



## **DEPARTMENT OF THE TREASURY OFFICE OF PUBLIC AFFAIRS**

EMBARGED UNTIL 11:00 AM  
September 22, 2004

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### **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 11<sup>th</sup> 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 11<sup>th</sup> 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 11<sup>th</sup> 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.