2) are based on the bank's assessment of the relevant risks; and (3) are risk-based for the purpose of verifying the identity of each customer to the extent reasonable and practicable, enabling the bank to form a reasonable belief that it knows the true identity of each customer.

BACKGROUND:

The legislative framework generally referred to as the Bank Secrecy Act (BSA), which consists of the Currency and Foreign Transactions Reporting Act of 1970, as amended by the USA PATRIOT Act and other legislation, including the Anti-Money Laundering Act of 2020, is designed to combat money laundering, the financing of terrorism, and other illicit finance activity.⁷ One of the main purposes of the BSA enumerated by Congress was to prevent the laundering of money and the financing of terrorism by requiring financial institutions to establish reasonably designed, risk-based programs to combat such risks. To fulfill the purposes of the BSA, Congress authorized the Secretary of the Treasury to administer the BSA, and the Secretary has delegated the authority to implement, administer, and enforce compliance with the BSA and its implementing regulations to the Director of FinCEN.⁸

Section 326 of the USA PATRIOT Act amended the BSA to require, among other things, the Secretary of the Treasury to prescribe regulations setting forth the minimum standards for financial institutions to follow in connection with the opening of an account at a financial institution. These minimum standards include, among other things, reasonable procedures for (1) “verifying the identity of any person seeking to open an account to the extent reasonable and practicable”; and (2) “maintaining records of the information used to verify a person's identity, including name, address, and other identifying information.” The associated House Report expressed Congress's intent that Treasury consider the “feasibility of obtaining particular types of information for accounts opened...where the accountholder is not physically at the financial institution” and adopt regulations that are appropriately tailored.⁹

The CIP Rule implements section 326 of the USA PATRIOT Act for banks. The CIP Rule sets minimum standards for customer identification and verification by requiring a bank to implement written CIP procedures that enable the bank to form a reasonable belief that it knows the true identity of each customer, which include verifying the identity of the customer to the extent reasonable and practicable. According to the CIP Rule, the procedures must specify the customer

⁵ Under CIP Rule, a TIN is the required identification number for a customer that is a U.S. person and one of the possible identification numbers for a customer that is a non-U.S. person.

⁶ The terms “account” and “customer” are defined at 31 C.F.R. §§ 1020.100(a) and (b), respectively.

⁷ USA PATRIOT Act, Public Law 107-56, 115 Stat. 272 (2001).

⁸ Treasury Order 180-01 (Jan. 14, 2020); *see also* 31 U.S.C. § 310(b)(2)(I).

⁹ 24 H.R. Rep. No. 107-250, pt. 1, at 62-63 (2001) regarding what was then Section 123 of H.R. 3004, which became Section 326 of Public Law 107-56, and is now codified at 31 U.S.C. § 5318(l).

identifying information that a bank must obtain from each customer, including, at a minimum, the customer's name, date of birth (for an individual), address, and identification number, which is a TIN for U.S. persons.¹⁰ With the exception of credit card accounts, to fulfill the CIP Rule's identification number requirement, a bank must obtain TIN information from the customer prior to account opening.¹¹

STATUTORY REQUIREMENTS FOR GRANTING AN EXEMPTION:

Section 326 of the PATRIOT Act allows the Secretary of the Treasury and the relevant Federal functional regulator to "by regulation or order, exempt any financial institution or type of account from the requirements of any regulation prescribed under this subsection in accordance with such standards and procedures as the Secretary may prescribe."¹² Under this authority, the regulation contains both an explicit exception and a process by which the Agencies and FinCEN may, by regulation or order, permit additional exemptions.¹³

THE CREDIT CARD EXCEPTION TO THE CIP RULE:

The CIP Rule includes an explicit exception for credit cards. In the CIP Rule, FinCEN and the Agencies recognized this practice as an efficient and effective means of extending credit with little risk that the lender did not know the identity of the borrower, and for over 20 years, the CIP Rule has allowed banks to collect the identifying information required by the CIP Rule from a third-party source when a customer is opening a credit card account.¹⁴

REGULATORY REQUIREMENTS FOR GRANTING AN EXEMPTION:

Under 31 C.F.R. § 1020.220(b), the appropriate Federal functional regulator, with the concurrence of the Secretary of the Treasury, may by order or regulation exempt any bank or type of account from the requirements of the CIP Rule.¹⁵ The Secretary's authority under this provision has been delegated to FinCEN.¹⁶ The regulation requires the Agencies and FinCEN to consider whether the proposed exemption would be consistent with the purposes of the BSA and

¹⁰ 31 C.F.R. § 1020.220(a)(2)(i). For non-U.S. person customers, the required identification number may include, in addition to a TIN, a passport number and country of issuance, alien identification card number, or number and country of issuance of any other government-issued document evidencing nationality or residence and bearing a photograph or similar safeguard. The proposed Order would apply only to TIN information.

¹¹ Regarding credit card accounts, the CIP Rule allows banks to collect customer identification information from a third-party source prior to extending credit to the customer. 31 C.F.R. § 1020.220(a)(2)(i)(C).

¹² 31 U.S.C. § 5318(l)(5).

¹³ *See supra* n. 11.

¹⁴ Customer Identification Programs for Banks, Savings Associations, Credit Unions and Certain Non-Federally Regulated Banks, 68 Fed. Reg. 25,090, 25,103 (May 9, 2003) (codified at 31 C.F.R. § 1020.220(a)(4)).

¹⁵ 31 C.F.R. § 1020.220(b).

¹⁶ Treasury Order 180-01 (Jan. 14, 2020); *see also* 31 U.S.C. § 310(b)(2)(I) (providing that FinCEN Director "[a]dminister the requirements of subchapter II of chapter 53 of this title, chapter 2 of title I of Public Law 91-508, and section 21 of the Federal Deposit Insurance Act, to the extent delegated such authority by the Secretary.").

with safe and sound banking practices, and may consider other appropriate factors.¹⁷

FINDINGS SUPPORTING AN EXEMPTION:

In arriving at the findings in the proposed Order supporting this exemption, staffs considered letters and comments received; FinCEN's technical analysis of BSA information; FinCEN's consultation with law enforcement agencies; and the Agencies' examinations of current CIP program and procedures.

Since the CIP Rule was issued initially in 2003, there has been a significant evolution in the ways consumers access financial services. Additionally, in recent years, FinCEN and the Agencies have received continued public interest through letters and comments received from banks, trade associations, and Members of Congress regarding the allowance of alternative collection methods for products and services beyond credit card accounts. In March 2024, FinCEN, in consultation with staff at the Agencies and the Board of Governors of the Federal Reserve System (FRB), issued a Request for Information (CIP RFI) that sought information from the public to understand the potential risks and benefits, as well as safeguards that could be established, if banks were permitted to collect part or all of a customer's TIN information from a third-party source.¹⁸ The comments, from a variety of stakeholders, provided insight into the benefits of third-party TIN collection as well as potential risks. Generally, those in support of alternative collection methods commonly referenced the success of the credit card exception and innovation in customer verification methods. Those opposed, among other concerns, suggested that alternative collection methods would increase costs on financial institutions that do not already use third-party verification services.¹⁹

The proposed Order would provide that, based on the analysis of the information received, FinCEN has not identified heightened money laundering, financing of terrorism, or other illicit finance risk solely relating to the method of collection of TINs, and the Agencies consider an alternative collection method for TIN information consistent with safe and sound banking. As such, the proposed Order would provide that FinCEN has found the proposed exemption, when used appropriately, is consistent with the purposes of the BSA. Banks must include an alternative collection method for TIN information in their existing reasonably designed, risk-based, and written CIP procedures that combat money laundering, financing of terrorism, and other illicit finance activity. The proposed Order would also provide that FinCEN has found the proposed exemption to be consistent with the BSA's requirement that the Secretary of the Treasury take into consideration when prescribing regulations "the various types of accounts maintained by various types of financial institutions, the various methods of opening accounts, and the various types of identifying information available."²⁰ Furthermore, through an analysis of BSA reporting, the proposed Order would provide that FinCEN has not identified a heightened money laundering, financing of terrorism, or other illicit finance risk associated with the alternative

¹⁷ 31 C.F.R. § 1020.220(b).

¹⁸ Request for Information and Comment on Customer Identification Program Rule Taxpayer Identification Number Collection Requirement, 89 Fed. Reg. 22,231 (Mar. 29, 2024).

¹⁹ The proposed Order would specify that use of the exemption by banks is optional.

²⁰ 31 U.S.C. § 5318(l)(3).

collection method for TIN information process used by banks when opening credit card accounts.

Additionally, the proposed Order would provide that the Agencies find this exemption, when used appropriately, would be consistent with safe and sound banking. The resulting alternative TIN collection practices, with appropriate risk management controls, should not give rise to abnormal risk of loss or damage to an institution or its shareholders. The proposed Order would provide that this exemption does not change the overall purpose of the existing, general CIP requirement for each bank to have CIP procedures that enable the bank to form a reasonable belief that it knows the true identity of each customer.

THE INTENTION OF FINCEN AND THE OTHER FEDERAL BANKING AGENCIES:

Staff understands FinCEN, the OCC, and the NCUA plan to issue the proposed Order jointly with the FDIC, and the FRB may issue a substantially similar order at a later date.

RECOMMENDATIONS:

Staff recommends the Board approve the issuance of the proposed Order and delegate authority to the Director, Division of Risk Management Supervision (or designee) to execute the Order on behalf of the FDIC and to cause the Order to be issued.

In addition, because staff understands the FRB may issue an order substantively similar to the proposed Order in the future, staff recommends the Board delegate authority to the Director, Division of Risk Management Supervision (or designee) to (1) amend, with the concurrence of the General Counsel (or designee), the Order to enable the OCC, FDIC, the NCUA, and FinCEN to issue with the FRB a joint order that is substantively identical to the proposed Order in respect of the FDIC and FDIC-supervised institutions and (2) execute the amended order on behalf of the FDIC and cause the amended order to be issued.