

The Evidence Gap Index

How the major AML/CFT program-rule letters answer the question none of them asked.

Compiled by Sviatoslav Zhuravlev · notary/cloud · 2026-06-12

The comment period on FinCEN's AML/CFT program-rule docket closed on June 9, 2026, with 112 comments filed; the parallel agencies' docket, OCC-2024-0005, holds 41 more. Banks, associations, and vendors will be parsing these letters until the final rule. This index maps the major ones.

It is a reading of the load-bearing letters, not a census: we did not read all the filings on both dockets. What we read, we scored on a 0-5 evidence-proximity scale, and each score links to the public letter on regulations.gov - check our reading in one click. One comment ID is still being confirmed; its row says so.

METHODOLOGY · THE EVIDENCE-PROXIMITY SCALE

Nearly every industry letter on FINCEN-2026-0034 and the parallel agencies' docket OCC-2024-0005 asks regulators to defer to documented risk-based decisions. This index measures how close each letter comes to the question underneath that ask: what makes the documentation itself trustworthy as evidence at examination time, years later, after the systems that produced it have changed.

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- 0 does not engage documentation at all

 - 1 asks for deference to documented decisions (states the premise only)

 - 2 additionally names documentation quality, burden, or the check-the-box risk

 - 3 additionally engages evidence properties (auditability, reconstruction, structured records as the proof substrate)

 - 4 additionally asks who verifies the record, or how records stay reliable across system and vendor change

5 proposes a mechanism for evidence integrity (custody, verification, durability)

Scoring rules: a letter earns a level only if it engages that layer explicitly; flattering inference is not allowed - including for letters whose authors we like. One illustrative paraphrase per letter; no verbatim quotes over 15 words; one quote max per source.

Counting caveat: several letters (the BPI and The Clearing House joint letter among them) were filed to both dockets, so the per-docket counts double-count cross-filers. The OCC docket also spans two comment rounds (2024 and 2026).

THE INDEX

#	LETTER	SIGNATORY / VOICE	CORE ASK	CLOSEST APPROACH TO THE EVIDENCE QUESTION	SCORE
1	<u>BPI + The Clearing House</u> joint letter, filed to both dockets, 22pp OCC-2024-0005-0041	Clara Kim, SVP BPI; Rodney Abele, TCH	Documented decisions must not be second-guessed with hindsight; examiner consistency	Demands deference to the document; never asks what makes the document hold	1
2	<u>American Bankers Association</u> FINCEN-2026-0034-0078	Heather Trew, SVP & Counsel (Illicit Finance), Financial Institution Policy and Regulatory Affairs	Protect documented risk-based judgment; innovation without penalty	Deference premise; documentation as shield, not as object	1
3	<u>GECU FCU</u> FINCEN-2026-0034-0089	Nicole Bradford, Sr. VP Compliance	Guidance on how to assess and demonstrate effectiveness	Asks regulators how to demonstrate; does not ask what makes the demonstration durable	2
4	<u>Sunwest Bank</u> FINCEN-2026-0034-0043	Harry Cupp, SVP BSA & OFAC Officer	Retire check-the-box; documented rationale + governance oversight	Names the documentation-driven trap from the operator seat (quality layer)	2
5	<u>Forbright Bank</u> FINCEN-2026-0034-0076	Jessica Nichele, BSA Officer	Independent testing must not substitute hindsight judgment for documented decisions	Names the hindsight-vs-documentation tension in the testing relationship	2
6	<u>Wolfsberg Group</u> FINCEN-2026-0034-0055	Association of global banks	Define systemic/significant failure; internal QA should preempt second-guessing	Cites its own Principles for Auditing for Effectiveness (March 2024): audit as evidence layer	3
7	<u>Royal Business Bank</u> FINCEN-2026-0034-0012	BSA Officer (post-remediation voice)	Document actions taken against identified risk, not promptly re-papered assessments	Closest practitioner articulation of living evidence vs paperwork; stops before verification	3

8	<u>Nasdaq Verafin</u> FINCEN-2026-0034-0068	Vendor	Effectiveness measured from operational records and outcomes	Treats operational records as the proof substrate; vendor-held, no custody question	3
9	Unit21 [†]	Vendor	Log every action, preserve reasoning behind decisions	Names evidence properties (completeness, reasoning capture); no who-verifies layer	3
10	<u>ARC Regulatory</u> 15pp FINCEN-2026-0034-0033	Ryan Aballe, Principal	Formal safe harbor for documented risk-based decisions incl. SAR/no-SAR dispositions	Builds the most structured evidentiary test in the docket (decision documented in governance records + internal review + disposition records referencing criteria) - but the test ends at internal review; nobody outside the institution ever verifies, and nothing addresses records surviving system change	3
11	<u>a16z</u> 17pp FINCEN-2026-0034-0088	Ramaswamy CLO, Walker CCO, Rathod-Papier, Mina Kim BSA/OFAC Officer	Resolve MRM uncertainty for AI-enabled AML/CFT tools	Deepest model-governance engagement: documentation/validation burden, re-validation cycles, governance of design choices; still inside the institution's own walls	3

† Unit21: Reviewed from the public docket; the regulations.gov comment ID is pending confirmation, so this row carries no source link yet.

CONCLUSION

The docket tops out at level 3. In the major industry letters reviewed for this index - the ones banks, associations, and vendors themselves treat as load-bearing - and in our scan of the docket's late wave, no letter reaches level 4 or 5: none asks who can verify a documented decision, and none proposes a mechanism by which the record remains verifiable after the models, vendors, and log systems that produced it have been replaced. We have not read all filings on both dockets (112 + 41, with cross-filers double-counted); we read the ones the industry put its weight behind. That is the open question the docket states by omission.

Notary Cloud builds externally verifiable records for AI decisions in regulated workflows.

Compiled by Sviatoslav Zhuravlev · published 2026-06-12 · scores reflect our reading; the letters are linked - check us. Corrections: sviatoslav@notary-cloud.com