



May 28, 2024

*Via Electronic Mail*

Policy Division, Financial Crimes Enforcement Network  
P.O. Box 39  
Vienna, VA 22183

Re: Docket No. FINCEN-2024-0009 – Request for Information and Comment on Customer Identification Program Rule Taxpayer Identification Number Collection Requirement

To Whom it May Concern:

The Consumer Bankers Association (CBA)<sup>1</sup> appreciates the opportunity to comment on the Financial Crimes Enforcement Network’s (FinCEN) Request for Information and Comment on Customer Identification Program (CIP) Rule Taxpayer Identification Number (TIN) Collection Requirement (the RFI).<sup>2</sup> CBA and its members are committed to working together with regulators on anti-money laundering/countering the financing of terrorism (AML/CFT) efforts while simultaneously ensuring the regulatory landscape acknowledges the significant innovations and advancements that have been made in the market. To that end, CBA supports the proposed change to permit banks to collect partial social security numbers (SSNs) and use reputable third-party sources to obtain full SSNs prior to account opening for accounts other than just credit card accounts.

As a general matter, permitting banks to collect a customer’s SSN from a third party prior to account opening is consistent with current credit card practices, which have been successful for AML/CFT purposes. Since the finalization of the CIP Rule in 2003, banks have been required to collect a TIN, typically a SSN, directly from customers that are U.S. persons prior to opening an account *except* with respect to credit card accounts; for credit card accounts, the CIP Rule permits banks to obtain the customer’s identifying information, including the customer’s SSN, from a third-party source.

For the more than 20 years following the CIP Rule’s finalization, credit card issuing banks have implemented and maintained appropriate CIP policies and procedures consistent with the objectives of the Bank Secrecy Act (BSA) and the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and

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<sup>1</sup> CBA is the only national trade association focused exclusively on retail banking. Established in 1919, the association is a leading voice in the banking industry and Washington, representing members who employ nearly two million Americans, extend roughly \$3 trillion in consumer loans, and provide \$270 billion in small business loans.

<sup>2</sup> Request for Information and Comment on Customer Identification Program Rule Taxpayer Identification Number Collection Requirement, 89 *Fed. Reg.* 22231 (Mar. 29, 2024).

Obstruct Terrorism Act of 2001 (USA PATRIOT Act). The RFI does not identify any deficiencies in banks' CIP policies and procedures or otherwise suggest that the CIP Rule exception for credit card accounts has undermined the aims of the BSA or the USA PATRIOT Act.

The current CIP Rule<sup>3</sup> exception has demonstrably worked for credit card accounts. Equal-risk or lower-risk products should benefit from a similar exception. For example, from an AML/CFT perspective, credit card accounts have incrementally more risk as open-end revolving accounts compared to other single-use closed-end products, such as installment loans, precisely because of their open-ended, multi-use nature. No additional risk has been articulated or identified for these other low-risk products compared to credit card accounts, yet credit card accounts benefit from the CIP Rule exception while these other low-risk products do not.

There is also minimal new risk in allowing banks to collect partial SSN information from customers and to use a trusted third party to obtain the full SSN. The primary driver of risk prevention for AML/CFT is not the act of collecting this information or the source of the information, but how such information is actually used for subsequent verification procedures to identify illicit actors utilizing sufficient information to match a name, address, date of birth, and/or SSN. Provided that the third-party source is a sufficiently reliable and accurate source,<sup>4</sup> what matters most for countering risk is the reasonableness of the bank's CIP program.<sup>5</sup> These CIP programs are examined by a bank's supervisors to ensure compliance with applicable requirements. Additionally, while SSNs continue to be a relevant piece of information used in identity verification procedures, SSNs are but a single input for these procedures.

Limiting the current CIP Rule exception to solely credit card accounts risks pushing customers and merchants toward under-regulated, under-supervised nonbanks. For example, many customers are unwilling to provide their full SSN to a merchant offering installment financing, particularly over the Internet, which may result in customers abandoning the transaction with the merchant entirely when prompted for SSN information. Nonbanks do not have the same CIP Rule requirements as banks. As a result, merchants are incentivized to partner with nonbank financial institutions to limit the additional friction stemming from the CIP Rule requirements, thereby placing banks at a competitive disadvantage.

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<sup>3</sup> For FinCEN, the CIP Rule is codified at 31 C.F.R. § 1020.220 and the CIP Rule for banks lacking a Federal functional regulator codified at 31 C.F.R. § 1010 and 31 C.F.R. § 1020.

<sup>4</sup> The reliability and accuracy of a third-party source is vital for both the CIP Rule exception for credit card accounts today and any potential expansion of the CIP Rule exception to other products. Banks should continue to perform appropriate due diligence on third-party sources of information, which should include a demonstration of why the bank believes a particular third-party source to be reliable and accurate. However, there should be flexibility afforded to banks for performing this due diligence, as different third-party sources may require different methods of evaluation and future technological changes may necessitate different evaluations.

<sup>5</sup> CBA notes that a public RFI is not necessarily an appropriate forum for outlining how banks may engage in identity verification or the details of any identity verification programs, and thus encourages FinCEN to connect directly with banks and their prudential supervisors to learn more.

CBA emphasizes that the expansion of the CIP Rule exception beyond credit card accounts for banks does *not* negate the ability of FinCEN and other regulators to work together to raise regulatory expectations and requirements for nonbanks to better align with banks' requirements. CBA also recommends that FinCEN and other regulators work together to ensure alignment between the CIP Rule and Customer Due Diligence (CDD) rule,<sup>6</sup> which requires banks to establish and maintain procedures for identifying and verifying the identity of beneficial owners of their legal entity customers. To the extent the CIP Rule and the CDD Rule are revised, FinCEN and other regulators should be cognizant of the need to maintain their alignment. Otherwise, potential future changes to the CDD rule could result in misalignment between the rules, which could require banks to maintain two parallel identification programs with no apparent AML/CFT advantage.

CBA values the opportunity to comment on RFI and, along with its members, stands ready to assist FinCEN in developing and maintaining balanced AML/CFT efforts in a continually evolving banking landscape.

Sincerely,

Brian Fritzsche  
Vice President, Associate General Counsel  
Consumer Bankers Association

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<sup>6</sup> 31 C.F.R. § 1010.230.