TREASURY DEPUTY SECRETARY STUART E. EIZENSTAT
BEFORE THE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,
SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS

1. Introduction

Madam Chairman, Ranking Member Levin, Members of the Subcommittee, I welcome this opportunity to submit this statement on money laundering and corruption issues. Your hearing on money laundering and private banking represents the culmination of a great deal of work by you and your staff over the past year. As I understand it, you will be hearing from a range of witnesses over the course of this hearing, concerning a number of specific matters alleging the abuse of private banking relationships by apparently corrupt foreign officials seeking to conceal their ill-gotten gains. Thus you have focused your efforts on the intersection of high-level government corruption and money laundering. Both of these issues present crucial law enforcement and regulatory challenges, and both raise significant foreign policy and national security. implications.

Let me say at the outset that safeguarding the integrity of American and international financial institutions is an absolute priority for this Administration. Accordingly, as described below, the Treasury Department is engaged at many levels in the fight against corruption and money laundering. This engagement is reflected by our ongoing regulatory and enforcement initiatives to prevent, detect, and prosecute money laundering; our promotion of reforms in international financial institutions' lending programs; and our work with our G-7 colleagues and others to reform the global financial architecture.

In addition to these ongoing efforts, I am co-chairing with Deputy Attorney General Eric Holder an interagency task force to implement the National Money Laundering Strategy recently announced by Secretary of the Treasury Summers and Attorney General Reno. As we move to implement the Strategy, we are looking to learn new lessons, and to devise new policies to respond to changing circumstances. Accordingly, the Treasury Department has supported your investigative efforts over the past year, and we are very much looking forward to the public discussion of the results of those efforts in this hearing.

My statement covers two topics: corruption, money laundering, and private banking; and the Administration's new National Money Laundering Strategy. As described below, we believe that private banking relationships are important, and we recognize that high net worth individuals have special banking needs. But we also recognize that private banking is particularly vulnerable to abuse by money launderers. A number of specific action items called for by the National Money Laundering Strategy -- including, for example, a 90 day review of guidance to enhance bank scrutiny of potentially high risk accounts and the enhanced use of information processing technologies to uncover patterns of unlawful transactions from the data already collected -- address the subjects you are exploring in this hearing. I assure you that, as we move forward on those and other items, we will pay particular attention to addressing the vulnerabilities posed by the private banking business.

II. Corruption, Money Laundering, and Private Banking

First I want to reiterate the reasons that this Administration has placed a high priority on fighting both corruption and money laundering. These issues are important domestically and internationally, and they are closely related to one another. Both public corruption and money laundering taint financial institutions and erode public trust in their integrity. In their extremes, public corruption and money laundering can undermine democratic institutions, and representative governments. Money laundering may be thought of as a corrupting influence on financial institutions and governments. In this age of rapidly advancing technology and globalization, public corruption and money laundering can affect trade flows and ultimately undermine financial stability. For this reason, both are ultimately matters of national security for the United States.

Public Corruption. These points were illustrated in hearings held by the House Banking and Financial Services Committee in September concerning allegations of crime and corruption in Russia and the alleged infiltration of Western financial institutions. Recent press accounts alleging public corruption by Russian officials dramatically illustrate these points. Unfortunately, the type of allegations addressed in the House hearings are not isolated to any one country. Large-scale corruption by high-ranking government officials has undermined the economic and social stability of a number of countries around

the world. Systematic, unchecked depletion of assets by top government leaders diverts scarce resources from many of the world's poorest countries, and has crippled some of the most promising economies in the developing world, such as the former Zaire and Nigeria.

One of the principal obstacles we face in combating public corruption is the historical acceptance in the international business community of corrupt behavior by government officials. We tend to forget - since the United States enacted the Foreign Corrupt Practices Act over twenty years ago (which I helped draft for the Carter Administration) - that an international consensus about the dangers of public corruption is only just now forming. In some countries, for example, pending their full implementation of the OECD Anti-Bribery Convention, it is still possible for corporations to deduct foreign bribes on their tax returns. Although we generally understand what we mean by the term "public corruption," our understanding is by no means universally accepted. Thanks to the work of non-governmental organizations such as Transparency International, corruption issues have become more a subject of public discussion.

We have made significant progress in recent years. For example, it has now been nearly two years since the members of the Organization for Economic Cooperation and Development (OECD) concluded the OECD Anti-Bribery Convention, and the Vice President hosted a ground-breaking Anti-Corruption conference in February 1999. Since then, we have pressed, and will continue to press, for the complete ratification and implementation of the OECD Convention by all signatories. We hosted a U.S. - Africa Ministerial Conference with over 40 African nations, at which combating corruption was a central item on the agenda. I have worked with the Global Coalition for Africa, in which some dozen African countries have adopted comprehensive anti-corruption principles. In addition, the United States is working with its G-7 partners and others to coordinate anti-corruption efforts and assistance and to complete a WTO agreement on transparency in government procurement. We also are exploring the best ways to identify, block, and seize illicit funds gained through public corruption as well as other criminal activity.

There has been considerable progress over the past year or so within the international financial institutions. The International Monetary Fund (IMF) has developed a code of fiscal transparency, and has consistently supported open and transparent markets, price decontrol, and trade liberalization, each of which will reduce the opportunity for bribery and corruption. In specific programs with Thailand, Korea, and Indonesia, the IMF has insisted on full audits and has even suspended funding in response to substantial accusations of corruption. Both the IMF and the World Bank suspended assistance to Kenya because of pervasive corruption.

The World Bank is paying increased attention to the problems of corruption in its member countries. The Bank has developed programs to combat corruption problems in individual countries, initiatives to enhance transparency and accountability in public finances, and approaches to strengthen public institutions and the rule of law with regard to investment and property. The Bank has also developed new methodologies and techniques for analysis of the nature and extent of corruption in specific countries. These issues were the focus of attention at the international meetings of the IMF and World Bank in Washington in September.

Money Laundering. In many respects, our efforts to fight money laundering have progressed much further. Money laundering has been a separately punishable federal crime in the United States only since 1986, and our enforcement agencies vigorously investigate and prosecute violations. We also have had in place since the early 1970s - through the Bank Secrecy Act and its implementing regulations - a relatively well developed regulatory structure. This structure ensures that records are maintained and reports are filed that can be of use to investigators pursuing money laundering, tax evasion, and other financial crimes. Our regulatory regime is generally consistent with structures in place in many other countries around the world, thanks primarily to the efforts of the Financial Action Task Force (FAT) and other international bodies to push implementation of the FAT 40 Recommendations. Treasury's Financial Crimes Enforcement Network (FinCEN) has capably led the Treasury's efforts to coordinate and implement these efforts. But much work remains to be done.In September, the Treasury and the Justice Departments released the first comprehensive National Money Laundering Strategy. The Strategy sets forth a broad-based domestic andinternational program to combat money laundering. As discussed more fully below, several of the action items are directed against the type of criminal activity that the Subcommittee has been investigating over the past year. The Strategy - as well as the testimony you will receive from officials representing the Office of the Comptroller of the Currency and the Board of

Governors of the Federal Reserve System - demonstrates that we have been working on these issues for some time. The Strategy also demonstrates that we are taking concrete steps to address them.

Private Banking- The regulation and oversight of private banking - that is, the provision of financial services to high net worth individuals - bring together the issues of corruption and money laundering. The private banking business has long been recognized as having the potential to be particularly vulnerable to abuse by money launderers. GAO reports from June and October 1998 explored a range of issues relating to regulatory oversight of offshore private banking activities arising out of the allegations that Raul Salinas used Citibank's private banking services a conduit to launder funds. As described below, issues raised by the private banking business will figure prominently in our implementation of a number of the priority action items called for in our National Money Laundering Strategy.

The bank supervisory agencies have already taken a number of steps, which I am sure you will heard about in some detail from other witnesses. The Treasury's Office of the Comptroller of the Currency (OCC), for example, has created a special group in its headquarters to focus on money laundering controls, and has moved to revise its bank examination procedures. The OCC has also instituted novel procedures - using the artificial intelligence capabilities of FinCEN and other internal lead-generating methods - to proactively identify institutions that pose particular money laundering risks. Over the past year, the OCC has conducted over ten targeted examinations of such institutions, using specially trained examiners. The OCC also responds to external notification - from law enforcement or other sources - with its specialized money laundering examination teams. Finally, the OCC has begun a general review of its examination procedures.

One theme that underlies these efforts - and the efforts of other bank regulators, notably the Federal Reserve Board -- is the need for banks involved in private banking to put in place appropriate policies and procedures in order to meet their obligations to investigate and report, if necessary, suspicious private banking activity. As we continue to work on this issue, we must find the correct balance between protective regulations and the promotion of competitive commercial activity, and between customers' legitimate right to financial privacy and the need for government to be able to pierce the veil of secrecy to pursue criminals.

For all of these reasons, we welcome these hearings, and applaud the work that you and your staff have done to uncover particular problems and to frame them in a way that will help us move together toward appropriate solutions.

III. The National Money Laundering Strategy

In September, the Treasury and Justice Departments issued a National Money Laundering Strategy, marking a new stage in the government's coordinated effort to follow the money. The Strategy's ambitious agenda is built around four basic goals: (1) strengthening domestic law enforcement; (2) enhancing steps taken by financial institutions to prevent and detect money laundering; (3) partnering with state and local authorities; and (4) bolstering our efforts to have strong money laundering standards adopted - and adhered to - worldwide. Several actions set forth in the Strategy are particularly relevant to the subject of this hearing; many of these are proceeding on self-imposed deadlines to ensure that significant progress is made in short order.

First, we have convened a working group of federal bank regulators and law enforcement officials to determine what guidance would be appropriate to enhance bank scrutiny of certain transactions or patterns of transactions in potentially high-risk accounts. This working group is to complete its review within 90 days of the publication of the Strategy, and we intend to report on its findings in the second annual strategy report, which is due to the Congress on February 1, 2000. Financial industry officials are looking to us for guidance about how to comply with the duty of financial institutions and their employees to avoid becoming entangled in money laundering schemes, and we want to provide that guidance. Naturally, we want to balance concerns of efficiency and privacy with those of effective law enforcement.

Second, this review will be complemented by a determination by the working group as to what guidance would be appropriate to enhance the scrutiny of correspondent bank accounts in the United States maintained by certain offshore and other financial institutions that pose money laundering risks. This review, which also is due to complete its review within 90 days of the strategy's publication, will focus on

steps needed to ensure that U.S. financial institutions obtain information about the identity of customers of certain correspondent banks. The working group will also pay attention to issues raised by the use of payable through accounts. As more effective mechanisms are devised to meet these goals, U.S. banks should be better able to detect deception by corrupt foreign officials.

Third, the federal bank supervisory agencies, in cooperation with the Department of the Treasury, will conduct a more general review of existing bank examination procedures relating to the prevention and detection of money laundering at financial organizations, to be completed in 180 days of the National Money Laundering Strategy's publication. The objectives of this review will be to determine whether current examination procedures are adequate to evaluate bank anti-money laundering measures and compliance with existing laws and regulations, and whether additional support from law enforcement officials can assist bank examiners in examining institutions for money laundering risks. I will ensure that this review takes full account of the results of the Subcommittee's investigation as discussed in this hearing.

The Strategy also calls for a series of steps to improve the government's performance in making use of information reported under the Bank Secrecy Act and in sharing with financial institutions the analysis of such information. In some cases, such sharing may involve issuance- of guidance about emerging issues or strategies used by money launderers. In other cases, subject to the appropriate legal restrictions, more specific warnings may be generated. Once again, I will ask FinCEN and the law enforcement and regulatory communities to pay close attention to the results of the Subcommittee's investigation, and to apply the lessons learned from that investigation on a continuing basis.

Further, the Strategy calls for action on two important items pointedly directed at the fight against money laundering by corrupt foreign officials. The Department of Justice is leading the Administration's effort to enact legislation to enhance our ability to pursue criminal sanctions -including the seizure and forfeiture of assets - against corrupt foreign officials. Bribery of public officials and witnesses was included as a "specified unlawful activity" (or predicate) when the money laundering statute was first passed in 1986. But the statute limits our ability to bring money laundering charges, or to confiscate assets on behalf of foreign governments, in cases involving predicate crimes that violate foreign, but not U.S., law. The Money Laundering Act of 1999, which the Administration plans to submit to the Congress today, will include a provision enlarging the list of foreign crimes for which money laundering prosecutions can be brought in the U.S. when the proceeds of the crime are laundered in the U.S. This list of crimes will include "bribery of a public official, or the misappropriation, theft, or embezzlement of public funds by or for the benefit of a public official." If passed, this legislation will give us an important new tool to assist emerging democratic governments as they attempt to recover state assets misappropriated by corrupt officials of current or preceding regimes.

Finally, the Strategy notes that the United States will advocate that other nations include bribery as a serious offense for the purpose of their own anti-money laundering legislation. As you well know, the proceeds of large-scale public corruption - in the form of bribes or embezzlement -must like any other ill-gotten gains, be laundered if they are to be secured and enjoyed by corrupt officials. And we have made significant progress in the international community toward universal enactment of so-called "serious crimes" money laundering legislation. An OECD working group has reported that it considers bribery as a serious offense for the purposes of money laundering legislation and has asked the FATF to review the issue with its membership. Last month, at their meeting in Moscow, the G-8 Justice and Interior Ministers agreed on the importance of extending predicate offenses of money laundering to bribery or corruption committed in violation of both domestic and foreign law.

Of course, the Money Laundering Strategy report calls for a host of other actions to improve our ability to combat money laundering. The Strategy recognizes the long-term commitment needed for the fight, but I want to assure you that we have mobilized our resources on a number of priority items in the short term.

IV. Conclusion

In closing, I want to thank you and the Subcommittee staff again for your hard work over the past year in exploring the vulnerability of private banking to abuse. You have performed an extremely important service in highlighting the important, but still not widely understood relationship between public corruption and money laundering. The Treasury Department is committed on an ongoing basis to devising and

implementing effective measures to protect the U.S. financial system from abuse by corrupt public officials and international organized crime. We look forward to working closely with you and your staff in the future.