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**Before the Senate Permanent Subcommittee on Investigations  
of the  
Committee on Governmental Affairs  
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**Introduction**

Madame Chairperson, Senator Levin, and members of the Subcommittee, I am pleased to appear before you today to discuss the issues raised in your Minority Staff's February 5, 2001 report, "Correspondent Banking: A Gateway to Money Laundering" (the "Minority Staff Report"). We at the Department of the Treasury appreciate the efforts you have made to focus attention on this important topic.

In my testimony today, I would like to describe some of the steps we have taken at the Treasury to address the threat of international money laundering, to report on the concrete results of some of those steps and on some of the current efforts that are underway.

I hope you will understand that we are still formulating our positions on a number of issues raised by this hearing and the report that underlies it. Accordingly, I am not in a position today to address the majority of the specific recommendations from the Minority Staff Report. I can assure you, however, that we are taking a hard look at them, and are reviewing the factual record included in the report and amassed during the hearing as part of our deliberations. We also have asked the minority staff for the complete results of the survey they conducted of banks in the correspondent banking business, and we look forward to reviewing those results in detail.

**The National Money Laundering Strategy**

As you know, the Treasury and Justice Departments have jointly issued two National Money Laundering Strategies to meet our obligations under the Money Laundering and Financial Crimes Strategy Act of 1998, Pub. L. 105-310 (October 30, 1998 (the "1998 Strategy Act"). In both Strategies, we have identified a broad range of activities intended to improve our ability to combat money laundering at home and abroad. These measures involve the investigation and prosecution of violations of our laws, regulation of financial services providers, cooperation with state and local officials, and the pursuit of policies to ensure effective international cooperation.

In this broad context, both Strategies have identified correspondent banking relationships – and in particular international correspondent banking relationships – as vulnerable to abuse by criminals seeking to disguise the proceeds of crime. At the same time, we have recognized that international correspondent banking is critically important to international business and finance, and to the continuing predominance of the dollar as the preferred currency for financing international trade.

Last year’s Strategy acknowledged that correspondent banking accounts and other international financial mechanisms such as payable through accounts, private banking, and wire transfers – important features of the international banking system – are potential vehicles for money laundering. The Strategy thus recognized the need for further examination of these mechanisms, and to find ways of addressing potential abuses without disrupting legitimate economic activity.<sup>1</sup> The Strategy also outlined steps to be taken in the regulatory area, including the development of guidance for enhanced scrutiny and reporting of suspicious transactions, and the implementation of revised bank examination procedures. Each of these items anticipated incorporating the results of the review of correspondent banking activity.<sup>2</sup> Finally, the 2000 National Money Laundering Strategy called for continued support of a range of international efforts to combat “financial abuse”, including in particular the Financial Action Task Force’s (“FATF’s”) project to identify jurisdictions that are not sufficiently cooperating in the international fight against money laundering.

The interagency community has substantially accomplished the goals articulated in last year’s Strategy in this area. In September, 2000, the Office of the Comptroller of the Currency (OCC) issued the Bank Secrecy Act/Anti-Money Laundering Examination Handbook. This handbook establishes examination procedures for evaluating a bank’s system to detect and report suspicious activity, and identifies common money laundering schemes (e.g., structuring, the Black Market Peso Exchange, Mexican Bank Drafts, and factored third party checks). The handbook also identifies high risk products and services, including international correspondent banking relationships, special use accounts, and private banking, and establishes examination procedures to address these subjects, including specialized procedures for foreign correspondent banking.

In addition, the OCC has initiated a program to identify banks that may be vulnerable to money laundering and examine those banks using agency experts and specialized procedures. Some of those examinations have focused on foreign correspondent banking. Banks are selected for such examinations based on, among other things*inter alia*, their location in high-intensity drug trafficking or money laundering areas, law enforcement leads, excessive currency flows, significant private banking activities, suspicious activity reporting and large currency transaction reporting patterns, and funds transfers or account relationships with drug source or stringent bank secrecy countries.

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<sup>1</sup> See 2000 National Money Laundering Strategy, Action Item 4.7.3 (at p. 81).

<sup>2</sup> *Id.*, at Action Items 2.1.1 and 2.1.2 (pp. 34 – 36).

We have also made a great deal of progress in addressing the risks involved in international correspondent banking through our active support of the Financial Action Task Force's project to identify non-cooperative countries and territories ("NCCTs"). Meetings last spring with U.S. financial services providers to discuss international correspondent banking – especially those with the New York money center banks – convinced us of several important things:

First, that world trade depends upon the rapid and reliable clearing of dollar accounts held at U.S. financial institutions by respondent banks across the globe;

Second, that billions, if not trillions, of dollars are cleared through U.S. money center bank accounts each and every day (so that any regulatory solution to the problem of abuse in this area would have to be extremely carefully targeted to avoid interfering with this trade);

Third, that although anecdotal information exists, no serious systemic study has yet been done to document the scope and nature of abuses of international correspondent banking relationships; and,

Fourth, that the banking community wants more assistance from the government in terms of identifying high risk areas of their correspondent banking business, and that they want us to do so in a way that does not undermine their competitive position in the global economy.

At around the same time we were meeting with the banks, the Treasury Department became aware of the Subcommittee Staff's survey of a number of banks and the investigation that ultimately led to this hearing. The Treasury Department has focused its efforts on identifying NCCTs, and warning our domestic financial institutions about them.

Of the eight foreign jurisdictions involved in the case studies outlined in the Minority Staff Report, six of them are on the FATF list of 15 NCCTs, and seven of them are the subject of the formal advisories from Treasury's Financial Crime Enforcement Network ("FinCEN"). The FinCEN advisories alert U.S. financial institutions of specific deficiencies identified by the FATF review and confirmed by our own analysis, and encourage our institutions to apply enhanced scrutiny to transactions involving those jurisdictions. However, the advisories do not discourage banks from maintaining these relationships. 23 of the 29 FATF members have issued similar warnings to their domestic financial institutions.

On August 9, 2000, the OCC issued Advisory Letter 2000-8, "U.S. Department of the Treasury FinCEN Advisories 13 through 17." The OCC transmitted to financial institutions under its supervision, FinCEN Advisories advising banks of the serious deficiencies in the counter-money-laundering systems in the 15 jurisdictions identified in the FATF NCCT process. In addition, the OCC emphasized the need for banks to pay particular attention to the possibility of suspicious transactions in high-risk areas,

including foreign correspondent banking. As a result of the FinCEN advisories, the OCC implemented a program to review the anti-money laundering programs in all banks with significant exposure to one or more of the NCCTs. The OCC is in the process of evaluating these banks to determine whether their systems and processes are adequate to control the anti-money laundering risks associated with the NCCTs.

We have also been working with our allies and with officials from NCCTs themselves to correct deficiencies in law, regulation, and practice that aggravate the risk associated with the international correspondent banking business. In response to these efforts, seven of the 15 NCCTs – the Bahamas, the Cayman Islands, the Cook Islands, Israel, Liechtenstein, and Panama -- have already enacted most, if not all, of the legislative or regulatory changes necessary to bring their systems into line with international standards. These jurisdictions are now developing and discussing with the FATF specific plans to implement these changes, and we are working on a timetable that will allow jurisdictions that have taken appropriate remedial measures to be de-listed at the earliest possible time.

Not only has the NCCT list and the FinCEN advisories prompted movement within the NCCTs; they have also increased the quantity and quality of suspicious activity reports (“SARs”) filed by U. S. financial institutions. The Financial Crimes Enforcement Network has embarked upon an analysis of the SAR filings related to the 15 NCCTs. The findings from their work will be incorporated into the second Review of SAR filings that the interagency community expects to publish jointly with the American Bankers’ Association in April. The report will show, among other things, that since the issuance of the advisories last July through November 2000, U.S. financial institutions (including foreign banks operating in the U.S.) roughly doubled the rate of filing of SARs for most NCCTs. Preliminary analysis of December 2000 SARs confirms this trend. The majority of these filings describe wire transfer activity either to or from the country in question. Dollar amounts involving wire transfer activity tend to be high – frequently in the millions of dollars. The remaining SARs describe, for the most part, structuring of cash and monetary instrument transactions involving money orders, travelers checks and cashiers checks. In most instances, financial institutions in the U.S. are a link in a chain of international transactions as opposed to the originating or end point in the movement of suspicious funds. Although further FinCEN analysis is needed with respect to the NCCT SARs, it is apparent that international correspondent account activity of the type discussed in the PSI Report has been and continues to be noted. Such correspondent account activity was also identified in a separate study of domestic U.S. shell company activity that was summarized last fall in the initial issue of the *SAR Activity Review – Trends, Tips and Issues*. The challenge we now face is to make effective use of this SAR information both in investigations and in providing feedback to the financial services community.

I want to emphasize that the FATF NCCT project, and our domestic support for it, are works in progress. The FATF has embarked upon a second round of review, and should be in a position to list additional jurisdictions in June. As I have indicated, we are also actively involved in helping listed jurisdictions respond to the concerns identified by

the FATF, and many are working effectively to do so. But some, unfortunately, have shown little progress. The FATF has indicated its special concern about the relative lack of progress in the Russian Federation, Lebanon, the Philippines, and Nauru. Each has its own particular obstacles to address, but the international community is expecting a positive response to the concerns identified. The FATF is planning in June to reach a decision with respect to countermeasures for those jurisdictions, identified as non-cooperative in June 2000, which have not made adequate progress. Secretary O'Neill attended his first meeting with his G-7 counterparts in Palermo two weeks ago, where the ministers confirmed their support for countermeasures, as appropriate.

Finally, it is important to recognize that the FATF work on NCCTs is taking place in a broad context of initiatives to protect against abuse of the international financial system. The OECD is working to ensure transparency and information sharing on fiscal matters, and the Financial Stability Forum has identified the need for improved supervision in a number of offshore centers. We are working within the G-7 to ensure that the true originators are identified on all funds transfer payment orders, and we have also seen progress toward a consensus that financial institutions should apply enhanced due diligence in private banking relationships with foreign officials.

## **Next Steps**

By statute, the National Money Laundering Strategy is due to the Congress each year on February 1. This year, we have asked for an extension of the deadline until April 1. As we work to meet that deadline, we look forward to continuing a cooperative effort in pursuit of our common goal – preventing criminals from realizing the proceeds of their crimes.

The Minority Staff Report raises a number of important issues that deserve careful consideration. As we consider what, if any, additional measures may be necessary to reduce the risk of abuse in this area, it will be important to ensure that such measures do not interfere with legitimate commerce and international trade finance, or put our institutions at a competitive disadvantage in the global marketplace. The Treasury Department is committed to work with the Congress to ensure that we have all the necessary tools to combat money laundering. We will carefully evaluate the various legislative proposals that have been put forward in this area. In doing so, we will consult with the interagency community and financial institutions, and seek to balance the legitimate interests of law enforcement with the equally legitimate concerns about privacy and regulatory burdens.

Meanwhile, we will continue to pursue the productive path of the FATF NCCT project, to identify and then work with countries to correct serious, systemic deficiencies in anti-money laundering regimes. And we will be prepared, as necessary, to implement countermeasures with respect to countries that make inadequate progress to address the concerns identified by the international community.

We will also take the work of the Subcommittee into consideration in the context of the review of the FATF 40 recommendations, specifically in the context of the effort to elaborate best practices for customer identification.

## **Conclusion**

In closing, I again would like to thank the Subcommittee and its staff for its work in this area. The Minority Staff Report explores an important area. Law enforcement is all too accustomed to encountering obstacles to international investigations. It is troubling for all of us to encounter case histories where foreign financial institutions are actively facilitating financial crimes.

At the same time, it is clear that international correspondent banking is the underpinning of the global financial system, and U.S. banks are already subject to extensive obligations and regulatory oversight to protect against money laundering. As we prepare the 2001 National Money Laundering Strategy, we will take into serious consideration the results of this hearing, with a particular focus on ways that we can improve our oversight and enforcement of existing laws and regulations.

Thank you again for the opportunity to appear before you today. I will be happy to answer any questions you might have.