

Testimony of

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U.S. Department of the Treasury

Committee on Financial Services

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Chairman Oxley; distinguished members of the House
Committee on Financial Services:

Permit me to begin by thanking you for inviting me to testify before the Committee on the Administration's policies and proposals for dealing with the threats posed to the U.S. and global financial systems by international terrorists and terrorist groups. It is an honor to meet with you this morning as we assess the Treasury Department's strategy to cut off the financial lifeblood of the individuals and organizations responsible for the September 11 attacks.

In so far as possible, my testimony is structured along the lines requested by Chairman Oxley in his September 27, 2001 letter to Secretary O'Neill. Let me begin with an overview of what the Treasury Department hopes to accomplish.

First, the Treasury Department is committed to bringing the perpetrators of the cowardly acts of September 11th to justice. Second, we are taking steps to identify the financial infrastructure of these terrorist organizations so that we are able to disrupt and dismantle their fundraising abilities and ensure that they do not have access to the international banking system.

To attain these goals, we must improve coordination and information sharing among our own government agencies and deepen

and broaden the already strong cooperation of friendly governments throughout the world. As the President has so decisively stated, in the war against terrorism there is no middle ground: ultimately, you either stand with us -- or against us.

The Financial Networks and Operations of Terrorist Groups

To cut the lifeblood of Osama Bin Ladin and his terrorist group Al-Qaida, we must identify and take action against individuals and Islamic charitable organizations who contribute money to this organization. We will also target businesses, front companies, banks and underground money transfer systems that participate in the financial schemes of the terrorists. There can be no doubt that the dismantling of Bin Laden's financial network is one of the most critical elements of our policy to deter and prevent future terrorist attacks.

Unfortunately, available information indicates that some Islamic charitable organizations have been penetrated, exploited and are now controlled by terrorists involved with Al-Qaida. Islamic charitable organizations which have elements associated with Al-Qaida include multinational Gulf-based organizations operating worldwide with multi-million dollar budgets at one end of the spectrum and small, tightly organized front cells at the other. Islamic charitable organizations serving as cover for terrorist groups adopt innocuous names and co-opt legitimate causes. Often, well-intentioned individuals seeking to make contributions to provide relief for refugees from disaster are defrauded -- and their funds end up diverted to finance terrorism. Shutting down or re-configuring these corrupt charities is a critical component of the war against Bin Ladin's financial empire -- and one which will require intense international coordination and cooperation.

In addition to fund-raising, Al-Qaida uses banks, legal businesses, front companies and underground financial systems to finance its activities. Some Al-Qaida operatives engage in petty theft to support their cells. Other Al-Qaida elements profit from the drug trade. For instance, Taliban-controlled Afghanistan produces at least three-quarters of poppy in the world.

Al-Qaida operatives use checks, credit cards, ATM cards, and wire-transfer systems and brokerage accounts throughout the world, including the US. Often, accounts are maintained in names unknown to us.

One underground system of moving funds is called "Hawala" which operates outside traditional regulation with virtually no paper trail, relying on trust and guaranteed anonymity. Operators engaged in this system deliver money across borders without physically moving it -- assured the account will be settled by money or material goods returned in a future reverse transaction. Used widely in the Middle East and South Asia for centuries, all indications are that the system is exploited by Al-Qaida and other terrorist organizations. FinCEN and other Treasury law enforcement components are currently making efforts to determine if non-traditional money remittance systems, such as Hawala, are being used within the U.S. in furtherance of terrorist activity. Additionally, FinCEN has begun analyzing law enforcement case information and other data to build a strategic profile of methodologies used to collect, move and disburse funds that could support terrorist activities in the U.S.

Tools for Stopping Terrorist Financing

Detecting and disrupting the financing of terrorist groups is a complex process involving many steps and the input of many dedicated analysts and law enforcement personnel. At its core, the process involves six primary steps. First, the investigation and identification of targets. Second, identification of assets for potential blocking or seizure. Third, identification of methodologies used to move the funds for operational support. Fourth, identification of gaps in law enforcement and regulatory processes that make the movement of terrorist funds possible. Fifth, the sharing of information with appropriate law enforcement personnel and other appropriate organizations around the world. And sixth, application of an array of authorities, regulatory tools and law enforcement initiatives to deprive terrorists of access to their funds within the U.S. The Department of Treasury is currently utilizing the following tools in the fight against the funding of terrorism.

IEEPA

Central to this process is the ability to obtain information and make effective use of it. The International Emergency Economic Powers Act ("IEEPA"), is the principal tool used to stop terrorism financing. It provides broad authority to impose comprehensive trade and financial sanctions against foreign terrorists. Essentially, IEEPA authorizes the President to act against foreign threats to the national security, foreign policy, or economy of the United States by declaring a national

emergency with respect to an identified threat. The President is thus empowered to impose trade and financial sanctions to deal with that threat. The Office of Foreign Assets Control of the U.S. Treasury Department ("OFAC") administers the economic sanctions programs against the specific countries, groups or individuals posing that threat. Since IEEPA applies specifically to foreign threats, the country or entities/ individuals targeted in the Executive Order are not subject to U.S. jurisdiction. OFAC instead asserts jurisdiction over U.S. persons, reaching the property of targets by acting against their property and property interests in the United States or in the possession or control of U.S. persons.

IEEPA provides the President and his designees with the authority to seek information regarding transactions subject to Presidential Executive Orders. OFAC may require US persons to provide information regarding transactions that involve or are reasonably believed to involve blocked property. The Secretary of the Treasury or the Secretary of State, depending on the circumstances, may identify additional individuals or entities targeted by the Executive Order. IEEPA also provides broad authority to block the property of foreign terrorists and their agents and to prevent U.S. persons from engaging in any type of financial transaction with targeted terrorists.

By way of background, on January 23, 1995, President Clinton signed Executive Order ("E.O.") 12947, which declared a national emergency with respect to acts of violence by foreign terrorists that threaten to disrupt the Middle East peace process. E.O. 12947 blocks all property and property interests that are in the United States or in the possession or control of a U.S. person belonging to entities named in the Annex to the order. The blocking provisions also apply to certain foreign persons designated by the Secretary of State and persons designated by the Secretary of the Treasury.

Executive Order 12947 also prohibits U.S. persons from engaging in transactions with or making charitable donations to any entity named in the Annex or designated under the Order. On August 20, 1998, President Clinton signed E.O. 13099, which added Osama bin Ladin, several of his close advisers, and Al-Qaida (also known as the Islamic Army) to the Annex of E.O. 12947. This subjects the assets of these individuals and groups to blocking and prohibits transactions with them by U.S. persons.

Executive Order 13129, issued on July 4, 1999, deals expressly with the threat posed by the actions and policies of the Taliban in Afghanistan, including the Taliban's policy of allowing territory under its control in Afghanistan to be used as a safe haven for Osama bin Ladin and Al-Qaida. The E.O. blocks all property and interests in property of the Taliban that are in the United States or in the control of U.S. persons, as well as interests in property of persons designated by the Secretary of the Treasury.

In response to the events of September 11, 2001, President Bush issued E.O. 13224 on September 23, 2001, declaring a national emergency with respect to acts of terrorism and threats of terrorism committed by foreign terrorists against the United States. E.O. 13224 blocks all property and interests in property of the individuals and entities named in the E.O.'s Annex or as designated by the Secretary of the Treasury or the Secretary of State under the order. It also prohibits transactions, including charitable donations, by U.S. persons with any individual or entity named in the Annex to E.O. 13224 or designated pursuant to that E.O. The Annex to Executive Order 13224 named 27 entities and individuals associated with Osama bin Laden and additional entities and individuals will be added in the days and months to come.

The Antiterrorism Act

The Antiterrorism Act provides authority for two additional sanctions programs targeting terrorism. First, prohibiting material support, such as funds, false identifications and safe houses, to designated foreign terrorist organizations. Second prohibiting financial transactions with state sponsors of terrorism.

First, Section 302 of the Act authorizes the Secretary of State, in consultation with the Secretary of Treasury and the Attorney General, to designate organizations meeting stated requirements as Foreign Terrorist Organizations ("FTOs"). Section 303 of the act makes it a crime for a person within the United States or subject to U.S. jurisdiction to provide material support to a designated FTO. Financial institutions in possession or control of funds in which an FTO or its agent has an interest are required to retain such funds and file reports with the Treasury Department.

The second tool, established in Section 321 of the Anti-terrorism Act, prohibits all financial transactions by U.S. persons with governments designated by the Department of State as terrorism-supporting nations, except as provided in regulations issued by the Secretary of the Treasury. Regulations implementing Section 321 were issued by OFAC to impose prohibitions with respect to governments not already covered by comprehensive OFAC-administered sanctions. At the time regulations were issued, those governments were Syria and Sudan. Currently, all state sponsors of terrorism except Syria and North Korea are subject to comprehensive financial and trade sanctions.

United Nations Participation Act

The United Nations Participation Act ("UNPA") gives the President the authority to impose economic sanctions to implement mandatory provisions of UN Security Council Resolutions.

Bank Secrecy Act

The reporting and record keeping rules contained in the Bank Secrecy Act ("BSA"), administered by the Financial Crimes Enforcement Network ("FinCEN"), create a paper trail to trace funds through the financial system. Information reported under existing suspicious transaction-reporting rules for banks is currently being forwarded to law enforcement on an expedited basis through the establishment of a toll-free hotline operated by FinCEN. Under its BSA authority, Treasury has also issued rules that would apply to the non-bank financial sector that may be used by terrorists. For example, final rules would require informal funds transfer businesses like Hawalas to register with the Department of the Treasury by the end of the year. Treasury is also preparing to issue suspicious activity reporting rules to other non-bank financial institutions such as brokers and dealers in securities and casinos.

Treasury Enforcement Bureau Participation

In addition, three of the Treasury law enforcement components, the U.S. Customs Service, IRS-C.I. and the Secret Service are active participants in the quest to investigate terrorist money laundering leads. They have been working closely with the Joint Terrorism Task Forces and at FBI headquarters to provide their considerable technical expertise with respect to the terrorist money trail.

How the President's September 23 Executive Order Differs from Previous OFAC-related Orders

President Bush's Executive Order 13224 blocks all property and interests in property, in the United States or within the possession or control of a U.S. person, of 27 foreign individuals and entities determined by the President to have engaged in, threatened or supported grave acts of terrorism against the United States or U.S. nationals. The Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General, may designate foreign persons who have committed or pose a risk of committing such acts of terrorism. The Secretary of the Treasury, also in consultation with others (including in certain cases, foreign authorities) may designate persons who are owned or controlled by or act for or on behalf of foreign terrorists subject to E.O. 13224. Executive Order 13224 also prohibits any transaction or dealing in the blocked property of any person designated by the President or the Secretaries of Treasury or State, including the making or receiving of any donation to or for these persons.

E.O. 13224 greatly expands the geographic scope of previous orders intended to disrupt terrorist financing. As noted, previous programs targeted specific governments or Middle East terrorists. Although the Antiterrorism Act program targeting FTOs is broad geographically, it limits the jurisdiction of the Secretary to financial institutions rather than all U.S. persons, and does not provide the full blocking authority granted under E.O. 13224. By focusing more broadly on acts and threatened acts of terrorism against the United States or U.S. nationals, the President has brought to bear the full blocking authority of IEEPA to disrupt the financing of international terrorism.

In addition, E.O. 13224 expands the President's authority to designate persons subject to asset blocking and other sanctions by permitting the designation of "...persons determined ..to be otherwise associated with.." terrorists designated by the President or the Secretaries of Treasury or State. The Treasury Department has not previously had the authority to block assets on the basis of an association with a designated terrorist.

The Foreign Terrorist Asset Tracking Center

The complex nature of terrorist fundraising demands a creative and unconventional response from the US government. The interagency Foreign Terrorist Assets Tracking Center (FTAT), to be permanently housed in OFAC, is now up and running. FTAT is an important tool in our quest to dismantle the terrorist's financial bases and shut down their fundraising capabilities.

FinCEN and its network partners assembled on-site directly support the FTAT.

The center is dedicated to identifying the financial infrastructure of terrorist organizations worldwide and curtailing their ability to move money through the international banking system. It represents a preventative, proactive and strategic approach to using financial data to target and curb terrorist funding worldwide.

The FTAT differs from traditional law enforcement's use of financial tracking in two critical aspects.

First, the FBI and other law enforcement entities look at financial data as it relates to a specific case -- in this instance the horrific attacks of September 11. By contrast, FTAT will be looking at all global terrorist organizations implicated in several different attacks -- we seek to create a "big picture" profile of the financial infrastructure of these groups.

Second, we are collecting and analyzing this information for the express purpose of identifying and disrupting the various sources of funding that these groups are receiving.

The FTAT will focus on foreign terrorist groups that threaten U.S. national security by assessing their sources and methods of fundraising and movement of funds. This information will be used to conceptualize, coordinate and implement strategies within the U.S. government to achieve four goals: deny these target groups access to the international financial system; impair their fund-raising abilities; expose, isolate, and incapacitate their financial holdings; and to cooperate with other governments to take similar measures.

This strategy brings to bear the full weight and influence of the federal government relating to financial matters -- drawing upon the defense, diplomatic, enforcement, intelligence, and regulatory communities -- and involves foreign and domestic actions.

What Additional Legislation is Needed

As the Secretary discussed earlier, the Treasury Department is committed to dismantling terrorist fundraising mechanisms with every tool we have at our disposal. To do this effectively, I am here today to reiterate the Secretary's request that we remove the handcuffs that are hindering law enforcement and intelligence agencies from doing their job.

We are currently evaluating proposals that would equip the Treasury law enforcement components with the necessary tools for the task at hand. For instance, we believe more needs to be done to permit the sharing of information between relevant law enforcement and intelligence agencies for purposes of terrorism investigations. We are also examining certain limitations currently imposed by IEEPA, and evaluating whether the Customs Service would benefit from enhanced jurisdictions and powers. We anticipate putting together proposed legislation to address these important concerns and look forward to working with Congress on this matter in the near future.

The Extent of International Cooperation

Because terrorism is global in nature, international cooperation is an essential component of any enforcement strategy. I am pleased to report that in addition to the domestic measures we have taken, we have also received substantial cooperation internationally as well. To date, at least 27 countries have taken steps to implement President Bush's September 23rd Executive Order. Another 27 are acting on UN Security Council Resolution 1333. Still others have expressed support and are working on taking specific actions. We now stand shoulder to shoulder with those in the civilized world who are committed to ensuring that terrorists' access to financial resources is significantly impeded.

The Department of Treasury is working closely with other G-7 Finance Ministers in the fight against the financing of terrorism. Last week, Secretary O'Neill organized a lengthy G-7 Finance Ministers' phone conference call to discuss the economic and financial situation in our countries since the attack. As

part of this discussion, all participating countries shared our national action plans to block the assets of terrorists and their associates and reviewed progress to date.

On Saturday, Secretary O'Neill will meet with his G-7 colleagues in Washington to discuss these issues in more detail. They will also be discussing the role that the Financial Action Task Force can play in the fight against the financing of terrorism. They will also review the issue of offshore financial centers and their role in financing terrorism. In addition, I anticipate that Secretary O'Neill will address the important subjects of information sharing arrangements amongst financial crimes experts, and the possible establishment of terrorist asset-tracking centers in the other G-7 countries similar to the one created by the United States after the September 11 attacks.

In addition to numerous contacts with the G7 countries, senior Treasury officials have contacted finance officials in China, Russia, India, Saudi Arabia, Pakistan, Indonesia, Egypt, the Netherlands, the Philippines, Spain, Argentina, Brazil, Bahrain, and Kuwait. In these calls we have informed them that President Bush's September 23rd Order is only the first step in a multiphase U.S. action plan to combat terrorist financing. We have emphasized the importance we have attached to strong action in support of the global effort against terrorist financing. We have asked that they cooperate with OFAC in tracking terrorist money movements and move rapidly to remove any legal or other barriers that might hinder our joint efforts.

Second, OFAC will lead bilateral missions to several key countries to press for immediate effective actions to block terrorist assets, cut off terrorist fund flows, and more closely regulate the fund-raising activities of various organizations and groups. Technical assistance will be offered where it is useful. These bilateral efforts will be an extension of two previous missions undertaken by OFAC in the past couple of years.

Third, we have been working very hard to improve existing international sanctions and anti-money laundering coordination mechanisms. Prominent among these are a multilateral sanctions administrators coordinating group which meets regularly with OFAC on UN and EU sanctions issues and the G7 Financial Crimes Experts Group. Both of these groups are meeting in Europe this week to strengthen coordination and information-sharing arrangements.

Mr. Chairman, this concludes my formal testimony. I would be pleased to answer any questions that you, or members of the Committee, may have regarding the Administration's goals and policies.