December 26, 2002

The Honorable Kenneth W. Dam
Deputy Secretary
Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Dear Deputy Secretary Dam:

On behalf of the American Bankers Association (ABA), I am writing to reiterate our position concerning a proposed tax rule requiring U.S. financial institutions to report bank deposit interest paid to nonresident aliens who reside in 15 specified countries (REG-133254-02).1 We greatly appreciate your taking the time to consider the views of the ABA on this important tax issue. The ABA brings together all categories of banking institutions to best represent the interests of a rapidly changing industry. Its membership, which includes community, regional, and money center banks and holding companies as well as savings associations, trust companies and savings banks—makes ABA the largest banking trade association in the country.

As you may be aware, the ABA strongly opposed proposed regulations issued early last year that required similar reporting to nonresident alien bank customers. Those regulations were subsequently withdrawn and re-proposed on August 2, 2002—reducing the number of countries for which nonresident alien reporting would be required. On November 14, 2002, ABA submitted comments outlining specific reporting burdens these proposed regulations would impose on banking institutions, and referenced our policy concerns that were detailed in several previous submissions to the Treasury Department and the IRS. These policy concerns are still valid despite the fact that these re-proposed regulations have been scaled back.

The ABA is concerned about the adverse consequences resulting from these reporting requirements. The required reporting of foreign deposit interest

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1 The proposed regulations require reporting of deposit interest aggregating $10 or more on deposits from U.S. bank accounts to nonresident individuals residing in Austria, Denmark, Finland, France, Germany, Greece, Ireland, Italy, the Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, and the United Kingdom. Currently, such reporting is only required for individuals who are residents of Canada.
deviates from longstanding policies designed to encourage foreign investment in
the U.S., thereby placing U.S. banks at a competitive disadvantage in the
international marketplace. It is our position that the imposition of these rules will
drive up cost bank deposit funding to foreign banks with no corresponding
voluntary compliance by the depositor's country of residence. In addition, we
cannot ascertain any compliance objective or revenue collection motive that
justifies imposition of these onerous rules on an industry already saddled
with heavy regulatory burdens. The administrative burdens are significant and
may require banking institutions to perform costly and labor-intensive functions,
some of which must be manually performed. Finally, we are concerned about
language in the proposal that allows the Treasury Department and the IRS, at
their discretion, to expand the list of countries for which reporting would be
required. Given the likely impact reporting would have on banking institutions
and international trade and tax policy, coordination with the Congress and the
federal banking agencies is essential.

For the above-referenced reasons, ABA urges the Treasury Department to
withdraw the proposed tax rules requiring deposit interest reporting to
nonresident aliens. We are available to provide you with any additional
information and look forward to working with you on this important tax matter.

Sincerely,

cc: Peter R. Fisher, Under Secretary for Domestic Finance
    Department of Treasury

     Pamela R. Olsen, Deputy Assistant Secretary for Tax Policy
     Department of Treasury

     Josh Bolton, Assistant to the President and Deputy Chief of Staff for Policy
     The White House

     Alan Greenspan, Chairman
     Federal Reserve System

     Donald B. Powell, Chairman
     Federal Deposit Insurance Corporation
November 14, 2002

Internal Revenue Service
CC:DOM:ITA:RU (REG-133254-02)
Room 5226
P.O. Box 7604
Ben Franklin Station
Washington, D.C. 20044

Re: Reporting of Deposit Interest Paid to Nonresident Aliens (67 FR 50386)

Dear Sir or Madam:

The Conference of State Bank Supervisors (CSBS) is pleased to have the opportunity to comment on the Internal Revenue Service’s (IRS) modified proposed regulations governing the reporting requirements for interest on deposits maintained at the U.S. offices of financial institutions and paid to nonresident alien individuals.\[1]\ CSBS is the national organization of state officials responsible for chartering, regulating and supervising the nation’s nearly 7,000 state-chartered commercial and savings banks and more than 500 state-licensed foreign banking organizations. In preparing our comments, we consulted with the CSBS International Bankers Advisory Board, a group of international bank regulators and international bankers similar to the groups utilized by the Federal Reserve Board and the Federal Deposit Insurance Corporation.

In our letter dated February 27, 2001 (copy attached) we submitted comments on the original proposed regulations published on January 17, 2001 (66 FR 3925). We applauded the modification of the original proposed regulations as an effort to improve the proposed regulations. However, the underlying concerns expressed in our original letter continue to exist.

As an initial matter, we note that deposit interest paid to nonresident aliens is not taxable under U.S. tax law. Accordingly, reporting this deposit interest is not necessary to collect taxes on it or otherwise prevent tax evasion or avoidance. Consequently, we believe the threshold for imposing a reporting requirement should be quite high and the justification for doing so exacting.

As our original comment letter indicated, we believe that a rigorous analysis of the advantages and disadvantages of the proposed regulations should be conducted. The modified proposed regulations appear to address this important concern in a somewhat summary fashion, stating that the IRS and Treasury believe that the proposed regulations “will facilitate the goals of improving compliance with U.S. tax laws and permitting appropriate information exchange without imposing an undue administrative burden on U.S. banks.” However, the proposed regulations do not describe how they will improve compliance with the U.S. tax laws or what constitutes appropriate information exchange. Similarly, the proposed regulations do not address why there is not an undue administrative burden on U.S. banks,\[2]\ or whether the additional costs imposed on the banking industry exceed the benefits to the IRS.

Nonetheless, the administrative burden on U.S. banks is not the only foreseeable disadvantage of the proposed regulations. Another, perhaps more important, consequence is the likely flow of deposits out of the U.S. banking system. The amount of nonresident alien deposits in the U.S. banking system has been estimated to range from hundreds of billions of dollars to about $1 trillion. Even at the low end of the range, the magnitude is substantial, both in terms of the U.S. banking system and the economy as a whole. As a stable source of funds, banks use these deposits to support their commercial lending activities. A significant shift of these deposits to other countries, whether for tax or tax privacy reasons, could thus affect banks’ commercial lending, particularly when economic growth once again increases demand for commercial loans. Moreover, such a shift could have a negative impact on the liquidity of the U.S. banking system, and thus its safety and soundness.

Consequently, we remain concerned that the proposed regulations will likely have negative consequences for the U.S. banking system in general, and the state banking system specifically. Legitimate deposits of nonresident alien individuals generally represent a stable source of funds for state-chartered banks and state-licensed foreign banking organizations because of the favorable economic and political environment in the United States. Imposing a reporting requirement on income that currently is not taxable could erode this favorable environment. Thus, to the extent the proposed regulations deprive these institutions of a stable source of funds, the regulations likely will impose direct costs on state-licensed banks and the banking system in the United States. Accordingly, absent a rigorous analysis demonstrating clearly that the benefits of the proposed regulations outweigh the costs, in particular the effect on the liquidity of the U.S. banking system, we respectfully suggest that the proposed regulations be withdrawn in their entirety.

Thank you for this opportunity to comment. If you have any questions please contact me or Tim Bergan, Senior Vice President, International at 202-296-2840 or tbergan@csbs.org.

Sincerely,

Neil Milner, CAE
President & CEO
Conference of State Bank Supervisors
1155 Connecticut Avenue, N.W.
Fifth Floor
Washington, D.C. 20036-4306
November 11, 2002

Department of the Treasury
Internal Revenue Service
CC:DOM:ITA:RU (REG-133254-02)
Room 5226
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

Re: 26 CFR parts 1 and 31: Guidance on Reporting Interest Paid to Nonresident Aliens.

Dear Sir or Madam:

The Independent Community Bankers of America (ICBA)\(^1\) is pleased to offer the following comments on the proposed rule change to require reporting of interest paid on deposits of all nonresident alien bank customers. The Internal Revenue Service proposal would require financial institutions to perform new reporting. The ICBA opposes this proposal as a cumbersome, unnecessary and costly burden that would negatively impact financial institutions, their customers, and their communities. The cost to community bankers to comply with this proposed regulation would outweigh the anticipated benefits the IRS would obtain from the additional information reported.

The IRS and Treasury initially proposed to have banks report to the IRS annually all bank deposit interest paid to any nonresident alien individual from any country.\(^2\) After overwhelming opposition to this proposal, Treasury withdrew this first proposed regulation but unfortunately re-proposed a similar regulation that is even more cumbersome. Reporting requirement are now proposed for Australia, Denmark, Finland, France, Germany, Greece, Ireland, Italy, the

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\(^1\) ICBA is the primary voice for the nation’s community banks, representing nearly 5,300 institutions at nearly 17,000 locations nationwide. Community banks are independently owned and operated and are characterized by attention to customer service, lower fees and small business, agricultural and consumer lending. ICBA’s members hold more than $486 billion in insured deposits, $592 billion in assets and more than $355 billion in loans for consumers, small businesses and farms. They employ nearly 239,000 citizens in the communities they serve.

\(^2\) On January 17, 2001, the IRS and Treasury proposed (REG 126100-00) which would provide that U.S. bank deposit interest paid to any nonresident alien individual must be reported annually to the IRS.
Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, and the United Kingdom. While the prior proposed regulation would have required banks to report on nonresident alien from all countries, under the current proposal, financial institutions would have to create and implement far more complex programming methods, forms, and procedures to identify and report on deposit interest for individuals from randomly specified countries. It is dramatically more complex and cumbersome to flag and report on accounts from an unsystematic list of countries.

Worse yet, the list of countries for which reporting would be required would be subject to change and expansion at the discretion of the Treasury and the IRS. In fact, the current proposed regulation is little different than the original withdrawn regulation since it includes the option for banks to report bank deposit interest paid to all nonresident aliens or to any nonresident alien who is a resident of a country other than the newly specified countries.

ICBA believes this proposed reporting requirement is onerous and unwarranted for several reasons. First, since nonresident alien interest payments on U.S. deposits are not subject to tax in the U.S., Code § 871(i), the Internal Revenue Service would not further any U.S. financial interest by requiring this new reporting. Therefore, there is no direct benefit evident from this proposed costly new compliance burden, nor is it necessary for the proper functioning of the IRS, since nonresident alien depositors are in fact exempt from U.S. tax on their interest income from U.S. banks. Neither U.S. treaties nor international norms require mandated collection and dissemination of information not directly necessary to U.S. tax administration.

Second, new reporting requirements on legal foreign deposits would act to discourage nonresident aliens from depositing their assets in U.S. financial institutions. Foreign deposits under U.S. management are largely a function of the confidentiality, privacy, and stability of the U.S. banking system. The additional government intrusion of this proposal is likely to encourage the withdrawal and removal of existing deposits to countries that give greater weight to depositors’ privacy and confidentiality. Such withdrawals, particularly in small and mid sized banks and border states would reduce the availability of funds needed for lending and economic development in those communities. Additionally, a loss of foreign deposits by financial institutions with substantial foreign deposits could diminish the stability of the banks themselves. The proposed regulation would negatively impact banks successful in attracting substantial foreign deposits. These deposits in turn foster greater U.S. lending to domestic consumers and businesses and bolster our domestic economic growth and job creation.

Producing the new reports for individually selected countries as required by the proposal would entail substantial compliance costs for financial institutions, costs that would far outweigh any stated benefit. New information collection and reporting systems would need to be set up and would require significant capital investment in forms,
hardware, software, personnel and employee training, and mailing costs. These compliance costs would be material for many of ICBA's small community bank members.

Banks already abide by strict documentation requirements to ensure that persons claiming exemptions from U.S. tax in fact qualify for their tax-exempt status. Treasury Reg. §§ 1.6049-5(b)(12), 1.1441-1(e). Currently, bank compliance with these regulations for nonresident aliens are open to audit and inspection by the Internal Revenue Service and bank regulators at any time. Therefore, oversight methods already exist to verify possible tax avoidance (such as through false claims of alien status), making this new proposal redundant and unnecessary.

In conclusion, the ICBA believes that the new costly reporting requirements proposed would not improve the financial interest of the U.S. nor cost-effectively enhance the ability of the IRS to perform its revenue collection function. Rather, new nonresident alien interest reporting requirements would add material compliance costs and would jeopardize beneficial foreign investment and deposits to the detriment of U.S. financial institutions and the customers and communities they serve. ICBA strongly objects to these proposed new regulations and urges that they be withdrawn.

Thank you for the opportunity to comment. If you have any questions, please contact Paul Merski, ICBA's Chief Economist and Director of Federal Tax Policy at 202-659-8111 or paul.merski@icba.org.

Sincerely,

A. Pierce Stone
Chairman

ICBA: The Nation's Leading Voice for Community Banks
One Thomas Circle, NW Suite 400 Washington, DC 20005 ■ (800)422-8439 ■ FAX: (202)659-1413 ■ Email:info@icba.org ■ Web site:www.icba.org
November 18, 2002

Ladies and Gentlemen:

The Institute of International Bankers requests permission to speak at the above-referenced public hearing. The institute's comments will be made by the undersigned (or a designee) and will include the following points:

1. NRA reporting requirements are contrary to the well-established and Congressionally ratified policy of exempting interest on NRA deposits from U.S. tax in order to encourage foreign investors to deposit funds in U.S. bank offices and thereby provide additional liquidity to the U.S. banking system.

2. NRA reporting requirements are not necessary to ensure compliance with U.S. law by holders of U.S. bank deposits, because bank deposit interest earned by NRAs is exempt from U.S. tax and banks are already required to report interest earned by non-exempt U.S. persons.

3. NRA deposits are made in the United States because of the high level of confidentiality accorded to banking relationships here. Information reporting will undermine that confidentiality and lead to an outflow of NRA deposits from U.S. banks.

4. NRA reporting is inconsistent with the Qualified Intermediary (QI) reporting regime, which permits the United States to monitor compliance with its tax laws while protecting the confidentiality of the identity of foreign investors.

5. NRA reporting requirements will require costly modifications to computer programs, information reporting systems and "back office" operations of many

The Institute's mission is to solve the many special legislative, regulatory, and tax issues confronting internationally headquartered financial institutions that engage in banking, securities and/or insurance activities in the United States.
INSTITUTE OF INTERNATIONAL BANKERS

institutions that far outweigh the benefit the U.S. may receive as a result of increased compliance by U.S. taxpayers who would otherwise file false claims of foreign tax status.

Very truly yours,

[Signature]

Lawrence R. Uhlick
Executive Director and General Counsel
Florida International Bankers Association (FIBA), Inc.
80 S. W. 8th Street, # 2505
Miami, Florida 33130
Tel: 305 579 0086; Fax: 305 579 0969
Email: fiba@fiba.net

CC: DOM: ITA: RU (REG-133254-02)
Room 5226
Internal Revenue Service
POB 7604
Ben Franklin Station
Washington, D.C. 20044

Submitted via internet on Wednesday, November 13, 2002 at 3:15 p.m.

RE: Proposed Rulemaking on Reporting of Deposit Interest Paid to Nonresident Aliens (REG – 133254-02, Rin 1545-BA86)

Dear Sir or Madam:

This comment letter is submitted by the Florida International Bankers Association ("FIBA"), a nonprofit trade organization representing the international banking community in the State of Florida. Last year, when the Internal Revenue Service originally proposed, the imposition of reporting on deposit interest earned by nonresident aliens ("NRAs"), FIBA expressed strong opposition to the adoption of the proposal. Our objections were based on (1) the onerous documentation and reporting requirements that would be imposed on U.S. commercial banks, (2) the negative effect that a reporting requirement would have on the ability of U.S. banks to retain NRA deposits, and (3) the fact that the U.S. had no direct interest in taxing such income and that the imposition of a reporting requirement was contrary to long established policies of encouraging foreign investment in the United States. We feared that the impact of an NRA reporting requirement would most significantly be felt by our member banks due to the substantial number of Latin American based NRAs that comprise their customer base.

We note that the current proposal is substantially narrower than the first. In its original form the NRA proposal would have required the reporting of deposit interest earned by all NRAs. The current proposal only calls for the reporting of deposit income earned by NRAs of 15 designated countries, none of which happen to be located in Latin America. Although no explanation is provided in the current proposal for manner in which the 15 countries were designated. FIBA is gratified by the apparent attempt to recraft the proposal to avoid the disrupting the business of Florida banks that serve significant numbers of NRAs from Latin America.
As much as we appreciate the apparent motivation behind the revised proposal, on principle FIBA must nevertheless oppose its adoption. The narrowed scope of the revised proposal does not enhance the rationale for increasing reporting requirements on deposit interest earned by NRAs. The United States has no direct interest in taxing this income; the collection of this information is highly unlikely to substantially improve compliance by U.S. taxpayers; and, complying with the increased reporting requirements will be burdensome and costly to U.S. banks. FIBA’s most compelling reason for opposing the revised proposal, however, is that it will have a destabilizing effect on NRA deposits in the United States—including on the stability of deposits placed by residents of countries not covered by the proposal. If this rule is adopted, it will signal to all NRA depositors, regardless of location, that the United States cannot be counted on to protect the confidentiality of their banking relationship. The international community will regard the revised proposal as an incremental step to the ultimate implementation of the broad information collection and reporting requirement envisioned in the original proposal. Rather than await the inevitable expansion of the rule, NRA depositors who value their banking relationship will immediately begin to withdraw deposits, which will result in less liquidity for the U.S. banking system and the destabilization of local economies, particularly that of Florida, that substantially benefit from foreign investment.

While we are very appreciative of the efforts that were made to improve the original proposal, we are convinced that any expansion of NRA deposit interest reporting requirements will have a very negative impact on what has traditionally been a stable source of liquidity for U.S. banks while producing little if any benefit to the United States. For this reason, regretfully we must continue to urge against the adoption of the revised proposal.

Sincerely,
Subject: FW: Comment from Web Site sent to guy.r.traynor@irsounsel.treas.gov

-----Original Message-----
From: postoffice@www.qai.irs.gov [mailto:postoffice@www.qai.irs.gov]
Sent: Thursday, November 14, 2002 2:55 PM
To: guy.r.traynor@irsounsel.treas.gov
Subject: Comment from Web Site
From: mdunn@cuna.com
reg=Reporting of Deposit Interest to Nonresident Aliens
category=taxreg
email=mdunn@cuna.com

Begin Comment Text ----------------------

November 14, 2002

Internal Revenue Service
CC: DOM:ITA:RU (REG-133254-02)
Room 5226
POB 7604
Ben Franklin Station
Washington, DC 20044
RE: Proposed Regulatory Changes on Reporting of Deposit Interest Paid to Nonresident Aliens

Dear Commissioner Rossotti:

On behalf of the Credit Union National Association, thank you for the opportunity to submit our comments on the proposed changes to the Internal Revenue Service's regulations on the reporting requirements for interest on deposits maintained at the U.S. offices of financial institutions and paid to certain nonresident alien individuals. CUNA represents more than 90% of our nation's 10,113 state and federal credit unions. Approximately 83 million consumers belong to credit unions.

Summary of CUNA's Views

CUNA continues to oppose the IRS efforts to expand reporting requirements for interest paid to nonresident aliens for the following reasons:

Credit unions as financial institutions already shoulder a significant compliance burden as the result of current IRS reporting requirements.

The current proposal would increase compliance costs for credit unions.

Additional IRS reporting requirements should be imposed only when the agency has clearly demonstrated that it is essential to implement statutory tax code requirements.

The IRS has not shown that this rule is necessary to implement such statutory requirements.

CUNA's Comments on the Proposal

Changes in the New Proposal

CUNA would like to acknowledge that, consistent with comments contained in our letter to the IRS and in our oral statement during the IRS hearing on the former proposal, the new proposed rule includes some changes to address operational concerns.

The earlier proposal would have required reporting of interest paid to all nonresident
aliens in the United States who are residents of a country with which the United States has an income tax treaty or tax information exchange agreement. Institutions would have been required to keep track of which countries have such an agreement with the U.S. Under the new proposal, the universe of countries involved would be reduced, and a process would be provided to assist institutions in their efforts to maintain a current list of affected countries. However, even though the number of countries is reduced for now, we are concerned that over time the list could grow substantially, with a corresponding increase in the regulatory burden that institutions would bear.

The new proposal would change the treatment of joint accounts provided in the previous proposal, which was cumbersome. Under the previous proposal, reporting would have been required for all joint nonresident alien account holders who are residents of the covered countries. The new proposal attempts to facilitate reporting for joint accounts, but does not go far enough to address areas of concern. The new proposal would allow institutions to report interest for any one of the joint account holders that is a resident of one of the countries identified by the IRS, if all of the joint account holders have provided a valid Form W-8, which certifies their status as a foreign person. If the joint account holder has not provided Form W-8, then there would be a presumption that the interest is being paid to an undocumented U.S. non-exempt recipient and interest on the deposits for the joint account holders would be reportable on Form 1099. The proposal would reach this result because it would eliminate the provision in the current regulation that allows payors to rely on actual knowledge of the individual's address, even if a valid Form W-8 has not been provided.

While we appreciate the IRS efforts to review its proposal regarding joint accounts, the new approach would still create problems. As we have indicated previously, credit unions generally report interest income for primary account holders. They often do not have easy access to addresses for joint account holders or have the addresses in a format that is readily retrievable. Because the proposal would still require reporting for joint account holders, even if they were not the primary account holder, we believe the changes necessary to meet the proposed requirements would be very costly. In addition, requiring institutions to establish different treatment, including separate procedures and processing that would encompass the harsh result of backup withholding, for account holders who do not provide a Form W-8 continues to raise operational concerns for institutions, as well as issues of fairness for such account holders. Currently, the IRS does not require this result for Canadian nonresident aliens, and we do not believe the IRS has provided sufficient justification for changing the rule, as it proposes to do in the context of expanding the scope of its regulations on nonresident alien reporting.

CUNA Urges the IRS To Withdraw the Proposal

The issue of changes aside, we continue to strongly oppose the proposal and urge the IRS to withdraw it. Many of the comments below were reflected in our previous letter and testimony.

Credit unions must currently comply with a number of federal tax reporting requirements regarding consumers income and financial activities. These include but are not limited to reporting regarding payment of interest and dividends, Individual Retirement Account deductions or contributions, interest on loans secured by real property, student loans, discharge of indebtedness, foreclosures and abandonment of property and others. Credit unions must also comply with IRS requirements for backup withholding and other IRS regulations.

Cumulatively, the burden of compliance with these requirements is substantial, particularly for smaller credit unions. About two-thirds of all credit unions have assets of less than $20 million and nearly one-third are operated by unpaid volunteers. Any new requirement must be evaluated in the context of these current requirements.

In our view, given the considerable compliance responsibilities imposed under IRS rules that financial institutions are already meeting, we believe the IRS should refrain from developing new reporting obligations for financial institutions, unless such requirements are demonstrated to be essential in order to implement a provision in the federal tax code. We do not believe
that the IRS has clearly demonstrated the need for the proposal.

We believe the costs associated with compliance under the proposal will be substantial. Based on information from our members, credit unions that are covered by the agency’s requirement to report interest paid to nonresident alien individuals who are residents of Canada generally do so on a manual basis as they have fewer than 250 filings, the threshold for filing by magnetic media. If the IRS extends the information reporting requirements for all nonresident aliens, some covered credit unions may still not have 250 filings but could have a significant number of individuals for whom they must report, making manual procedures much more complicated if not impractical.

Credit unions do not generally have data processing systems that have been programmed to identify nonresident alien individuals accounts and prepare IRS Form 1042-S. For credit unions that are automated, and many smaller ones are not, new software would have to be purchased, or current systems would have to be substantially altered, at an appreciable cost to the credit union.

In several key ways, credit unions are different from commercial banks and other financial institutions that would be covered by the proposal. Because credit unions are financial cooperatives, the costs of compliance with any regulation, including this new proposal, are borne by the members of the credit union who own it. Thus, the proposal will not only impact credit unions as covered entities, but also their consumer members.

In addition, we are very skeptical about the IRS estimate of the average annual burden it anticipates the proposal would impose. The new proposal states that the average annual burden for each respondent would be 15 minutes, with a total annual reporting burden of 800 hours for 2,000 respondents. This is the same estimate the IRS provided for the previous proposal, which was broader in several respects, causing us to doubt both estimates accompanying the former as well as the current proposal.

Also, again the IRS has not provided information as to how it derived these figures, which appear to be very low. We urge the IRS to clarify how it determined these estimates. We also question the IRS’s Special Analyses accompanying the proposal regarding whether the rule is a significant regulatory action, the applicability of the Administrative Procedure Act and the applicability of the Regulatory Flexibility Act. We request that the IRS provide the basis for its determinations on these issues before proceeding with this rulemaking.

Perhaps more important for credit unions and their members than the cost of compliance are the public policy issues raised by the proposal. As indicated above, we do not believe the need for this proposal has been substantiated. Yet, if adopted, it would divert limited credit union resources away from credit union members. Credit unions primary function is to serve the financial needs of their members into information reporting activities, which may be of marginal use to the IRS.

Further, we think the IRS should consider the impact of this proposal could have on undocumented persons in this country. If the proposal is adopted, such individuals may be extremely reluctant to use the services of traditional financial institutions and turn instead to unscrupulous vendors, which escape reporting requirements and charge unconscionable fees for financial services. (Also, the proposal may encourage financial institutions to avoid paying interest on accounts to bypass the compliance burdens this proposal will inflict.) At the very least, if the IRS does go forward with the proposal, we urge the agency to provide public assurances that it will not share information obtained through 1042-S reporting with other agencies.

Under the proposal, the rule would take effect for payments after December 31 in the year that the rule is promulgated. If the IRS determines that it must proceed with the new proposal, we urge it to give institutions sufficient time to be notified of these amendments, to arrange for changes to their systems and to implement reprogramming and other operational changes. Financial institutions should have at least a full year after
the rule is published before it applies to payments.

For the reasons discussed above, we strongly oppose this proposal and request that the IRS withdraw it on the grounds that the costs to financial institutions and consumers associated with compliance will far outweigh any benefit to the IRS and that the IRS has not demonstrated that the proposal is necessary to implement a statutory provision of the tax code.

Thank you for the opportunity to share our views on this matter.

Sincerely,

Mary Mitchell Dunn
Senior Vice President and Associate General Counsel

End Comment Text  ----------------