Dear user,

Thank you very much for your interest in the European Banking Authority (EBA) and for submitting your comments to one of our consultations. Your response has been received and will be taken into account by the EBA. Please find below, for your records, the response you have submitted.

Please note that this email address is not monitored and does not accept replies. If there is something wrong or missing in your response to the consultation, please contact us at info@eba.europa.eu.

Kind regards,

European Banking Authority

Your answers are:

Question 1: Do you have any comments with the proposed changes to the Definitions section of the Guidelines?:

Question 2: Do you have any comments on the proposed amendments to Guideline 1 on risk assessment?:

Guideline 1 amendments address inadequacies in both individual and business-wide risk assessments; and 1.2(a) appropriately requires financial institutions to assess risk based on the "nature and complexity of their business." ENCU agrees with this amendment, and ask that the EBA continue using this risk-based approach with the understanding that credit unions are not-for-profit member-owned institutions without stockholders that demand a market rate of return on their investment, therefore, a credit union can only pass along earnings directly to their member-owners and not to outside investors. The risks associated with a member-owned financial institution are greatly reduced because of the smaller size in assets, the size of loans and issued credit, less complex structure, and diminished profit driven motivations because they are not beholden to stockholders. We again, would like to reiterate our support for the EBA's addition of the proportionality section under 1.16 of the Draft Guidelines. With added guidelines such as recordation in 1.4 and more specific risk assessments as required in 1.15, credit unions will need to dedicate more time and resources they do not have to comply with Article 8 requirements. We agree with the argument that generic risk assessments are inadequate, however, credit unions should be granted some limitation as to how much they are required to report and the method in which they are expected to record how their risk assessments were conducted; therefore, allowing a risk assessment to be tailored to its nature and size helps the reporting burden placed on credit unions but designed for large banks. Guidelines that propose increased monitoring during the course of the business relationship (1.28) and use of information *received* during ongoing monitoring (1.29-1.31) can be particularly burdensome on credit union resources. As member owned institutions that often contain limited fields of membership, credit unions enjoy an advantage as compared to their bank counterparts in knowing the identity of their member. Because credit unions do not have shareholders, they are at a lower risk for issues identifying beneficial owners. Constant monitoring requires additional training, staff, and money, which are advantages many credit unions do not have. EBA stated that "…small firms that do not offer complex products or services and that have limited or purely domestic exposure may not need a complex or sophisticated risk assessment." Additional monitoring requirements could add complications that credit unions are not able to, and do not have a necessity to address.

Question 3: Do you have any comments on the proposed amendments to Guideline 2 on identifying ML/TF risk factors?:

Question 4: Do you have any comments on the proposed amendments and additions in Guideline 4 on CCD measures to be applied by all firms?:

Customer due diligence, monitoring, (CDD) and beneficial ownership are rarely a risk issue within credit unions. As stated under Question 2, credit unions know their members. Many branches require members to open an account by personally going to a physical credit union branch and provide a passport or national ID, their tax code, and complete an application. We agree that policies and procedures should address CDD, however, due to the know-your-member nature of credit unions, the need for extensive CDD policies and procedures set out in section 4.7 would be over broad and inapplicable. We ask for a proportional approach to beneficial ownership, monitoring, and the CDD policy and procedures guidelines. ENCU is in full support of fostering financial inclusion through the addition of section 4.10. Credit unions' service to working people of modest means allows them to act as a buffer against usurious money lending practices that hinder asset accumulation. These institutions frequently have limited capacity to deal with detailed and prescriptive regulations but are nonetheless essential to promoting financial inclusion in their local, often rural, communities. Members receive credit at interest rates that are frequently lower than the prevailing market rates, regardless of how small the loan. In addition to providing affordable credit, credit unions foster systematic savings and help members in the management other their money. Supervisory authorities that are supportive of these principles encourage the growth of credit unions through proportional regulation. We believe that due to the cooperative structure of credit unions, their not-for-profit tax status, and the benefits they provide their members as well as the benefits they provide to society, stringent AML/CFT guidelines should not be imposed on credit unions.

Question 5: Do you have any comments on the amendments to Guideline 5 on record keeping?:

Question 6: Do you have any comments on Guideline 6 on training?:

Question 7: Do you have any comments on the amendments to Guideline 7 on reviewing effectiveness?:

Question 8: Do you have any comments on the proposed amendments to Guideline 8 for correspondent banks?:

We urge reference to the Financial Action Task Force's "Interpretive Note" to Reduce "De-Risking" in Correspondent Banking: FATF, Correspondent Banking Services (2016) (http://www.fatf-gafi.org/publications/fatfrecommendations/documents/correspondent-banking-services.html). In particular to note that for correspondent banks when dealing with credit unions the clarification that the bank conduce due diligence on all of the members of a credit union for purposes of CDD requirements. That due diligence on just the board will be sufficient for purposes of AML/CFT. This has often been a source of confusion and has lead to "De-Risking" (among other reasons). Use of the Request for Information which clarifies the roles of the institutions to resolve Red Flags is also important. We urge inclusion of reference to this standard. Request for Information" (RFI) Protoco statesl: "In practice, where such concerns are detected, the correspondent institution will follow up with the respondent institution by making a request for information (RFI) on any particular transaction(s), possibly leading to more information being requested on a specific customer or customers of the respondent bank. There is no expectation, intention or requirement for the correspondent institution to conduct customer due diligence on its respondent institution' customers." [emphasis added]

Question 9: Do you have any comments on the proposed amendments to Guideline 9 for retail banks?:

Question 10: Do you have any comments on the proposed amendments to Guideline 10 for electronic money issuers?:

Question 11: Do you have any comments on the proposed amendments to Guideline 11 for money remitters?:

Question 12: Do you have any comments on the proposed amendments to Guideline 12 for wealth management?:

Question 13: Do you have any comments on the proposed amendments to Guideline 13 for trade finance providers?:

Question 14: Do you have any comments on the proposed amendments to Guideline 14 for life insurance undertakings?:

Question 15: Do you have any comments on the proposed amendments to Guideline 15 for investment firms?:

Question 16: Do you have any comments on the proposed amendments to Guideline 16 for providers of investment funds and the definition of customer in this Guideline?:

Question 17: Do you have any comments on the additional sector-specific Guideline 17 on crowdfunding platforms?:

Question 18: Do you have any comments on the additional sector-specific Guideline 18 on account information and payment initiation service providers?:

Question 19: Do you have any comments on the additional sector-specific Guideline 19 on currency exchanges?:

Question 20: Do you have any comments on the additional sector-specific Guideline 20 on corporate finance?:

Disclose comments

Yes

Type of organisation::

If you selected “Firms”, please specify the type::

Name of the organization:

European Network of Credit Unions

Email:

aprice@woccu.org

Contact name:

Andrew Price

Phone number:

+1 850-766-5699

European Banking Authority
https://eba.europa.eu