

Congress of the United States
Washington, DC 20510

July 8, 2024

The Honorable Michael J. Hsu
Acting Comptroller of the Currency
Office of the Comptroller of the Currency
400 7th Street SW
Washington, DC 20219

The Honorable Janet Yellen
Secretary
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

The Honorable Andrea Gacki
Director
Financial Crimes Enforcement Network
P.O. Box 39
Vienna, VA 22183

Dear Acting Comptroller Hsu, Secretary Yellen, and Director Gacki:

We are writing to express our concern regarding the ongoing challenges to the federal anti-money laundering and terrorist framework and to urge you to continue defending these critical components of the financial system. It has come to our attention that several states have recently enacted or are considering laws that risk fracturing the national banking system. These state laws may conflict with federal laws intended to combat money laundering and terrorist financing. A consistent national framework is vital for the protection of U.S. national security, and the U.S. and international financial systems, as well as economic stability and security.

These state laws could undermine America's collective efforts to fight financial crime and protect against terrorism. These laws may pose significant challenges to compliance with critical regulations such as the Bank Secrecy Act (BSA), and the Anti-Money Laundering (AML) Act, potentially threatening national security. Under such state laws, financial institutions could be subject to investigation when they decline to provide services to a customer or close a customer account, including in situations where the decision was related to a financial crime risk. In addition, banks are required to file reports with state regulators or even, directly with customers indicating why the financial institution refused services to a customer or closed a customer account. The explanation must include a detailed description on the basis for the denial, which could lead to the disclosure of confidential and sensitive information related to America's national security.

As you know, banks maintain robust risk-based BSA/AML compliance programs, which are essential to the national goals of preventing money laundering and terrorist financing, as well as sanctions violations. The U.S. Department of Treasury, Financial Crimes Enforcement Network (FinCEN), and the federal banking agencies like the Office of the Comptroller of the Currency (OCC) have acknowledged that customer relationships present varying levels of risk. As described in the Federal Financial Institutions Examination Council's (FFIEC) BSA/AML manual, the potential risks to an individual institution depend on numerous factors that must be assessed and that are unique for each bank. If a bank concludes that it cannot effectively manage

the financial crime risk of a customer relationship, it may terminate that relationship. Banks should not face pressure or state actions when they take actions to control financial crime risk consistent with these federal standards.

It is also essential to maintain consistent federal confidentiality standards for Suspicious Activity Reports (SARs). SARs, which were originally authorized under the BSA and further expanded under the USA Patriot Act, assist in the detection and reporting of criminal activity. They allow government agencies and law enforcement to uncover and prosecute criminal financial schemes and money laundering. These tools are critical in our nation's efforts to not only root out criminal activity, but also to combat domestic and global terrorism. Under federal law, a bank may not disclose a SAR, or any information that would reveal the existence of a SAR. Exceptions to this confidentiality requirement are very narrow, such as exceptions that allow a bank to share with certain federal regulators, state or federal law enforcement agencies, or the bank's applicable state regulator that is authorized to examine the bank for compliance with the BSA.

When states enact laws that subject banks to processes and disclosure requirements that are at cross-purposes with federal law, SAR confidentiality could be jeopardized. To prevent the inappropriate dissemination of important law enforcement information, SARs and the information that underpin them must be kept confidential. Weakening these confidentiality practices could expose banks' processes for detecting suspicious activity and financial crimes. Even more concerning, these disclosures could tip off suspects to the fact that they are under investigation or guide bad actors — including terrorists, financial criminals, and hackers — on how to change their behavior to avoid detection. We cannot allow state laws to supersede well-trodden federal norms regarding SAR secrecy and potentially endanger our national security or economic stability.

We urge the U.S. Treasury Department, FinCEN, and the OCC to take action to ensure the continued integrity of these important federal requirements. As more states consider similar statutes, financial institutions could become subject to requirements that collectively jeopardize America's security and the continued stability and safety of national banks.

We look forward to your continued leadership in safeguarding America's financial system from security threats — both foreign and domestic. We ask that you provide a briefing and written update by August 1, 2024.

Thank you for your attention to this critical matter.

Sincerely,



Josh Gottheimer
MEMBER OF CONGRESS



Blaine Luetkemeyer
MEMBER OF CONGRESS



Brad Sherman
MEMBER OF CONGRESS