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001. paper	re: Money Laundering & the International Financial System (IMF) Working Paper - Fiscal Affairs Department - Prepared by Vito Tanzi (17 pages)	05/96	P1/b(1)

COLLECTION:

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FOLDER TITLE:

[History of the Department of the Treasury - Supplementary Documents] [10]

jp39

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
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- b(1) National security classified information [(b)(1) of the FOIA]
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- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]



DEPARTMENT OF THE TREASURY
WASHINGTON

ASSISTANT SECRETARY

APR 12 1996

MEMORANDUM FOR SECRETARY RUBIN

FROM:

James E. Johnson *[Signature]*
Assistant Secretary (Enforcement)

SUBJECT:

Preparation for the June 1996 Financial Action Task Force (FATF) on Money Laundering Plenary Meeting

ACTION FORCING EVENT:

In anticipation of the June 25-28, 1996 Plenary meeting of the G-7 Financial Action Task Force on Money Laundering (FATF) in Washington, D.C., we are providing the following information to help you determine your level of involvement in this U.S. hosted and chaired multinational event. Representatives from 26 countries and several international organizations will participate in the meeting. Further, we recommend inviting either Attorney General Reno, Secretary of State Christopher, or Federal Reserve Board Chairman Greenspan to host a diplomatic reception as part of the event. We are also seeking your guidance on inviting President Clinton or Vice President Gore to address the group with opening remarks or sign a letter of welcome to the meeting participants. Should either the President or Vice President wish to make opening remarks, we could determine whether Room 450 of the Old Executive Office Building would be available for this purpose.

RECOMMENDATIONS:

1. In light of precedents described in the analysis section that follows, that you host a welcoming reception in the Cash Room on the evening of June 26, 1996.

_____ Approve _____ Disapprove _____ Let's Discuss

2. Given the President's strong statements at the United Nations General Assembly on combating transnational organized crime and the impact of PDD-42 and further given the FATF's position as the world's premier policy-making body on counter money laundering programs, that you invite the White House to participate in the Plenary by delivering opening remarks or a letter of welcome.

_____ Approve _____ Disapprove _____ Let's Discuss

3. To reflect the multiple agencies lending support to the Department of the Treasury during our Presidency of the FATF, that you invite the Attorney General, the Secretary of State, or the Chairman of the Federal Reserve Board to host a reception for the meeting participants on June 27 or 28, 1996.

3a). that you invite the Attorney General to host a reception.

_____ Approve _____ Disapprove _____ Let's Discuss

3b). that you invite the Chairman of the Federal Reserve Board to host a reception.

_____ Approve _____ Disapprove _____ Let's Discuss

3c). that you invite the Secretary of State to host a reception.

_____ Approve _____ Disapprove _____ Let's Discuss

4. In view of the strong congressional interest in the money laundering issue and in an effort to garner bipartisan support for the President's PDD-42 initiative, that you invite appropriate members of Congress to both the welcoming reception and to observe open sessions of the FATF Plenary.

_____ Approve _____ Disapprove _____ Let's Discuss

5. Subject to your availability, we are anticipating that you will address the plenary with opening remarks either in place of the President or immediately following his statement.

_____ Approve _____ Disapprove _____ Let's Discuss

BACKGROUND/ANALYSIS:

Background: Since July 1995, the United States has held the Presidency of the G-7 Financial Action Task Force on Money Laundering (FATF) during its seventh round. This position is currently held by former Under Secretary for Enforcement, Ronald K. Noble. Details on accomplishments under the Department of the Treasury's leadership of FATF are attached under TAB A. In addition, a brief history of the FATF is attached under TAB B. Major issues to be discussed at the June 1996 Plenary in Washington, D.C. are outlined under TAB C.

Analysis: In a previous FATF Plenary meeting hosted by the United Kingdom, the Chancellor of the Exchequer and the Bank of England hosted a welcoming reception. Further, in last year's June FATF Plenary, during the Netherlands Presidency, the Dutch Treasurer General hosted a welcoming reception at the Ministry of Finance in the Hague for the participants.

TAB A: FATF-VII accomplishments under the U.S. Presidency

In light of Under Secretary Noble's departure, you may wish to be aware of the significant results during his term as President of FATF in its seventh year (FATF-VII). The U.S. Department of the Treasury has taken over leadership of the U.S. Delegation to FATF. The Departments of State and Justice are represented on the U.S. Delegation, as well.

January Plenary Meeting

Treasury chaired a day-long forum of representatives of financial institutions from the FATF member nations on January 30 prior to the convening of the FATF Plenary in Paris. This was an unprecedented event, where representatives from governments and the private sector of 24 nations all sat at the same table to discuss the very real threat of money laundering and viable means to address that threat. At this first Financial Services Forum, nearly 70 representatives from banks in the FATF member nations met with the FATF delegates. The participants discussed issues of mutual interest. Among these issues were current money laundering trends, implications of emerging payment system technologies, modification of the FATF 40 Recommendations (referred to as the Stocktaking Review), and ways to improve on providing feedback to financial institutions. The Forum was the second phase of a major outreach initiative on the part of the U.S. Treasury Department, to build a bridge between the counter-money laundering policy formulation role of the FATF and the financial institutions that are ultimately responsible for implementing many of the 40 Recommendations.

In January 1996, General agreement was reached on modification of the 40 Recommendations (called a Stocktaking Review). Included in the modifications discussed in the Plenary session were expansion of predicate offenses beyond those related to drug trafficking to include other serious crimes, creation of a recommendation to study the impact of new payment system technologies on money laundering, and the critical issue of making suspicious transaction reporting mandatory rather than voluntary.

Tokyo Symposium

In December 1995, the FATF and the Commonwealth Secretariat jointly conducted the Third Asia Money Laundering Symposium in Tokyo, Japan. The FATF President presented opening remarks. General agreement was reached to create an Asia/Pacific Steering Group on Money Laundering to provide a focus for anti-money laundering efforts in the region. The mandate for the Steering Group will be to encourage and facilitate the adoption and implementation within the Asia/Pacific region of the FATF 40 Recommendations, as well as to provide practical support to regional anti-money laundering initiatives including training and technical assistance.

Typologies Exercise

In November 1995, with information provided by U.S. law enforcement and regulatory agencies, the Financial Crimes Enforcement Network (FinCEN) compiled a report entitled *An Assessment of U.S. Money Laundering*, which was submitted to the FATF for incorporation into their annual Typologies exercise conducted in Paris. Each year the FATF conducts a meeting of technical experts to identify and report on new trends and methods in money laundering worldwide. This report, for member governments use only, is drafted based on presentations made and discussions held at the technical meeting. However, in this year's meeting, it was decided to produce an additional report suitable for distribution to the public. Among the topics discussed was a review of information available on money laundering in the securities and insurance industries. At the meeting, FinCEN Director Morris made a formal presentation concerning the money laundering implications of cybercurrency, which resulted in agreement by FATF members to continue research and analysis in this area.

Hong Kong Experts Meeting

In October 1995, for the first time, an experts group met in Hong Kong to assess money laundering methods specific to the Asia/Pacific region and counteractions indicated. This meeting, entitled "Disposal of Proceeds of Crime Money Laundering Methods Workshop," was sponsored jointly by the FATF and INTERPOL. FinCEN participated and presented the U.S. submission to the group. The group concluded that the meeting was a valuable and necessary step toward understanding the money laundering problem in the area; however, it was recognized that much more work needs to be done to improve knowledge of the problem.

September Plenary Meeting

In September 1995, FATF President Noble chaired the FATF Plenary Session in Paris providing leadership that developed a consensus among the FATF members to reexamine the fundamental 40 FATF Recommendations relating to money laundering. This review is being undertaken to ensure that the Recommendations remain current and are updated as needed to effectively address the ever-changing money laundering methods being used and allow for the realities of changing products, services and technology in the financial sector. Additionally, a policy was decided on dealing effectively with members not in compliance with the 40 Recommendations. A mutual evaluation questionnaire to be used in the second round of mutual evaluations was also approved.

Staffing support to FATF and CFATF

Beginning in October 1995, FinCEN provided one full-time staff member to the Caribbean Financial Action Task Force (CFATF) Secretariat, housed in Trinidad and Tobago. The CFATF continues to encourage its 26 member jurisdictions to implement the 40 FATF Recommendations plus 19 additional recommendations specific to the region. The CFATF is conducting self-assessments and mutual evaluations of its members to assess their progress in implementing the 59 recommendations. A regional Typologies exercise is being planned to assess current money laundering trends in the region. Also, beginning in October 1995, the Department of the Treasury provided one full-time staff member, on a 120-day detail, to the Financial Action Task Force Secretariat in Paris.

External Relations

Through its aggressive external relations program, the FATF continues to encourage non-member countries to adopt and implement the anti-money laundering measures outlined in the 40 Recommendations. During 1995, the FATF conducted high-level missions to Morocco, China, Korea, Macao, and Egypt to actively promote anti-money laundering action. A visit to Russia is currently being planned in April 1996.

TAB B:

**A Brief History of the G-7 Financial Action Task Force
on Money Laundering (FATF)**

The FATF was convened at the direction of the 1989 G-7 Economic Summit in Paris, France. The heads of state and government of the G-7 gave the group a mandate to study measures that have been taken to prevent utilization of financial institutions by money launderers and to make recommendations on how to improve international cooperation against money laundering.

The goal of the FATF evolved from the recognition that money laundering represented a very real threat to the safety and soundness of the world's financial institutions. The G-7 nations determined that steps had to be taken to protect their financial institutions from criminal abuse. Several factors fed this determination:

- First, was the social responsibility to prevent drug traffickers from having free access to the global financial system in order to hide their illicit proceeds from justice.
- Second, was to create an even playing field, so that those countries which acted responsibly and instituted measures aimed at preventing criminal abuse were not at a competitive disadvantage to those countries that have not yet acted to protect their financial systems.
- Finally, in an increasingly international market place, central banks needed some assurance that the safety and soundness of the private banks they supervised would not be corrupted by a lack of oversight in their trading partners.

The original FATF consisted of the G-7 members, eight other industrialized nations, and the European Community. Representatives of those nations met over a one-year period, beginning in 1989, before publishing their findings. The Final Report of the FATF for 1990 contained the **40 Recommendations** for money laundering countermeasures. When fully implemented, they establish a framework of comprehensive programs to address money laundering and facilitate greater cooperation in international investigations, prosecutions, and confiscations.

One of the guiding principles of the FATF is that money laundering is a complex economic crime which cannot be attacked by conventional law enforcement methods alone, and that finance ministries, financial institutions, and regulators must work closely with law enforcement agencies in combating money laundering. Each FATF member has agreed to implement the recommendations and have their progress monitored by other FATF members.

Currently, the FATF has grown to include representatives from 26 member countries and two international organizations (the European Union and the Gulf Cooperation Council.) As of June 1995, the FATF had completed evaluations of each of its 26 member governments. All of these evaluations were conducted on-site by experts from FATF member countries, and all culminated in recommendations for changes and improvements, which will be monitored continuously beginning in late 1995. The willingness of these countries to be examined by other members testifies to the goodwill of FATF member governments, reinforces their commitment to the 40 Recommendations, and provides an example for other nations to emulate.

The FATF is a unique organization in that it provides for examination of its members' compliance with the principles it promotes. Through a three-phase process of self-assessment, cross-country evaluation and mutual evaluation, the FATF tests compliance by its membership with the 40 Recommendations on Money Laundering. In the third phase, Mutual Evaluation, member nations invite representatives for three other participating nations to send technical experts in Legal, Law Enforcement, or Financial/Regulatory arenas to perform a review of the evaluated country's counter-money laundering laws, regulations, and policing capability. The examinations are based on the FATF member's effective implementation of the 40 Recommendations. To date, only Turkey and Greece have not met the implementation standards expected under the mutual evaluation process. Steps are underway to encourage and assist these members in correcting deficiencies in their counter-money laundering programs. Failure to adequately address these problems could ultimately result in the deficient member country's expulsion from the FATF.

Since its inception, the FATF has maintained the highest standards of compliance from its membership, as evidenced by the mutual evaluation process. The comprehensive nature of the 40 Recommendations, the Task Force's high standards of performance, and its supportive external relations and technical assistance programs have placed it clearly in the lead among international efforts to counter money laundering.

The system of mutual evaluation has proven to be a great motivation in forwarding adoption of the FATF 40 Recommendations and U.S. interests in establishing a level playing field. In less than seven years, since it first convened, the FATF has achieved compliance by all but two of the 26 FATF member nations. Further, a number of non-member nations have also enacted laws to criminalize money laundering, based on FATF's ambitious program of external relations. In this regard, the FATF has proven to be a uniquely successful vehicle for change in a truly global sense.

TAB C: Major issues for discussion in the June 1996 Plenary meeting of the G-7 Financial Action Task Force on Money Laundering (FATF)

I. Stocktaking Review of the 40 Recommendations:

Consensus on final wording of the revisions to the 40 Recommendations (described on the agenda as the "Stocktaking Review") is expected at the June 1996 Plenary meeting which will be held in Washington, D.C., and hosted by the U.S. Treasury Department. In regard to the agreed changes, most significant was major concessions made by the Japanese delegation on both the expansion of predicate offenses beyond drug proceeds and institution of mandatory suspicious activity reporting by financial institutions. This constitutes a dramatic departure from Japan's previous position, held over the last five years. Preliminary drafting of revisions was initiated with further drafting to be completed prior to the next plenary.

II. External Relations:

Part of the FATF charter is to encourage non-member jurisdictions to also adopt the principles outlined in the 40 Recommendations. To assist in this process, FATF has established sister organizations in Asia and the Caribbean. In addition, FATF is working with a variety of other international organizations such as the Commonwealth of Nations, the Council of Europe, the Group of Offshore Bank Supervisors and the Gulf Cooperation Council to promote acceptance of the 40 Recommendations by their memberships and to establish some system of mutual evaluation similar to that employed by the FATF membership.

III. Annual Mandate Process:

Each year at the June Plenary meeting, the FATF President-elect produces a "Mandate" to guide the organization's work during the coming year. For FATF's eighth round (FATF-VIII) Italy will hold the Presidency. Among the issues which are to be taken up during FATF-VIII is consideration of new members. Currently, Mexico, Slovenia and Russia have expressed interest in joining the FATF.



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

June 6, 1996

ASSISTANT SECRETARY

MEMORANDUM FOR DEPUTY SECRETARY SUMMERS

FROM: James E. Johnson 
Assistant Secretary (Enforcement)

SUBJECT: Mexico Anti-Money Laundering Initiative

This is to update you concerning developments that have transpired since your meeting with Mexican Finance Minister Ortiz on the margins of the Binational Commission meetings in May 1996, and to alert you to an anticipated communication from Minister Ortiz in the coming days.

As you recall, Minister Ortiz agreed to provide, by today, a time line for implementation of mandatory currency transaction and suspicious transaction reporting in Mexico. Ortiz tasked Hacienda Fiscal Attorney Ismael Gomez-Gordillo with the responsibility for developing the aforementioned time line.

In a recent telephone conversation, Gomez-Gordillo expressed his concern that he would have difficulty arriving at a meaningful recommendation without the benefit of the advice of U.S. experts. At the time, U.S. regulatory and technical specialists were to be part of an interagency team scheduled to travel to the U.S. to conduct an assessment of the Government of Mexico's (GOM) needs in terms of anti-money laundering legislation/regulations, training and technical assistance. This visit emerged out of the High Level Contact Group initiative led by ONDCP Director McCaffrey. Unfortunately, certain key members of the U.S. experts group were unable to travel to Mexico until the week of June 9, after the deadline agreed to by Minister Ortiz and you.

To address Gomez-Gordillo's concerns, and to enable Hacienda to meet its June 6 deadline, I proposed, and Gomez-Gordillo accepted, a slight modification to the scheduled U.S. experts group visit. Specifically, the visit was broken into two segments.

Team I Visit

The first visit, which occurred this week, consisted of a team of legal/regulatory and technical experts from FinCEN. The team met with representatives from Hacienda, the Mexican Banking Commission, the Mexican Banking Association and other relevant groups to ascertain the steps necessary to establish mandatory currency transaction reporting and suspicious transaction reporting systems in Mexico.

The team and its GOM counterparts discussed developing the necessary regulations to mandate

reports of suspicious and large-value cash transactions by financial institutions and relevant non-financial businesses. They also examined the procedures and costs required to create a computerized, central database into which these reports, and any other information involving financial crime, will be directed, analyzed and disseminated to law enforcement authorities. The visit culminated with the team providing Hacienda with a recommendation as to a reasonable time line for establishing currency transaction reporting and suspicious transaction reporting systems.

Attached for your review is a preliminary trip report generated by the first team upon its return to Washington. Several observations merit your attention. For one thing, the team's regulatory expert noted several potential deficiencies in the November 1995 statute, Article 115 bis, which purportedly authorizes Hacienda the GOM to promulgate regulations mandating suspicious transaction and currency transaction reporting by financial institutions and other businesses. During the course of discussions, Hacienda expressed its belief that the bulk of these deficiencies could be remedied in regulations issued by Hacienda pursuant to Article 115 bis. It is unlikely that all of our concerns can be addressed by regulatory action, however. For example, as presently drafted Article 115 bis authorizes only monetary penalties for violations of its proscriptions. As the first team noted, and as the U.S. repeatedly has admonished its GOM counterparts, currency transaction reporting and suspicious transaction reporting must be backed up by criminal penalties to be truly effective. Still, my inclination at this juncture is to convey our recommendations to the GOM, along with our understanding that of their intent to address those recommendations in regulations to be issued.

Additionally, the FinCEN team was left with the impression that Hacienda was resisting the idea of implementing regulations providing for currency transaction reporting. My understanding has been that Minister Ortiz agreed to provide you with a time line for implementing both suspicious transaction and currency transaction reporting. Therefore, I believe you should expect Minister Ortiz to supply you with an implementation schedule that embraces both initiatives.

Finally, you will note that the FinCEN team has projected the cost of establishing a database to house and manipulate reporting and other relevant information at approximately \$200,000. Other experts on the U.S. team with experience in developing and implementing computerized systems suggest that the figure may underestimate significantly the cost of training, as well as unforeseen contingencies associated with implementation. As a consequence, they recommend at least doubling the projection.

You should expect some communication from Minister Ortiz, by tomorrow at the latest, setting forth the GOM's proposed time line. In the event you do not hear from him, I recommend a call or a letter. Please let me know which course you would prefer. I will provide a draft letter or talking points as appropriate.

Team II Visit

A second team is prepared to travel to Mexico City for four or five days beginning June 9,

1996. This team, to be comprised of individuals from Treasury (FinCEN, Customs, IRS), State and Justice (Asset Forfeiture and Money Laundering Section, FBI and DEA) would meet with the GOM's interagency expert's group. The second team of experts also has requested the opportunity to meet with representatives from the Mexican Banking Commission, the Banco de Mexico, the Mexican Banking Association (and any counterpart for the auxiliary credit organizations such as casas de cambio), and any other governmental personnel that will be playing a training, operational or policy role in crafting and implementing anti-money laundering measures.

The second experts group visit covering three areas which, of course, will overlap to some degree. First, the group will seek to gain a better understanding of the nature of the threat drug money laundering poses to the Mexican financial system. Second, it will endeavor to ascertain the current and proposed anti-money laundering regime in Mexico and to make short and long-term recommendations for measures to improve our nations' ability to prevent, detect, and prosecute money laundering. Finally, the group will make an initial assessment of training and technical needs based on these proposed measures.

Future Developments

I will continue to update you on all significant developments in connection with the Mexican anti-money laundering initiative.

Team I Trip Report
Assessment of Anti-Money Laundering Regulations and Technology
Implementation Requirements for the Government of Mexico
June 2-5, 1996

Team I

Mariam Moses, Office of Strategic and International Programs
Dorene Kulpa, Office of Liaison Support
Charles Klingman, Office of Financial Institutions Policy
Emile Beshai, Office of Information Systems

INTRODUCTION

The Department of Treasury's Financial Crimes Enforcement Network (FinCEN) sent a team of regulatory and technical experts to meet with representatives of the Secretaria de Hacienda y Credito Publico, the National Banking and Securities Commission, the National Bond and Insurance Commission, the Directorate General of Multiple Banking, and the Central Bank of Mexico for the purpose of following up on the agreement reached between Minister Ortiz and Deputy Secretary Summers. The main focus of the visit was to ascertain an implementation schedule and develop the steps necessary to mandate reports of suspicious transaction reporting and large currency transactions by financial institutions, and examine the procedures required to create a computerized, central database.

REGULATORY ASSESSMENT

The overall purpose of this assessment was an analysis of the statute authorizing regulations that would mandate the reporting of suspicious transaction reporting and the reporting of large currency transactions. The Secretariat provided a copy of the relevant statutes, published in November 17, 1995 in *Diario Oficial*. In addition, a discussion regarding this statute was held with representatives of the Secretariat that facilitated and hosted this assessment visit.

Suspicious Transaction Reporting

Pursuant to the following authorities: *Ley de Instituciones de Credito* Article 115; *Ley del Mercado de Valores*, Articles 52 BIS 3; *Ley General de Organizaciones y Actividades Auxiliares de Credito*, Article 95; *Ley General de Instituciones Sociedades Mutualistas de Seguros*, Article 140; *Ley Federal de Instituciones de Seguros y Fianzas*, Article 112; the Secretaria de Hacienda y Credito Publico (Secretariat of the

Treasury) has the authority to require the following institutions to file probable crime reports: credit institutions, limited purpose financial societies, brokerage houses, securities and exchange specialists, auxiliary credit organizations, regulated currency exchange houses, mutual insurance societies and institutions, and bonding institutions.

It is important to note that this legislative authority extends only to reports on "acts or transactions with resources, rights or assets that derive from or that represent the fruit of a probable offense." The wording of the legislation makes it unclear whether the statutory authority extends to attempted violations that result in no gain; violations that result in a loss to the suspect and no gain; activities from licit sources that are designed to confuse or disguise an audit trail; and any other actions that result in no profit, such as the willful destruction of useful records all appear to be outside the scope of the legislation. The Secretariat expressed the opinion that the regulatory authority may extend to these actions. However, the narrow focus of the statute may impede the ultimate utility of the regulations implemented. An amendment of the statute to more clearly express the authority of the Secretariat to regulate all activities commonly thought of as "suspicious" may be useful.

The statute appears to lack within it several other features that would provide substantial benefit to the overall integrity of a suspicious transaction reporting regulatory framework. One important element would be civil immunity for any financial institution that makes a determination that a customer is "suspicious." Such a measure would give Mexican banks a greater level of confidence that a determination of whether a customer is suspicious should be based solely on the facts, and not on the capacity of the customer to bring legal suit.

Another feature that would add utility to the statute is a clearer authority to sanction financial institutions themselves, and their employees, officers, or directors that improperly make a disclosure of the fact that a customer was determined to be "suspicious." Such sanctions should be available for violations that are unwitting, or willfully ignorant of their effect, as well as those that are directly performed in support of the illegal conduct.

The statute incorporates within it the concept of a "probable offense" that is reportable. The concept of probable offense was explained by the Secretariat as being a definition that is derived from the money laundering criminal statute. The term "probable offense" was explained by the Secretariat as having a meaning similar to "presumed offense." In addition, the Secretariat explained that, although not clearly articulated within the statute, the presumption more directly pertains to the fruit of the

crime than to the crime itself. Thus, the Secretariat has the authority to determine by regulation criteria that provide a regulatory definition of what types of transactions and their products are presumptively the result of a probable offense. Mexican criminal legislation, however, defines what constitutes a probable offense. Thus, the statute granting regulatory authority to the Secretariat contains within it a reference to the new Mexican criminal money laundering statute. There is no civil statute or separate civil penalty mechanism that pertains to money laundering.

Finally, the statute sanctions regulatory infractions with civil penalties from 10% - 100% of the amount of the funds from the probable offense. This may lead to unforeseen circumstances. For example, if a bank deliberately destroys records within a financial institution that obscure information regarding an offense that, while suspicious, is not ultimately determined to be a crime, nor placed under criminal investigation, this would appear to fall outside the scope of the penalty provision. A useful component of penalty authorities for violation of this regulation should include criminal penalties directed towards the financial institutions, and its directors, officers, or employees. In addition, a penalty provision that authorizes a specified monetary level would be quite useful. This is because there are violations, that although they obscure transactions that are of low monetary value, are nonetheless crucial to the overall prosecution of a pattern of criminal conduct.

A discussion was held with the Secretariat on the operational difficulties in training financial institution examination personnel on the supervision and examination systems for suspicious transaction reporting. Such a regulation requires examination by carefully trained government examiners, and is quite labor intensive.

In conclusion, a time line was proposed for the enactment, based on the current statutory authority of probable crime reporting. It was discussed that the development of a suitable regulatory requirement, and achieving sufficient consensus with industries affected, would take approximately six (6) months. In addition, the training of examination personnel in the enforcement of the regulation would take approximately three (3) months.

Large Currency Transaction Reporting

The above mentioned statutes were cited by the Secretariat as the legal basis for large currency transaction reporting. However, a more explicit statutory grant of regulatory authority to the Secretariat in the area of large currency transactions may be advisable.

Because the statute does not appear to contemplate the development of large currency transaction reporting, it is not possible to estimate any specific difficulties in establishing such regulations.

However, because such regulations are generally substantially easier to implement and to enforce, a shorter timeframe for their enactment was discussed. Thus, it was agreed that the development of regulations for large currency transactions would take approximately one (1) month, while the training of examinations personnel would take approximately two (2) months.

Mexican Regulatory Structure

The Mexican regulatory authority and its examination and supervision, like that of the United States, is divided. The Secretariat has supreme policy and regulatory authority for all financial institutions. Within the Secretariat there exist "disconcentrated" supervisory authorities. These supervisory authorities have autonomous authority for implementing all Secretariat regulations, yet are wholly dependent and integral components of the Secretariat.

The regulatory process within Mexico is relatively straightforward and significantly less complex than the U.S. system. Regulations can be issued, if legal authority exists, quite rapidly and with no fixed period until their effective date.

Policy Issues

The Secretariat stated on several occasions that the banking sector needed to be convinced of the necessity for large currency transaction reporting. In addition, the Secretariat stated that a careful analysis of costs and benefits of any specific regulations will need to be carefully considered.

The Mexican banking and financial institution sector is concentrated, and is necessarily a powerful force in the development in the Mexican economy. As Mexico has developed, the Secretariat stated that it has recognized the necessity for a regulatory mechanism in greater conformity with FATF recommendations.

TECHNOLOGY IMPLEMENTATION ASSESSMENT

The overall purpose of this assessment was to determine the technological needs of the Secretariat.

The current technical capabilities of the Secretariat are limited. There are approximately 5-10 stand-alone personal computers (PCs). The technical staff of the Secretariat developed a "Money Laundering Computer Based System" which is a small single-use database running in Windows. It is accessible on one PC. The money laundering system consists of 5 modules: Money Exchange Office, Individuals, Corporate, Money Exchange Establishments, and Cross-Border Reporting (inbound only; pending implementation). Although this system provides good information it is very limited in its ability to share the information on-line. There is no Local Area Network (LAN) in place. Once the proposed design is approved and funds are appropriated, a specific list of components will be provided to the Secretariat.

Assuming that funding is made available to implement the proposed system, there are two phases to this process. The first phase includes procuring and delivering equipment and software, and ensuring that technical personnel are onboard. The estimated scheduled network and systems implementation date would be 90 days from the date of the delivery of the hardware and software. The estimated total cost for the implementation of the first phase is \$253,800.

The second phase consists of completing and deploying the databases. This includes the creation of a suspicious report and a large currency transaction report, and database design and implementation. This process can be fully operational within six (6) months from the completion of the first phase.

The Secretariat is currently discussing the information collection process with the banking community. The Secretariat is attempting to determine which reporting process, suspicious and/or large currency transactions, will be required of the banking community. The Secretariat has the authority to mandate such reporting from the banks and incorporate the information into a centralized database.

Recommendations

A recommendation is made to establish a local area network (LAN) for the Secretariat. The LAN builds the foundation or information infrastructure by which the information will be shared on-line for 20 users within the Secretariat and 20 Secretariat users located in six (6) field offices. The attached diagram illustration and list is of the LAN structure and the automated data processing components, including technical staff, with start-up costs (see Attachment). The costs associated with the continued maintenance of the system was not factored into this proposal.

The proposed network architecture and servers are expandable to accommodate future inter/intra-agency users and system components.

A second recommendation is made for the development of three new databases for the cross-border reporting, suspicious activity reporting, and large currency transaction reporting which need to operate on separate database servers. A recommendation is made to develop the Secretariat's current cross-border reporting module into a database format and on its own server. This will allow for all cross-border documents to become automated for aggregation and analytical processing. In addition, automating the documents will minimize the potential for compromise. The same concepts apply to the other databases.

The third recommendation is to enhance security controls on all databases, including a comprehensive audit trail which will monitor database access and queries.

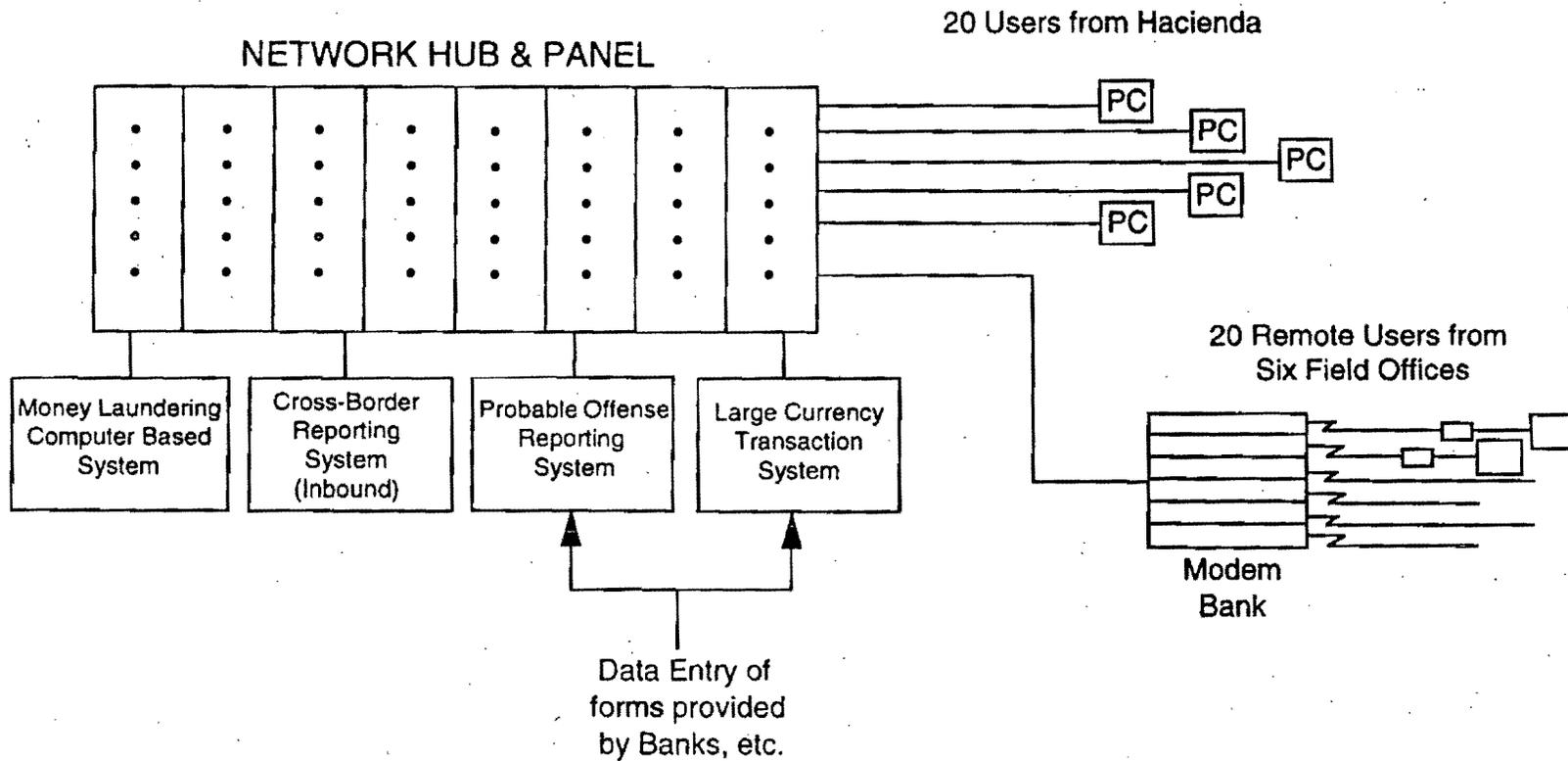
The fourth recommendation is to take advantage of advanced analytical tools, such as link analysis and visualization software to facilitate intelligence analysis and provide graphic case support to ongoing PGR investigations.

CONCLUSION

It is the overall unanimous opinion of the Team I that the regulatory and technical implementation schedule is attainable and feasible. The regulatory and technological implementations will enable the Secretariat to effectively prevent, detect, and combat financial crimes in Mexico.

Conceptual Model for the Hacienda's LAN and Database Systems

June 2-5, 1996



Start-Up Resources and Costs for the Mexican Hacienda's LAN and Database Systems

ITEM	QUANTITY	ESTIMATED COST	TOTAL COST
Network Hub	1	\$20,000	\$20,000
Network Patch Panel	1	\$1,500	\$1,500
Network Cabels, Installation, and Testing	1	\$20,000	\$20,000
Database Server Hardware	3	\$15,000	\$45,000
Gupta SQL Database Software	3	\$3,000	\$9,000
Microsoft Office Software	20	\$600	\$12,000
Communication Software	26	\$300	\$7,800
Modem Bank/Terminal Server with 10 Modems	1	\$7,000	\$7,000
Link Analysis Software	10	\$2,000	\$20,000
Scanner	1	\$2,000	\$2,000
Hard Disk Drives (3GB)	1	\$1,500	\$1,500
Personal Computers	26	\$2,500	\$65,000
Laser Printers	9	\$2,000	\$18,000
Technical Support Staff (e.g contractors support)	1	\$25,000	\$25,000
Total			\$253,800



UNDER SECRETARY

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

AUG 2 1996

MEMORANDUM FOR SECRETARY ROBERT E. RUBIN

THROUGH:

Lawrence H. Summers
Deputy Secretary

FROM:

Raymond E. Kelly
Under Secretary (Enforcement)

SUBJECT:

Accomplishments of the Financial Action Task Force (FATF) on
Money Laundering under the U.S. Presidency

The United States' presidency of the G-7 Financial Action Task Force (FATF) on Money Laundering recently concluded with a meeting of the FATF plenary held June 25-28, 1996 in Washington, DC. As you may recall, the FATF was created in 1989 by the G-7 to establish policies and programs to counter money laundering worldwide. In the seven years since its inception, the FATF has become the leading organization in setting international anti-money laundering standards.

Under U.S. leadership, the FATF's seventh year of work was marked by significant progress. Former Treasury Under Secretary for Enforcement, Ronald K. Noble, served as the President of FATF during the U.S. term and the Treasury Department also served as head of the U.S. delegation. The Departments of State and Justice, various law enforcement and regulatory agencies, as well as the National Security Council were represented on the U.S. delegation as well. The accomplishments of the FATF during the 1995-1996 year under the U.S. Treasury Department's leadership included the following:

1. Treasury chaired a day-long forum of representatives of private financial institutions from the FATF member nations on January 30 prior to the convening of the FATF Plenary. In this ground-breaking event, representatives of governments and the private sector from 24 countries sat at the same table to discuss ways to improve relations between the law enforcement community and financial institutions, and to present suggestions for modifying the FATF 40 Recommendations.
2. Under Treasury's leadership, the FATF revised the 40 Recommendations on money laundering. The revisions were made to address changing global money laundering trends as well as technological advances in the financial services industry. The revisions were the first since the Recommendations were issued in 1990. The major changes to the 40 Recommendations relate to the following items:
 - expansion of money laundering predicate offenses to serious crimes beyond drug trafficking (Rec. 4);
 - requirement for the mandatory reporting of suspicious transactions by financial institutions (Rec. 15);
 - the inclusion of non-financial businesses as part of counter money laundering programs (Rec. 9);

- focusing attention on the money laundering implications of new or developing technologies, generally known as cyberpayment systems (Rec. 13);
 - encouraging support for more effective criminal investigative techniques in following the illicit proceeds from the street to the kingpins of criminal organizations (Rec. 36).
3. For the first time in FATF's history, a public version of the "typologies" report was adopted by the Plenary and is available to the private sector. This report highlights new money laundering methods and patterns or activities used by criminals.
 4. The FATF decided, also for the first time in its seven-year history, to apply Recommendation 21, which urges financial institutions world-wide to scrutinize business relations and transactions with persons, companies and financial institutions from countries which do not or insufficiently apply the FATF Recommendations. This action was taken against the Seychelles, a jurisdiction whose Economic Development Act creates an environment conducive to money laundering and offers protection to criminals from prosecution, extradition and seizure of assets. On February 1, 1996, the FATF issued a press release condemning the legislation and calling for "financial institutions to give special attention to transactions" originating from the Seychelles.
 5. The FATF expanded the role of international organizations that participate in FATF meetings. This policy reflects FATF's desire to continue, and in fact increase, the involvement of other organizations in its sessions. For example, both the FATF Asia Secretariat and the Caribbean Financial Action Task Force (CFATF) are now considered regional affiliates and are involved in all aspects of the FATF. These regional outgrowths of the FATF are pursuing multinational implementation of anti-money laundering programs as promoted by the FATF within their respective regions.
 6. The FATF established a policy regarding how it assessing the implementation of anti-money laundering measures by non-member jurisdictions. This policy gives the FATF the discretion to validate the evaluation process of other international organizations concerned with money laundering, provided the processes meet the criteria set by the FATF.
 7. The FATF also established a policy for dealing with members not in compliance with the 40 Recommendations. The measures in this policy represent a graduated approach aimed at enhancing peer pressure. At present, Turkey is the only FATF member which is seriously deficient. The FATF membership was resolved that if Turkey does not pass appropriate laws prior to the conclusion of the September Plenary, Recommendation 21 will be applied and the public will be informed of Turkey's non-compliance. Also, the FATF will determine what further sanctions are necessary.

In conclusion, the work of the FATF under U.S. leadership was very successful -- all our goals were accomplished. In particular, your initiative at the New Orleans Finance Minister's meeting and your follow-up letter to the Canadian Finance Minister were instrumental in overcoming the Canadians' traditional objection to mandatory reporting of suspicious transactions. This enabled the FATF to achieve the consensus needed to change Recommendation 15 to require mandatory suspicious transaction reporting.

As the FATF enters its eighth year, the U.S. delegation is prepared to work closely with the current FATF President, Mr. Fernando Carpentieri of Italy, to ensure that our accomplishments are further enhanced and the FATF continues to progress in advancing anti-money laundering efforts across the globe.

1997-SE-000736



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

UNDER SECRETARY

JAN 27 1997

MEMORANDUM FOR DEPUTY SECRETARY SUMMERS

FROM: RAYMOND W. KELLY *RWK*
UNDER SECRETARY (ENFORCEMENT)

SUBJECT: Money Laundering Proposal

I received your memo regarding the proposal outlined in the IMF paper prepared last year by Mr. Tanzi. I agree with your observations. I believe that our efforts to date have contributed substantially to a global movement in the directions you suggest.

The IMF paper was presented in June at the plenary of the Financial Action Task Force (FATF), which you addressed. FATF, a creation of the G-7, comprises 26 countries, and is the established world leader in developing anti-money laundering policies. Under the stewardship of the U.S. presidency, FATF re-focused its list of 40 recommendations which are now the anti-money laundering standards, being adopted by countries throughout the world.

FATF has also been instrumental in addressing the issue of creating measures to ensure nations comply with these standards. Most recently FATF was instrumental in preventing the Seychelles from implementing pro-money laundering legislation. Also, the pressures brought to bear on Turkey, through the use of Recommendation 21, contributed to Turkey's recent enactment of anti-money laundering legislation.

I believe it might be useful if I, along with Stan Morris, could spend a few minutes discussing your idea and provide you a more detailed background on a 1997 U. S. Treasury Department anti-money laundering strategy. If you agree, I will schedule a meeting for sometime early next month.



FINANCIAL CRIMES
ENFORCEMENT NETWORK

2070 Chain Bridge Road, Suite 200, Vienna, VA 22182, Telephone (703) 905-3520



DEC 16 1996

MEMORANDUM FOR UNDER SECRETARY KELLY

FROM: Stanley E. Morris
Director

SUBJECT: Money Laundering Proposal

In response to Deputy Secretary Summers' request, attached is a memorandum for your signature briefly describing the IMF paper. The memorandum also suggests a meeting should be scheduled to discuss the Department's money laundering strategy in greater detail. If you have any questions, please feel free to contact me.

Attachment



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

UNDER SECRETARY

JAN 27 1997

MEMORANDUM FOR DEPUTY SECRETARY SUMMERS

FROM: RAYMOND W. KELLY *RWK*
UNDER SECRETARY (ENFORCEMENT)

SUBJECT: Money Laundering Proposal

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I believe it might be useful if I, along with Stan Morris, could spend a few minutes discussing your idea and provide you a more detailed background on a 1997 U. S. Treasury Department anti-money laundering strategy. If you agree, I will schedule a meeting for sometime early next month.



THE DEPUTY SECRETARY OF THE TREASURY
WASHINGTON

December 3, 1996

MEMORANDUM TO RAY KELLY

FROM: Lawrence Summers *LS*

SUBJECT: Money Laundering Proposal

I found the attached paper interesting. The proposal, which I interpret as follows, is interesting, but I don't know anything about feasibility. I would be interested in your reaction.

Proposal. Any solution must be international in scope to avoid exploitation of policy differences between countries.

Step 1. The G-7, or possibly a group representing more countries, would issue a strong statement that financial practices that facilitate laundering will no longer be tolerated and reflect this view in their dealings with these countries.

Step 2. The international community would establish a set of rules which would form the basis for full participation by any country in the international financial market. Minimum standards would be established and be binding on all countries, thereby eliminating differences in domestic regulations. To enforce this, punitive measures (e.g. denying international legal recognition for any financial operations transacted which did not adhere to the agreement; imposition of withholding taxes on capital flows from countries not adhering to the agreement) would be taken.

cc: Secretary Rubin

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. paper	re: Money Laundering & the International Financial System (IMF Working Paper - Fiscal Affairs Department - Prepared by Vito Tanzi) (17 pages)	05/96	P1/b(1)

**This marker identifies the original location of the withdrawn item listed above.
For a complete list of items withdrawn from this folder, see the
Withdrawal/Redaction Sheet at the front of the folder.**

COLLECTION:

Clinton Administration History Project

OA/Box Number: 24125

FOLDER TITLE:

[History of the Department of the Treasury - Supplementary Documents] [10]

jp39

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Date _____

MEMORANDUM FOR: SECRETARY DEPUTY SECRETARY EXECUTIVE SECRETARY
 ACTION BRIEFING INFORMATION LEGISLATION
 PRESS RELEASE PUBLICATION REGULATION SPEECH
 TESTIMONY OTHER _____

FROM: Stan Morris

THROUGH: Under Secretary Kelly

SUBJECT: Money Laundering Proposal

REVIEW OFFICES (Check when office clears)

- Under Secretary for Finance
 - Domestic Finance
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 - Fiscal
 - FMS
 - Public Debt
- Under Secretary for International Affairs
 - International Affairs
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- Policy Management
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 - Treasurer
 - E & P
 - Mint
 - Savings Bonds
- Other _____

NAME (Please Type)	INITIAL	DATE	OFFICE	TEL NO.
INITIATOR(S)				
Stan Morris			FinCEN	703-905-3591
REVIEWERS				
Cassandra Williams	<i>CM</i>	<i>11/16/00</i>		

SPECIAL INSTRUCTIONS

Review Officer

Date

Executive Secretary

Date

197-SE-006478



DEPARTMENT OF THE TREASURY
WASHINGTON D.C.

UNDER SECRETARY

JUN 16 1997

MEMORANDUM FOR SECRETARY RUBIN

FROM: Raymond W. Kelly *RW Kelly*
Under Secretary (Enforcement)

SUBJECT: National Money Laundering Strategy Bill

ACTION FORCING EVENT:

Congresswoman Velazquez is encouraging the White House to support a bill she recently introduced which would require the Secretary of the Treasury to develop a national strategy to address money laundering and related financial crimes.

Treasury Enforcement strongly supports the Velazquez bill. We believe the measure would enhance law enforcement's ability to develop innovative solutions to the money laundering problem. The bill envisions leveraging Enforcement's unique regulatory authority in concert with its enforcement capabilities (and those of other federal, state and local law enforcement authorities), to emphasize prevention as well as detection. I believe that this approach, embodied most recently in the New York Geographic Targeting Order (GTO), represents the sort of intelligent policing that President Clinton has supported throughout his Administration. For this reason, I suggest that you call the Velazquez bill to the attention of the appropriate White House personnel.

RECOMMENDATION:

That you alert the appropriate White House personnel to the Velazquez bill as a measure they should consider supporting.

Agree _____ Disagree _____ Let's Discuss _____

BACKGROUND:

Overview of the Bill

On June 3, 1997, Congresswoman Velazquez introduced her national money laundering strategy bill, with Congressmen Leach and Gonzalez acting as original co-sponsors.

As I have indicated in previous briefings, the Velazquez bill would amend Title 31 of the U.S. Code to oblige the Secretary of the Treasury to devise a national money laundering strategy to be submitted annually to Congress. The strategy would set forth objectives and priorities to combat money laundering and related financial crimes, as identified by the Secretary in consultation with the Attorney General, the federal agencies responsible for regulating banks and other financial institutions, and state and local law enforcement authorities. The strategy also would embrace cooperative initiatives undertaken with the private sector.

In addition to providing for the development of a national strategy, the bill would authorize the Secretary to designate any geographical area, financial sector or financial institution as a "High-Intensity Financial Crime Area" (HIFCA) based on a series of enumerated factors. The Secretary would be granted authority to recommend increases in federal assistance for HIFCAs, and to establish cooperative efforts with state and local law enforcement agencies addressing money laundering in these areas.

The final component of the bill would empower the Secretary to provide grants for state and local law enforcement initiatives to investigate and prosecute money laundering and related financial crimes in HIFCAs.

Congresswoman Velazquez was prompted to draft the bill in response to a request from the Queens, New York District Attorney's Office and other local law enforcement authorities in her district. Apparently, these officials were frustrated by a perceived lack of federal coordination and support in connection with local money laundering investigations and prosecutions.

Treasury Enforcement's Reaction

Treasury Enforcement supports the concept of a national money laundering strategy coordinated by the Secretary. The legislation would enhance and expand the Secretary's authority to ascertain criminal activity directed at the nation's financial systems, determine the threat posed to the integrity of such systems, and develop initiatives to respond. The idea would be to leverage Enforcement's unique regulatory authority in concert with its enforcement capabilities (and those of other federal, state and local law enforcement authorities), developing a holistic approach to the money laundering problem that emphasizes prevention as well as detection.

Although the bill suggests topics to be included in a strategy, it grants Treasury and the other relevant agencies great flexibility in defining its scope and content. I believe that this latitude is essential to avoid a scenario witnessed in connection with other statutorily required national crime strategies, where a disproportionate share of resources are devoted to developing a written strategy rather than on actual initiatives to combat crime.

Department of Justice Reaction

As I have indicated previously, Congresswoman Velazquez solicited Treasury Enforcement's assistance in drafting the bill. My staff provided Velazquez' staff with a number of suggested improvements.

We have been in contact with the Department of Justice about the bill since Congresswoman Velazquez first sought our observations. Justice has been apprised of our original objections to, and our recommendations for modifying, the draft legislation. While Justice has been appreciative of our efforts to improve the bill (particularly our recommendation to delete provisions appearing in earlier drafts which would have permitted the Secretary of the Treasury to reallocate Justice resources), we nevertheless anticipate that the agency will oppose the legislation. Justice maintains that the bill will only add an additional layer of bureaucracy, and

that anti-money laundering efforts already are being coordinated. In an apparent attempt to substantiate this claim, Justice representatives have attempted to characterize a recent Treasury-Justice conference to discuss Treasury's Bank Secrecy Act tools as the first step in the creation of a national strategy. I have heard that representatives from Justice and the FBI have met with House Banking Committee staffers in an effort to dissuade them from supporting the bill.

Possible White House Support

The Velazquez bill would provide the impetus and the resources to develop more initiatives like the recent New York GTO. Beyond using traditional law enforcement techniques to address discrete instances of criminal activity, the New York GTO marshaled Treasury's regulatory authority to identify and correct a weakness that had penetrated an entire financial system, the wire transmitter industry. This preventative effort, in turn, triggered a wave of enforcement activity, as money launderers were forced to resort to riskier means of moving their funds once the vulnerabilities in the transmitter industry had been remedied. The Velazquez bill would establish the mechanism for replicating this approach nationwide, to any number of financial systems or sectors.

Congresswoman Velazquez has been urging the White House to support her bill. I too would like to see the White House embrace it. I believe that the approach envisioned by the draft legislation -- namely, combining Treasury's unique preventative authorities in concert with its enforcement capabilities (and those of other law enforcement agencies at the federal, state and local level) to develop a holistic approach to the problem of money laundering -- represents the kind of progressive, intelligent policing that President Clinton has advocated throughout his tenure in office. For this reason, I suggest that you call the Velazquez bill to the attention of the appropriate White House personnel.

cc: Assistant Secretary Robertson



DEPARTMENT OF THE TREASURY
WASHINGTON

UNDER SECRETARY
FOR ENFORCEMENT

6/17/91

Mr. Secretary -

Senators D'Amato and
Grassley have shown recent
interest in this bill. We need
your strong support at the
White House to overcome
Justice opposition on this.

Thanks,

Rick

TREASURY CLEARANCE SHEET

NO. _____

DATE: 6/13/97

- MEMORANDUM FOR: SECRETARY DEPUTY SECRETARY EXECUTIVE SECRETARY
 ACTION BRIEFING INFORMATION LEGISLATION
 PRESS RELEASE PUBLICATION REGULATION SPEECH
 TESTIMONY OTHER Under Secretary Kelly

FROM: Court Golumbic

SUBJECT: Velazquez Bill

VIEW OFFICES (Check when office clears)

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| <input type="checkbox"/> Under Secretary for Finance | <input type="checkbox"/> Enforcement | <input type="checkbox"/> Policy Management |
| <input type="checkbox"/> Domestic Finance | <input type="checkbox"/> ATF | <input type="checkbox"/> Scheduling |
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| <input type="checkbox"/> Under Secretary for International Affairs | <input type="checkbox"/> Inspector General | <input type="checkbox"/> Mint |
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| | <input type="checkbox"/> OCC | |

Name (Please Type)	Initial	Date	Office	Tel. No.
INITIATOR(S) Court Golumbic	CG	6/13/97	Enforcement	
REVIEWER(S) Raymond W. Kelly * Ed Knight	RK EK	6/16	Under Secretary (Enforcement) General Counsel	

SPECIAL INSTRUCTIONS Copy sent to CE for clearance 6/17

Review Officer

Date

Executive Secretary

Date

1997-SE-008232



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

JUL 14 1997

UNDER SECRETARY

MEMORANDUM FOR SECRETARY RUBIN

FROM: Raymond W. Kelly *RW*
Under Secretary (Enforcement)

SUBJECT: National Money Laundering Strategy Bill

ACTION FORCING EVENT:

As you know, Representative Velázquez recently introduced H.R. 1756, entitled "Money Laundering and Financial Crimes Strategy Act of 1997," in the House of Representatives. The Office of Management and Budget has circulated the bill for clearance. Treasury's comments were due to OMB by COB, July 2, 1997.

RECOMMENDATION:

That you send the attached letter to OMB Director Franklin Raines supporting the Velázquez bill.

Agree _____ Disagree _____ Let's Discuss _____



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

SECRETARY OF THE TREASURY

Mr. Franklin Raines
Director
Office of Management and Budget
Executive Office of the President
Washington, DC 20050

Dear Director Raines:

Last month, Representative Velázquez, joined by Representatives Leach, Gonzalez and Bachus, introduced H.R. 1756, entitled the "Money Laundering and Financial Crimes Strategy Act of 1997." This bill reflects a bipartisan Congressional effort to support creative approaches to combat the laundering of criminal proceeds.

The Treasury Department strongly supports H.R. 1756. Although we have a few technical concerns about the bill which we intend to address through the legislative process, we believe that it would enhance significantly the ability of federal, state and local law enforcement to develop innovative initiatives to address the money laundering threat. This threat is of paramount concern to the Treasury Department because it can undermine the integrity of U.S. financial institutions and payment systems.

The bill would amend Title 31 of the U.S. Code to require the Secretary of the Treasury to devise a national money laundering strategy to be submitted regularly to Congress. The strategy would set forth objectives and priorities to combat money laundering and related financial crimes. These objectives and priorities would be determined by the Secretary in consultation with the Attorney General, and other appropriate federal, state and local government agencies.

Notably, the bill would grant latitude in defining the content of the strategy, with a view toward developing discrete law enforcement initiatives targeting money laundering. Central to this effort is a section of the bill which authorizes designation of appropriate geographic areas, financial sectors or financial institutions as "High-Risk Money Laundering and Related Financial Crimes Areas." These areas would be subject to increased federal assistance, including cooperative efforts with state and local law enforcement agencies, to prevent and detect money laundering.

H.R. 1756 would provide the impetus and the resources to develop initiatives like the recent New York Geographic Targeting Order or "GTO." Beyond using traditional law enforcement techniques to address street-level criminal activity, the New York GTO marshaled Treasury's regulatory authority to identify and correct a weakness that had penetrated an entire financial sector -- the wire transmitter industry. This preventative effort, in turn, triggered a wave of enforcement activity, as money launderers were forced to resort to riskier means of moving their funds. U. S. Customs' cash seizures at the East Coast ports of entry increased markedly after the New York GTO was put in place. Finally, evidence gleaned through the New York GTO experience prompted Treasury to issue a Notice of Proposed Rulemaking applying the GTO's heightened reporting requirements to money transmitters on a permanent, nationwide basis.

What makes H.R. 1756 unique, then, is its capacity to support a systemic attack on money laundering -- combining regulatory and law enforcement efforts to prevent, as well as detect, money laundering in particular financial sectors, institutions, and geographic areas. With this approach in mind, the bill appropriately charges the Treasury Department, in consultation with the Attorney General and other relevant officials, with principal compliance responsibility. Treasury is the one agency tasked with both insulating financial institutions and sectors from the proceeds of crime (through the exercise of its Bank Secrecy Act authority), and with investigating money laundering (primarily through the IRS-Criminal Investigation Division, the U.S. Customs Service, and the U.S. Secret Service).

We look forward to working with OMB and the bill's sponsors on the development of this important legislation.

Sincerely,

Robert E. Rubin

TREASURY CLEARANCE SHEET

NO. _____

DATE: 7/9/97

- MEMORANDUM FOR: SECRETARY DEPUTY SECRETARY EXECUTIVE SECRETARY
 ACTION BRIEFING INFORMATION LEGISLATION
 PRESS RELEASE PUBLICATION REGULATION SPEECH
 TESTIMONY OTHER

From: Court Golumbic

SUBJECT: Letter to OMB Director Raines

VIEW OFFICES (Check when office clears)

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| | <input type="checkbox"/> OCC | |

Name (Please Type)	Initial	Date	Office	Tel. No.
INITIATOR(S) Court Golumbic	CG	7/9/97	Enforcement	
REVIEWER(S) James E. Johnson Raymond W. Kelly Linda Robertson Ed Knight	JEJ RWK LR EK	7/7/97 7/5/97	Assistant Secretary Under Secretary (Enforcement) Assistant Secretary (Leg.) General Counsel	

SPECIAL INSTRUCTIONS

Review Officer _____ Date _____ Executive Secretary _____ Date _____



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

November 20, 1998

UNDER SECRETARY

**MEMORANDUM FOR SECRETARY RUBIN
DEPUTY SECRETARY SUMMERS**

FROM:

James E. Johnson 
Under Secretary (Enforcement)

SUBJECT:

Money Laundering and Financial Crimes Strategy Act of 1998

SUMMARY

This memorandum responds to the Secretary's and Deputy Secretary's inquiries concerning the recently approved Money Laundering and Financial Crimes Strategy Act, and describes the Office of Enforcement's work to implement the legislation. Congress recently approved, and the President signed, the Money Laundering and Financial Crimes Strategy Act, originally introduced by Representative Nydia Velazquez in 1997. The bill designates Treasury as the lead agency to develop and implement a national anti-money laundering strategy, in consultation with the Justice Department and other entities. In addition, the bill authorizes Treasury to provide anti-money laundering grants to state and local law enforcement agencies under certain conditions. During the past few weeks, the Office of Enforcement has begun implementing the bill, requesting input from Treasury's enforcement bureaus and offices by November 23. The Office of Enforcement is also meeting to discuss the inclusion of a request for resources in Treasury's FY 2000 budget in order to fund grants for state and local law enforcement agencies, and to develop a plan to implement the program. Our preliminary view is that we would request approximately \$1 million to fund the grants.

DISCUSSION

Elements of the Strategy

The new legislation designates Treasury as the lead agency to develop, in consultation with the Justice Department and other entities, an annual strategy against money laundering and related financial crimes. On October 29, the Office of Enforcement convened a meeting of the financial crime policy steering committee to discuss the development of the strategy.¹ During this

¹The financial crime policy steering committee was created to implement recommendations of the Office of Enforcement's financial crime review, and is chaired by the Deputy Assistant Secretary (Enforcement Policy). The committee includes senior representation from the U.S. Customs Service; U.S. Secret Service; IRS Criminal Investigation Division; Financial Crimes Enforcement Network; Bureau of Alcohol, Tobacco, and Firearms; Office of Foreign Asset Control; and Office of the Comptroller of the Currency.

meeting, relevant Treasury bureaus and offices were tasked with submitting draft material for the strategy by November 23, 1998. Subsequently, the Office of Enforcement will review and expand this material, aiming to produce a document addressing the full range of issues required under the statute, and establishing concrete action items to fulfill during the year of the strategy.

The first strategy is due to Congress in February 1999. The statute identifies several elements that the strategy must include each year:

- **GOALS, OBJECTIVES, AND PRIORITIES:** The strategy must include major goals, objectives, and priorities to combat money laundering and related financial crime.
- **PREVENTION:** The strategy must describe money laundering prevention initiatives involving Treasury or other agencies.
- **DETECTION AND PROSECUTION INITIATIVES:** Treasury's investigative initiatives against money laundering and related financial crime should be included in the strategy, along with initiatives from other investigative agencies.
- **ENHANCEMENT OF THE ROLE OF THE PRIVATE SECTOR:** The strategy must highlight the approach of Treasury and other agencies in enhancing the role of the private sector, particularly in preventing money laundering activity.
- **ENHANCEMENT OF INTERGOVERNMENTAL COOPERATION:** The strategy must explain proposed actions designed to enhance intergovernmental cooperation in money laundering enforcement. This section could include, among other things, a description of Treasury's efforts to develop the funding mechanism providing state and local anti-money laundering grants contemplated by the legislation.
- **PROJECT AND BUDGET PRIORITIES:** The strategy must indicate project and budget priorities necessary to accomplish anti-money laundering goals and measures described throughout the document.
- **ASSESSMENT OF FUNDING:** The strategy must include an assessment of whether current funding levels for money laundering and related enforcement are adequate.
- **DESIGNATED AREAS:** The statute directs Treasury to designate high risk money laundering and related financial crime areas, and to develop an appropriate strategy to address money laundering in these areas. The statute also provides a list of factors for Treasury to consider in designating high-risk areas.² Since the first strategy is due to

² These factors include the population of an area, the number of bank and non-bank financial institutions, the volume of financial transactions originating in the area, the area's transportation network, the area's status as a center of banking or commerce, the volume of financial crime, and other indications that the area in question is particularly vulnerable to money laundering and related crimes.

Congress in February 1999, we plan to describe Treasury's general approach to designating high-risk areas in the first strategy in lieu of completing exhaustive designations pursuant to all the factors specified in the statute.

- **PERSONS CONSULTED:** Treasury must consult with the Justice Department and other entities in developing the strategy.³
- **DATA REGARDING TRENDS IN MONEY LAUNDERING AND RELATED FINANCIAL CRIMES:** To assist in evaluating the context of the strategy, the document must include data and analytical information regarding trends in money laundering and related offenses.
- **IMPROVED COMMUNICATIONS SYSTEMS:** The strategy must address whether improved communications systems are necessary or helpful in improving the effectiveness of government efforts to combat money laundering.
- **EFFECTIVENESS REPORT:** The strategy must evaluate existing efforts to combat money laundering undertaken during the previous year.

Grant Program

The legislation authorizes Treasury to develop a grant program making resources available to state and local law enforcement agencies for anti-money laundering enforcement. Accordingly, we are formulating an appropriate request for resources to fund the grant program, to be included in the FY 2000 budget. We are also preparing an implementation plan for the grant mechanism, and reviewing the appointment of an administrator, and development of appropriate procedures for administering the funds.

The specialized, complex nature of money laundering investigations provides an important rationale for the grant program. Because these investigations often take time, resources, and specialized expertise to develop, state and local law enforcement agencies may not pursue such investigations sufficiently. Moreover, the grant program could allow Treasury to provide incentives for state and local law enforcement agencies participating in joint money laundering investigations. For these reasons, our preliminary view is that we would request approximately \$1 million for the program in the FY 2000 budget. We understand that given the budgetary environment, we may have to look for offsets to fund such a program.

In allocating grants, the statute requires that Treasury consult with the Attorney General and develop procedures for evaluating and approving applications for the funds. The statute also

³ These consultations must include, among others, the Board of Governors of the Federal Reserve System; the Securities and Exchange Commission; the Commodities and Futures Trading Commission; the Chief of the U.S. Postal Inspection Service; Director of the Office of National Drug Control Policy (ONDCP) on issues specifically relating to drug money laundering; state and local officials; and representatives from the private sector.

requires Treasury to appoint an administrator for the grant program, provide recipients with technical assistance and training, collect data on recipients, and share best practices developed in the federal government and among state and local law enforcement agencies. The amount of a single grant may not exceed \$750,000 per year, and recipient communities must account for their use of the funds each year.

NEXT STEPS

On November 23, the Office of Enforcement will receive preliminary submissions for the strategy from enforcement bureaus and offices.⁴ The Office of Enforcement will then review the submissions, finalize an initial draft of the report, and begin the required consultation process with the Department of Justice and other entities. Enforcement staff will meet this week to formulate a request for resources in our FY 2000 budget to finance state and local grants for anti-money laundering investigations, as authorized under the Money Laundering and Financial Crimes Strategy Act of 1998. Following our budget request, we will draw up an implementation plan for the grant mechanism, providing for the appointment of an administrator and the development of appropriate procedures for administering the funds. We will keep you informed of developments.

ATTACHMENT

- Money Laundering and Financial Crimes Strategy Act of 1998.

⁴ The financial crime policy steering committee requested that FinCEN and the Office of the Comptroller of the Currency share responsibility for developing an initial draft of sections involving regulation, prevention, and the role of the private sector. Customs and the IRS Criminal Investigation Division (with assistance from the Secret Service) will develop initial drafts of sections focused on investigation and related issues.

105TH CONGRESS
2D SESSION

H. R. 1756

AN ACT

To amend chapter 53 of title 31, United States Code, to require the development and implementation by the Secretary of the Treasury of a national money laundering and related financial crimes strategy to combat money laundering and related financial crimes, and for other purposes.

105TH CONGRESS
2D SESSION

H. R. 1756

AN ACT

To amend chapter 53 of title 31, United States Code, to require the development and implementation by the Secretary of the Treasury of a national money laundering and related financial crimes strategy to combat money laundering and related financial crimes, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Money Laundering and
5 Financial Crimes Strategy Act of 1998".

6 **SEC. 2. MONEY LAUNDERING AND RELATED FINANCIAL**
7 **CRIMES.**

8 (a) **IN GENERAL.**—Chapter 53 of title 31, United
9 States Code is amended by adding at the end the following
10 new subchapter:

11 **"SUBCHAPTER III—MONEY LAUNDERING AND**
12 **RELATED FINANCIAL CRIMES**

13 **"§ 5340. Definitions**

14 "For purposes of this subchapter, the following defi-
15 nitions shall apply:

16 "(1) **DEPARTMENT OF THE TREASURY LAW EN-**
17 **FORCEMENT ORGANIZATIONS.**—The term 'Depart-
18 ment of the Treasury law enforcement organizations'
19 has the meaning given to such term in section
20 9703(p)(1).

21 "(2) **MONEY LAUNDERING AND RELATED FI-**
22 **NANCIAL CRIME.**—The term 'money laundering and
23 related financial crime' means an offense under sub-
24 chapter II of this chapter, chapter II of title I of
25 Public Law 91-508 (12 U.S.C. 1951, et seq.; com-

1 monly referred to as the 'Bank Secrecy Act'), or sec-
2 tion 1956, 1957, or 1960 of title 18 or any related
3 Federal, State, or local criminal offense.

4 "(3) SECRETARY.—The term 'Secretary' means
5 the Secretary of the Treasury.

6 "(4) ATTORNEY GENERAL.—The term 'Attor-
7 ney General' means the Attorney General of the
8 United States.

9 "PART 1—NATIONAL MONEY LAUNDERING AND
10 RELATED FINANCIAL CRIMES STRATEGY

11 "**§ 5341. National money laundering and related fi-
12 nancial crimes strategy**

13 "(a) DEVELOPMENT AND TRANSMITTAL TO CON-
14 GRESS.—

15 "(1) DEVELOPMENT.—The President, acting
16 through the Secretary and in consultation with the
17 Attorney General, shall develop a national strategy
18 for combating money laundering and related finan-
19 cial crimes.

20 "(2) TRANSMITTAL TO CONGRESS.—By Feb-
21 ruary 1 of 1999, 2000, 2001, 2002, and 2003, the
22 President shall submit a national strategy developed
23 in accordance with paragraph (1) to the Congress.

24 "(3) SEPARATE PRESENTATION OF CLASSIFIED
25 MATERIAL.—Any part of the strategy that involves

1 information which is properly classified under cri-
2 teria established by Executive Order shall be submit-
3 ted to the Congress separately in classified form.

4 “(b) DEVELOPMENT OF STRATEGY.—The national
5 strategy for combating money laundering and related fi-
6 nancial crimes shall address any area the President, acting
7 through the Secretary and in consultation with the Attor-
8 ney General, considers appropriate, including the follow-
9 ing:

10 “(1) GOALS, OBJECTIVES, AND PRIORITIES.—
11 Comprehensive, research-based goals, objectives, and
12 priorities for reducing money laundering and related
13 financial crime in the United States.

14 “(2) PREVENTION.—Coordination of regulatory
15 and other efforts to prevent the exploitation of fi-
16 nancial systems in the United States for money
17 laundering and related financial crimes, including a
18 requirement that the Secretary shall—

19 “(A) regularly review enforcement efforts
20 under this subchapter and other provisions of
21 law and, when appropriate, modify existing reg-
22 ulations or prescribe new regulations for pur-
23 poses of preventing such criminal activity; and

24 “(B) coordinate prevention efforts and
25 other enforcement action with the Board of

1 Governors of the Federal Reserve System, the
2 Securities and Exchange Commission, the Fed-
3 eral Trade Commission, other Federal banking
4 agencies, the National Credit Union Adminis-
5 tration Board, and such other Federal agencies
6 as the Secretary, in consultation with the Attor-
7 ney General, determines to be appropriate.

8 “(3) DETECTION AND PROSECUTION INITIA-
9 TIVES.—A description of operational initiatives to
10 improve detection and prosecution of money launder-
11 ing and related financial crimes and the seizure and
12 forfeiture of proceeds and instrumentalities derived
13 from such crimes.

14 “(4) ENHANCEMENT OF THE ROLE OF THE
15 PRIVATE FINANCIAL SECTOR IN PREVENTION.—The
16 enhancement of partnerships between the private fi-
17 nancial sector and law enforcement agencies with re-
18 gard to the prevention and detection of money laun-
19 dering and related financial crimes, including provid-
20 ing incentives to strengthen internal controls and to
21 adopt on an industrywide basis more effective poli-
22 cies.

23 “(5) ENHANCEMENT OF INTERGOVERNMENTAL
24 COOPERATION.—The enhancement of—

1 “(A) cooperative efforts between the Fed-
2 eral Government and State and local officials,
3 including State and local prosecutors and other
4 law enforcement officials; and

5 “(B) cooperative efforts among the several
6 States and between State and local officials, in-
7 cluding State and local prosecutors and other
8 law enforcement officials,

9 for financial crimes control which could be utilized
10 or should be encouraged.

11 “(6) PROJECT AND BUDGET PRIORITIES.—A 3-
12 year projection for program and budget priorities
13 and achievable projects for reductions in financial
14 crimes.

15 “(7) ASSESSMENT OF FUNDING.—A complete
16 assessment of how the proposed budget is intended
17 to implement the strategy and whether the funding
18 levels contained in the proposed budget are sufficient
19 to implement the strategy.

20 “(8) DESIGNATED AREAS.—A description of
21 geographical areas designated as ‘high-risk money
22 laundering and related financial crime areas’ in ac-
23 cordance with, but not limited to, section 5342.

1 “(9) PERSONS CONSULTED.—Persons or offi-
2 cers consulted by the Secretary pursuant to sub-
3 section (d).

4 “(10) DATA REGARDING TRENDS IN MONEY
5 LAUNDERING AND RELATED FINANCIAL CRIMES.—
6 The need for additional information necessary for
7 the purpose of developing and analyzing data in
8 order to ascertain financial crime trends.

9 “(11) IMPROVED COMMUNICATIONS SYSTEMS.—
10 A plan for enhancing the compatibility of automated
11 information and facilitating access of the Federal
12 Government and State and local governments to
13 timely, accurate, and complete information.

14 “(c) EFFECTIVENESS REPORT.—At the time each
15 national strategy for combating financial crimes is trans-
16 mitted by the President to the Congress (other than the
17 1st transmission of any such strategy) pursuant to sub-
18 section (a), the Secretary shall submit a report containing
19 an evaluation of the effectiveness of policies to combat
20 money laundering and related financial crimes.

21 “(d) CONSULTATIONS.—In addition to the consulta-
22 tions required under this section with the Attorney Gen-
23 eral, in developing the national strategy for combating
24 money laundering and related financial crimes, the Sec-
25 retary shall consult with—

1 “(1) the Board of Governors of the Federal Re-
2 serve System and other Federal banking agencies
3 and the National Credit Union Administration
4 Board;

5 “(2) State and local officials, including State
6 and local prosecutors;

7 “(3) the Securities and Exchange Commission;

8 “(4) the Commodities and Futures Trading
9 Commission;

10 “(5) the Director of the Office of National
11 Drug Control Policy, with respect to money launder-
12 ing and related financial crimes involving the pro-
13 ceeds of drug trafficking;

14 “(6) the Chief of the United States Postal In-
15 spection Service;

16 “(7) to the extent appropriate, State and local
17 officials responsible for financial institution and fi-
18 nancial market regulation;

19 “(8) any other State or local government au-
20 thority, to the extent appropriate;

21 “(9) any other Federal Government authority
22 or instrumentality, to the extent appropriate; and

23 “(10) representatives of the private financial
24 services sector, to the extent appropriate.

1 "§ 5342. High-risk money laundering and related fi-
2 nancial crime areas

3 "(a) FINDINGS AND PURPOSE.—

4 "(1) FINDINGS.—The Congress finds the fol-
5 lowing:

6 "(A) Money laundering and related finan-
7 cial crimes frequently appear to be concentrated
8 in particular geographic areas, financial sys-
9 tems, industry sectors, or financial institutions.

10 "(B) While the Secretary has the respon-
11 sibility to act with regard to Federal offenses
12 which are being committed in a particular local-
13 ity or are directed at a single institution, be-
14 cause modern financial systems and institutions
15 are interconnected to a degree which was not
16 possible until recently, money laundering and
17 other related financial crimes are likely to have
18 local, State, national, and international effects
19 wherever they are committed.

20 "(2) PURPOSE AND OBJECTIVE.—It is the pur-
21 pose of this section to provide a mechanism for des-
22 ignating any area where money laundering or a re-
23 lated financial crime appears to be occurring at a
24 higher than average rate such that—

25 "(A) a comprehensive approach to the
26 problem of such crime in such area can be de-

1 veloped, in cooperation with State and local law
2 enforcement agencies, which utilizes the author-
3 ity of the Secretary to prevent such activity; or

4 “(B) such area can be targeted for law en-
5 forcement action.

6 “(b) ELEMENT OF NATIONAL STRATEGY.—The des-
7 ignation of certain areas as areas in which money launder-
8 ing and related financial crimes are extensive or present
9 a substantial risk shall be an element of the national strat-
10 egy developed pursuant to section 5341(b).

11 “(c) DESIGNATION OF AREAS.—

12 “(1) DESIGNATION BY SECRETARY.—The Sec-
13 retary, after taking into consideration the factors
14 specified in subsection (d), shall designate any geo-
15 graphical area, industry, sector, or institution in the
16 United States in which money laundering and relat-
17 ed financial crimes are extensive or present a sub-
18 stantial risk as a ‘high-risk money laundering and
19 related financial crimes area’.

20 “(2) CASE-BY-CASE DETERMINATION IN CON-
21 SULTATION WITH THE ATTORNEY GENERAL.—In ad-
22 dition to the factors specified in subsection (d), any
23 designation of any area under paragraph (1) shall be
24 made on the basis of a determination by the Sec-
25 retary, in consultation with the Attorney General,

1 that the particular area, industry, sector, or institu-
2 tion is being victimized by, or is particularly vulner-
3 able to, money laundering and related financial
4 crimes.

5 “(3) SPECIFIC INITIATIVES.—Any head of a de-
6 partment, bureau, or law enforcement agency, in-
7 cluding any State or local prosecutor, involved in the
8 detection, prevention, and suppression of money
9 laundering and related financial crimes and any
10 State or local official or prosecutor may submit—

11 “(A) a written request for the designation
12 of any area as a high-risk money laundering
13 and related financial crimes area; or

14 “(B) a written request for funding under
15 section 5351 for a specific prevention or en-
16 forcement initiative, or to determine the extent
17 of financial criminal activity, in an area.

18 “(d) FACTORS.—In considering the designation of
19 any area as a high-risk money laundering and related fi-
20 nancial crimes area, the Secretary shall, to the extent ap-
21 propriate and in consultation with the Attorney General,
22 take into account the following factors:

23 “(1) The population of the area.

1 “(2) The number of bank and nonbank finan-
2 cial institution transactions which originate in such
3 area or involve institutions located in such area.

4 “(3) The number of stock or commodities
5 transactions which originate in such area or involve
6 institutions located in such area.

7 “(4) Whether the area is a key transportation
8 hub with any international ports or airports or an
9 extensive highway system.

10 “(5) Whether the area is an international cen-
11 ter for banking or commerce.

12 “(6) The extent to which financial crimes and
13 financial crime-related activities in such area are
14 having a harmful impact in other areas of the coun-
15 try.

16 “(7) The number or nature of requests for in-
17 formation or analytical assistance which—

18 “(A) are made to the analytical component
19 of the Department of the Treasury; and

20 “(B) originate from law enforcement or
21 regulatory authorities located in such area or
22 involve institutions or businesses located in such
23 area or residents of such area.

24 “(8) The volume or nature of suspicious activity
25 reports originating in the area.

1 “(9) The volume or nature of currency trans-
2 action reports or reports of cross-border movements
3 of currency or monetary instruments originating in,
4 or transported through, the area.

5 “(10) Whether, and how often, the area has
6 been the subject of a geographical targeting order.

7 “(11) Observed changes in trends and patterns
8 of money laundering activity.

9 “(12) Unusual patterns, anomalies, growth, or
10 other changes in the volume or nature of core eco-
11 nomic statistics or indicators.

12 “(13) Statistics or indicators of unusual or un-
13 explained volumes of cash transactions.

14 “(14) Unusual patterns, anomalies, or changes
15 in the volume or nature of transactions conducted
16 through financial institutions operating within or
17 outside the United States.

18 “(15) The extent to which State and local gov-
19 ernments and State and local law enforcement agen-
20 cies have committed resources to respond to the fi-
21 nancial crime problem in the area and the degree to
22 which the commitment of such resources reflects a
23 determination by such government and agencies to
24 address the problem aggressively.

1 and suppressing money laundering and related fi-
 2 nancial crimes; and

3 “(3) provide for the general administration of
 4 the program.

5 “(c) ADMINISTRATION.—The Secretary shall appoint
 6 an administrator to carry out the program.

7 “(d) CONTRACTING.—The Secretary may employ any
 8 necessary staff and may enter into contracts or agree-
 9 ments with Federal and State law enforcement agencies
 10 to delegate authority for the execution of grants and for
 11 such other activities necessary to carry out this chapter.

12 **“§ 5352. Program authorization**

13 “(a) GRANT ELIGIBILITY.—To be eligible to receive
 14 an initial grant or a renewal grant under this part, a State
 15 or local law enforcement agency or prosecutor shall meet
 16 each of the following criteria:

17 “(1) APPLICATION.—The State or local law en-
 18 forcement agency or prosecutor shall submit an ap-
 19 plication to the Secretary in accordance with section
 20 5353(a)(2).

21 “(2) ACCOUNTABILITY.—The State or local law
 22 enforcement agency or prosecutor shall—

23 “(A) establish a system to measure and re-
 24 port outcomes—

1 “(i) consistent with common indica-
2 tors and evaluation protocols established
3 by the Secretary, in consultation with the
4 Attorney General; and

5 “(ii) approved by the Secretary;

6 “(B) conduct biennial surveys (or incor-
7 porate local surveys in existence at the time of
8 the evaluation) to measure the progress and ef-
9 fectiveness of the coalition; and

10 “(C) provide assurances that the entity
11 conducting an evaluation under this paragraph,
12 or from which the applicant receives informa-
13 tion, has experience in gathering data related to
14 money laundering and related financial crimes.

15 “(b) GRANT AMOUNTS.—

16 “(1) GRANTS.—

17 “(A) IN GENERAL.—Subject to subpara-
18 graph (D), for a fiscal year, the Secretary of
19 the Treasury, in consultation with the Attorney
20 General, may grant to an eligible applicant
21 under this section for that fiscal year, an
22 amount determined by the Secretary of the
23 Treasury, in consultation with the Attorney
24 General, to be appropriate.

1 “(B) SUSPENSION OF GRANTS.—If such
2 grant recipient fails to continue to meet the cri-
3 teria specified in subsection (a), the Secretary
4 may suspend the grant, after providing written
5 notice to the grant recipient and an opportunity
6 to appeal.

7 “(C) RENEWAL GRANTS.—Subject to sub-
8 paragraph (D), the Secretary may award a re-
9 newal grant to a grant recipient under this sub-
10 paragraph for each fiscal year following the fis-
11 cal year for which an initial grant is awarded.

12 “(D) LIMITATION.—The amount of a
13 grant award under this paragraph may not ex-
14 ceed \$750,000 for a fiscal year.

15 “(2) GRANT AWARDS.—

16 “(A) IN GENERAL.—Except as provided in
17 subparagraph (B), the Secretary may, with re-
18 spect to a community, make a grant to 1 eligi-
19 ble applicant that represents that community.

20 “(B) EXCEPTION.—The Secretary may
21 make a grant to more than 1 eligible applicant
22 that represent a community if—

23 “(i) the eligible coalitions demonstrate
24 that the coalitions are collaborating with
25 one another; and

1 “(ii) each of the coalitions has inde-
2 pendently met the requirements set forth
3 in subsection (a).

4 “(c) CONDITION RELATING TO PROCEEDS OF ASSET
5 FORFEITURES.—

6 “(1) IN GENERAL.—No grant may be made or
7 renewed under this part to any State or local law en-
8 forcement agency or prosecutor unless the agency or
9 prosecutor agrees to donate to the Secretary of the
10 Treasury for the program established under this
11 part any amount received by such agency or pros-
12 ecutor (after the grant is made) pursuant to any
13 criminal or civil forfeiture under chapter 46 of title
14 18, United States Code, or any similar provision of
15 State law.

16 “(2) SCOPE OF APPLICATION.—Paragraph (1)
17 shall not apply to any amount received by a State
18 or local law enforcement agency or prosecutor pursu-
19 ant to any criminal or civil forfeiture referred to in
20 such paragraph in excess of the aggregate amount of
21 grants received by such agency or prosecutor under
22 this part.

23 “(d) ROLLING GRANT APPLICATION PERIODS.—In
24 establishing the program under this part, the Secretary

1 shall take such action as may be necessary to ensure, to
2 the extent practicable, that—

3 “(1) applications for grants under this part
4 may be filed at any time during a fiscal year; and

5 “(2) some portion of the funds appropriated
6 under this part for any such fiscal year will remain
7 available for grant applications filed later in the fis-
8 cal year.

9 **“§ 5353. Information collection and dissemination**
10 **with respect to grant recipients**

11 **“(a) APPLICANT AND GRANTEE INFORMATION.—**

12 **“(1) APPLICATION PROCESS.—**The Secretary
13 shall issue requests for proposal, as necessary, re-
14 garding, with respect to the grants awarded under
15 section 5352, the application process, grant renewal,
16 and suspension or withholding of renewal grants.
17 Each application under this paragraph shall be in
18 writing and shall be subject to review by the Sec-
19 retary.

20 **“(2) REPORTING.—**The Secretary shall, to the
21 maximum extent practicable and in a manner con-
22 sistent with applicable law, minimize reporting re-
23 quirements by a grant recipient and expedite any ap-
24 plication for a renewal grant made under this part.

1 “(b) ACTIVITIES OF SECRETARY.—The Secretary
2 may—

3 “(1) evaluate the utility of specific initiatives
4 relating to the purposes of the program;

5 “(2) conduct an evaluation of the program; and

6 “(3) disseminate information described in this
7 subsection to—

8 “(A) eligible State local law enforcement
9 agencies or prosecutors; and

10 “(B) the general public.

11 “§ 5354. Grants for fighting money laundering and re-
12 lated financial crimes

13 “(a) IN GENERAL.— After the end of the 1-year pe-
14 riod beginning on the date the 1st national strategy for
15 combating money laundering and related financial crimes
16 is submitted to the Congress in accordance with section
17 5341, and subject to subsection (b), the Secretary may
18 review, select, and award grants for State or local law en-
19 forcement agencies and prosecutors to provide funding
20 necessary to investigate and prosecute money laundering
21 and related financial crimes in high-risk money laundering
22 and related financial crime areas.

23 “(b) SPECIAL PREFERENCE.—Special preference
24 shall be given to applications submitted to the Secretary
25 which demonstrate collaborative efforts of 2 or more State

1 and local law enforcement agencies or prosecutors who
 2 have a history of Federal, State, and local cooperative law
 3 enforcement and prosecutorial efforts in responding to
 4 such criminal activity.

5 **"§ 5355. Authorization of appropriations**

6 "There are authorized to be appropriated the follow-
 7 ing amounts for the following fiscal years to carry out the
 8 purposes of this subchapter:

For fiscal year:	The amount authorized is:
1999	\$5,000,000 How MU
2000	\$7,500,000 How MUCH FOR ADMINIS-
2001	\$10,000,000.
2002	\$12,500,000.
2003	\$15,000,000."

TRATION...

9 (b) CLERICAL AMENDMENT.—The table of sub-
 10 chapters for chapter 53 of title 31, United States Code,
 11 is amended by adding at the end the following item:

"SUBCHAPTER III—MONEY LAUNDERING AND RELATED
 FINANCIAL CRIMES

"5340. Definitions.

"PART 1—NATIONAL MONEY LAUNDERING AND RELATED FINANCIAL
 CRIMES STRATEGY

"5341. National money laundering and related financial crimes strategy.

"5342. High-risk money laundering and related financial crime areas.

"PART 2—FINANCIAL CRIME-FREE COMMUNITIES SUPPORT PROGRAM

"5351. Establishment of financial crime-free communities support program.

"5352. Program authorization.

"5353. Information collection and dissemination with respect to grant recipi-
 ents.

"5354. Grants for fighting money laundering and related financial crimes.

"5355. Authorization of appropriations."

12 (c) REPORT AND RECOMMENDATIONS.—Before the
 13 end of the 5-year period beginning on the date the 1st

1 national strategy for combating money laundering and re-
2 lated financial crimes is submitted to the Congress pursu-
3 ant to section 5341(a)(1) of title 31, United States Code
4 (as added by section 2(a) of this Act), the Secretary of
5 the Treasury, in consultation with the Attorney General,
6 shall submit a report to the Committee on Banking and
7 Financial Services and the Committee on the Judiciary of
8 the House of Representatives and the Committee on
9 Banking, Housing, and Urban Affairs and the Committee
10 on the Judiciary of the Senate on the effectiveness of and
11 the need for the designation of areas, under section 5342
12 of title 31, United States Code (as added by such section
13 2(a)), as high-risk money laundering and related financial
14 crime areas, together with recommendations for such leg-
15 islation as the Secretary and the Attorney General may
16 determine to be appropriate to carry out the purposes of
17 such section.

Passed the House of Representatives October 5,
1998.

Attest:

Clerk.

HR 1756 EAS

In the Senate of the United States,

October 15 (legislative day, October 2), 1998.

Resolved, That the bill from the House of Representatives (H.R. 1756) entitled 'An Act to amend chapter 53 of title 31, United States Code, to require the development and implementation by the Secretary of the Treasury of a national money laundering and related financial crimes strategy to combat money laundering and related financial crimes, and for other purposes.', do pass with the following

AMENDMENT:

Page 2, strike out all after line 20, over to and including line 3 on page 3 and insert:

'(2) MONEY LAUNDERING AND RELATED FINANCIAL CRIME- The term 'money laundering and related financial crime'--

'(A) means the movement of illicit cash or cash equivalent proceeds into, out of, or through the United States, or into, out of, or through United States financial institutions, as defined in section 5312 of title 31, United States Code; or

'(B) has the meaning given that term (or the term used for an equivalent offense) under State and local criminal Statutes pertaining to the movement of illicit cash or cash equivalent proceeds.

Attest:

Secretary.

105th CONGRESS

2d Session

H. R. 1756

AMENDMENT

END

105TH CONGRESS
2D SESSION

H. R. 1756

AN ACT

To amend chapter 53 of title 31, United States Code, to require the development and implementation by the Secretary of the Treasury of a national money laundering and related financial crimes strategy to combat money laundering and related financial crimes, and for other purposes.

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'(B) has the meaning given that term (or the term used for an equivalent offense) under State and local criminal Statutes pertaining to the movement of illicit cash or cash equivalent proceeds.

Attest:

Secretary.

105th CONGRESS

2d Session

H. R. 1756

AMENDMENT

END



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

January 12, 2000

ACTION

ACTION

MEMORANDUM FOR SECRETARY SUMMERS
DEPUTY SECRETARY EIZENSTAT

FROM: WILLIAM F. WECHSLER *WW*
Special Advisor for Money Laundering

SUBJECT: International Money Laundering Act of 2000

This memorandum recommends that the Administration propose an International Money Laundering Act of 2000. This Act would be presented as an alternative to the legislation proposed by Rep. Leach, Rep. LaFalce, Rep. Waters, Sen. Schumer, Sen. Coverdell, and Sen. Levin. Subject to your approval of our recommendations below, we will work to include a reference to this initiative in the President's State of the Union address.

All relevant Treasury offices (OASIA, Domestic Finance, Enforcement, General Counsel, Legislative Affairs) support the notion that we would propose our own legislation – as long as it is carefully drafted to reflect legitimate banking interests and international legal obligations – rather than solely respond to a series of Congressional proposals. These offices have also reached consensus on the general outline of many key provisions that could be included in such an Act, which are described in this memorandum. A chart comparing our proposal with the Leach and Levin bills is attached. Additional ideas are also still being discussed, although they are largely less central to the proposed legislation. If no consensus can be reached on those, we will prepare appropriate options for your decision. These items are outlined below.

Once you have given your approval, we will quickly need to bring this initiative to the interagency, including the bank regulators and the law enforcement agencies that have not seen the individual proposals, and prepare legislative language for the formal OMB clearance process. Deputy Secretary Eizenstat should have an opportunity to begin this coordination when he meets with Deputy Attorney General Eric Holder on Friday, January 14. Our goal is to have legislative language ready for an announcement before Rep. Leach holds hearings on his bill this Spring.

Overview of Departmental Proposal

New Tools Against International Money Laundering Havens: A consensus has been reached on several key provisions that could be included in an International Money Laundering Act of 2000. These provisions, which could be the centerpiece of our legislative proposal, would increase the number and utility of discretionary tools available to you to combat specific problems related to specified foreign jurisdictions that present a significant threat for money laundering. These new authorities would, in effect, create a mid-range of calibrated and flexible options to fill the vacuum that separates the two tools currently available: informational advisories to U.S. banks

EXECUTIVE SECRETARIAT

about specific jurisdictions, which encourage additional scrutiny; and IEEPA sanctions, which block transactions designated entities in the jurisdiction.

The approach we recommend differs fundamentally from the approach proposed by Rep. Leach, Sen. Levin and others, which would create a certification-like process whereby Treasury would be required to impose stiff sanctions (e.g. blocking all U.S. correspondent banking relationships) with countries that we determine lack consolidated, comprehensive bank supervision. The consensus within Treasury is that this approach is too sweeping in scope, would have many unintended and unacceptable consequences, and would imprudently limit your flexibility.

In contrast, under our proposal we would ask the Congress to grant you the authority, and policy discretion, to do the following (in order from most to least severe):

- Bar U.S. financial institutions from having correspondent relations with all or selected financial institutions in a specified non-compliant jurisdiction.
- Require U.S. financial institutions to ascertain the identities of persons in a specified non-compliant jurisdiction that are permitted by foreign financial institutions to use U.S. payable-through and correspondent accounts.
- Require U.S. financial institutions to ascertain the beneficial owners of accounts from all or selected non-publicly traded corporations or trusts in a specified non-compliant jurisdiction.
- Require mandatory reporting from U.S. financial institutions of all individual transactions above a certain dollar amount, set on a case-by-case basis, involving all or selected individuals, companies and/or financial institutions in a specified non-compliant jurisdiction.
- Require U.S. financial institutions to provide special reporting of aggregate transactions, or classes of transactions, with all or selected entities and/or financial institutions in a specified non-compliant jurisdiction.

In the drafting of legislative language for these provisions, we will seek to ensure maximum flexibility to narrowly target these new authorities on a case-by-case basis. We would not tie their use to explicit criteria defined in legislation, as that would move us toward a certification-like regime. Each of these new tools will be available for use either unilaterally or multilaterally, although our policy preference will generally be for multilateral actions in order to maximize effectiveness and minimize potential competitive disadvantages for U.S. financial institutions. The language of the bill could reflect that preference. Identification of specified jurisdictions would result from the process being developed to categorize the money laundering threats posed by various jurisdictions. This process will include sequential analysis of various factors including the status of the anti-money laundering regime in a given jurisdiction and the degree of political will exhibited to improve that regime (see separate memo coming from Jody Myers). Final legislative language will also have to include clear and appropriately narrow definitions of key terms (accounts, transactions, beneficial owners, payable through, correspondent, etc.). In addition, for the provision on barring correspondent accounts, we may want to consider proposing a "dual key" mechanism which would require agreement by the Fed Chairman or Secretary of State, in order to limit the possibility that a future Secretary of the Treasury could act without proper coordination

New Reporting Requirement: Each year the State Department produces the International Narcotics Control Strategy Report, which outlines counter-narcotics programs in virtually every country. An annex describes money laundering issues in almost every country. Even though FinCEN writes most of the report for State, we have long disagreed with State about many aspects of the money laundering annex, including its dominant focus on narcotics-related money laundering and its poor categorization of different types of money laundering threats. Our legislation could propose that responsibility for the annual money laundering annex be transferred to Treasury, and that the legislative mandate for the report be expanded explicitly to include non-narcotics-related money laundering. This could give us an avenue to report to Congress on how we are using the new anti-money laundering tools. This may require additional resources for FinCEN. In informal discussions thus far, senior officials at State (including Randy Beers) have expressed some concerns with this idea, but have not rejected it out of hand.

New Measures to Protect U.S. Financial System from International Money Laundering: We have also reached consensus on several additional provisions to increase the transparency of the U.S. financial system. We recommend that the Congress impose a new requirement on banks operating in the U.S. to ensure that records already required by the Bank Secrecy Act (i.e. only U.S. transactions) must be readily accessible to U.S. law enforcement. This provision would address the problem faced when records of U.S. domiciled accounts are taken out of the U.S. and kept in foreign jurisdictions that do not allow the same degree of access to U.S. law enforcement (e.g. Switzerland) as is available domestically. This is mostly an issue for foreign banks operating in the U.S. Banks would be allowed flexibility in addressing this problem: they could keep all their records in the U.S., they could set up a U.S. "mirror site" for computerized records held in a foreign country, or they could keep their records (or a "mirror site") in a third country that provides adequate access to U.S. law enforcement. Affected countries could also change their laws that limit information sharing with U.S. law enforcement. Again, we are only narrowly targeting information about transactions that take place in the U.S. and are already subject to reporting requirements under the Bank Secrecy Act. It is important that we address this in a way that allows multi-jurisdictional access to records in order to aid Treasury's efforts to convince other countries (i.e. Japan) to repeal prohibitions on transfer or disclosure of records.

We also recommend that the Right to Financial Privacy Act be amended to authorize the Secretary of the Treasury to require U.S. financial institutions to provide information about the location of assets belonging to specially designated foreign government officials (or ex-officials), once the Secretary has determined that the assets have likely been misappropriated from a foreign government. This would allow us to learn the location of such assets without having to wait for a criminal investigation to be initiated or having to impose IEEPA sanctions.

Privacy: We recommend that our proposal include a provision, similar to one in the Leach bill, that penalizes improper disclosure of Bank Secrecy Act information by government officials.

Other Provisions Still Under Discussion

We have not yet reached consensus about some of the other provisions under discussion. We continue on, however, and will either reach consensus shortly or will soon determine that consensus cannot be reached at working levels and then forward options for your decision.

General Counsel and Enforcement are discussing whether it makes sense to include a clear statement that the obligation for suspicious transaction reporting extends to specialized banking services such as private banking. While this restates what is already true, it will give the Congress an opportunity to focus attention on private banking, which was the subject of Sen. Levin's hearings regarding Citibank. This provision is similar to a provision in Sen. Levin's bill.

Another provision we continue to discuss is also based in part on the findings of the Levin hearings: it would give the Secretary of the Treasury authority to require financial institutions operating in the U.S. to maintain an internal registry of "shell corporations" that are organized in particular jurisdictions. This provision would help U.S. law enforcement quickly identify such shell corporations when investigating complex international money laundering cases. Sen. Levin found that such shell corporations were prominently used by private banking units that were trying to disguise the location of their clients' funds, and that the absence of internal registries served to delay U.S. law enforcement. Domestic Finance and OASIA require more analysis of this provision and its consequences for U.S. competitiveness before providing their recommendation.

Tax Policy also needs more time to fully consider the implications of separate proposals to make tax fraud a predicate offense for money laundering, and another proposal to expand the use of limited tax information (such as on foreign trusts) for non-tax criminal investigations into money laundering. A separate proposal would prohibit U.S. banks from otherwise using information obtained exclusively for the purpose of complying with the Bank Secrecy Act. Domestic Finance is looking at whether there is any information collected exclusively for BSA purposes, and the implications of this proposal for the rules currently being written to implement the privacy provisions of the financial modernization legislation. All of our privacy experts are looking for additional provisions as well. Domestic Finance and Enforcement are also exploring options to further reduce the burden on U.S. financial institutions of Bank Secrecy Act compliance, something that the industry would undoubtedly find attractive. FinCEN is also working on some technical changes to the Bank Secrecy Act.

Clearances: Tim Geithner, Gary Gensler, Jim Johnson, Neal Wolin, Linda Robertson

Recommendations

That you approve the provisions for which consensus exists within the Department, as outlined above, and that we begin drafting legislative language and start formal interagency discussions.

Approve Disapprove

That we continue to work to develop additional provisions, and forward options for your decision if consensus cannot be reached.

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Attachment

Tab I Table comparing our proposed Administration bill with key Congressional bills.



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GENERAL TOPIC	POSSIBLE TREASURY BILL	LEVIN (S. 1920)	LEACH (H.R. 2896) & COVERDELL (S. 1663)	TREASURY POSITION*
A. New Tools Against International Money Laundering Havens	<u>Reporting of Aggregate Financial Transactions with Designated Havens:</u> The Secretary of the Treasury will have the authority to issue regulations requiring the reporting of transactions (or classes of transactions) with designated non-compliant jurisdictions and/or specified foreign financial institutions in such jurisdictions.	[no comparable provision]	[no comparable provision]	With the understanding that the Secretary will retain broad discretion to invoke this power, this provision is supported in the Treasury Department.
	<u>Reporting of Individual Financial Transactions with Designated Havens:</u> The Secretary of the Treasury will have the authority to issue regulations requiring U.S. financial institutions to report all transactions above a certain dollar minimum involving all or selected individuals, companies and/or financial institutions in specified non-compliant jurisdictions.	[no comparable provision]	[no comparable provision]	With the understanding that the Secretary will retain broad discretion to invoke this power, this provision is supported in the Treasury Department.
	<u>Disclosure of Beneficial Ownership of Certain Foreign Shell Entities Opening Accounts in U.S.:</u> The Secretary of the Treasury will have the authority to issue regulations requiring banks and securities firms to ascertain the beneficial owners of accounts opened in the U.S. by non-publicly traded businesses or trusts formed in or operating out of specified non-compliant jurisdictions.	Prohibits a financial institution from opening or maintaining accounts belonging to, or for the benefit of, foreign individuals or entities unless the institution adequately identifies each individual with a beneficial interest in the account or all the shares of the foreign entity are publicly traded [§3]	Prohibits a financial institution from opening or maintaining accounts belonging to, or for the benefit of, foreign individuals or entities unless the institution adequately identifies each individual with a beneficial interest in the account or all shares of the foreign entity are publicly traded [§3].	<p>The Department opposes the Levin and Leach/Coverdell provisions because (a) they impose self-executing and inflexible bars to business with entities that fail to meet specified customer-identification criteria and (b) there is no comparable customer-identification requirement for accounts opened by U.S. persons.</p> <p>The Department strongly prefers the greater flexibility offered by the Treasury provision, which achieves the same customer-identification goal but in a more targeted and flexible fashion.</p>

GENERAL TOPIC	POSSIBLE TREASURY BILL	LEVIN (S. 1920)	LEACH (H.R. 2896) & COVERDELL (S. 1663)	TREASURY POSITION*
	<p><u>Disclosure of Identities of Persons Using Certain Payable-Through and Correspondent Accounts:</u> The Secretary of the Treasury will have the authority to issue regulations requiring U.S. financial institutions that maintain payable-through accounts for foreign correspondent banks in designated non-compliant jurisdictions and/or for specified foreign institutions to ascertain the identity of customers who are permitted to use the payable-through feature by the foreign institutional account holder.</p>	[no comparable provision]	[no comparable provision]	With the understanding that the Secretary will retain broad discretion to invoke this power, this provision is supported in the Treasury Department.
	<p><u>Prohibition of Certain Correspondent Relationships:</u> The Secretary of the Treasury will have the authority to issue regulations barring U.S. financial institutions from maintaining correspondent accounts for specified foreign banks and/or for foreign banks chartered in or operating out of designated non-compliant jurisdictions.</p>	Prohibits a financial institution from opening or maintaining a correspondent bank account with a foreign bank that is not offering banking services to a resident of its home jurisdiction unless the foreign bank is subject to comprehensive, consolidated supervision or regulation by the appropriate foreign authorities [§3]	<p>Prohibits a financial institution from opening or maintaining a correspondent bank account with a foreign bank that is not offering banking services to a resident of its home jurisdiction unless the foreign bank is subject to comprehensive, consolidated supervision or regulation by the appropriate foreign authorities [§3]</p> <p>Prohibits a financial institution from opening or maintaining payable-through accounts for foreign banking institutions unless the financial institutions is able to (a) identify each customer of the foreign bank who is permitted to use the account and (b) obtain the same information on the foreign bank's customers that the financial institution usually obtains on its customers [§3]</p>	<p>The Department opposes the correspondent and payable-through provisions of the Levin and Leach/Coverdell bills because they impose an inflexible bar to these types of accounts when certain conditions exists.</p> <p>With the understanding that the Secretary will retain broad discretion to invoke this power, the Treasury provision is supported in the Department</p>

GENERAL TOPIC	POSSIBLE TREASURY BILL	LEVIN (S. 1920)	LEACH (H.R. 2896) & COVERDELL (S. 1663)	TREASURY POSITION*
<p>B. New Reporting Requirements</p>	<p><u>Require the Secretary of the Treasury to Publish a Regular Assessment of Nations' Compliance with Counter-Money Laundering Standards:</u> This provision would transfer the responsibility for producing the annual money laundering section of the International Narcotics Control Strategy Report ("INCSR") from State to Treasury, and mandate that the report be expanded to include non-narcotics-related money laundering.</p>	<p>[no comparable provision]</p>	<p>Requires the Secretary of the Treasury to produce an annual report "on the deliberations between the United States and other countries on money laundering and corruption issues" that shall assess the "extent of corruption in each country" and "the extent to which such country maintains effective money laundering and corruption prevention measures..." Requires the Secretary of the Treasury to instruct U.S. Executive Directors of all IFIs to oppose any financial assistance (other than for basic human needs) for any country determined to have a "high level of corruption" and which is not "effectively" implementing good governance measures and taking "meaningful" steps to improve governance and reduce corruption [§4]</p>	<p>Transferring the money laundering portion of the annual INCSR report to Treasury is supported in the Department as a means to focus more effectively on the full range of nations' counter-money laundering efforts.</p> <p>The Leach/Coverdell provisions are not supported in the Department because (a) the Department is ill-equipped to assess the "extent of corruption in each country" and (b) the requirement to oppose IFI assistance is too rigid.</p>
<p>C. New Measures To Protect The U.S. Financial System From International Money Laundering</p>	<p><u>Require that Records Collected Pursuant to the BSA are Maintained in the United States:</u> To avert the logistical and legal problems often encountered when information collected pursuant to the BSA is housed in foreign jurisdictions, the BSA would be amended to require that mandated records are maintained domestically.</p>	<p>Requires a financial institution to respond in 48 hours or less to a request by a federal banking regulator for account information relating to anti-money laundering compliance [§3]</p>	<p>[no comparable provision]</p>	<p>The "48 hour rule" appears to be animated by the same concern as the Treasury provision requiring records to be maintained in the U.S. The "48 hour rule," however, is regarded as unworkable in practice, and is thus not supported by the Department.</p>

GENERAL TOPIC	POSSIBLE TREASURY BILL	LEVIN (S. 1920)	LEACH (H.R. 2896) & COVERDELL (S. 1663)	TREASURY POSITION*
	<p><u>Facilitate the Identification of Assets Misappropriated from Foreign Governments:</u> In order to assist in the identification of assets misappropriated by "kleptocrats," the Right to Financial Privacy Act would be amended to authorize the Department of the Treasury to issue an administrative subpoena for records, based on a determination by the President (or the Secretary of the Treasury) that it was in the United States' national interest to gather the information as quickly as possible.</p>	[no comparable provision]	Expresses the "sense of Congress" that the United States should address money laundering related to corruption of ruling elites and encourage enactment of laws "to prevent money laundering and systemic corruption" [§4]	The Leach/Coverdell provision is consistent with the approach taken in the proposed Treasury bill.
	[no comparable provision]	Requires the Secretary of the Treasury to promulgate regulations governing concentration accounts to ensure that such accounts are not used to prevent the association of the identity of an individual customer with the movement of that customer's funds [§4]	[no comparable provision]	There is no apparent need for this provision, and thus it is not supported.
	[no comparable provision]	[no comparable provision]	Extends the statutory safe-harbor from civil liability for filing SARs to independent auditors of financial institutions; creates a new safe harbor for banks and individuals who share information in an employment reference about an "insider" involved in certain suspicious transactions; makes SARs available to self-regulatory organizations [§5]	This provision is not supported (at least in the form that it takes in the Leach/Coverdell bill). Whether the statutory safe-harbor should be extended is under consideration.

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D. Enhance the Protection for Nonpublic Financial Information Collected as Required by the BSA	<u>Impose Penalties for Disclosure of BSA Information by Government Officials:</u> At present, the BSA contains no direct penalties for the improper dissemination of BSA information by government officials (although the general provisions of the Privacy Act apply to the BSA). This provision would directly prohibit and penalize the misuse of BSA information by government officials.	[no comparable provision]	Prohibits any officer or employee of the government from disclosing the fact that a suspicious activity report has been filed or the substance of the transaction reported [§5]	As a general matter, there is broad support in the Department for enhancing privacy protections for information collected to fulfill the mandates of the BSA. Other possible provisions are currently under consideration.
E. Other Provisions in Levin or Leach/Coverdell Bills	[no comparable provision]	Expansion of predicate crimes for money laundering prosecution [§5]	Expansion of predicate crimes for money laundering prosecution [§6]	These provisions are very similar to Section 8 of the proposed Money Laundering Act of 1999, which Treasury supports.
	[no comparable provision]	Requires each financial institution that offers "private banking," as defined in regulations to be issued by federal banking regulators, to establish due diligence procedures for opening and reviewing accounts to ensure that the bank "knows and verifies, through probative documentation, the identity and financial background of each private banking customer of the institution and the source of the funds deposited in the account of the customer" [§10]	[no comparable provision]	Existing law requires private banking units of financial institutions – just like any other unit – to report suspicious transactions. Although there is agreement within Treasury that private banking units should be encouraged to fulfill their obligation to file SARs, there is a concern that a legislative "reminder" is not the proper approach and may, in fact, be detrimental to the effort if a "reminder" provision is proposed but not enacted. The Enhanced Due Diligence guidance, which is currently being drafted, is preferred method to accomplish this goal.

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	[no comparable provision]	Prohibits the use or presentment of false or fraudulent statements, including false or fraudulent identification documents, concerning the identity of a customer of a financial institution [§6]	Prohibits the use or presentment of false or fraudulent statements, including false or fraudulent identification documents, concerning the identity of a customer of a financial institution [§7]	Treasury supports this provision. It is not included in the proposed Treasury bill because this provision would fall under the jurisdiction of the Judiciary committee, and the Bill's provisions are limited to the Banking Committee' jurisdiction.
	[no comparable provision]	Authorizes the appropriation of \$1,000,000 for FinCEN to implement a database to alert law enforcement officials if SARs and/or CTRs disclose patterns of possible illegal activity, including multiple SARs or CTRs naming the same individual [§7]	[no comparable provision]	Treasury supports this provision, but unless there is a corresponding appropriation, it will have no effect.
	[no comparable provision]	Authorizes federal district courts to exercise personal jurisdiction over any foreign person, including a foreign financial institution, that commits a money laundering offense that involves a financial transaction that occurs in whole or in part in the United States, and allows the court to issue a pretrial order seizing the foreign person's assets in the United States [§8]	[no comparable provision]	This provision is identical to Section 6 of the proposed Money Laundering Act of 1999, which Treasury supports.
	[no comparable provision]	Includes foreign banks within the definition of financial institutions so that money laundering through foreign banks is prohibited by the general money laundering statute [§9]	[no comparable provision]	This provision is identical to Section 7 of the proposed Money Laundering Act of 1999, which Treasury supports.

* Note: This Chart contains a column entitled "Treasury Position." Although the notations in this column attempt to reflect faithfully the comments of Treasury offices on the Levin and Leach/Coverdell bills, the presentation of the Treasury Position in this Chart has been not been cleared by other offices in the Department.

NCC to LS (ACTION)

NCC to SE (ACTION)

NCC cc to SS

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MEMORANDUM

Comptroller of the Currency
Administrator of National Banks

Washington, DC 20219

To: Stuart Eizenstat, Deputy Secretary of the Treasury

From: John D. Hawke, Jr., Comptroller of the Currency

Date: January 13, 2000

Subject: National Money Laundering Strategy

1130
 To: Will Wicks
 HTM
 Fr: SA
 This is initially meant
 I start meeting with the
 banking industry in July
 Hank's suggestion. He should be
 involved. Please
 convey to SA?

As efforts to implement the National Money Laundering Strategy proceed, I wanted to reiterate a point that I raised in your meeting of November 22, 1999, regarding the importance of involving the affected industries in the development of additional guidance to financial institutions to combat money laundering. Involvement by those industries can make a valuable contribution to achieving guidance that is efficient and effective, and could help to avoid the backlash that occurred when the banking agencies proposed "Know Your Customer" rules at the end of 1993. In this regard, I previously recommended the Bank Secrecy Act Advisory Group as an appropriate vehicle for obtaining the views and securing the participation of the affected industries.

I was very concerned to hear, however, that the working group preparing the guidance in this area has not involved the Advisory Group in their efforts to date. I understand concerns about speed and timing, but preparation of the guidance could be done on an expeditious basis with industry involvement, and the rewards in terms of substantive comment and ultimate industry acceptance would be substantial. I urge you to have the working group take this step.

I was also concerned that the proposed "outreach" strategy for communicating the final guidance to the industry envisions the banking agencies making particular contacts with the institutions we regulate. This has been a sensitive area in the past and I raise it now so we may avoid future problems.



FOR IMMEDIATE RELEASE

Text as Prepared for Delivery
February 3, 2000

**“THE REGIONAL AND GLOBAL CHALLENGE OF TAX EVASION,
CORRUPTION AND MONEY LAUNDERING”
TREASURY SECRETARY LAWRENCE H. SUMMERS
REMARKS AT THE ANNUAL MEETING OF THE
COMMITTEE OF HEMISPHERIC FINANCIAL ISSUES
CANCUN, MEXICO**

We live in new global economy – a new economy fueled by innovation and technology, the spread of markets, and the advent of emerging market economies. These changes hold out incalculable potential and opportunity for all of our economies. But we know that they also bring important challenges in their wake. In the financial sector especially, integration and technology can bring new life to old vices: be it a company’s desire to evade the taxes it owes; a criminal’s desire to launder the proceeds of his crime; or the corrupt official’s willingness to bend or break the rules.

In a more integrated world, all of these pose a serious threat to our economies and our people – because they undermine the good governance and transparency in institutions on which economic development and growth will increasingly depend. And that threat does not stem solely from the activities that take place within our borders. As interdependence increases – each country is as vulnerable to financial crime as the weakest link in the chain. In that sense they are global public “bads” in the same way that environmental degradation and terrorism are. They are not constrained by national boundaries – and neither must be our solutions.

For all of these reasons, it is right and important that the Finance Ministers of this region should take this opportunity to commit our countries to enhanced national and regional efforts to combat these problems. Just as war is too important to be left to the generals – in a new global economy, the challenge of overcoming corruption and financial crime is too important to be a challenge for law enforcement agencies alone.

Let me very briefly discuss each of these threats to good governance and transparency in our region and our efforts to combat them, including the very important step forward the countries of this region are taking today in the war against international money laundering.

LS-371

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I. Tax Evasion and Tax Havens

In a more integrated global financial system, offshore jurisdictions have become that much more accessible – and the scope for tax abuse and avoidance has expanded. This puts pressure on national tax systems, particularly in the larger economies. It distorts the economy and the financial system in the jurisdictions that benefit, encouraging non-transparency and a culture of deception. And it threatens to undermine the public trust upon which compliance, in all of our economies, depends.

For all of these reasons, we have devoted priority attention in the United States to combating international tax evasion and avoidance:

- Through greater exchange of information between national tax authorities, including in this region.
- By promoting, in various international organizations, including the OECD, measures to address the concerns raised by non-transparent practices, such as strict bank secrecy, and to address harmful tax competition.
- By examining our own laws to determine what changes are required to prevent the exploitation of tax havens by United States taxpayers. A number of other countries are working along similar lines.

With these meetings, we are delighted that CHFI will provide another force for international action with regard to this issue. I particularly welcome our proposed call for enhanced efforts by the IDB, the World Bank, and member countries to provide support for jurisdictions that are seeking to lessen the regional and global externalities that their financial regimes may create. The United States and the international community have and must continue to recognize and respond to the fact that smaller countries may be directly affected by such efforts, particularly when they have previously earned considerable economic benefit from offshore finance.

II. Corruption

Corruption impedes development by eroding trust in public institutions. It distorts macro-economic, monetary and financial policy decisions, adversely affecting public revenues, discouraging private investment, misdirecting public sector spending, and damaging the credibility of governments by undermining the confidence of both taxpayers and private investors. In all of these ways – the core missions of finance and economic ministries are directly and adversely affected by corruption. But they have not traditionally considered themselves to be in the frontline of combating it.

Increasingly and rightly, that perception is changing. For, if we have learned anything from developments in different emerging market and transition economies in the past decade, it

is that there is no better antidote to corruption than the market, and the steps that governments take to enable the market to function. For example:

- Non-transparent financial procedures, excessive regulations, and under-trained and under-paid civil servants all create incentives for bribery and fraud. By the same token, addressing these problems greatly constrains their scope.
- Lack of competition in the financial sector and bribery of financial regulators and supervisors adversely affects the allocation of private capital, permits money laundering to flourish, as well as increasing the vulnerability of financial systems to crises. Properly handled, financial liberalization can therefore combat corruption and money laundering as well as promote growth and financial resilience.

I welcome CHFI's proposed new push in this area, including our call for strengthened IFI efforts, particularly with respect to helping national financial officials find the right ways to promote integrity and tackle corruption in fiscal, budgetary, customs, procurement and financial regulatory administration.

Going forward, we must work to support the same objectives in our own countries – notably through more effective implementation of the objectives of the Inter-American Convention Against Corruption, to bring this Hemisphere into line with the OECD and Council of Europe. In this context I believe a follow-up OAS mechanism for multilateral and mutual review and evaluation of implementation progress can and should play a useful role and bring this Hemisphere into line with anti-corruption efforts in the OECD and the Council of Europe.

III. Money Laundering: A Comprehensive Approach

Money laundering matters for two reasons. First, because it is both the lifeblood for criminals and a means by which they may be caught. And second, because it taints our financial institutions and if left unchecked, eats away at public trust in their integrity.

Addressing this many-layered threat is a challenge of national policy. Last year, President Clinton published the United States' first National Money Laundering Strategy, a comprehensive set of concrete actions we are taking to address the problem, some of which were included in the Money Laundering Act of 1999 that was submitted to Congress in the Fall. If passed, that legislation would for the first time make it a crime to launder money derived from foreign official corruption. It would also make bulk cash smuggling of more than \$10,000 a crime – and give our law enforcement officials new tools to go after the largest known money laundering system in this hemisphere, the Black Market Colombian Peso Exchange.

As the latter example highlights, this is equally a challenge of regional and international cooperation. That is why developing and expanding the work of the Financial Action Task Force (FATF) – and its Caribbean regional equivalent, the Caribbean Financial Action Task Force

(CFATF) – is so important. And it is why the creation of a regional counterpart to FATF and CFATF in South America is so welcome.

International fora such as the FATF and the CFATF provide recommendations for specific actions that governments can take to help shield their financial systems from dirty money, and prevent its movement across international borders for criminal purposes. Equally important, these bodies provide mechanisms, such as the Self Evaluation and Mutual Evaluation programs, to ensure that member governments effectively implement these recommendations.

As I said at the beginning of my remarks, those who engage in financial crime derive maximum advantage out of international integration, and so must the governments who want to stop them. We need to expand the community of nations that subscribes to these kinds of protective measures if they are to be truly effective. In that sense the new South American FATF is an idea whose time has come. I thank and salute here the governments of Argentina and Brazil, for their leadership role in working to establish such a forum.

Countries cannot win the war against international financial crime on their own. With the creation of a Caribbean and, now, a South American FATF – they will not have to. What matters is that every country move quickly to make good on the commitment they will make here today, to subscribe to these bodies and work to implement effective and truly collaborative solutions.

In that same spirit of collaboration, let me now hand the floor to my friend and colleague from Argentina, Daniel Marx.

The Deputy Secretary of the Treasury

February 3, 2000

NOTE FOR WILL WECHSLER

Senior Advisor to the Secretary
(Money Laundering)

HOLLY TOYE MOORE

Senior Advisor to Deputy Secretary

FROM: Stuart E. Eizenstat

SUBJECT: National Money Laundering Strategy

It is critically important I start meeting with the banking industry, as Jerry Hawke suggests. He should be involved.

Please arrange as soon as possible.

Attachment

CC: Jim Johnson
Carolyn Keene

Room 3326

622-1080