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LEGISLATIVE PROPOSALS TO IMPLEMENT THE RECOMMENDATIONS OF THE 9/11 COMMISSION

HEARING

BEFORE THE

COMMITTEE ON FINANCIAL SERVICES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTH CONGRESS

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LEGISLATIVE PROPOSALS TO IMPLEMENT THE RECOMMENDATIONS OF THE 9/11 COMMISSION

Wednesday, September 22, 2004

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
Washington, D.C.

The committee met, pursuant to call, at 11:03 a.m., in Room 2128, Rayburn House Office Building, Hon. Michael Oxley [chairman of the committee] presiding.

Present: Representatives Oxley, Leach, Baker, Bachus, Royce, Kelly, Biggert, Tiberi, Kennedy, Garrett, Brown-Waite, Barrett, Frank, Maloney, Gutierrez, Watt, Carson, Sherman, Lee, Moore, Lucas of Kentucky, Clay, Israel, McCarthy, Matheson, Miller of North Carolina, Emanuel, and Scott.

The CHAIRMAN. [Presiding.] The committee will come to order.

We meet today to continue some of the most important work this committee ever has considered, work that began in the tense hours and days after the tragic attacks on September 11, 2001.

During that unsettled time, this committee pulled together to produce comprehensive bipartisan legislation that aimed to disrupt the financing of terrorism and to strengthen the country's anti-money-laundering laws.

That bill, H.R. 3004, later became Title III, the anti-terror finance title of the USA PATRIOT Act, signed into law less than seven weeks after the attacks.

It is a testament to that legislation that the so-called 9/11 Commission report issued a month ago cited it with approval and said that, "On anti-terror finance and anti-money-laundering issues, the various elements of the government generally are doing a good job."

"Nevertheless," the report went on to say, "terrorists are motivated and highly adaptive, and efforts to block their finances will need to continue to evolve and improve."

With that in mind, the committee has assembled a package of legislative proposals to improve the tools with which the government fights terrorist financing. Most of these are common-sense items on which everyone in this committee can agree. In fact, a few are items we feel strongly about and have agreed upon often unanimously in the past, only to have them fall victim to jurisdictional objections in this body or to inaction by the other body.

Frankly, when this sort of thing happens, it is more than a little disappointing. And so in this package we have assembled the sorts

of pieces we believe are important and on which we think there should be broad, bicameral agreement.

Today, we have two strong witnesses to discuss the proposal with us: Treasury's Stuart A. Levey, Under Secretary of the Office of Terrorism and Financial Intelligence; and Brian C. Roseboro, Under Secretary for Domestic Finance.

There are four main themes to the legislation: new funding for the fight against terror financing; new tools to fight the financing of terrorism; preparedness tools to help make the financial system more resilient in case of another attack; and tools to improve international cooperation in the fight against terror.

Included are additional authorizations for the Treasury Department's Financial Crimes Enforcement Network, FinCEN, which generally mirror last week's resounding vote on the House floor during consideration of the Transportation-Treasury appropriations bill.

That amendment was sponsored by our own Ms. Kelly. It favored a one-time investment in technology to radically improve the usefulness of FinCEN's data and the ease of use by law enforcement while reducing compliance burdens on banks. It also included reauthorization of a national anti-money-laundering strategy report, along with some modest grants to local law enforcement to fight financial crimes.

The proposed legislation makes a series of purely technical corrections to the anti-terror finance title to the PATRIOT Act that correct inadvertent drafting errors that occurred because of the speed with which it was assembled, along with some language to address the counterfeiting of currency and legislation that would allow the Treasury Department to help countries strengthen their currencies against counterfeiting, which in turn would make their economies stronger.

The draft also includes language identical to the Internet gambling legislation that passed the House last year. The Justice Department has testified that illegal Internet gambling provides a dangerous loophole in our anti-terror finance and anti-money-laundering regimes that can easily be exploited.

Under the preparedness rubric, the proposal includes the so-called netting bill that revises the banking and bankruptcy laws to provide for the orderly unwinding of certain financial contracts where one party to the transaction becomes insolvent, thereby minimizing the risk of market disruption.

Members will recall that Fed Chairman Alan Greenspan believes this is vital and has testified to that effect on a number of occasions. And continued threats against the nation's financial centers render passage a necessity that is long overdue.

And finally, a critically important component of this country's ability to fight terrorist financing requires the cooperation of our allies.

In this area, the Treasury Department has been extremely successful in enlisting a broad range of countries within the Group of Eight, the Financial Action Task Force at the OECD, the IMF, the World Bank and the regional development banks. These initiatives create a common language and framework for interdicting terrorist financing.

Treasury has also done an exemplary job of working collaboratively with other agencies, particularly the State Department, in the process of crafting international standards and fostering implementation at the bilateral level. This legislative proposal looks to codify and make permanent a number of those efforts.

I believe this package, like the bill that became Title III of the PATRIOT Act, will enjoy broad, if not unanimous, bipartisan support in the committee and on the House floor. I imagine there will be useful suggestions made today in committee and during markup next week.

I look forward to working with the members to craft the very best piece of legislation we can under another extraordinarily short timeline. I recognize it means a lot of work, but I am certain we will believe the outcome is important and worth the effort.

With that, I yield to the gentleman from Massachusetts.

[The prepared statement of Hon. Michael G. Oxley can be found on page 28 in the appendix.]

Mr. FRANK. Thank you, Mr. Chairman.

This is one of the areas where this committee has been able to work without regard to partisanship or ideology. There is a specific task to be accomplished here. We made a good start on it with the work we have already done, and I appreciate your committing us to continuing it.

I do want to comment on one specific item which you mentioned, because I was told that there was some question raised, frankly, by members of the House leadership, about the netting provision, and specifically some people asked us if it was true that the Democrats have been objecting to including the netting provision in the bill.

The answer is no, we support that. So for people who have raised that question, we agree with you that the netting provision ought to be part of the bill. If there is opposition, it comes from elsewhere and not from here.

The only other point I would make is this: In this area, as in other areas, it is important for us to protect the public as a whole while minimizing the likelihood that individuals will be treated unfairly. Human beings do not achieve perfection, so there will always be error.

I think that requires us to do two things: first of all, try to be careful to prevent error, but we should be explicit.

In a period of danger, perceived and real, to our security from murderous thugs, there is going to be a greater chance of error. When you are under pressure, when you are dealing with the kind of hateful enemies that we are dealing with, you will act in ways that you would not act if you had a greater margin of safety and more leisure.

That makes it all the more important that in our proposals and our legislation and our rules and our administration, we have means of correcting our errors. That is that it is not enough just to try to avoid error; I want to do that. But there is, at some point, a tradeoff between avoiding error and restricting yourself too much. And in the current climate, it is going to be hard to draw that balance—maybe we should not even try—to totally minimize error.

What we can do though is to make sure, recognizing that errors will happen—and we have seen them. We have seen them with Captain Yee, with Mr. Mayfield. We have seen them with a number of other people. And it is inevitable. This is not a criticism of the individuals who made the errors; it is a recognition of what happens when people are under stress, as we are through no choice or fault of our own.

So the one issue that I have is, I do not think we have paid full attention to corrective measures. For example, and we have talked about this, with regard to asset seizures, the Treasury Department, I believe it was who has jurisdiction, reassured us that when someone's assets are seized and he or she wishes to contest that and all of the assets that he or she had are seized so that that individual cannot afford to pay a lawyer, people can almost always or always get a waiver to pay for the lawyer.

Well, it ought not to be a matter of waiver. It ought to be a matter of statutory right.

After all, we are talking, in the case of asset seizure, of cases that have not yet been proved. And this is an example of what I mean. We now have asset seizure in an administrative way before the case is proven, and then the individual has the right to disprove that. Question of where the burden of proof is; he does not have the same benefit of a burden of proof as he would have in a criminal case.

We have situations where all of the assets of an individual are seized, and we were told reasonably, "Yes, they will get a waiver so they can pay for a lawyer." The government does not pay for lawyers in this case; it is a civil situation. Well, we ought to put that into the law. It just ought to be automatic.

Now, obviously, we need to have a monitoring capacity there, so that the right to get a lawyer does not become a way to bootleg out a lot of extra money. But I think we are capable of doing that. If there is one thing we in government know a lot about, it is how to pay lawyers. Some of us used to be lawyers and get paid. Some of us pay lawyers. So I think we can handle that one. That is an example of what I mean.

I also was glad to see the 9/11 Commission's call for a board to monitor privacy and protection. I do have some concerns about the board that the President established because it is all members of the administration. And again, decent, honorable people will make mistakes when they are doing what we are doing. I think there needs to be some independence built into that board.

And I do not say this in criticism. I think we have done a reasonably good job of trying to accomplish this, but I say we should always—we have a dual task. We want to empower the administration and law enforcement officials to be able to take tough, quick action. But precisely because we are empowering them to take action that may be tougher and quicker than in normal circumstances, it is all the more important that we have a self-corrective capacity equal to what we have done.

And remember, this self-corrective capacity, it comes in after the fact. The protections, the action of self-defense is taken, and then we ought to make sure that without any threat or danger to security we have adequate procedures for protecting it.

Thank you, Mr. Chairman.

The CHAIRMAN. The gentleman yields back.

Are there members seeking to make an opening statement?

The gentleman from California, Mr. Royce?

Mr. ROYCE. Thank you, Mr. Chairman. I want to thank you first for holding this hearing.

I also want to thank you for your leadership on the effort to destroy the financial network of radical Islamist terrorists. You and Subcommittee Chairwoman Kelly have held numerous oversight hearings on this topic, and I think it sends a very strong signal to our enemies that the Congress of the United States is very serious about terror financing.

Mr. Chairman, I was also proud last week to join you and to join some colleagues across the aisle in being the lead cosponsors for Chairwoman Kelly's amendment to the Treasury/Transportation bill, which increased funding for the Financial Crimes Enforcement Network by an additional $25.5 million. And I think this will undoubtedly make it easier for the Treasury Department to enforce provisions of Title III of the USA PATRIOT Act, which originated in this very committee.

The legislation that we are discussing today has some very important components that will go a long way to fight against terror dollars. And I am very supportive of the Chairman's effort to grant new authority to FinCEN, to reauthorize the national money laundering strategy and to increase Treasury's profile at home and abroad as a key player in the fight against terror financing.

But I would like to suggest that this committee take two additional steps to fight terror financing.

And, one, I think we should include language in this bill that would create a Treasury-led certification regime on terrorist financing. This certification law would require the executive branch to submit to Congress, on an annual basis, a written certification detailing steps that foreign nations have taken to cooperate in the U.S. and in the international efforts to combat terrorist financing. This would be along the lines of what Richard Clarke has suggested.

I think failure to comply in such a plan would result in automatic sanctions unless the President issued a waiver for national security purposes.

Representative Kelly and I have just introduced legislation which does just this. And we hope to gain the support of our colleagues here on both sides of the aisle so that it is included in the bill the committee sends to the full House.

Additionally, I believe that our financial system cannot be secure unless we know who is accessing it. And to that end, I believe we need to strengthen Section 326 of the PATRIOT Act, otherwise known as the "know your customer" provision.

The phrase "trust, but verify" should be the operative words here. We can and should be willing to trust the identification cards, certificates and passports of our friends and allies, but only if their IDs can be verified with biometric technology as called for by the 9/11 Commission, as called for by our friends like former chairman Lee Hamilton of the International Relations Committee.

The security of our financial system should be our top priority.

Mr. Chairman, I yield back my time.

The CHAIRMAN. The gentleman yields back.

Any other opening statements?

The gentleman from North Carolina?

Mr. WATT. Mr. Chairman, I will not take 5 minutes. I am just a little perplexed, I guess, and do not mean to be the skunk at the party here.

I thought we had a hearing at which the 9/11 Commission people testified that there really were not any recommendations in the 9/11 Commission's report that really fell under our jurisdiction.

And I am fine with moving forward with doing substantive things that are going to make us secure. But I do want to caution folks that if we position ourselves with a lot of flurry as being somehow, doing something that is at the heart of the 9/11 Commission's report, I think we are doing more politics than we are doing substantive work here.

Some of the stuff that is here we have already passed even before the 9/11 Commission report. There really was nothing in the 9/11 Commission report that substantively was at the heart of the Financial Services Committee's jurisdiction.

And if we are going to do something substantive, then I hope we are going to package it with things that may not be under our jurisdiction, such as the creation of this privacy board that the 9/11 Commission did recommend strongly to balance additional security protections against the need for individual privacy and individual rights.

So I am not trying to be negative about this; I am just trying to be realistic about it. And sometimes we have a tendency to rush into doing something just to make it appear to the public that we are doing something new and substantive and in response to the 9/11 Commission's report, when I really do not see much here that is in response to the 9/11 Commission's report.

So I am delighted that we are having the hearing so that we can, kind of, flesh that part of this out. And I appreciate the Chairman giving me the opportunity to express those reservations about what we are doing here.

The CHAIRMAN. The gentleman's time has expired.

The gentlelady from New York?

Mrs. KELLY. Thank you, Mr. Chairman. I want to thank you for your efforts on this critically important matter.

And I also want to thank Mr. Levey and Mr. Roseboro for being here with us today.

We are here because of our shared commitment to strengthening our ability to track and take out the financial support systems of the terrorists.

Through our work, and as chairman of the Oversight and Investigations Subcommittee, it has become evident that, in spite of remarkable progress over the last three years, there remains a pressing need for continued improvement.

I very much look forward to the hearing today and to the additional committee activity prior to adjournment, which should enable us to make progress in achieving the needed reforms.

As Mr. Royce has stated, the House, led by Chairman Oxley and a bipartisan group of Financial Services Committee members, in-

cluding Mr. Royce, Mr. Gutierrez, Ms. Maloney, took an important step last week—and Mr. Frank was with us also—in the overwhelming passage of the amendment giving FinCEN a $25.5 million increase. And this kind of progress really has to be continued.

In the coming weeks, it is imperative that the committee substantively address the vulnerabilities of our disjointed anti-money-laundering system. The current patchwork structure, whereby FinCEN is given large responsibilities for administering our anti-money-laundering law but limited tools for meeting them, needs to be reshaped to reflect the new realities of our national security.

This committee needs to take the first steps forward in creation of a single BSA compliance office by providing FinCEN with a well-equipped force of audit and compliance officers. This would allow FinCEN to more effectively ride herd over the front-line regulators, who literally look over their shoulder when necessary, and would give the Treasury new and better capabilities in monitoring financial sectors which are largely unfamiliar with the BSA requirements.

Vigilant oversight is the only way we are going to able to determine when additional steps need to be taken toward having a single compliance officer. And I think that may be in the direction that we are going to have to move. But additional improvements within Treasury and with the regulators also have to be considered.

I am concerned, for example, that the IRS is the only agency with criminal enforcement powers regarding the Bank Secrecy Act. And I believe that proposals to address this matter with a small, stand-alone criminal enforcement program warrant the committee's attention.

Given the unacceptable regulatory failures that we have seen over the last year, I encourage this committee to adopt the cooling-off legislation that I have cosponsored with Mr. Gutierrez, which will reinforce the need for independent financial regulators.

The concept of the regulation was suggested by the Comptroller of the OCC after the agency was sluggish to take action against the Riggs Bank and several high-profile employment conflicts of interest that have been discovered between the agency and the bank.

In the coming days, this committee should also focus on our ability to collect and analyze information regarding cross-border fund transfers. As members of this committee recall, the 9/11 Commission clearly articulated the direct relevance of international wire transfers to terror finance. We need to do more to ensure that our wire transfer systems are not being used for illicit purposes. And I hope to work with the committee on this matter in coming days.

I further hope that this committee is able to address other international aspects of combating terror finance. The participation of other nations is critically important to success in so many different facets of this undertaking, and it is clearly an area where we have to continue to push for progress.

Thank you, and I yield back the balance of my time.

[The prepared statement of Hon. Sue W. Kelly can be found on page 31 in the appendix.]

The CHAIRMAN. The gentlelady yields back.

Are there further opening statements?

The gentleman from California?

Mr. SHERMAN. Mr. Chairman, one issue that we probably will not deal with this year, but is related to terrorism, is to have circuit breakers and other responses available if there is a market panic, because a terrorist act could cause such a panic.

I believe that such a panic may also be caused by a meltdown of the dollar, given the fact that we are running a $500 billion budget deficit, a $500 billion trade deficit, and that we are increasing our status as the world's largest debtor nation in history by $500 billion every year as that debt to the world adds up.

And so I would hope, Mr. Chairman and Mr. Ranking Member, that next year we have separate hearings dealing with the possibility of a market panic, and particularly one that is international and that focuses on currency markets.

You may not join me in having as great a fear as I do that we are headed toward a crisis sometime in the next decade, but you may agree with me that it would be wise to prepare for such a crisis.

I yield back.

The CHAIRMAN. The gentleman yields back.

Are there other opening statements?

The gentleman from Louisiana?

Mr. BAKER. Thank you, Mr. Chairman. I will be very brief.

I just wanted to thank you for your leadership on this matter and the inclusion of two particular provisions in the package, one that clarifies and expands the authority of the SEC to act in the necessity of a market trading suspension, clarifying their authorities and to the extent and duration of any suspension that might subsequently be ordered.

And secondly, with regard to the contract netting provision, as has been previously noted, the committee has acted in this area before, but prior to a 9/11 event contract netting provision was advisable, post-9/11 event contract netting is absolutely essential.

As derivatives contracts are extremely complex and intertwined, the failure of any single counterparty to meet its obligation could bring about unexpected and negative economic consequences for innocent third parties. So this provision is extremely important in the management of and control of the consequences of some terrorist action, whether intended to be financial or not.

Specifically, for those two reasons, Mr. Chairman, I want to express my appreciation to you and my strong support for the legislation.

I yield back.

The CHAIRMAN. I thank the gentlemen.

The gentleman from Illinois, Mr. Gutierrez?

Mr. GUTIERREZ. Thank you, Mr. Chairman, and thank you for calling this important hearing.

At this point I would like to make the committee aware of a provision that I seek to include in this legislation based on a bill that Ms. Kelly and I jointly introduced, H.R. 5097, Close the Bank Examiner Revolving Door Act. It would impose a one-year cooling-off period for senior bank examiners in supervising a bank at a regulatory agency and working for that bank as an employee.

This issue has been prominent lately due to the former OCC examiner in charge who was subsequently hired by Riggs Bank, Mr. R. Ashley Lee, who is currently under criminal investigation.

This common-sense prohibition, which is very similar to the prohibition that certain Department of Defense employees have against working for defense contractors, was originally suggested by Comptroller Hawke, in a letter August 26, 2004, which I would like to add to the record, if there could be unanimous consent, Mr. Chairman.

The CHAIRMAN. Without objection.

[The following information can be found on page 44 in the appendix.]

Mr. GUTIERREZ. In this letter, Comptroller Hawke indicates that, "When an examiner in charge retires and immediately goes to work for the bank he or she has been supervising, questions are likely to be raised about the agency supervision of that institution."

He further stated that, "The potential for substantial injury is great for the agency, the individual, the bank and the national banking system."

He concluded, "For this reason, I would strongly support legislation that imposed a one-year moratorium on the EIC, or an examiner with some comparable responsibility, accepting employment with the bank he or she had been in charge of."

You know, I had disagreements with the OCC, but this I think is an excellent idea. And if you take the Riggs case and you take money-laundering cases and how they are examined and the coziness which may or may not exist between examiners and banks, I think it would be a great idea that we include it. And I look forward to having that debate and that discussion.

I ask that the rest of my opening statement be included in the record, Mr. Chairman.

The CHAIRMAN. Without objection, all of the opening statements will be made part of the record.

Are there other opening statements?

The gentlelady from Illinois?

Mrs. BIGGERT. Thank you, Mr. Chairman, and thank you for holding this hearing, which is yet another testament to our committee's active and bipartisan approach to combating terrorist financing.

The 9/11 Commission also recognized the successful efforts of this committee and that of our friends at the Department of Treasury.

I would like to welcome and commend our witnesses today for appearing before us, for their diligent efforts to track and disrupt terrorists' finances, and for collaborating with other government agencies and private-sector coalitions like ChicagoFIRST.

And with that, I would ask to submit the remainder of my testimony for the record. I yield back.

[The prepared statement of Hon. Judy Biggert can be found on page 30 in the appendix.]

The CHAIRMAN. Without objection.

Who else needs recognition?

The gentleman from Georgia?

Mr. SCOTT. Thank you very much, Mr. Chairman. I will be brief.

I, too, want to thank you for this hearing. It is very important as a follow-up to the hearing we had earlier in regarding recommendations from the 9/11 Commission.

Specifically, my hope is to try to see if we cannot come up with a more clear understanding of the operations of hawalas. I brought that up at our previous meeting.

I think that unless and until we can find a way to really get our arms around that—for I think it is a primary means of financing, this ancient method of network of fund-raising that works to support such groups as Al Qaida.

The other area of financing, of course, comes from charities within the Muslim communities.

I would like to know what we are doing to strengthen those areas, as well as taking a look at the PATRIOT Act to find out if Section 14 is sufficient, if we need to do more there, and Section 313 and 319, which, of course, deals with money laundering and these shell companies, as we move going forward.

I am again hopeful that we can get our investigators the right tools to identify the customers, trace these financial transactions in the fast-moving counterterrorism investigations in our efforts to shut down once and for all these terrorist networks.

But we have to look at these outside means, grassroots means, of financing, in addition to the regular ones of shell companies working through the legitimate banking process. And I would be interested to know what we can do, if there is legislation we need to offer in that regard.

I look forward to the hearing, and certainly welcome you both, undersecretaries Mr. Levey and Mr. Roseboro.

Thank you, Mr. Chairman.

The CHAIRMAN. The gentleman yields back.

The gentleman from Alabama?

Mr. BACHUS. Mr. Chairman, first of all, I want to commend you as the primary author of the anti-terrorist financing legislation that, as Ms. Biggert said, the 9/11 Commission singled this legislation out for specific praise.

It did recommend, and the members did recommend to us in a hearing, ways to strengthen that act. And I think that the legislation that you are introducing and we are considering here today does that.

The gentleman from Georgia mentioned some of the more nontraditional financial institutions that were not included under the Bank Secrecy Act, and actually former Congressman Lee Hamilton actually said that that is one thing that would strengthen the Act. And I would recommend that we take a close look at what Mr. Scott recommended, consistent with what Congressman Hamilton and the 9/11 Commission has said in their testimony.

Secondly, and I will close with this, Governor Olson testified before our committee two weeks ago about the serious need for the netting provisions. That was originally H.R. 2120. It was in the Bankruptcy Reform Act that left the House. We have still not adopted that as a Congress, although the House has passed it.

Just the credit default swaps alone are over $2 trillion. And if we had a terrorist attack and we had to use those netting provisions, it could really threaten our financial markets. Chairman

Greenspan, in some speeches the last week or two, has again urged the Congress to adopt those.

And I would point out to the members that in Chairman Oxley's legislation proposed today, unlike some of the others proposed in this Congress, he does include the netting provisions in his legislative proposal.

It would greatly—particularly if you will recall what we have just found out, and that is that some of the Al Qaida has actually targeted our financial institutions and our financial markets for disruption, in some of the intelligence that has been revealed in the last two or three months, I think it makes it even more urgent that we adopt these provisions which will allow the orderly unwinding of certain financial contracts. Particularly with a lot of our businesses, particularly our airlines, lately filing bankruptcy, it even makes it more urgent.

So I commend the Chairman for including the netting provisions and would ask the committee to strongly consider taking immediate action on this legislation and moving it out.

And with that, I yield back the balance of my time.

The CHAIRMAN. The gentlemen yields back.

Are there further opening statements?

Noting none, we now turn to our distinguished panel, the Honorable Stuart A. Levey, Under Secretary for the Office of Terrorism and Financial Intelligence at the Department of the Treasury; and the Honorable Brian C. Roseboro, Under Secretary for Domestic Finance at the Department of the Treasury.

Mr. Levey, we will begin with you. And, again, thank you for returning to the committee.

STATEMENT OF HON. STUART A. LEVEY, UNDER SECRETARY, OFFICE OF TERRORISM AND FINANCIAL INTELLIGENCE, DEPARTMENT OF THE TREASURY

Mr. LEVEY. Thank you, Mr. Chairman and distinguished members of the committee. Thank you for inviting me here today to continue our discussion with respect to terrorist financing and financial crime.

This past August I had the privilege of speaking with you about the work we have been doing in combating these scourges and the recommendations of the 9/11 Commission. Today, I am pleased to return to address several legislative proposals aimed at bolstering our abilities to detect and impede terrorist financers, money launderers and other criminals.

I greatly appreciate the attention and insight that you have brought to these important issues. And I look forward to working with you in the months ahead.

In my first six weeks in this job, a few things have already become clear. First, that the people I have joined at Treasury are as talented and dedicated as they come and are working very hard on every aspect of this multifaceted issue.

But our efforts depend on a host of agencies, as others have alluded to. These include the State Department, the Defense Department, the CIA and my former home, the Justice Department. Our greatest accomplishments to date have been collaborative efforts, and our success in the future will depend on the strength of our

interagency cooperation as well as our cooperation with the Congress.

I have also been even more convinced that, while terrorist financing and money laundering are not the same, our ability to prevent terrorist financing depends on a continued effort to ensure compliance with the Bank Secrecy Act and the related provisions of the PATRIOT Act.

As this committee is well aware, the Riggs case and other incidents have highlighted an imperative for the Treasury Department. We must ensure that we are getting appropriate information from the banking regulators so that we can know whether Riggs is just the tip of the iceberg or, as we hope, more of an outlier.

This information will also enable us to identify other needed improvements in our overall BSA compliance regime.

In that respect, we have been working together intensively with the Federal Reserve, the FDIC, the OTS, the NCUA and the OCC to create just this sort of needed relationship. I commend the leadership of those organizations for their excellent cooperation with us to date on this issue.

Another point that has become even more clear to me is the critical importance of international coordination. The terrorist threats we face and the capital provided to fuel terrorist activity emanate principally from abroad.

We continue to work with international organizations in this respect, including the FATF, to develop aggressive but workable standards for combating terrorist financing. And we anticipate the announcement of a new special recommendation this fall to address the movement of cash across borders.

The FATF standards will gain additional impetus in the coming months with the creation of two new FATF-style regional bodies, one in Eurasia and another spanning the Middle East and North Africa, both of which will be extremely important to our efforts.

Just late last night, I returned from a trip to England, where I spoke at Cambridge University about the immense value of the PATRIOT Act and particularly Title III of the Act. I also had excellent discussions with my British counterparts about additional ways we can work with our allies to improve transparency in the financial industry overall.

I am pleased to be able to tell you we are making a real difference. We have seen that it has become costlier, riskier and more difficult for Al Qaida and like-minded terrorist groups to raise and move money around the world.

Indeed, intelligence reports suggest that many terrorist financial networks are hurting for cash, while financiers and facilitators are killed, caught or cut off from the financial system, and as conduits of the international financial system become more transparent and less hospitable to those who seek to stay hidden.

Also playing a major role is the deterrent effect of public actions like prosecutions and designations, and prospective donors are increasingly thinking twice about contributing to disreputable or shady organizations.

Our successes breed new challenges as the terrorists continue to adapt to our efforts and devise new and more sophisticated ways

to move money. We must not become reliant on familiar methods or comfortable ways of thinking.

This committee has been vigilant in making sure we are asking the right questions and that we have the tools we need to combat terrorist financiers and other financial criminals. Your attention and input is deeply appreciated, and I look forward to continuing to work with you to safeguard our financial sector and our country.

Thank you very much.

[The prepared statement of Hon. Stuart A. Levey can be found on page 35 in the appendix.]

The CHAIRMAN. Thank you, Mr. Levey, and thank you for your great service. I know you just got back from London and have a little bit of jet lag, but hang in there.

Mr. LEVEY. Thank you, sir.

The CHAIRMAN. Mr. Roseboro?

STATEMENT OF HON. BRIAN C. ROSEBORO, UNDER SECRETARY FOR DOMESTIC FINANCE, DEPARTMENT OF THE TREASURY

Mr. ROSEBORO. Thank you very much, Mr. Chairman, and thank the members of the committee.

I greatly appreciate this opportunity to provide the Treasury Department's views on legislation impacting financial institutions and financial markets that the committee is considering, including the broad September 11 legislation.

In particular, you asked for our views on five specific issues. Let me note that while these legislative items merit consideration, they should not interfere with specific 9/11-related reforms that have been called for by the President.

The war on terror continues to be fought at home and abroad, using tools existing under current law. As the 9/11 legislative proposal makes clear, there are still other weapons which are needed to continue this fight. It is imperative that the President's 9/11 legislative recommendations be enacted without delay.

With regard to Internet gambling, or H.R. 2143, the bill designates financial regulators and the FTC as the appropriate rulemakers for payment systems, transactions affecting financial institutions, financial instruments and financial products and services. It also designates the federal financial regulators as the appropriate enforcers.

The administration opposes illegal Internet gambling and looks forward to continuing to work with the Congress on this very important issue.

With regard to the Securities and Exchange Commission emergency authority, or H.R. 657: The provisions incorporated in H.R. 657 were first proposed in the wake of 9/11 to provide the SEC with enhanced authority to respond to extraordinary market disturbances. Coordination continues to play an important role for financial service regulators to consider in light of the interconnected nature of today's markets.

The President's Working Group on Financial Markets continues to meet regularly to discuss issues common to the financial service regulators regarding contingency planning in the event of large-scale market disruption.

With regard to the netting legislation, or H.R. 2120, the Treasury strongly supports enactment of financial contract netting legislation such as H.R. 2120. The President's Working Group on Financial Markets originally proposed such legislation in March of 1998 and has supported financial contract netting legislative proposals ever since.

In addition, in October of 2001, the Treasury Department and financial institution regulators urged Congress to pass netting legislation separately from bankruptcy legislation.

H.R. 2120 eliminates uncertainties that exist under current law due to changes in the market over the past several years. This important legislation is necessary to help ensure that markets continue to operate without disruption in the event of a failure of a bank or a large market participant.

With regard to the Bureau of Engraving and Printing Security Printing Act of 2004, or H.R. 3786: H.R. 3786 would authorize the Bureau of Engraving and Printing to print securities and other documents for foreign governments. Current statutory limitations preclude BEP from providing actual production support.

The Treasury strongly supports H.R. 3786, as it is similar to a bill that we submitted to Congress in 2001. That bill, introduced as H.R. 2509, received overwhelming bipartisan support and passed the House by a vote of 403-11 on March 19, 2002. More recently, H.R. 3786 passed the House of Representatives on March 25, 2004, by a vote of 422-2.

Finally, with regard to clarifying the delegation authority of the Treasury's fiscal assistant secretary: The Office of the Fiscal Assistant Secretary performs critical functions related to the financial operations of the government and Treasury, including the delivery of payments, the collection of the government's revenues and the management of the Treasury's cash balances. All of these functions occur under the direction of the fiscal assistant secretary.

In the event of a natural or other catastrophic disaster, it may be necessary for the Treasury to take unusual or extraordinary measures to ensure these critical functions continue. The proposed fix would conform to the secretary's delegation of authority relating to the fiscal assistant secretary to the secretary's authority relating to other Treasury officials who are not appointed by the President.

Thank you for allowing me to testify today, and I look forward to answering your questions.

[The prepared statement of Hon. Brian C. Roseboro can be found on page 41 in the appendix.]

The CHAIRMAN. Thank you, Mr. Roseboro.

And let me begin with Mr. Levey.

As you know, the House adopted an amendment to strike the Transportation/Treasury appropriations bill language that would have prevented the Treasury Department from spending any funds to enforce its regulations implementing Section 326 of the PATRIOT Act regarding verification of customer identification.

The Treasury Department, Justice and the White House have all supported the amendment. It now appears an attempt may be made to amend Section 326 to prohibit financial institutions from accepting the matricula consular form of identification issued by Mexican consular officers of the United States.

What would the Treasury Department's position be on such an amendment?

Mr. LEVEY. Mr. Chairman, first let me thank you for your leadership on defeating the first amendment. I know that you worked with us closely on that issue, and it is very much appreciated.

The Treasury Department would oppose the provision that you describe in your question.

As you know, sir, under Section 326, the secretary was directed to work jointly with other federal regulators to issue regulations to financial institutions to make sure that they took reasonable steps to verify the identity of account holders.

And in developing that regulation, we had to make a difficult set of choices. On the one hand, if you have very, very strict identity requirements, then you drive many people into the unregulated sector where we have very little control. And on the other hand, we have to make sure that we have enough identity requirements to preserve the integrity of our system.

We believe that we have struck that balance appropriately under Section 326, and believe it would be inappropriate to single out the matricula card in particular for special treatment in that respect given the overall balance that needs to be struck. It is not the only card that has issues associated with it.

The CHAIRMAN. Thank you.

Mr. Roseboro, this committee, in the past, has approved netting legislation, which has been supported by Treasury as well as Chairman Greenspan.

Can you explain why the committee needs to continue to pursue netting provisions and, particularly in light of what the gentleman from Alabama said, in terms of the obvious attempt by the terrorists to attack our financial system, what that would mean in the event of a major catastrophe with our financial institutions?

Mr. ROSEBORO. Yes, Mr. Chairman.

Financial markets, as a general principle, do not like uncertainty. As financial innovation has continued to occur and will continue to occur into market, it becomes increasingly necessary to alleviate, wherever practical and possible, that uncertainty related to particularly settlement and operations.

Whether an institution is faced with a financial failure through natural consequences or we are faced with a catastrophic situation such as September 11th, which causes undue stress on the operations of a financial institution, having the netting provision passed will go a great way to minimizing the risk base and continuing to have effective markets.

The CHAIRMAN. Mr. Levey, the Bank Secrecy Act placed an enormous burden on financial institutions to provide law enforcement the sort of information that can stop financial crimes, including terrorist-related financing. And these institutions tell us that it is essential that we improve two-way communication with law enforcement.

That was the goal of Section 314 of the PATRIOT Act, which Vice Chairman Hamilton singled out for special praise in the testimony to our committee last month.

What is Treasury doing to promote a better flow of information to those financial institutions that are our first line of defense against terrorist financiers?

Mr. LEVEY. Mr. Chairman, I would agree that Section 314 and the information sharing that is provided for there is an excellent tool. And I would also agree that giving feedback to the financial sector is critical in making our BSA compliance work and SAR reporting work.

FinCEN places a very high priority on giving feedback to the financial sector in this respect. And I think they have done an excellent job.

Among other things, they have the SAR Activity Review, which they publish, I think, quarterly, which summarizes some of the trends that they are seeing, so that they can help the financial sector look for those same trends in their businesses.

We also have the Bank Secrecy Act Advisory Group that is chaired by FinCEN, which has an exemption from the Federal Advisory Committee Act to provide for just that sort of frank and full exchange of views that is particularly helpful to the financial sector.

And in that group, we were able to pull together FinCEN, law enforcement and all at the same place to have just this kind of exchange.

That is not to say we do not have more work to do; we certainly do. But we are committed. This is one of the highest priorities, is to figure out better ways to share information from law enforcement to the financial sector.

The CHAIRMAN. Thank you.

My time has expired. The gentleman from Massachusetts?

Mr. FRANK. Thank you, Mr. Chairman.

Mr. Roseboro, are the terrorists we are dealing with, the Islamist fundamentalists, are they big gamblers? Have I missed something? I mean, what do they play? What is their game?

Mr. ROSEBORO. I have no knowledge of their professional or amusement activities, sir.

Mr. FRANK. Thank you.

Then why is there a big thing on Internet gambling in this anti-terrorism bill? I mean, there is a lot of language in here about Internet gambling that is in this bill. I mean, why is that in the terrorist bill?

I differ with many of my colleagues on whether or not people should be allowed to gamble. Many of my very conservative friends think the government should stay out of people's business, except if they decide to make a bet with their own money.

But I do not understand, why is it in the terrorism realm?

Mr. ROSEBORO. I would not speculate on the writing of the bill and the——

Mr. FRANK. But it is in your testimony, Mr. Roseboro.

Mr. ROSEBORO.—legislation.

Mr. FRANK. I would not ask you to speculate, because that is too close to gambling and I do not want to get you in trouble.

[Laughter.]

But it is in your testimony here that we are going to do Internet gambling.

Mr. ROSEBORO. Again, the administration's position—we are against Internet gambling. As to whether or not the appropriate place to addressing that issue is in this legislation or another, we leave that to the Congress.

Mr. FRANK. I thank you.

I will say, I am struck by the selectivity with which the administration leaves things to the Congress. I guess this would be in the category of the assault weapon ban, where the administration will decide that it will defer, as opposed to a highway bill which it is going to veto if it has enough money.

But I stress that because I do want to guard against what has been an unfortunate tendency here to, kind of, I think, misuse the legislative process. I do not mean to accuse you of this. You are just the backboard.

There was a tendency on the part of the leadership of the House to take things that are overwhelmingly popular and package them with things that are much less popular, much more controversial, not directly relevant, and put them all in one bill, figuring that they would be able to, kind of, intimidate people into voting for things they would not otherwise vote for, because they will otherwise be criticized for not voting for the strongly supported pieces. And that has become such a tendency.

And then often they come up and raise it when they come to the floor unamendable, a little late in the session. We will have a chance to vote on amendments here in the committee, but when this bill comes to the floor it is probably not going to be easily amendable. And I can understand that this late in the session. But I do hope we will keep out of this bill things that are so controversial of this sort.

On the Internet gambling, I just use that as an example, we have had some debate on that. And I do not mean to say I do not like that part. But I worry about that precedent being followed.

Mr. Levey, just two questions. One, when you use your authority—obviously a lot of it has to do with international activity—how much consultation do you do with the State Department? Do you find yourselves sometimes having to overrule them?

I mean, you know, it is, again, not anybody's fault, but there is a tension there between the foreign policy concerns they have and the security concerns you have, at least potentially.

How do you work that out?

Mr. LEVEY. Generally, sir, these things are worked out in collaboration. I have not, in fact, experienced many even disagreements, let alone situations where one would, as you put it, overrule the other, which, of course, is not possible.

Mr. FRANK. Well, you do have the final say with regard to this, I assume.

Mr. LEVEY. Well, it depends on what exactly we are talking about. I do not know the "this" is.

But, for example, under Section 311, which is an authority we use, there is a statutory requirement for consultation. What in fact happens is a very detailed consultation with the State Department——

Mr. FRANK. Right. But you would have the last word if there was a disagreement?

Mr. LEVEY. Yes.

Mr. FRANK. But it is encouraging to know that there has not been those kinds of disagreements.

And I say that, again, because there is a general issue here, I find. More and more of foreign policy has become economic policy, particularly with the end of the Cold War, although now we have the terrorism issue—trade, relationships with the international financial institutions.

And I have felt—I first began to think this under the Clinton administration—that in economic foreign policy there is insufficient coordination between Treasury and State. And so I am glad to see we have it here.

Just the last point, quickly. You say, and I am glad to see this, "We need to be acutely sensitive to the privacy and reputational interests of our citizens. We will be studying this issue and considering ways," et cetera.

I would hope that it would not lag. I mean, I understand security is very important; I do not want to stop it. And that is why I said what I said before.

Rather than think that we are going to find a way to do tough security measures that will be error-free, I think we should accept the fact that they will include errors and include a simultaneous corrective mechanism. And I just think that then ought to be contemporaneous, not one after another.

So, I mean, can you reassure me or not that efforts to protect privacy—the self-correcting mechanisms are going to be equal to the enforcement mechanisms, both in terms of their power and in terms of timing?

Mr. LEVEY. Well, I can assure you that this is not an issue that we are allowing to lag. This is an issue we take very seriously and which we are working on at the same time as we are trying to protect——

Mr. FRANK. All right. I would just ask if you could address some of that in writing to me afterwards, because it is, I think, a very important issue.

And I would just say, it is not just a privacy issue, it becomes a law enforcement issue. Because if a significant number of citizens are afraid of arbitrary action that cannot be corrected, then they are going to start objecting to the powers.

And I really think it is in our interest, to get good law enforcement, that we show people that we are going to go ahead with the good, tough law enforcement, along with the full self-corrective mechanisms, otherwise people will begin to resist the enforcement mechanisms.

The CHAIRMAN. The gentleman's time has expired.

The gentleman from California, Mr. Royce?

Mr. ROYCE. Thank you, Mr. Chairman.

In my opening statement, I suggested that we should strengthen language of Section 326 of the PATRIOT Act. Some people have taken this to mean that I want to ban matricula consular cards.

And to them I say, this issue is so much bigger than matricula cards. This is about the national security of our country. And I do not want terrorists using false I.D. from any country, especially given that the 9/11 Commission report specifically says that we

should be moving in the opposite direction, we should be moving toward a biometric entry-exit screening system.

Now, as an example of concern here, let us look at the L.A. Times and their story last Wednesday, in which the article highlighted the threat of Islamist terrorism coming from our southern border.

The story quoted Magnus Ranstorp, the director of the Centre for the Study of Terrorism and Political Violence at the University of St. Andrews, as saying, "We are seeing a pattern of terrorist suspects exploring opportunities to get hold of Mexican passports and documents and infiltrating into the United States through Mexico."

The L.A. Times story also reports that, "According to staff members of the commission investigating the September 11th attacks on the United States, accused mastermind Khalid Shaikh Mohammed had a keen interest in smuggling Al Qaida operatives across the Mexican border."

There are plenty of other stories to quote from, but the point is that it is highly likely Islamist terrorists are trying to access our country through Mexico and that they are using Mexican identification documents to do so. And if these terrorists have Mexican documents, they can easily get matricula consular cards.

So Mexico is certainly not the only country where the problem exists, but rather one where intelligence experts have raised a number of red flags.

Now, my question is, shouldn't we have tough standards for those wanting to access our financial system?

And I am going to quote from some in the administration—I can understand, politically, why you might want to endorse the use of matricula consular cards. But I am going to quote Asa Hutchinson, Department of Homeland Security Under Secretary, on the PBS "NewsHour," when the question was put to him. He said, "We have very little confidence in the security of the matricula consular cards."

I understand politically why we would want to endorse this. But I want to quote from the FBI officials we have heard before this committee under the questions of how this operates.

"It is not a reliable form of identification due to the nonexistence of any means of verifying the true identity of the card holder. In addition to being vulnerable to fraud, it is also vulnerable to forgery. It is used for the purpose of obtaining a driver's license, typically, in 13 States. False identities are particularly useful to facilitate the crime of money laundering."

I will go on to quote from the Office of Intelligence, Federal Bureau of Investigation, Mr. Steve McGraw, before the Congress:

"The ability of foreign nationals to use the matricula consular to create a well-documented but fictitious identity in the United States provides an opportunity for terrorists to move freely within the United States without triggering name-based watch lists that are disseminated to local police offices. It also allows them to board planes without revealing their true identity."

So, again, I come back to my question: Shouldn't we have tough standards for those wanting to access our financial system?

Mr. LEVEY. Well, sir, I have to say at first that I agree with the premise of your question. This is a difficult problem. And I am glad

you put it this way: It is bigger than the matricula card. And that is essential to the answer, as well.

We need to try to keep substandard identification cards from being used, whether they are from Mexico or they are from our own country, our own drivers' licenses, for example.

Mr. ROYCE. Right, you do not want to legalize a method that would make it easy for terrorists to gain access to our financial system and enable the next group of terrorists to freely move money around the United States to finance their operation. I agree.

Mr. LEVEY. The point is we need to work across the government to improve standards for identity cards not just for accessing our financial system, but for all sorts of purposes.

But meanwhile we had to make a judgment. We have a responsibility to regulate our financial system right now, and we have to decide what we are going to allow.

And given the situation on the ground right now with the question of what sorts of identification cards are out there, whether they be matricula cards or other cards including drivers' licenses from certain States, while those standards are being developed and while we are hoping to improve the standards across the board, we have to make the balance between allowing people into our financial system, where we at least have some transparency into what is happening, as opposed to driving them into an underground sector where we will not have any knowledge of how they are moving their money.

And we have made the judgment that we have made to date.

The CHAIRMAN. The gentleman's time has expired.

The gentleman from North Carolina, Mr. Watt?

Mr. WATT. Thank you, Mr. Chairman.

Mr. Chairman, I want to try to distinguish between terrorist legislation and just financial services legislation because I am not sure that this is about terrorism anymore.

Mr. Roseboro's statement specifically says, "Let me note that while these legislative items merit consideration, they should not interfere with the specific 9/11-related reforms which have been called for by the President."

He then says, "It is imperative that the President's 9/11 legislative recommendations be enacted without delay."

Mr. Roseboro, is there anything in these bills that you have been asked to comment on that is included in the President's 9/11 legislative recommendations?

Mr. ROSEBORO. I do not believe so, sir.

Mr. WATT. Okay, so this is not about enacting something that either the 9/11 Commission recommended or that the President has recommended in response to the 9/11 Commission's report?

Mr. ROSEBORO. Correct. This is——

Mr. WATT. Okay. That is not to say it is bad. I just want to make sure that we are not parading this in some way as a response to the 9/11 Commission's report and trying to convince the public that somehow we in this committee are doing something in response to the 9/11 Commission report.

We may be doing something, and it may be good. I am not arguing with that. But it is not in response to either the President's 9/

11 Commission recommendations or the commission's 9/11 recommendations.

Now, with that having been said, let me be clear on what you all are saying on behalf of the administration. There are four or five things you were asked to comment on. One is Internet gambling, which Mr. Frank has already questioned how that is related to terrorism in any way.

Your last sentence says the administration opposes illegal Internet gambling and looks forward to continuing to work with Congress on this important issue. I take that to be less than a resounding endorsement of any particular legislation, this or any other.

You do not seem to be endorsing this particular legislation, or are you?

Mr. ROSEBORO. Again, from the administration's perspective, illegal Internet gambling is a problem, and anything that the Congress can do to about that, we support.

Mr. WATT. Okay. But you are not endorsing this particular legislation, or are you?

Mr. ROSEBORO. We do not have an objection to the legislation.

Mr. WATT. Okay. All right.

And then in the next part, the Securities and Exchange Commission emergency authority, you go to some lengths to point out that the bill leaves unchanged an existing statutory provision enabling the President to terminate any SEC emergency action.

And then you say the President's Working Group on Financial Markets continues to meet regularly to discuss issues common to the financial services regulators regarding contingency planning in the event of a large-scale market disruption.

I take that to be less than a resounding endorsement of the specifics of what is being proposed here, because you all are still working on that. Am I missing something here?

Mr. ROSEBORO. No, I would characterize it a little differently.

Mr. WATT. Okay. Well, I did not mean to characterize it. Characterize it in the way you would like to characterize it.

Mr. ROSEBORO. Basically, what that says is that there is a mechanism in place now, and will need to be ongoing under any circumstances, where possible, of good communication between all the major regulators to try to anticipate as well as respond to any major market disruptions.

This legislation, however, also provides a further backstop, should, for whatever reasons, those deliberations or consultations are disrupted significantly in any way.

Mr. WATT. Okay. That is a fair characterization. I am not trying to mischaracterize it. I am just trying to make sure we understand what it is we are doing.

The netting provision is already in another piece of legislation, and you are suggesting pulling it out from the bankruptcy legislation, which a number of us have been suggesting for a long time, get the noncontroversial away from the controversial.

You support that?

Mr. ROSEBORO. That is correct, sir.

Mr. WATT. Okay. And then the other bill we have already passed in the House 403 to 11, so it is not as if this is much controversy there. So you support us passing that 403 to 11 again, I suppose.

Mr. ROSEBORO. Absolutely.

Mr. WATT. Okay, all right, just want to be clear that if we are doing terrorism legislation, let us do it. But if we are just trying to fool the public into thinking that we did something, I do not have much sympathy for that.

I yield back.

Mrs. KELLY. [Presiding.] Thank you.

I believe I am next in the line of questioning here.

The 9/11 Commission staff report on terror financing noted that the 9/11 hijackers received wires totally approximately $130,000 in amounts from $5,000 to $70,000 from institutions overseas. The report reads, "No financial institution filed a suspicious activity report, and even with the benefit of hindsight none of them should have."

As you know, the United States lags behind other countries in our ability to deter and detect the misuse of these international funds transfer systems for illicit purposes.

For example, Australia and Canada have determined that a reporting requirement to a financial intelligence unit is extremely effective and minimally burdensome.

In fact, some U.S. authorities have suggested that a well-structured reporting requirement for international wire transfers would do more to address terrorist financing than any other change to the Bank Secrecy Act.

Since money laundering and terror finance are inherently international, and law enforcement's ability to trace funds is curtailed from where the funds originate or transit to other countries, my question is: What impact would having this authority have on our government's ability to fight terrorist financing?

And I am going to go to you, Mr. Levey.

Mr. LEVEY. I would like to say two things in response that.

One is that it may well be that that authority is one that would be beneficial to us with respect to combating terrorist financing, money laundering, in particular to helping us with ongoing investigations that would provide us with additional information that we can follow up on.

But I want to be careful not to say that that would have—and I think the 9/11 Commission was trying to get at the same point. Even if that had existed at the time, what they are trying to say is that no one would have looked at any of these transactions and thought them suspicious because they were clean-on-their-face transactions. And I do not think that would have changed even with this authority.

But the authority may well be useful, and the reason I cannot be stronger is I just need to make sure that what we do is something that we are capable of taking in. In other words, I do not want to require the reporting of a lot of information that we do not have the capacity to use and analyze at this point.

So that is something where, while I agree with you in principle, we would need to work with you to make sure we are not imposing something we cannot deal with.

Mrs. KELLY. Mr. Levey, we stand ready and willing to work with you to see if there is not something more we can do to identify these cross-border transmittals and get them into some kind of a

position where they are going to work as flags to help us regarding terrorists.

I want to talk a minute about the BSA compliance. What is the status of the MOUs between Treasury and the banking regulators?

We have discussed this for sometime now. We need to get it done, and it needs to really be done yesterday. Can you talk to me, talk to us about that?

Mr. LEVEY. Well, we are making excellent progress in that respect. If I had not been out of town the last few days, I might be able to give you a better and perhaps more satisfying answer.

But as you know, when the deputy secretary announced this program he said we have to do this before October 1st and I have every reason to believe we will do it before October 1st. We are on the verge, I believe.

Mrs. KELLY. I think this really needs to be done very quickly. It is an important step toward a single compliance office.

And the regulators have to be cooperating with Treasury. And if they are not, this committee needs to help the regulators understand if it is an appropriate position for this committee to mention that to the regulators.

And if there is any help that we can give you to making sure that these MOUs get worked out, the directions—one of the problems I know that we have had is the communication between the various regulators and the Treasury. And we need to help get that done.

So I would urge you, if you think it can be done the month of October, I would urge you to get back to us and keep us informed about where that actually stands.

Mr. LEVEY. Can I just say, because I do not want to alienate, you know, any of the regulators out there, I do know, even though I cannot give you more information at the moment, that they have been very cooperative. And we will get this done in September, not October. We will get done in September.

Mrs. KELLY. That would be very good. It would help us a lot.

I yield back the balance of my time. And I call on Mr. Scott.

Mr. SCOTT. Thank you very much, Chairman.

I would like for us to get at this issue of the hawalas. It seems to me that the issues before us and the proposals—Internet gambling, netting, the PATRIOT Act—it is almost like we are putting traps for elephants when we ought to be putting traps for squirrels.

Agile, jumping from pole to pole, getting in corners, getting into little spots, this is how the terrorists are getting their funding. And it is clear that we need to get a handle on these hawalas—the other source being charities coming from the community—if we are really going to make a dent.

And I would like to find out from you all at Treasury, what do you know about these hawalas? Are we monitoring them? Do we have a system and a strategy in place?

What help do you need from us in terms of resources or legislation or whatever to really get at really putting out there some traps that catch squirrels as opposed to elephants?

Mr. LEVEY. I think this is more in my area than Mr. Roseboro's.

I think we need to, on the hawala question, separate that into two separate subsections. One is that most of the way terrorist organizations are moving their money, of course, is worldwide.

And one of the most, I think, successful efforts we have made is to get the international community, through the FATF, or Financial Action Task Force, to adopt a special recommendation that obligates countries who are FATF members to regulate and license hawalas. And that has been a significant step forward, and it is a first step. Obviously you first have to register and license them.

On the domestic side, we also have under the PATRIOT Act is the requirement—actually it predated the PATRIOT Act—the requirement to register with FinCEN, but the PATRIOT Act made the operating of a money service business without being licensed a crime.

And this is something where it is more of a coming up with an effective way to enforce it rather than an additional authority that is needed. On the one hand, if we enforce as a criminal matter, it has great deterrent effect but it also has the effect of driving people further underground.

And so we are trying to, at the same time as we reach out to the community to register with FinCEN, also use the enforcement authority that we have under the criminal statute under the PATRIOT Act to sort of be the stick, you know, have a carrot and stick approach.

And this is something which the Immigration and Customs Enforcement at the Department of Homeland Security has done a lot of good enforcement on unlicensed money service businesses.

Mr. SCOTT. And you mentioned the countries. Which countries are most at need of this licensing? Which countries are presenting the greatest area of threat through which these hawalas operate? Do we have that knowledge?

Mr. LEVEY. I am not sure that I am in a position to lay out—first of all, that I would be able to give you a comprehensive list or and, even if I could, whether it would be appropriate to.

Mr. SCOTT. That is fine. I understand that and I appreciate that. We do not want to get out any information on that.

Is there anything that we can do here in Congress to aid you in more effectively getting your hands around this? Because it is clear from our information that Al Qaida is getting a tremendous amount of their financing through these hawalas.

It would be very helpful to us. Is there anything that you feel we can do to further assist in tackling this issue? Legislatively, resources?

Mr. LEVEY. I certainly appreciate the offer and would be happy to take you up on it, if we do identify such things.

This committee and the Congress generally have been very supportive of the type of efforts we have been making thus far, and it is greatly appreciated.

Tough problem, though.

Mrs. KELLY. Thank you very much, Mr. Scott.

Mr. Garrett, I am going to try—there are two more questioners, Mr. Garrett, Ms. Maloney. I am going to try to fit them in. I would hope that our questions and responses are very rapid. We have four votes, and it will be hard for us to come back.

Mr. Garrett?

Mr. GARRETT. I will try to be rapid on this. Just following Mr. Royce's comments with regard to Mexican matricula consular cards, am I able to, as a American citizen, able to get one of these Mexican matricula consular cards and use it at a local bank?

Mr. LEVEY. My understanding is that you should not be able to.

Mr. GARRETT. Right. So, in other words, if I have been living in my community for my entire life and I go to a local bank and I wanted to open up a bank account there, I would have to use the document that was made in America, right, like a driver's license, a birth certificate, or some other document that was made here in the United States. Isn't that correct?

Mr. LEVEY. Assuming that the bank knew you were an American, that would be something that I would expect them to require.

Mr. GARRETT. Right. But if someone crossed the border last night, whether they are legal or illegal, they would be able to come into that same bank and be able to use a card that was made by some foreign government, such as Mexico. Is that correct?

Mr. LEVEY. I believe so, yes.

Mr. GARRETT. Okay. And the purpose that you said—I listened to your testimony earlier—the reason you do not want to prohibit them is because you do not want to make it more difficult and therefore drive the illegal immigrants in this country into the underground market. Is that correct?

Mr. LEVEY. Anyone who wanted to use the matricula card, yes, or any other substandard card.

Mr. GARRETT. Well, how far does that go? What you are basically saying, or what your basic testimony is, is that we are trying to make is easier for someone who is in this country to use the financial systems in this country, as opposed to making it harder.

Mr. LEVEY. As a general matter, yes, we want to make it easier for people to go into the parts of the financial sector that we have some transparency into, rather than those parts of the sector that we do not. And that is generally what we are trying to do. We are trying to bring people into the system where they are making transactions that we have some ability to track.

Mr. GARRETT. And that, of course, is regardless of whether they are in this country legally or whether they are in this country illegally.

Mr. LEVEY. That is correct.

Mr. GARRETT. Right. So part of your testimony is that we are trying to make it easier for people who are in this country illegally to use our financial system?

Mr. LEVEY. What we are trying to do is strike the right balance with respect to financial transparency, to bring as many people as possible—without regard to their immigration status—to bring as many people as possible who are using our financial system, bring them into that part of the financial system that is transparent and that we have some ability to track their transactions, rather than driving more of them into that part which we do not.

Mr. GARRETT. And also your testimony was, part of the problem right now is that we do not have a uniform system out there, as far as the 50 States, with regard to drivers' licenses and the like, and that maybe somewhere down the road, when we have a more

uniform system, we will be able to address this problem in a more comprehensive way. I forget your exact words.

Mr. LEVEY. Right. The point is, it is not matricula cards that is our only problem. The standards for identity cards—people talk about biometric standards. A lot of our drivers' licenses, for example, do not have the kind of biometric standards that we would want.

And it is not just bringing people into the financial institutes. There are all sorts of places where people use their identification cards. I think, referring to Asa Hutchinson, obviously people boarding airplanes is more of a risk than going into a bank to open an account.

Mrs. KELLY. Thank you very much, Mr. Garrett.

Ms. Maloney?

Mrs. MALONEY. Very briefly, and I would just ask you to get back to me in writing, last week I joined Chairwoman Kelly and other members of the committee to get an additional $25 million for FinCEN. And the proposal we are considering today has no-year additional funding for that purpose.

And it would be helpful for us to have Treasury's official comment on what FinCEN plans to do with this funding exactly and exactly how much money you feel that you need for this operation. There have been various estimates out there.

And I would like to, very quickly, because we have to run to vote, go to counterfeiting. The $100 bill is the most counterfeited bill in the world. There are estimates that 70 percent of them are counterfeited. And yet we are not using the most advanced technology on our bills—the Kinegrams that are here on the London bills, the euros and so forth.

And just last week the FBI reported that $3 million in $100 bills were taken from a group of Dutch criminals. And as a result, merchants abroad are beginning to see the euro, not the dollar, as the safe currency, which I do not think is good for our country, yet our RFP that is out on the dollar bill asks for the strip technology, which is good for banks but not for commerce on the street.

And my question is, why are we not at the forefront of counterfeit deterrence by using the most advanced technology?

And if you could get back to me in writing, because we have to run to vote, and I do not want to miss the vote.

And I thank the lady for letting me get this in, those two questions in.

Thank you very much.

Mrs. KELLY. Thank you, Ms. Maloney.

The Chair notes that some members may have additional questions for this panel, which they may wish to submit in writing. Without objection, the hearing record will remain open for 30 days for members to submit written questions to these witnesses and place their responses in the record.

We thank the witnesses for their testimony today.

This hearing is adjourned.

[Whereupon, at 12:23 p.m., the committee was adjourned.]

A P P E N D I X

September 22, 2004

Opening Statement

Chairman Michael G. Oxley

Committee on Financial Services

"Legislative Proposals to Implement The Recommendations of the 9/11 Commission"
September 22, 2004

We meet today to continue some of the most important work this Committee ever has considered, work that began in the tense hours and days after the tragic attacks of September 11, 2001.

During that unsettled time, this Committee pulled together to produce comprehensive, bipartisan legislation that aimed to disrupt the financing of terrorism and to strengthen the country's anti-money laundering laws. That bill, H.R. 3004, later became Title III, the anti-terror finance title of the USA PATRIOT Act, signed into law less than seven weeks after the attacks.

It is a testament to that legislation that the so-called 9/11 Commission report issued a month ago cited it with approval, and said that on anti-terror finance and anti-money laundering issues, the various elements of the government generally are doing a good job. Nevertheless, the report went on to say, terrorists are motivated and highly adaptive, and efforts to block their finances will need to continue to evolve and improve.

With that in mind, the Committee has assembled a package of legislative proposals to improve the tools with which the government fights terrorist financing. Most of these are common-sense items on which everyone in this Committee can agree — in fact, a few are items we feel strongly about and have agreed upon, often unanimously, in the past, only to have them fall victim to jurisdictional objections in this body, or to inaction by the other body.

Frankly, when that sort of thing happens, it is more than a little disappointing, and so in this package we have assembled the sorts of pieces we believe are important and on which we think there should be broad, bicameral agreement. Today, we have two strong witnesses to discuss the proposals with us: Treasury's Stuart A. Levey, Under Secretary for the Office of Terrorism and Financial Intelligence, and Brian C. Roseboro, Under Secretary for Domestic Finance.

There are four main themes to the legislation: new funding for the fight against terror financing, new tools to fight the financing of terrorism, preparedness tools to help make the financial system more resilient in case of another attack, and tools to improve international cooperation in the fight against terror.

Included are additional authorizations for the Treasury Department's Financial Crimes Enforcement Network, FinCEN, which generally mirror last week's resounding vote on the House floor during consideration of the Transportation-

Treasury appropriations bill. That amendment was sponsored by our own Mrs. Kelly. The vote favored a one-time investment in technology to radically improve the usefulness of FinCEN's data and the ease of use by law enforcement while reducing compliance burdens on banks. Also included is reauthorization of a national anti-money laundering strategy report, along with some modest grants to local law-enforcement to fight financial crimes.

The proposed legislation makes a series of purely technical corrections to the anti-terror finance title of the PATRIOT Act that correct inadvertent drafting errors that occurred because of the speed with which it was assembled, along with some language to address the counterfeiting of currency and legislation that would allow the Treasury Department to help countries strengthen their currencies against counterfeiting, which in turn would make their economies stronger. The draft also includes language identical to the Internet gambling legislation that passed the House last year. The Justice Department has testified that illegal Internet gambling provides a dangerous loophole in our anti-terror finance and anti-money-laundering regimes that can easily be exploited.

Under the preparedness rubric, the proposal includes the so-called "netting" bill that revises the banking and bankruptcy laws to provide for the orderly unwinding of certain financial contracts where one party to the transaction becomes insolvent, thereby minimizing the risk of market disruption. Members will recall that Fed Chairman Alan Greenspan believes this is vital and has testified to that effect on a number of occasions, and continued threats against the nation's financial centers render passage a necessity that is long overdue.

Finally, a critically important component of this country's ability to fight terrorist financing requires the cooperation of our allies. In this area, the Treasury Department has been extremely successful in enlisting a broad range of countries within the Group of Eight, the Financial Action Task Force at the OECD, the IMF, the World Bank, and the regional development banks. These initiatives create a common language and framework for interdicting terrorist financing. Treasury has also done an exemplary job of working collaboratively with other agencies, particularly the State Department, in the process of crafting international standards and fostering implementation at the bilateral level. The legislative proposal looks to codify and to make permanent a number of these efforts.

I believe this package, like the bill that became Title III of the PATRIOT Act, will enjoy broad, if not unanimous, bipartisan support in the Committee and on the House floor. I imagine there will be useful suggestions made today in Committee and during markup next week, and I look forward to working with members to craft the very best piece of legislation we can, under another extraordinarily short timeline. I recognize it means a lot of work, but I am certain we all believe the outcome is important and worth the effort. With that I yield to the gentleman from Massachusetts.

Opening Statement
U.S. Representative Judy Biggert (R-IL-13th)
Before the Financial Services Committee
Wednesday, September 22, 2004

Mr. Chairman, thank you for holding this hearing, which is yet another testament to our Committee's active and bi-partisan approach to combating terrorist financing. The *9-11 Commission* also recognized the successful efforts of this Committee and that of our friends at the Department of Treasury. I would like to welcome and commend our witnesses for appearing before us, for their diligent efforts to track and disrupt terrorist finances, and for collaborating with other government agencies and private-sector coalitions, like ChicagoFIRST.

Together, we have demonstrated what it takes to combat terrorism and to win the war on terror. It takes initiative, cooperation, effective tools, the sharing of information, enforcement and funding, among other things, to track down and cut off the life-line of terrorism-money. However, we must not regress or remain satisfied with our success. We must remain one-step ahead of the terrorists and continue to work together: Congress, federal agencies, state and local governments, private sector groups, our international partners and the American people.

Following Commissioner Hamilton's recommendation to enlist more experts, we need to recruit and retain such experts to aid us in our mission. In addition, we must realize that our government experts of today will not always serve in their positions; therefore, we need to ensure that existing successful practices, at home and abroad, are maintained and improved upon by experts in the future.

As the leader of the world, and especially as the economic world leader, America must be steadfast in its mission to track and cut off terrorist financing. We must continue to foster international cooperation through bilateral and multilateral coalitions, the Financial Action Task Force, IMF, World Bank and the Group of Eight. I encourage our witnesses to suggest how we can maintain and enhance our existing domestic and international relations and initiatives.

Finally, Mr. Chairman, I would like to address the issue of civil liberties. We, in Congress, have sworn to "support and defend the Constitution of the United States against all enemies, foreign and domestic." We live in a free society that creates and upholds laws that exist to preserve and protect our liberties; however, we also live in a society that is the target of terrorists. In this time when we are encouraging public and private sector organizations to share information, it is my recommendation that we do not forget to include those that we are trying to protect – the employees of these organizations and citizens of our country. Let us protect both the liberties and lives of our citizens by consistently and frequently communicating with them about our nation's efforts to protect them from terrorists.

We must be vigorous in our efforts because our lives and livelihood depend upon it. We in Congress must continue to provide the necessary oversight, authority, funding and forums for discussion to ensure that the U.S. Government and private sector financial institutions have the tools and resources that they need to track terrorist financing. We must continue to justify our actions to the American people, as we work to protect them and to preserve their liberties.

Thank you, Mr. Chairman.

Opening Statement of the Honorable Sue W. Kelly
House Financial Services Committee Hearing
September 22, 2004

I want to thank Chairman Oxley for his efforts on this critically important matter, and thanks also to Mr. Levey and Mr. Roseboro for joining us today.

We're here today because of our shared commitment to strengthening our ability to track –and take out – the financial support systems of terrorists.

Through my work as Chair of the Oversight & Investigations subcommittee, it has become evident that despite remarkable progress in three years, there remains a pressing need for continued improvements.

I very much look forward to this hearing today and to additional committee activity prior to adjournment which will enable us to make progress in achieving needed reforms.

The House, led by Chairman Oxley and a bipartisan group of Financial Services Committee members – including Mr. Royce, Mr. Gutierrez and Mrs. Maloney – took an important step last week with the overwhelming passage of our amendment giving FinCEN a $25 million increase.

This progress must be continued.

In the coming weeks, it's imperative that the Committee substantively address the vulnerabilities of our disjointed anti-money laundering system.

The current patchwork structure whereby FinCEN is given large responsibilities for administering our anti-money laundering law but limited tools for meeting them must be reshaped to reflect the new realities of our national security.

This Committee must take the first step toward the creation of a single BSA compliance office by providing FinCEN with a well-equipped force of audit and compliance officers.

This would enable FinCEN to more effectively ride herd over the front-line regulators – to literally look over their shoulder when necessary – and would give Treasury new and better capabilities in monitoring financial sectors which are largely unfamiliar with BSA requirements.

Vigilant oversight will help us determine when additional steps should be taken toward a single compliance office.

Additional improvements within Treasury and with the regulators must also be considered. I remain concerned, for example, that the IRS is the only agency with criminal enforcement powers regarding the Bank Secrecy Act, and believe that proposals to address this matter with a small, stand-alone criminal enforcement program warrant the Committee's attention.

Given the unacceptable regulatory failures we have seen over the last year, I also encourage the Committee to adopt the "cooling off" legislation I have co-sponsored with Mr. Gutierrez, which will reinforce the need for independent financial regulators. The concept of this legislation was suggested by the Comptroller of the OCC after the agency was sluggish to take action against Riggs Bank and several high-profile employment conflicts of interest have been discovered between the agency and the bank.

In the coming days, this Committee should also focus on our ability to collect and analyze information regarding cross-border fund transfers.

As members of this Committee recall, the 9/11 Commission clearly articulated the direct relevance of international wire transfers to terror finance, and we need to do more to ensure that our wire transfer systems are not being used for illicit purposes.

I hope to work with the Committee on this matter in the coming days.

I further hope that this committee is able to address other international aspects of combating terror finance. The participation of other nations is critically important to success in so many different facets of this undertaking, and it is clearly an area where we must continue to push for progress.

I have introduced today with my colleague and one of my fellow co-chairs of the Congressional Anti-Terrorist Financing Task Force, Mr. Royce, a bill to establish an annual Treasury Department review of every nation's efforts to combat terror finance.

Under this plan – which is based on a proposal made by the Independent Task Force on Terror Finance sponsored by the Council on Foreign Relations – countries that fall short would automatically be subject to U.S. sanctions.

This bill could provide a useful lever in dealing with sluggish allies and otherwise disinterested nations who are able to drag on the pace of our progress against terror finance.

Mr. Royce and I hope to work with other committee members in pushing for the enactment of proposals such as this which will enhance our efforts abroad.

Again, I thank the Chairman and witnesses and yield back.

OPENING STATEMENT
CONGRESSMAN PETER T. KING
before the
HOUSE COMMITTEE ON FINANCIAL SERVICES

"Legislative Proposals to Implement the Recommendations of the 9/11 Commission"

September 22, 2004

Thank you, Chairman Oxley.

I'd also like to thank our distinguished witnesses for taking time to comment on the anti-terrorist financing initiatives offered by this committee. I believe these proposals are a step in the right direction and provide law enforcement the support and tools needed to combat terrorist financing.

Since the attacks of September 11, 2001, the United States has worked aggressively to obstruct terrorist fundraising and money laundering efforts. As mentioned in the 9/11 Commission report, provisions in the PATRIOT Act have made terrorist financing activities more difficult because of enhanced reporting requirements by banks, and imposition of new due diligence standards upon financial institutions managing large private accounts for foreign individuals. The technical corrections offered in today's legislation simply ensure the continued effectiveness of anti-money laundering provisions within the USA PATRIOT Act.

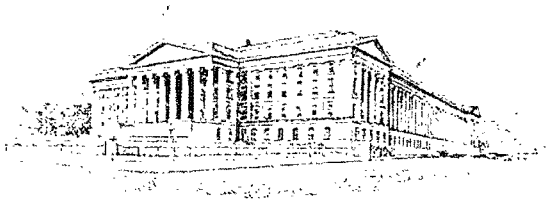
Another important provision within this bill authorizes the Treasury Secretary to produce currency and other security documents at the request of foreign governments. This is one way to help strengthen currencies and prevent counterfeiting in developing countries lacking the capacity and technology to produce secure notes. This provision, which I introduced as separate legislation and passed earlier this year with broad bipartisan support, has, unfortunately, not been debated in the other body. Consequently, the Treasury Department was unable to participate in the redesign and production of new currency in Iraq which removed the face of their former dictator, Saddam Hussein. While the United States Mint is allowed under law to produce coins for foreign countries, the Bureau of Engraving of Printing has not been offered the same opportunity to utilize their printing expertise and innovative counterfeiting technology. This is wrong, and I applaud Chairman Oxley for including my authorizing language within the underlying legislative proposal.

Internationally, the U.S. continues to work with the Financial Action Task Force (FATF) to garner foreign support in the fight against terrorist financing. Although a difficult task, the U.S. continues to advocate for regulatory changes in foreign countries allowing for increased transparency of financial transactions to determine the true identity of various bank accounts. In addition, the Administration has worked to enhance information sharing arrangements and stronger anti-terrorist financing initiatives with various countries. We still have a long road ahead us when persuading other countries to adopt and enforce new anti-money laundering

regulations, but that should not discourage our efforts or cause us to loose sight on the need for international transparency. The September 11 Commission Report and staff monograph highlight the importance of increased information sharing across the U.S. government. This is why I support the creation of a Treasury-led standing committee to ensure that the Secretary of the Treasury has the information needed to craft and negotiate strong standards for fighting terrorist financing at the international level.

Today's legislative package builds upon the recommendations of the 9/11 Commission and enhances the government's ability to fight terrorist financing, both at home and abroad. I applaud the Chairman for his efforts in coordinating the many facets of this bill and urge its adoption.

Thank you, Mr. Chairman.



DEPARTMENT OF THE TREASURY
OFFICE OF PUBLIC AFFAIRS

EMBARGED UNTIL 11:00 AM
September 22, 2004

Contact: Molly Millerwise
(202) 622-2960

Testimony of
Stuart A. Levey, Under Secretary
Terrorism and Financial Intelligence
U.S. Department of the Treasury

Before the House Financial Services Committee

Chairman Oxley, Vice-Chairman Kelly, and distinguished Members of the House Financial Services Committee, thank you for inviting me to testify today about the Treasury Department's pivotal role in the international war against terrorist financing and financial crime and the legislative changes you are considering to enhance our government's efforts. My testimony today builds upon my testimony before you on August 23, 2004. I welcome the opportunity to continue this important dialogue as we work together to fortify our capabilities to protect the U.S. and international financial system against abuse by terrorist financiers, money launderers, and other criminals.

We have been successful in making it costlier and more difficult for al Qaida and like-minded terrorist groups to raise and move money around the world. The terrorists, however, have and will continue to adapt to our efforts. Congress' actions to implement key elements of the Commission's recommendations and to review other necessary legislative changes are a testament to our country's commitment and ability to adapt to the changing landscape of the threats we face. This continued work builds off of this Committee and Congress' important efforts after September 11th to enact necessary laws under the *USA PATRIOT Act* ("Patriot Act"). The Patriot Act has been a tremendous boon to America's efforts to detect and prevent terrorist attacks, and the Secretary and I echo the President's call for Congress to ensure that its tools remain available to those working to combat terrorism.

One of the primary lessons of September 11th is that we must use all elements of national power to attack the menace of terrorism and the threats posed to our financial system by those who

would corrupt and abuse our systems. The U.S. government's success to date in attacking the financial flows of terror stems in large part from the important inter-agency and global cooperation we have been able to forge over the past three years. The Treasury Department has been a critical player in these efforts given our responsibility to safeguard the integrity of the U.S. and international financial systems from abuse by terrorists, rogue states, money launderers, and all financial criminals.

The Secretary and the President created the Office of Terrorism and Financial Intelligence (TFI) in order to harness the broad scope of Treasury's authorities to combat supporters of terrorism and perpetrators of other financial crimes. TFI's responsibilities include the following: implementing and overseeing domestic anti-money laundering regulation; taking preventative administrative actions against terrorist financiers and support networks; enforcing regulations and laws related to financial crimes and economic sanctions; collecting, analyzing, and sharing financial information with the law enforcement community and the private sector; helping to set international standards that drive anti-money laundering and counter-terrorist financing compliance around the world; and building global capacity along with our inter-agency partners via targeted training of the formal and private sector. Executing these tasks are analysts and compliance officers at the Office of Foreign Assets Control (OFAC) and the Financial Crimes Enforcement Network (FinCEN), policymakers in the Executive Office for Terrorist Financing and Financial Crimes and the Office of International Affairs, as well as enforcement agents and analysts from the Internal Revenue Service and the Executive Office of Asset Forfeiture.

Refining the Use of Financial Information to Address Terrorist Financing Risks

The efficient collection, analysis, and sharing of financial information is critical in tracking money trails of any kind. Much of this information is obtained through laws promoting financial transparency like the Bank Secrecy Act, administered by Treasury's Financial Crimes Enforcement Network (FinCEN), as well as through the compliance programs administered by the Office of Foreign Assets Control (OFAC).

As this Committee knows well, one critically important tool against terrorist financing was provided by Section 314 of the Patriot Act, which mandates the sharing of information with and among the financial sector – that is, both vertically (between the government and the industry) and horizontally (providing a safe harbor that allows industry members to share with each other). Treasury has implemented this section by creating a "pointer" system for law enforcement. This system gives law enforcement, in the right cases, the ability to work with FinCEN to transmit names of persons of interest to the financial sector to determine whether those institutions have any relevant transaction or account information. The industry reports back only when it has information, and law enforcement then follows up via appropriate process with the institution. The system implemented by FinCEN has worked and it has been a valuable tool for law enforcement, but we must do more.

We need to enhance our technologies and integrate all available information to help identify anomalous patterns of financial activity and uncover areas of heightened risk in financial sectors. This is in part why we have moved to improve FinCEN's technological and analytical capabilities and invested in the BSA Direct project. The support of this Committee to help

FinCEN in its administration of the Bank Secrecy Act – and most importantly, in its use of the information the Treasury has available to it – continues to be of enormous assistance in sharpening these capabilities. In addition, this Committee's support for the creation of the new Office of Intelligence and Analysis at the Treasury Department will further hone our ability to use our information more effectively to detect terrorist financing and prevent such activities. This office will oversee intelligence functions at the Treasury Department and make sure that we are integrating all relevant information in the Department, including BSA data from FinCEN, OFAC targeting analysis and sanctions enforcement data, and intelligence flowing into the Department from the intelligence community.

As we review our current anti-money laundering and counter-terrorist financing regime, a key question is whether the systems we have implemented to ensure financial transparency, most of which were aimed at money laundering, are up to the task of tracking and disrupting terrorist financing. Although terrorist financing and money laundering share many similarities, these two financial evils also have their differences. With money laundering, investigators look through a telescope trying to detect the movement of large amounts of cash. Unlike money laundering, the identification and tracking of terrorist financing requires investigators to use a microscope in order to follow the movement of relatively small amounts of often "clean" money supporting an evil purpose.

Because terrorist financing transactions may bear no inherent suspicious or identifying trademarks, it is particularly important that we share more information with the financial sector, so as to allow it to recognize accounts and transactions of interest. This will be especially useful as we expand the reach of our regulations to new segments of the financial sector. This will not be an easy task, however. Much of the information relevant to terrorist financing is classified. Moreover, law enforcement is correctly reticent about sharing information that could compromise an investigation. We also need to be acutely sensitive to the privacy and reputational interests of our citizens and ensure that appropriate controls are in place to safeguard information. The Bank Secrecy Act Advisory Group – the primary body mediating between the government and the financial sector – will be studying this important issue and considering ways to appropriately expand the flow of information-sharing in both directions both to and from the private sector.

Improving Bank Secrecy Act Compliance

The expansion of our anti-money laundering system to new sectors has played a critical role in insulating our financial system against the movement of tainted capital from within and abroad. The Patriot Act provided us with numerous mechanisms to assist in this effort, such as those found in Sections 313 and 319. Both sections are aimed at preventing money laundering and terrorist financing through correspondent accounts maintained by U.S. banks and securities brokers on behalf of foreign banks. Specifically, Section 313 expressly prohibits shell banks from participating in the U.S. financial system and insists upon strict record-keeping regarding the ownership of each non-U.S. bank that maintains a correspondent account with a U.S. institution. Section 319 allows the U.S. to seize criminal assets through inter-bank accounts when foreign bank secrecy laws prevent law enforcement cooperation.

In addition, the application of Section 326 requirements to ensure that proper customer identification and due diligence requirements are implemented by the financial sector is important in ensuring proper entry into the financial system. Mr. Chairman, your leadership and that of others to ensure that the Treasury Department is not precluded from enforcing these regulations will prove important as we seek to increase the level of diligence in the financial community as well as access to the formal financial system.

A critical element in the expansion of the regulatory regime is ensuring that banks and other financial institutions understand and are complying with their BSA obligations. To that end, Treasury's FinCEN has restructured itself to more effectively oversee Bank Secrecy Act compliance and has been working diligently with the functional banking regulators to ensure anti-money laundering and counter-terrorist financing compliance. These efforts are not limited to the Bank Secrecy Act; indeed, we are working closely with the regulators and the financial community to ensure compliance with OFAC-related sanctions programs as well.

In this regard, we welcome the Committee's cooperation in the Treasury Department's enhanced compliance efforts, and in particular the leadership of Chairwoman Kelly and the work of the Subcommittee on Oversight and Investigations. The Committee's support for FinCEN's central role in ensuring consistent and vigorous Bank Secrecy-related oversight, to include the creation and manning of FinCEN's new compliance office, is both welcome and necessary. We recognize that there's much more work to be done in this area and we look forward to working with this committee to fashion a sensible way to extend our regulatory reach to the various industries specified in the Act.

The National Money Laundering Strategy has served as an important policy centerpiece in setting the strategic framework for the U.S. government's efforts. The *2003 National Money Laundering Strategy*, published last fall, is a good example of this as it provides a framework for the U.S. Government's ongoing commitment to attack money laundering and terrorist financing on all fronts. As this Committee is aware, the *2003 Strategy* was the last of the five Congressionally-mandated strategies. Though the *Strategy* has been an effective document, we will work with this Committee and the Congress to evaluate the most effective form for the Department to continue reporting on U.S. Government's efforts to secure the financial system against abuse.

Heightened International Engagement

Another key lesson of the terrorist attacks since September 11th is that terrorism is a global problem that affects all jurisdictions and is a phenomenon that must be dealt with on an international level. This is acutely apparent in the terrorist financing arena because the movement of money in the 21st century knows no borders. We have forged a critical international coalition to share information about suspect networks, freeze and seize terrorist-related assets, arrest or isolate key financial intermediaries and donors, and improve the international safeguards around the financial system.

Treasury is well-positioned to deal with both government and private participants in the international financial sector. Treasury officials have traveled abroad extensively to engage our

partners in various ministries and central banks, as well as financial professionals in private industry trade associations and institutions, on the subject of terrorist financing. We are in daily contact with foreign financial officials and are engaged in bilateral and multilateral discussions regarding international cooperation and action against terrorist activities and financing. And we are promoting technical assistance and training abroad, in conjunction with our inter-agency colleagues, to ensure that our partners have the requisite capacity to regulate vulnerable industries, enforce laws, and share financial information.

The U.S. government has engaged in numerous international fora, including the United Nations, G7, G8, G20, the Financial Action Task Force (FATF), the Egmont Group, and the international financial institutions to combat terrorist financing in a global, systematic way. We have worked with these international bodies and regional organizations such as APEC, the OAS, the OSCE, and the Manila Framework Group to further coordinate international efforts to stop the financing of terrorism and to ensure that countries take concrete actions. In general, the United States has led the initiative to make the battle against terrorist financing a priority for the world, through bilateral and multilateral engagements as well as constant diplomatic pressure.

In this respect, the United States is leading the global effort to increase information sharing as well as financial transparency. FinCEN's leadership in the Egmont Group has spurred a rapid expansion of financial intelligence units (FIUs), with 94 such FIUs now operating around the world. This network will only grow in importance as the FIUs continue to develop projects and conduits to detect and prevent terrorist financing and financial crimes.

In addition, Treasury will continue to spearhead efforts with international bodies like the Financial Action Task Force (FATF) to promote balanced regulatory regimes that provide for financial transparency. Thanks to these efforts, scores of countries are now called upon to: regulate informal banking systems like *hawalas*; include originator information on cross-border wire transfers; freeze and seize terrorist-related funds; overtly criminalize terrorist financing; and increase vigilance over the non-profit sector.

These FATF principles and practices are being promulgated further by the International Monetary Fund and the World Bank, which have adopted the FATF Recommendations as part of their anti-money laundering principles used in assessing jurisdictions. In addition, the forthcoming creation of FATF-style regional bodies in Central Asia and the Middle East/North Africa will hold a range of new countries to the standards of the international community. TFI will continue to press aggressively on these and other international efforts – such as building counter-terrorism financing capacity worldwide – to counter the ever-evolving threats of terrorist financing and money laundering.

A powerful tool in our international efforts is Section 311 of the Patriot Act. In this Section, Congress provided the Secretary of the Treasury with the authority to impose certain restrictions on financial institutions or jurisdictions adjudged "primary money laundering concern[s]," or prevent them from accessing the U.S. financial system altogether. This past May, the Treasury Department designated the Commercial Bank of Syria (CBS) under Section 311, based on concerns relating to financial transparency and problems we observed with that institution, including terrorist financing. The Bank will either take effective steps to address our concerns,

or we will cut it off from our financial system. In August, the Treasury Department designated two more foreign banks – First Merchant Bank of the "Turkish Republic of Northern Cyprus" ("TRNC") and Infobank of Belarus – as "primary money laundering concern[s]," pursuant to Section 311. Actions of this type spur jurisdictions and institutions to introduce reforms and create greater financial transparency. They also protect the integrity of our financial system. We will continue to aggressively apply Section 311 against rogue jurisdictions and institutions when we have reason to believe that our financial system is being threatened by terrorist financing or other criminal networks.

Emerging Issues of Concern

Our successes breed new challenges. As the formal and informal financial sectors become increasingly inhospitable to financiers of terrorism, we have witnessed an increasing reliance by al Qaida and terrorist groups on cash couriers. The movement of money via cash couriers is now one of the principle methods that terrorists use to move funds.

Treasury is working closely with the FATF and governments around the world to formulate guidance for international jurisdictions in identifying and interdicting the use of cash couriers in financing terrorism. Additionally, Treasury has proposed new guidance for customs and border security officials to assist them in targeting couriers that may be transporting cash to terrorist networks. In so doing, we have proactively engaged the broader law enforcement community, specifically DHS/ICE, to tap their expertise on cash smuggling.

In addition, we are monitoring increased transnational financial criminal activity of concern to us – including counterfeiting of U.S. banknotes. The U.S. Secret Service has recently announced an ongoing investigation of a family of counterfeit notes, emanating from North Korea, that are produced by means of complex and expensive printing methods. As noted by the Secret Service, the sophisticated techniques utilized in producing this family of counterfeit U.S. banknotes is evidence of a well-funded, on-going criminal enterprise, with a scientific and technical component. The Treasury Department is working closely with the Secret Service, along with the State and Justice Departments, to ensure that the dollar remains a safe, secure store of value. We welcome this Committee's actions to ensure that the U.S. Government has strong enforcement tools to combat the threat of counterfeiters and their networks.

Conclusion

The tools provided by Congress and contemplated by this Committee will greatly bolster Treasury's efforts to combat terrorist financing and other financial crime. I want to thank this Committee for the proposals it has put forth today to implement the recommendations of the 9/11 Commission and to strengthen the essential tools that Treasury utilizes each day. Treasury looks forward to the opportunity to working with you to advance these proposals to enable us to become stronger, more perceptive, and more nimble in countering the evolving threats to the financial sector and our nation.

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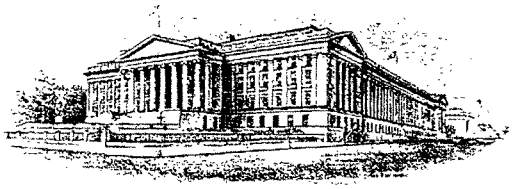

DEPARTMENT OF THE TREASURY
OFFICE OF PUBLIC AFFAIRS

Embargoed Until 11 a.m. EDT
September 22, 2004

CONTACT: Brookly McLaughlin
(202) 622-1996

Testimony of
Brian Roseboro
Under Secretary for Domestic Finance
Department of the Treasury
before the
Committee on Financial Services
United States House of Representatives

Chairman Oxley, Representative Frank, Members of the Committee, I appreciate this opportunity to provide the Treasury Department's views on legislation impacting financial institutions and financial markets that the Committee is considering including in broad September 11 legislation.

In particular, you asked for our views on five specific issues. Let me note that, while these legislative items merit consideration, they should not interfere with the specific 9/11 related reforms which have been called for by the President. The War on Terror continues to be fought both at home and abroad using tools existing under current law; as the 9/11 legislative proposal makes clear, there are still other weapons which are needed to continue this fight. It is imperative that the President's 9/11 legislative recommendations be enacted without delay.

Internet Gambling (H.R. 2143)

H.R. 2143 would allow six months for the federal financial regulators and the Federal Trade Commission (FTC) to promulgate regulations for payments systems that would prevent transactions relating to unlawful Internet gambling. The rules would require any designated payment systems to establish policies and procedures "reasonably designed" to identify and block, and to prevent the acceptance of payment system products or services related to, restricted transactions. Restricted transactions would be transmittals or transactions to gambling businesses that are connected to unlawful Internet gambling by another person, for example, a credit card payment.

H.R. 2143 does not legislate any new crime of Internet gambling, and it takes into consideration various characteristics of our financial system. The bill designates financial regulators and the FTC as the appropriate rule makers for payments system transactions affecting financial institutions, financial instruments, and financial products and services. It also designates the federal financial regulators as the

appropriate enforcers. The Administration opposes illegal Internet gambling and looks forward to continuing to work with Congress on this important issue.

Securities and Exchange Commission Emergency Authority (H.R. 657)

The provisions incorporated in H.R. 657 were first proposed in the wake of 9/11 to provide the SEC with enhanced authority to respond to extraordinary market disturbances. The bill would:

- broaden the SEC's emergency order authority to apply under the securities laws, not just the Securities Exchange Act of 1934;
- expand the "emergency" predicates for emergency orders;
- lengthen the potential duration of emergency orders;
- require the SEC to consult with the Treasury, Federal Reserve, and Commodity Futures Trading Commission before declaring broad trading suspensions;
- provide the Secretary of the Treasury with parallel emergency authority with respect to government securities matters under the Treasury's jurisdiction under section 15C of the Securities Exchange Act; and
- exclude "exempted markets" from the bill, subject to an exception for emergency orders affecting clearing agencies in exempted securities.

The bill leaves unchanged an existing statutory provision enabling the President to terminate any SEC emergency action. The bill also does not expand the SEC's trading suspension authority to include markets for government or other exempt securities.

Coordination continues to play an important role for financial services regulators to consider in light of the interconnected nature of today's markets. The President's Working Group on Financial Markets continues to meet regularly to discuss issues common to the financial services regulators regarding contingency planning in the event of a large scale market disruption.

Netting (H.R. 2120)

The Treasury strongly supports the enactment of financial contract netting legislation such as H.R. 2120. The President's Working Group on Financial Markets originally proposed such legislation in March 1998 and has supported financial contract netting legislative proposals ever since. In addition, in October 2001, the Treasury Department and financial institution regulators urged Congress to pass netting legislation separately from bankruptcy legislation. That letter stated that the "failure to enact these financial contract netting provisions would unnecessarily place the financial system at greater risk." To date, this legislation has not been enacted.

H.R. 2120 eliminates uncertainties that exist under current law due to changes in the market over the past several years. The legislation would update terminology to reflect more accurately existing types of financial products, clarify the FDIC's authority with regard to a failed bank, and harmonize the Bankruptcy Code and the Federal Deposit Insurance Corporation Act. This important legislation is necessary to help ensure that markets continue to operate without disruption in the event of the failure of a bank or other large market participant.

Bureau of Engraving and Printing Security Printing Act of 2004 (H.R. 3786)

H.R. 3786 would authorize the Bureau of Engraving and Printing (BEP) to print securities and other documents for foreign governments; current statutory limitations preclude BEP from providing actual production support. The authority would be limited to times when demand for United States currency postage stamps, and other Federal government products is below BEP's production capacity. In

addition, any production on behalf of a foreign government would be subject to a determination by the Secretary of State that it is consistent with the United States foreign policy.

H.R. 3786 would provide a number of benefits:

- The measure would serve as a positive tool of United States foreign policy -- augmenting beneficial relations with friendly governments and contributing to the security and stabilization of foreign currencies.

- Over the past 10 to 15 years, the Department of the Treasury was unable to meet the engraving and printing needs of five nations – Turkey, South Africa, Eritrea, Kuwait and Iraq – because it lacked the necessary statutory authority. In 2003, U.S. taxpayers paid a foreign printing company approximately $80 million to produce the new Iraqi currency.

- H.R. 3786 would also augment the U.S. government's anti-counterfeiting program. Empowering Treasury's engravers and printers to work with new techniques and materials and produce notes with a wide variety of counterfeit-deterrent features would enable the Department to apply "best practices" when designing future generations of U.S. currency.

- Passage of the legislation would also defer certain fixed expenses of the Bureau of Engraving and Printing and thereby lower the cost of currency notes ordered and paid for by the Federal Reserve System. Savings achieved through enactment of this legislation would be returned to the General Fund of the Treasury by the Federal Reserve System at the end of each fiscal year.

Treasury strongly supports H.R. 3786 as it is similar to a bill that we submitted to Congress in 2001. That bill, introduced as H.R. 2509, received overwhelming bipartisan support and passed the House by a vote of 403-11 on March 19, 2002, but it was not acted on by the Senate prior to adjournment. More recently, H.R. 3786 passed the House of Representatives on March 25, 2004 by a vote of 422-2.

Clarifying Delegation Authority of Treasury Fiscal Assistant Secretary

The Office of the Fiscal Assistant Secretary performs critical functions related to the financial operations of the government and Treasury, including the delivery of payments, the collection of the government's revenues and the management of the Treasury's cash balances. All of these functions occur under the direction of the Fiscal Assistant Secretary. In the event of a natural or other catastrophic disaster, it may be necessary for the Treasury to take unusual or extraordinary measures to ensure these critical functions continue.

Should the Fiscal Assistant Secretary be unavailable or disabled, a senior official who is knowledgeable in the fiscal operations of the Treasury must have the authority to act on the Fiscal Assistant Secretary's behalf. However, the authority for the Secretary to designate another official to act as the Fiscal Assistant Secretary currently is limited to an "officer of the Department." This places at potential risk the financial operations of the government, including the issuance of benefit payments and our ability to raise cash to fund operations. The proposed legislative fix would remedy this situation. It is essential to the efficient administration and continued operation of the Treasury Department.

The proposed fix would conform the Secretary's delegation of authority relating to the Fiscal Assistant Secretary to the Secretary's authority relating to other Treasury officials who are not appointed by the President.

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Comptroller of the Currency
Administrator of National Banks

Washington, DC 20219

August 26, 2004

The Honorable Barney Frank
Ranking Minority Member
Committee on Financial Services
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Frank:

In the recent hearings concerning Riggs National Bank, questions were raised about the propriety of an OCC examiner-in-charge retiring from the OCC and, without a break in time, going to work for the bank that he or she had been supervising. As the Riggs situation itself graphically demonstrates, when an EIC makes such a move serious questions are likely to be raised about the OCC's supervision of the institution involved, and even though the supervisory conduct of the examiner involved may have been absolutely proper in all respects, there is the potential for substantial injury to be caused to the OCC, the individual, the bank and the national banking system.

I have long felt that this was a subject that needed to be addressed, but questions about the OCC's authority to promulgate a rule or formal policy on this subject have stood in the way of our doing so. For this reason I would strongly support legislation that imposed a one-year moratorium on an EIC, or an examiner with comparable responsibilities, accepting employment with the bank he or she has been in charge of. However, because I believe that this subject needs to be addressed immediately, I have today put out the enclosed statement of my own personal views on the issue. I am confident that OCC EICs, as well as national banks, will share the concerns reflected in this statement.

Sincerely,

John D. Hawke, Jr.
Comptroller of the Currency

Enclosure

OCC News

Posted on August 26, 2004

To: All OCC Employees
From: Jerry Hawke
Date: August 26, 2004
Subject: Post-Employment Issues

Recent events at Riggs National Bank have raised to public prominence an issue that has been a matter of great concern to me for some time, namely the situation of examiners, and especially examiners-in-charge, going to work for the banks they examine immediately after leaving the OCC.

The skills that OCC examiners develop during their service at the agency can be of great value to the banks that the OCC supervises, and I think it will frequently be in the OCC's interests to have former examiners on the staffs of banks we supervise. However, I think we must recognize that when an OCC examiner, with no break in continuity, takes employment with a bank he or she has been supervising, there are inevitably questions that will be asked and suspicions raised. Because EICs in particular have a position of unique authority and influence over the banks they supervise, the adverse appearances of such a move are particularly significant when the EIC of the bank, or an examiner having a degree of influence over the bank approaching that of an EIC, is the person changing sides. These appearances are likely to exist even if there has been a period of recusal prior to the acceptance of employment and even if the individual is barred by post-employment restrictions from contacting the OCC for some specified period of time after leaving the agency.

To be sure, a great many OCC employees are likely to have some degree of influence over the banks that OCC supervises or over matters that are of interest to those banks, and it is incumbent on all OCC employees to remain highly sensitive to the appearance of accepting employment with national banks after leaving the agency. However, examiners, and particularly those examiners exercising the kind of authority possessed by EICs, have a special relationship and a special position of influence with respect to the banks they examine, and the potential for questions to arise is significantly greater in a situation where such an individual moves from one side of the table to the other without an appreciable time lapse intervening.

In such situations questions will inevitably be raised whether the hope or expectation of employment with the bank influenced the examiner's supervision of the bank prior to any discussion or offer of employment that would trigger a recusal. We have seen such questions arise in recent years when OCC EICs,

having complied with all the appropriate notification, recusal, and disclosure requirements, having completed a questionnaire documenting exactly when they first entered into employment discussions, and having undergone a thorough internal review of their workpapers during the prior year to ensure that they contain no evidence of bias, are nonetheless regarded with suspicion because they have taken employment with a bank over which they exercised supervisory authority just before accepting employment with the bank.

The urgency of providing a solution to this situation has only been heightened by recent and highly publicized events regarding Riggs National Bank, where the fact that a former EIC went to work for the bank immediately upon his retirement from the OCC gave rise to intense speculation that his previous supervision of the bank may have been influenced by the prospect of future employment. This situation has also caused significant problems both for the bank and the individual involved.

This kind of speculation has led to questions in the press, in Congress, and elsewhere about the OCC's objectivity and ability to conduct its bank supervisory mission. Indeed, as part of a recent staff report of the Senate Permanent Subcommittee on Investigations, it was recommended that legislation be enacted to impose a one-year cooling-off period for federal EICs of a financial institution before they can accept a position with the financial institution they oversaw.

I would strongly support such legislation. Even in the absence of such legislation, however, I believe most OCC examiners and outside observers would share my opinion that where an EIC – or an examiner with comparable responsibilities, such as a large bank team leader or a functional EIC – accepts employment with a national bank or bank affiliate before a meaningful period of time has elapsed after they last performed supervisory responsibilities over the bank, there is a potential for causing serious injury to the reputation of both the OCC and the individual involved, and consequently to the national banking system. While it does not appear that the OCC may, on its own, adopt a policy prohibiting post-employment conduct, it is my opinion that examiners interested in protecting the reputation of the OCC, as well as their own reputations, would want to avoid such situations. I further believe that a one-year cooling-off period before joining a bank that he or she has been in charge of, such as suggested by the Senate Subcommittee staff, could be of critical importance in providing such protections.

By heeding these considerations in their own contemplation of post-OCC employment, OCC EICs, functional EICs, and team leaders would help to ensure that the OCC's reputation for conducting its bank examinations impartially and objectively is maintained. Moreover, this type of prudent measure would protect all OCC EICs and other examiners from unwarranted suggestions that impugn the integrity with which they perform their duties. I would stress that these concerns are applicable where the examiner moves without a break to join a bank that he or she has been examining. They are not applicable where the examiner chooses to

join one of the many hundreds of other banks that the OCC supervises.

These issues also are important to the national banks we examine and supervise. Accordingly, I intend to share these views with all national banks so that they too can understand the concerns we face and the fact that those concerns can reflect negatively on the bank as well as the OCC.

OCC examiners have in the past observed the highest standards of conduct, and there is no reason to believe that they will not do so in the future. It is also clear, however, that even where no improper conduct is involved, the questions and suspicions that are likely to be raised can have damaging effects on the OCC, as well as the individual and the bank involved. The purpose of this message is to help ensure that the OCC and its examiners continue to enjoy an exemplary reputation for observing the highest standards of conduct.

FINAL DRAFT – November 5, 2004

Congresswoman Barbara Lee
Questions for Financial Services Hearing on 9/11 Commission Proposals
September 22, 2004

Questions for Under Secretary Levey

Question: As I understand it, the Office of Terrorism and Financial Intelligence (OTFI) oversees all of the Treasury Department's work in tracking terrorist financing, while also protecting the integrity of our financial system, fighting financial crime, and enforcing economic sanctions. On this last function, enforcing economic sanctions, you work very closely with the Office of Foreign Assets Control (OFAC), do you not?

Response: Yes. I oversee OFAC and as a result work very closely with OFAC.

Question: And OFAC's mission as I read it from your website is to "administer and enforce economic and trade sanctions based on US foreign policy and national security goals against targeted foreign countries, terrorists, international narcotics traffickers, and those engaged in activities related to the proliferation of weapons of mass destruction." How much funding, staff time and resources, would you say is dedicated towards enforcing the various economic and trade sanctions that we have placed on other nations?

Response: OFAC currently administers 29 economic sanctions programs that form an essential part of our national security – from attacking the financial infrastructure of notorious drug cartels to applying sanctions against rogue regimes like Cuba, Iran and Burma. These programs include those sanctions for which emergencies have been terminated but in which there are ongoing enforcement matters or assets blocked. The allocation and prioritization of resources among these programs involves the implementation, administration and enforcement of statutory, regulatory and Executive Branch mandates. OFAC strikes a balance to ensure that the Department aggressively fulfills its responsibilities. As of early spring of 2004, OFAC devoted 40 percent of its resources to counter-terrorist financing programs, 35 percent to the administration and enforcement of our country programs, 20 percent to narcotics trafficking, and five percent to miscellaneous efforts. These numbers are estimates that reflected OFAC's workload and the allocation of resources to meet their needs. As workload demands change, the numbers will fluctuate as well. Numbers include allocation of resources for program implementation and support.

Question: This June, the Administration issued tough new regulations on travel to Cuba that affect the ability of American citizens to travel back to Cuba to visit their families, and additionally that impinge on the ability of many American students to travel to and study in Cuba under an educational license. Cuban Americans, who previously traveled

under a general license, now must apply for a specific license and may only travel once every three years to visit "immediate" relatives. And students, of all ages, were frustrated at their inability to get a clear answer from OFAC about how the new regulations affected their respective programs. How have these new regulations added to the substantial workload of OFAC and your office in the last few months?

Answer: The new regulations have not added to the workload of the Office of Terrorism and Financial Intelligence. OFAC administers, oversees and enforces the Cuba program, including the travel embargo and remittance restrictions. The FTEs allocated to Cuba focus on a full range of OFAC services required for the administration of the program, including licensing, enforcement, supervision and other important aspects of the embargo. Approximately half of the FTEs devoted to the Cuba program process travel-related license requests, which include family, educational, humanitarian, religious, professional, journalistic, governmental and other types of travel. Supervisory personnel are also actively involved in the process. Currently, OFAC has temporarily re-allocated two FTEs, who are awaiting final security clearances that would enable them to be assigned to more sensitive work, in order to administer the new Cuba travel regulations.

In addition, through the deployment of technology, OFAC has developed a new computerized system to enable expeditious processing of applications for licenses to travel to Cuba for family visits under the new regulations. The new OFAC-Miami office facility also provides enhanced information technology services to heighten productivity. These efforts have sought to minimize the additional costs of implementing the new regulations and reduce the workload on staff involved in processing applications. However, the strengthened measures that originally went into effect on June 30 sparked a substantial increase in licensing requests. OFAC has been working to process these applications as quickly as possible.

Question: The administration's most recent budget request for OFAC in FY 2005 is $38 million, a bare increase of $1 million from last year. How will the cost of implementing these new and in my view, excessively punitive regulations, affect the ability of OTFI and OFAC to carry out their essential mission of tracking terrorist financing?

Answer:

The President's Budget requests $22.291 million for OFAC which is a $565,000 (3%) increase over FY04 levels. OFAC works hard to implement our country programs, including the new Cuba licensing policies while maintaining its efforts to track and disrupt terrorist financial networks and carry out OFAC's mandates on other programs involving terrorism and narcotics trafficking. That said, the Department is constantly examining all of our resource levels to ensure that we will continue to have the resources necessary to do our job effectively. If a change in resource levels is necessary to accomplish the various missions of OFAC efficiently, we will request such an adjustment.

OFAC's efforts in the fight on terrorist financing will continue throughout the implementation of the President's enhanced Cuba-related policies and will not be compromised in any way.

Question: Do you think it's more important to spend the taxpayer's money, your budget, on tracking down legitimate sources of terrorist financing? OR is it more important to prevent a brother or a father or an aunt to travel to Cuba to see a family member?

Answer:

The Treasury Department is steadfast in our commitment to undermine the networks that finance terrorism while honoring our legal obligation and commitment to enforce economic sanctions against rogue nations as defined by statute and executive orders. The use of our economic powers can effect real and positive change. The Treasury Department fully utilizes the tools available to us to protect our homeland and the freedom-embracing people around the world from those who seek to harm us – be they terrorist thugs or cruel dictators.

OFAC is only one office in the U.S. Treasury Department dedicated to combating terrorist financing. Our efforts also draw on the talents and resources of other offices and bureaus in the Office of Terrorism and Financial Intelligence, including the Office of Terrorist Financing and Financial Crimes (TFFC), the Office of Intelligence and Analysis (OIA), and the Financial Crimes Enforcement Network (FinCEN), as well as IRS-Criminal Investigation (IRS-CI). We also depend upon our inter-agency partners across the U.S. government – including the Departments of State, Justice and Homeland Security, the intelligence community, the FBI and others.

Cuba remains on the U.S. State Department's State Sponsors of Terrorism list; and, given Cuba's distinctive relationship with the U.S. and its proximity, the U.S. sanctions against Cuba warrant strict attention to ensure the effective application of the sanctions and proper service to the public. OFAC will continue to make every effort to implement the President's new Cuba policy, as set forth in the Report of the Commission for Assistance to a Free Cuba, while maintaining our concurrent efforts dedicated to tracking and disrupting terrorist financial networks.