



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

May 19, 2000

MEMORANDUM FOR: DEPUTY SECRETARY EIZENSTAT

THROUGH: JAMES E. JOHNSON *[Signature]*
UNDERSECRETARY (ENFORCEMENT)

WILLIAM WECHSLER *[Signature]*
SPECIAL ADVISOR TO THE SECRETARY AND DEPUTY
SECRETARY

FROM: JOSEPH M. MYERS *[Signature]*
SENIOR ADVISOR TO THE UNDERSECRETARY

RE: Money Laundering Provisions of the Transnational Organized Crime Convention

Background:

Over the past two years, the United States has participated in the negotiations of the United Nations Convention Against Transnational Organized Crime. The goal of the Convention is to enhance international cooperation on a variety of issues related to transnational organized crime - including extradition, mutual legal assistance, firearms trafficking, and money laundering. Of particular interest to Treasury have been the Convention's two articles relating to money laundering -- Article 4 and Article 4 *bis* -- and the Firearms Trafficking Protocol.¹ Regarding the money laundering provisions, it has been the U.S. goal to use the Convention to advance both the international obligation to criminalize money laundering and to elevate the international status of the FATF.

Significant issues remain outstanding in both money laundering articles. In Article 4 *bis* -- which requires countries to implement counter-money laundering regulatory regimes -- countries that seek to undermine the FATF are supporting language that could create a weaker, alternative international standard to the FATF 40. Conversely, in Article 4 -- which seeks to expand the requirement to criminalize money laundering beyond simply narcotics proceeds -- some of our closest European allies and fellow FATF members are seeking to expand the requirement beyond the point that is legally acceptable to the United States. These countries are seeking a requirement to criminalize the laundering of the proceeds of all serious crimes. As you know, the U.S. money laundering law -- while having over 170 predicates -- does not cover all serious crimes (for example, tax evasion is not covered).

¹ The Firearms Protocol to the Convention is not the subject of this memorandum, though Treasury has taken the lead in its negotiation. Separate briefing papers can be prepared for you on this matter if you wish.

The Convention negotiations are scheduled to conclude this year, with a signing event set for Palermo, Italy on December 11, 2000. The next round of negotiations is scheduled in Vienna, Austria for June 5 - 16. This round is likely to be the final opportunity to ensure acceptable money laundering language. It is unlikely, however, that the significant outstanding money laundering issues can be resolved in the short time allotted to them in Vienna next month absent high-level capital-to-capital outreach to the countries that have represented the most significant obstacles. Failure to achieve acceptable language on Article 4 *bis* would represent a significant setback in U.S. international money laundering policy; failure on Article 4 could additionally jeopardize the ability of the U.S. to become a party to the Convention.

Recommendation:

Prior to the next round of negotiations which begin on June 5, you place calls to the following Finance Ministries emphasizing the importance of this issue to the United States and the reasonableness of our position. (Talking points are attached):

- Regarding Article 4: United Kingdom
- Regarding Article 4 *bis*:
 - Pakistan
 - India
 - United Arab Emirates
 - Saudi Arabia (Finance Ministry and/or Central Bank)

Discussion:

Article 4

The Department of Justice has led the negotiations of Article 4, which deals with the criminalization of money laundering. The Convention seeks to extend the international obligation to criminalize money laundering beyond simply the proceeds of narcotics trafficking. However, the negotiations have become difficult because of the desire of some of our closest European allies to cover the laundering of the proceeds of all serious crimes. As you know, it is not possible for the U.S. to comply with such an obligation. Though the U.S. criminalizes the laundering of the proceeds of over 170 offenses, we do not cover all serious crimes. Tax evasion, for example, is a serious crime that is not covered.²

² The U.S. faces a similar problem with Article 7 on Asset Forfeiture. As with money laundering, the U.S. takes a "list approach" regarding the offenses for which asset forfeiture is available. This is not consistent with the broader approach taken in the Convention. The Justice Department is currently attempting to craft language for Article 7 that will allow the U.S. to become party to the Convention, though this issue remains unresolved.

As a result of this difficulty with U.S. law, we have proposed language that would require countries to criminalize a "comprehensive range of offenses associated with organized crime groups." The Europeans -- particularly the U.K. and France -- continue to object to this language, and, in fact, a U.K. delegate in Vienna was heard to say that he would rather have stronger language than have the U.S. as a party to the Convention.

Article 4bis

The Treasury Department has led the negotiations of Article 4 *bis*, which seeks to require countries to implement effective counter-money laundering supervisory and regulatory regimes. Initially, our effort in Article 4 *bis* was to require countries to adopt and adhere to the FATF 40 Recommendations. Achieving international consensus around this position -- particularly from the G-77 -- proved impossible, due largely to reluctance by many countries to commit formally to the FATF 40 Recommendations. Consequently, the U.S. position has gradually softened, though our bottom line has remained as follows:

- a requirement to implement effective supervisory and regulatory counter-money laundering regimes, and
- an acknowledgment of the FATF 40 as the premier international money laundering standards, not as one set of standards among many.

At the last round of negotiations on this matter in February, delegates from the G-8 crafted compromise language to accommodate G-77 concerns. The operative language is as follows:

"consistent with its fundamental legal principles, and without prejudice to any other article of this Convention, each State Party *shall, within its means, develop the domestic regulatory and supervisory regime* under the terms of this article *on the basis of the 40 Recommendations of the FATF* and other relevant initiatives such as"

This language is consistent with the goals the U.S. seeks to achieve, and at the same time accommodates many G-77 concerns. Unfortunately, at a late stage in the negotiations, the Arab Group objected to the compromise text, insisting that the phrase "if appropriate" be used to modify the obligation to develop a regime based on the FATF 40. In other words, the Arab Group sought to remove any obligation to base regimes on the FATF 40, thereby reducing the FATF 40 from the premier standard to one standard among others to which countries can look.

Talking Points on Article 4

- As is usually the case, the U.S. has enjoyed a close working relationship with the U.K. in crafting a strong and effective Convention.
- This is why I was very surprised to learn that the U.K. (along with other E.U. countries) is supporting money laundering language that could prevent the U.S. from becoming a party to the Convention.
- As you know, both the U.K. and the U.S. are international leaders in the area of money laundering. We are both founding members of FATF, and we have cooperated effectively many times, for example when both countries issued Bank Advisories regarding Antigua and Barbuda.
- The U.S. has among the most effective money laundering laws in the world. We have criminalized the laundering of the proceeds of over 170 crimes, and we bring many money laundering prosecutions each year. Admittedly, our system is not perfect, and even now we are seeking legislation that would increase the number of predicate offenses.
- For all of these reasons, I am troubled that the U.K. would take a position at the U.N. money laundering negotiations that would prevent the U.S. from becoming a party to the Transnational Organized Crime Convention. The U.K. is insisting on language that would require the U.S. to criminalize the laundering of the proceeds of all serious crimes. This simply goes beyond the scope of current U.S. law and beyond what we can reasonably expect to obtain legislatively in the foreseeable future.
- I understand that the U.S. has proposed money laundering language that, while perhaps not going as far as the U.K. would like, would require countries to criminalize a "comprehensive range of offenses associated with organized crime." I think that this would represent significant international progress on this issue, even if not being ideal from the U.K. perspective.
- I urge you to study this matter, and request that the U.K. work with the U.S. on devising a strong and effective Convention that both countries can be happy with.

Talking Point on Article 4 bis

- I am pleased to learn that your country has taken an active role in the negotiations of the U.N. Transnational Organized Crime Convention.
- The United States takes these negotiations very seriously, and we look forward to working cooperatively with your country in crafting a strong and effective Convention.
- One issue that is of particular concern to the United States is Article 4 *bis*, which seeks to require countries to establish effective counter-money laundering regimes. The United States considers this to be one of the most important provisions in the entire Convention.
- As you may know, this Article will be discussed in Vienna in early June, and that may be our final opportunity to ensure acceptable money laundering language.
- Several countries have been working together to draft language that meets the legitimate concerns of all countries. The United States has been participating in this work with a spirit of cooperation and flexibility. However, we feel that any solution must accomplish two objectives:
 - It must require countries to implement effective supervisory and regulatory counter-money laundering regimes, and
 - an acknowledgment of the FATF 40 as the premier international money laundering standard, not as one set of standards among many.
- A proposal has been put forward at the negotiations by several countries that would accomplish these objectives in a reasonable manner. It would require countries to establish comprehensive counter-money laundering regimes -- consistent with their fundamental legal principles and within their means -- that are based on the FATF 40 Recommendations, and on other relevant standards.
- We think that these are reasonable requirements for any country that is serious about fighting money laundering. This is why I was troubled to learn that at these negotiations, your country has objected to this language, and is instead seeking language that would make it optional for countries to base their counter-money laundering systems on the FATF 40.
- I understand that your country is seeking to join the international fight against money laundering, but I must emphasize that the United States considers acceptance of the FATF 40 as the premier international standard to be an indispensable foundation of any country's money laundering policy.
- As a result, I urge you to examine the reasonable text that has been proposed in this matter, and to support this text at the upcoming negotiations in Vienna in early June.

TREASURY CLEARANCE SHEET

NO. _____
DATE: 5/22/00

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

FROM: Joseph Myers _____
THRU: _____
SUBJECT: Money Laundering Provisions of the Transnational Organized Crime Convention

REVIEW 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 |
| <input type="checkbox"/> Economic Policy | <input type="checkbox"/> Customs | <input type="checkbox"/> Public Affairs/Liaison |
| <input type="checkbox"/> Fiscal | <input type="checkbox"/> FLETC | <input type="checkbox"/> Tax Policy |
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| | <input type="checkbox"/> OCC | |

Name (Please Tye)	Initial	Date	Office	Tel. No.
INITIATOR(S)				
Joseph Myers	Attached	5/19/00	Money Laundering	2-2068
REVIEWERS(S)				
William Wechsler	Attached	5/19/00	Money Laundering	2-2068
James E. Johnson	Attached		Under Secretary (Enforcement)	2-0200

SPECIAL INSTRUCTIONS:

Review Officer

Date

Executive Secretary

Date



February 17, 2000

MEMORANDUM

**TO: Jose de Jesus Rivera
United States Attorney
District of Arizona**

**Alejandro N. Mayorkas
United States Attorney
Central District of California**

**Robert J. Cleary
United States Attorney
District of New Jersey**

**Loretta E. Lynch
United States Attorney
Eastern District of New York**

**Mary Jo White
United States Attorney
Southern District of New York**

**Guillermo Gil
United States Attorney
District of Puerto Rico**

**Mervyn M. Mosbacker
United States Attorney
Southern District of Texas**

**James William Blagg
United States Attorney
Western District of Texas**

**FROM: Deputy Attorney General Eric H. Holder, Jr. and Deputy Secretary of the
Treasury Stuart E. Eizenstat**

**SUBJECT: Designation of High-Risk Money Laundering and Financial Crimes Areas
(HIFCA) and Initial Implementation Meeting in Washington, D.C.**

The purpose of this joint memorandum is formally to advise you that we are considering designating your District as a HIFCA at our roll-out of the National Money Laundering Strategy of 2000 in early March, and to invite you, and the Assistant United States Attorney whom you believe will lead in implementing the HIFCA effort, to a meeting from 4:00-6:00 PM, on February 22, 2000, in Washington, D.C. We will co-chair this meeting. Please notify Joyce Oliver (202-514-3729) who from your District will attend. Ms. Oliver will give you the location of the meeting.

Among the topics that we need to address will be your views on what money laundering and financial crimes should be given priority within your District; what existing interagency anti-money laundering task forces exist in your District and how best to augment these task forces or put together new ones to identify and target money laundering and financial crimes; which state and local law enforcement and regulatory agencies you believe should participate in your HIFCAs; what additional anti-money laundering resources and/or legislation should be requested in upcoming fiscal years; the availability of grant money for state and locals targeting money laundering in the HIFCA-designated areas; and your views of current strengths and weaknesses of current state and local anti-money laundering enforcement and regulation.

Background

The Money Laundering and Financial Crimes Act of 1998 mandated that the National Money Laundering Strategy designate HIFCAs. The designation of HIFCAs is intended to concentrate law enforcement efforts at the federal, state and local level to identify, target and prosecute money laundering activity within the HIFCA, whether that activity is based on drug trafficking or other crimes.

The first Action Item of the National Money Laundering Strategy for 1999 addressed this legislative mandate by stating that "[t]he Treasury Department in consultation with the Department of Justice will begin designation of High-Risk Money Laundering and Related Financial Crimes Areas."

The designation of HIFCAs is intended to concentrate law enforcement efforts at the federal, state and local level to identify, target and prosecute money laundering activity within the HIFCA, whether that activity is based on drug trafficking or other crimes. Under the Money Laundering Strategy for 1999:

The Departments of the Treasury and Justice will instruct their enforcement and regulatory agencies with counter-money laundering responsibilities to give high priority in the allocation of anti-money laundering resources and in making requests for new anti-money laundering programs in HIFCA areas.

Further, under the Strategy, jurisdictions designated as HIFCAs "are particularly appropriate [Financial Crime-Free Communities Support (C-FIC)] grant candidates."

Under C-FIC, state and locals in those jurisdictions could receive as much as \$750,000 to be applied toward anti-money laundering training, and other anti-money laundering enforcement efforts.

The 1998 legislation set forth an extended list of factors that must be considered in designating a HIFCA. The HIFCA factors consist of three categories of information: demographic and general economic data; patterns of Bank Secrecy Act filings and related information; and descriptive information identifying trends and patterns in money laundering activity and the level of law enforcement response to money laundering in the region. In essence, for a geographic area to be designated as a HIFCA, it should be an area:

- That is being victimized by, or is particularly vulnerable to, money laundering and related financial crime;
- in which a set of specific money laundering mechanisms can be identified and targeted;
- in which specific proposals by enforcement officials seeking the designation have made for more effective use either of existing resources or of such additional resources as may be available:
 - to prevent money laundering through identified targets using the authority of the Secretary of the Treasury and the Attorney General; and/or
 - for immediate law enforcement action; and
- in which coordinated federal, state, and local action shows promise of being effective.

Immediately upon the issuance of the 1999 Strategy, the Treasury and Justice Departments began a process to identify the first geographic areas or financial sectors to be designated as HIFCAs. An interagency HIFCA Working Group was established¹ and

¹The HIFCA interagency working group is co-chaired by the Criminal Division (DOJ) and FinCEN (Treasury). It is comprised of representatives from the Asset Forfeiture and Money Laundering Section at DOJ, Treasury (Enforcement), the U.S. Customs Service, the Internal Revenue Service-CI, the U.S. Secret Service, the Federal Bureau of Investigation, the Drug Enforcement Administration, the U.S. Postal Inspection Service, the Executive Office for United States Attorneys, the Executive Office for the Organized Crime and Drug Enforcement Task Forces and the Office of National Drug Control Policy.

conducted a nationwide survey of the major money laundering locations and systems in the United States in order to make initial HIFCA-designation recommendations. Based upon the results of this survey, the Working Group has recommended and, after informal consultations with each of your Districts, we as Co-chairs and the National Money Laundering Strategy Steering Committee have endorsed that four HIFCAs be designated.

The Working Group first determined that, in addition to a review of Bank Secrecy Act data, it must assess current unilateral and multilateral anti-money laundering enforcement efforts being undertaken nationwide. The Working Group began collecting information from each of the participants concerning the nature and extent of identified money laundering activity in regions around the country, the number of investigations and prosecutions in the regions, the location of existing task forces addressing money laundering and financial crime, the law enforcement resources available in these regions and other information which would help to identify potential HIFCA candidates.

FinCEN collected and collated this information, combined it with Bank Secrecy Act data and demographic information and circulated the final results to the Working Group members. After considerable analysis and discussion of this information, the Working Group arrived at the recommendations listed above. The attached Executive Summary provides descriptions of the four recommended HIFCA designations, and a summary of the facts upon which these recommendations are being made.

For the reasons described in the attached memorandum and Executive Summary, we have approved the following districts or money laundering systems to be designated as HIFCAs: (1) the New York City/Northern New Jersey region; (2) Los Angeles, California Metropolitan Area; (3) San Juan, Puerto Rico; and (4) a "systems" HIFCA to focus and enhance current efforts addressing the problem of cross-border currency smuggling/movements between Mexico and the States of Texas and Arizona.

Executive Summary

1. New York/Northern New Jersey Region²

Demographically, this area is the most populous urbanized area in the country. It also encompasses the world's leading financial center. It is headquarters for the New York Stock Exchange and 88 percent of the top fifty banks, and also hosts a Federal Reserve Bank branch. The Port of New York/New Jersey is the largest port complex on the East Coast of North America. This region includes three major airports and JFK Airport is ranked fifth in the country for cargo and sixteenth for passenger traffic.

As a result of being a major financial center, the New York/Northern New Jersey area is the focus of substantial law enforcement activity. Each of the federal law enforcement agencies have major cases located in this area and undercover investigations indicate a great deal of money laundering activity in this area. There is a New York/New Jersey regional OCDETF headquartered in the Southern District of New York, as well as a New York/New Jersey HIDTA initiative (El Dorado Task Force) targeting money laundering in the area. The United States Attorneys' Offices in this region (Southern District of New York, Eastern District of New York and District of New Jersey) filed money laundering charges (violations of 18 U.S.C. §§ 1956 and 1957) against 190 defendants in 83 cases in FY 98.

It is advisable to consider the New York/Northern New Jersey region as one region for purposes of a HIFCA. As indicated, the regional OCDETF encompasses both areas, as does the El Dorado Task Force, a HIDTA-funded regional multi-agency anti-money-laundering project which includes representatives from federal, state and local law enforcement agencies.

² The designation New York/Northern New Jersey region is considered to include the New York City metropolitan area, which would encompass the United States Attorneys' Offices for the Southern and Eastern Districts of New York, and the District of New Jersey.

The necessity for addressing money laundering in this area on a regional basis was demonstrated in the 1996 Geographic Targeting Order (GTO) in the New York/Northern New Jersey area in 1996. In August 1996, at the combined requests of the three United States Attorneys in this region, as well as the United States Customs Service, and the Internal Revenue Service, the Treasury Department issued a GTO to twelve identified money remitters in the New York City/New Jersey area that did more than 10% of their business with Colombia. The order required these remitters and their more than 1600 agents to report, on a special form, all transactions in cash or monetary instruments of \$750 or more going directly or indirectly to Colombia. The order was later extended and expanded to include a total of 22 licensed remitters. The GTO had a powerful and beneficial impact.

As a result of the GTO, money remitted to Colombia dropped significantly both in the GTO area and elsewhere. Most importantly, the remissions to Colombia from the targeted remitters that did the bulk of their business with Colombia dropped between 70-80%. Many of these remitters went out of business. In addition, seizures of illicit cash increased across the board, dramatically in many cases, over previous years. The seizures increased not just in the GTO area, but in Miami, Boston, and a variety of other locations, as New York area drug dealers looked for other outlets for their illegal proceeds. Further, analysis of the reports filed under the GTO, as well as continuing analysis of the financial records of the money remitters, led to a number of criminal investigations and prosecutions. The GTO initiative demonstrated the necessity for attacking the money laundering problem on a coordinated regional basis. Therefore, the working group recommends that the New York/Northern New Jersey be designated as a HIFCA.

The United States Postal Inspection Service (USPIS) also has found that the New York/Northern New Jersey region is where U.S. Postal money orders are "smurfed" most frequently.

Bank Secrecy Act (BSA) filings

With respect to the numbers of investigations and prosecutions, as well as law enforcement resources and Bank Secrecy Act filings, the New York/Northern New Jersey area is clearly an area that warrants designation. New York is the primary distribution center in the Northeast for cocaine and heroin. Being a major financial center, it is also an area where there is a substantial amount of non-drug related financial crime.

The New York metropolitan area is by far the area where the largest number of Suspicious Transaction Reports (SARs) are filed. In FY 98-99, more than 14,000 SARs, with an aggregate violation amount in excess of \$33 billion, were filed in this area. In addition, in FY 98 and FY 99 the State of New York had the second highest number of CTR filings in the country, with the amount of money reported in the CTRs being the

highest amount for any state. New York's status as an international financial center is reflected by the fact that the New York metropolitan area had the third-highest number of inbound CMIR filings and the second-highest number of outbound CMIR filings. In both cases, New York had the highest dollar amounts reflected in the CMIR filings.

2. Los Angeles Metropolitan Area

Los Angeles ranks as the second largest city in the United States and is located only 150 miles from the Mexican border. Los Angeles has the largest number of financial institutions in the country and is also the largest manufacturing center in the country. The seaport of Los Angeles is one of the busiest on the West Coast and possesses the largest container port in the United States.

Further, there currently is a high concentration of federal, state and local law enforcement resources directed toward money laundering and financial crime in the Los Angeles area. There is an OCDETF District Coordination Group located in Los Angeles. Further, Los Angeles has been designated as a HIDTA and there are several HIDTA-funded Task Forces addressing drug money laundering there.

In addition, there are a number of task forces looking at nondrug financial crimes, including health care and telemarketing fraud. The FBI and IRS-CI have a large number of major non-drug cases in the Los Angeles area, and the U.S. Customs Service is involved in a large number of non-drug cases. Each of these cases has a money laundering component. The United States Postal Inspection Service also reports that ongoing investigations in the Los Angeles area have disclosed that Postal money orders are being purchased through structured transactions and that postal money orders purchased in other parts of the United States are being cashed in the Los Angeles area for narcotics purchases.

Investigative activity in FY 98 resulted in money laundering charges being filed against 197 defendants in 32 cases by the United States Attorney's Office for the Central District of California. The large number of money laundering and financial investigations and prosecutions in this district has resulted in law enforcement's having to set high investigative and prosecutive thresholds, the result of which result is a large number of cases which cannot be addressed by law enforcement at this time.

BSA Filings

The status of Los Angeles as a major financial center is demonstrated by the number of filings under the BSA. In FY 98-99, Los Angeles had the second highest number of SAR filings (5171), with the aggregate violation amount in excess of \$7 billion. Also in FY 98-99, Los Angeles had the highest number of outbound CMIRs and the second highest number of inbound CMIRs in the country. Finally, the State of California had the highest number of CTR filings in the country in FY 98-99.

4. HIFCA to Address Cross-Border Currency Smuggling/Movement in Texas/Arizona⁴ to and from Mexico

1. Overview

The National Money Laundering Strategy states that a HIFCA need not always be defined geographically. HIFCAs also can be created to deal with money laundering in an industry, sector, or an institution or group of financial institutions. The working group reviewed several such sectors or "systems" used to launder money which need to be addressed on a coordinated basis by law enforcement and regulators, similar to the GTO initiative in the New York/Northern New Jersey area in 1996. After consideration of several systems, the HIFCA working group decided that the system that would most benefit from a HIFCA designation at this time is the smuggling/movement of large volumes of currency (largely derived from drug trafficking) across the border between the United States and Mexico.

⁴The Steering Committee recognizes that the movement of bulk cash is an area of concern along the whole of the Southwest Border, including the District of New Mexico and the Southern District of California. Information currently available, however, indicated that the areas at greatest risk from the movement of such cash currently exist in Texas and Arizona. Clearly, the HIFCA will need the support and assistance of adjacent jurisdictions, especially if, as we anticipate, increased efforts in the HIFCA areas lead to a diversion of the illicit cash to other jurisdictions.

than \$10,000 in currency or monetary instruments for the purpose of avoiding a reporting requirement. H.R. 240 states that:

the use of large sums of cash is one of the most reliable warning signs of drug trafficking, terrorism, money laundering, racketeering, tax evasion and similar crimes. The prevention, investigation and prosecution of such crimes depends upon the ability of law enforcement to deter and trace such movements of cash, and the failure to report such movements accordingly undermines law enforcement's ability to prevent and detect serious criminal activity.



February 17, 2000

MEMORANDUM

**TO: Louis J. Freeh
Director, FBI**

**Donnie R. Marshall
Acting Administrator, DEA**

**Raymond W. Kelly
Commissioner, U.S. Customs Service**

**Charles O. Rossotti
Commissioner, IRS**

**Brian Stafford
Director, U.S. Secret Service**

**Kenneth C. Weaver
Chief Postal Inspector
U.S. Postal Inspection Service**

**FROM: Deputy Attorney General Eric H. Holder, Jr. and Deputy Secretary of the
Treasury Stuart E. Eizenstat**

**SUBJECT: Designation of High-Risk Money Laundering and Financial Crimes Areas
(HIFCA) and Initial Implementation Meeting in Washington, D.C.**

The purpose of this joint memorandum is to advise you that we are considering approving initial HIFCA designations¹ at the roll-out of the National Money Laundering Strategy of 2000 in early March and to invite you, and the principal agents whom you will designate to lead your agency both at Headquarters and in the field, to implement the

¹We are considering approving the following districts or money laundering systems to be designated as HIFCAs: (1) the New York City/Northern New Jersey region; (2) Los Angeles, California Metropolitan Area; (3) San Juan, Puerto Rico; and (4) a "systems" HIFCA to focus and enhance current efforts addressing the problem of cross-border currency smuggling/movements between Mexico and the States of Texas and Arizona.

HIFCA effort, to a meeting from 4:00-6:00 PM on February 22, 2000, in Washington, D.C. We will co-chair this meeting. By separate memorandum, the United States Attorney for each of the HIFCA-designated districts have been invited as well.

Please notify Joyce Oliver (202-514-3729) who from your agency will attend. Ms. Oliver will give you a specific location for the meeting.

Among the topics that we need to address will be your views on what money laundering and financial crimes should be given priority by your agency in the HIFCA; what existing interagency anti-money laundering task forces exist in the HIFCA and how best to augment these task forces or put together new ones to identify and target money laundering and financial crimes; what additional anti-money laundering resources and/or legislation should be requested in upcoming fiscal years; the availability of grant money for state and locals targeting money laundering in the HIFCA-designated areas; and your views of current strengths and weaknesses of current state and local anti-money laundering enforcement and regulation.

Background

The Money Laundering and Financial Crimes Act of 1998 mandated that the National Money Laundering Strategy designate High-Risk Money Laundering and Financial Crimes Areas (HIFCAs). The designation of HIFCAs is intended to concentrate law enforcement efforts at the federal, state and local level to identify, target and prosecute money laundering activity within the HIFCA, whether that activity is based on drug trafficking or other crimes. Under the Money Laundering Strategy for 1999:

The Departments of the Treasury and Justice will instruct their enforcement and regulatory agencies with counter-money laundering responsibilities to give high priority in the allocation of anti-money laundering resources and in making requests for new anti-money laundering programs in HIFCA areas.

Further, under the Strategy, jurisdictions designated as HIFCAs "are particularly appropriate [Financial Crime-Free Communities Support (C-FIC)] grant candidates." Under C-FIC, state and locals in those jurisdictions could receive as much as \$750,000 to be applied toward anti-money laundering training, and other anti-money laundering enforcement efforts.

The 1998 legislation set forth an extended list of factors that must be considered in designating a HIFCA. The HIFCA factors consist of three categories of information: demographic and general economic data; patterns of Bank Secrecy Act filings and related information; and descriptive information identifying trends and patterns in money laundering activity and the level of law enforcement response to money laundering in the

region. In essence, for a geographic area to be designated as a HIFCA, it should be an area:

- That is being victimized by, or is particularly vulnerable to, money laundering and related financial crime;
- in which a set of specific money laundering mechanisms can be identified and targeted;
- in which specific proposals by enforcement officials seeking the designation have made for more effective use either of existing resources or of such additional resources as may be available:
 - to prevent money laundering through identified targets using the authority of the Secretary of the Treasury and the Attorney General; and/or
 - for immediate law enforcement action; and
- in which coordinated federal, state, and local action shows promise of being effective.

The first Action Item of the National Money Laundering Strategy for 1999 addressed this legislative mandate by stating that "[t]he Treasury Department in consultation with the Department of Justice will begin designation of High-Risk Money Laundering and Related Financial Crimes Areas." Immediately upon the issuance of the 1999 Strategy, the Treasury and Justice Departments began a process to identify the first geographic areas or financial sectors to be designated as HIFCAs.

Pursuant to the mandate from the National Money Laundering Steering Committee, a HIFCA Interagency Working Group (on which each of your agencies participated) was established² and conducted a nationwide survey of the major money laundering locations and systems in the United States in order to make initial HIFCA-designation recommendations to the Steering Committee. Based upon the results of this survey, the Working Group recommended and, after informal consultations with each of the affected

²The HIFCA interagency working group is co-chaired by the Criminal Division (DOJ) and FinCEN (Treasury). It is comprised of representatives from the Asset Forfeiture and Money Laundering Section at DOJ, Treasury (Enforcement), the U.S. Customs Service, the Internal Revenue Service-CI, the U.S. Secret Service, the Federal Bureau of Investigation, the Drug Enforcement Administration, the U.S. Postal Inspection Service, the Executive Office for United States Attorneys, the Executive Office for the Organized Crime and Drug Enforcement Task Forces and the Office of National Drug Control Policy.

United States Attorneys, we as Co-chairs have endorsed, that four HIFCAs be designated.

The Working Group first determined that, in addition to a review of Bank Secrecy Act data, it must assess current unilateral and multilateral anti-money laundering enforcement efforts being undertaken nationwide. The Working Group began collecting information from each of the participants concerning the nature and extent of identified money laundering activity in regions around the country, the number of investigations and prosecutions in the regions, the location of existing task forces addressing money laundering and financial crime, the law enforcement resources available in these regions and other information which would help to identify potential HIFCA candidates.

FinCEN collected and collated this information, combined it with Bank Secrecy Act data and demographic information and circulated the final results to the Working Group members. The assembled information was discussed by the Working Group members. After considerable analysis and discussion of this information, the Working Group arrived at the recommendations listed above. The attached Executive Summary provides descriptions of the four recommended HIFCA designations and a summary of the facts upon which these recommendations are being made.

For the reasons described in the attached memorandum and Executive Summary, we have approved the following districts or money laundering systems to be designated as HIFCAs: (1) the New York City/Northern New Jersey region; (2) Los Angeles, California Metropolitan Area; (3) San Juan, Puerto Rico; and (4) a "systems" HIFCA to focus and enhance current efforts addressing the problem of cross-border currency smuggling/movements between Mexico and the States of Texas and Arizona.

Executive Summary

1. New York/Northern New Jersey Region³

Demographically, this area is the most populous urbanized area in the country. It also encompasses the world's leading financial center. It is headquarters for the New York Stock Exchange and 88 percent of the top fifty banks, and also hosts a Federal Reserve Bank branch. The Port of New York/New Jersey is the largest port complex on the East Coast of North America. This region includes three major airports and JFK Airport is ranked fifth in the country for cargo and sixteenth for passenger traffic.

As a result of being a major financial center, the New York/Northern New Jersey area is the focus of substantial law enforcement activity. Each of the federal law enforcement agencies have major cases located in this area and undercover investigations indicate a great deal of money laundering activity in this area. There is a New York/New Jersey regional OCDETF headquartered in the Southern District of New York, as well as a New York/New Jersey HIDTA initiative (El Dorado Task Force) targeting money laundering in the area. The United States Attorneys' Offices in this region (Southern District of New York, Eastern District of New York and District of New Jersey) filed money laundering charges (violations of 18 U.S.C. §§ 1956 and 1957) against 190 defendants in 83 cases in FY 98.

It is advisable to consider the New York/Northern New Jersey region as one region for purposes of a HIFCA. As indicated, the regional OCDETF encompasses both areas, as does the El Dorado Task Force, a HIDTA-funded regional multi-agency anti-money-laundering project which includes representatives from federal, state and local law enforcement agencies.

³ The designation New York/Northern New Jersey region is considered to include the New York City metropolitan area, which would encompass the United States Attorneys' Offices for the Southern and Eastern Districts of New York, and the District of New Jersey.

The necessity for addressing money laundering in this area on a regional basis was demonstrated in the 1996 Geographic Targeting Order (GTO) in the New York/Northern New Jersey area in 1996. In August 1996, at the combined requests of the three United States Attorneys in this region, as well as the United States Customs Service, and the Internal Revenue Service, the Treasury Department issued a GTO to twelve identified money remitters in the New York City/New Jersey area that did more than 10% of their business with Colombia. The order required these remitters and their more than 1600 agents to report, on a special form, all transactions in cash or monetary instruments of \$750 or more going directly or indirectly to Colombia. The order was later extended and expanded to include a total of 22 licensed remitters. The GTO had a powerful and beneficial impact.

As a result of the GTO, money remitted to Colombia dropped significantly both in the GTO area and elsewhere. Most importantly, the remissions to Colombia from the targeted remitters that did the bulk of their business with Colombia dropped between 70-80%. Many of these remitters went out of business. In addition, seizures of illicit cash increased across the board, dramatically in many cases, over previous years. The seizures increased not just in the GTO area, but in Miami, Boston, and a variety of other locations, as New York area drug dealers looked for other outlets for their illegal proceeds. Further, analysis of the reports filed under the GTO, as well as continuing analysis of the financial records of the money remitters, led to a number of criminal investigations and prosecutions. The GTO initiative demonstrated the necessity for attacking the money laundering problem on a coordinated regional basis. Therefore, the working group recommends that the New York/Northern New Jersey be designated as a HIFCA.

The United States Postal Inspection Service (USPIS) also has found that the New York/Northern New Jersey region is where U.S. Postal money orders are "smurfed" most frequently.

Bank Secrecy Act (BSA) filings

With respect to the numbers of investigations and prosecutions, as well as law enforcement resources and Bank Secrecy Act filings, the New York/Northern New Jersey area is clearly an area that warrants designation. New York is the primary distribution center in the Northeast for cocaine and heroin. Being a major financial center, it is also an area where there is a substantial amount of non-drug related financial crime.

The New York metropolitan area is by far the area where the largest number of Suspicious Transaction Reports (SARs) are filed. In FY 98-99, more than 14,000 SARs, with an aggregate violation amount in excess of \$33 billion, were filed in this area. In addition, in FY 98 and FY 99 the State of New York had the second highest number of CTR filings in the country, with the amount of money reported in the CTRs being the highest

amount for any state. New York's status as an international financial center is reflected by the fact that the New York metropolitan area had the third-highest number of inbound CMIR filings and the second-highest number of outbound CMIR filings. In both cases, New York had the highest dollar amounts reflected in the CMIR filings.

2. Los Angeles Metropolitan Area

Los Angeles ranks as the second largest city in the United States and is located only 150 miles from the Mexican border. Los Angeles has the largest number of financial institutions in the country and is also the largest manufacturing center in the country. The seaport of Los Angeles is one of the busiest on the West Coast and possesses the largest container port in the United States.

Further, there currently is a high concentration of federal, state and local law enforcement resources directed toward money laundering and financial crime in the Los Angeles area. There is an OCDETF District Coordination Group located in Los Angeles. Further, Los Angeles has been designated as a HIDTA and there are several HIDTA-funded Task Forces addressing drug money laundering there.

In addition, there are a number of task forces looking at nondrug financial crimes, including health care and telemarketing fraud. The FBI and IRS-CI have a large number of major non-drug cases in the Los Angeles area, and the U.S. Customs Service is involved in a large number of non-drug cases. Each of these cases has a money laundering component. The United States Postal Inspection Service also reports that ongoing investigations in the Los Angeles area have disclosed that Postal money orders are being purchased through structured transactions and that postal money orders purchased in other parts of the United States are being cashed in the Los Angeles area for narcotics purchases.

Investigative activity in FY 98 resulted in money laundering charges being filed against 197 defendants in 32 cases by the United States Attorney's Office for the Central District of California. The large number of money laundering and financial investigations and prosecutions in this district has resulted in law enforcement's having to set high investigative and prosecutive thresholds, the result of which result is a large number of cases which cannot be addressed by law enforcement at this time.

BSA Filings

The status of Los Angeles as a major financial center is demonstrated by the number of filings under the BSA. In FY 98-99, Los Angeles had the second highest number of SAR filings (5171), with the aggregate violation amount in excess of \$7 billion. Also in FY 98-99, Los Angeles had the highest number of outbound CMIRs and the second highest number of inbound CMIRs in the country. Finally, the State of California had the highest number of CTR filings in the country in FY 98-99.

3. San Juan, Puerto Rico

Although San Juan is neither a major population nor financial center, its location in the Caribbean and its status with respect to the United States makes it of great strategic importance with respect to drug trafficking, money laundering and financial crimes. The Caribbean region has become a focal point for both drug and non-drug money laundering. The proliferation of offshore banking and the continued existence, if not rejuvenation, of bank secrecy in some jurisdictions in the Caribbean, have made this a region of concern to the United States, as demonstrated by the FinCEN Advisory concerning Antigua and Barbuda that was issued in April 1999.

Puerto Rico is the Caribbean's most industrially-developed island and is the transportation center of the Caribbean. The port of San Juan is the most active port of entry in the Caribbean and is the closest entry point to the United States for South American drug traffickers.

San Juan is an OCDETF District Coordination Group. Further, it has been designated as a HIDTA, and has a HIDTA-funded Money Laundering Initiative in place.

San Juan's designation further is bolstered by the results of a September 1997 GTO issued by then Treasury Under Secretary (Enforcement) Kelly mandating increased reporting and record keeping against five money remitters and their agents in Puerto Rico (as well as those in the New York/New Jersey area) that remitted more than 10% of their business to the Dominican Republic. As a result of the GTO, outbound cash seizures from Puerto Rico to Colombia and Venezuela increased, as did requests to U.S. law enforcement for under cover pickup activity in San Juan. Seizures of outbound cash to the Dominican Republic increased over 200% from the same period the prior year. Post-GTO, the remissions to the Dominican Republic almost disappeared, one of the remitters closed down entirely, another was purchased.

BSA filings

In FY 98-99, San Juan ranks ninth for the volume of currency reflected on inbound CMIRs and eighth for volume of currency reflected on outbound CMIRs. Although banks in Puerto Rico filed 566 SARs totaling \$627.7 million during FY 98-99, San Juan banks filed only 45 SARs for \$2.4 million.⁴ Further, San Juan ranks below only New York/New Jersey and Los Angeles for suspicious Postal money order activity identified by USPIS.

⁴The large volume of CMIR activity also could account for the relatively low volume of CTR and SAR filings by banks in San Juan. The movement of cash into and out of San Juan, as well as the relative paucity of SAR filings will be a primary focus of the HIFCA-designated team.

4. HIFCA to Address Cross-Border Currency Smuggling/Movement in Texas/Arizona⁵ to and from Mexico

1. Overview

The National Money Laundering Strategy states that a HIFCA need not always be defined geographically. HIFCAs also can be created to deal with money laundering in an industry, sector, or an institution or group of financial institutions. The working group reviewed several such sectors or "systems" used to launder money which need to be addressed on a coordinated basis by law enforcement and regulators, similar to the GTO initiative in the New York/Northern New Jersey area in 1996. After consideration of several systems, the HIFCA working group decided that the system that would most benefit from a HIFCA designation at this time is the smuggling/movement of large volumes of currency (largely derived from drug trafficking) across the border between the United States and Mexico.

⁵The Steering Committee recognizes that the movement of bulk cash is an area of concern along the whole of the Southwest Border, including the District of New Mexico and the Southern District of California. Information currently available, however, indicated that the areas at greatest risk from the movement of such cash currently exist in Texas and Arizona. Clearly, the HIFCA will need the support and assistance of adjacent jurisdictions, especially if, as we anticipate, increased efforts in the HIFCA areas lead to a diversion of the illicit cash to other jurisdictions.

All members of the HIFCA working group agreed that, as our targeting of the placement of drug currency directly into the U.S. financial system through financial institutions and nonbank financial institutions has improved, drug proceeds money launderers resort more and more to the physical removal of the currency in bulk. This phenomenon is especially significant with respect to Mexico due to the ever-larger role that Mexican drug traffickers have carved out in the transportation of drugs into the United States. Thus, there now are greater amounts of drug dollars to be moved out of the United States that are "owned or controlled" by Mexican traffickers than in the past.⁶

The working group recommended that HIFCA efforts concentrate on bulk currency shipments, both inbound and outbound, along the Southwest border generally, but within the HIFCA specifically. Law enforcement and regulators will place particular emphasis on identifying and examining those individuals and entities moving anomalous volumes of U.S. currency into the United States from Mexico, whether bank-to-bank or through cross-border accounts, and on the down stream movement of these funds after they are placed in U.S. financial institutions.

Congress likewise recognizes the pernicious nature of the movement of bulk cash. In 1999, Congresswoman Marge Roukema of New Jersey introduced H.R. 240 (Bulk Cash Smuggling Act of 1999), that would make it a criminal offense deliberately to conceal more

⁶CMIR filings for inbound (from Mexico) and outbound (to Mexico) travel between the United States and Mexico during FY 98-99 clearly demonstrate the imbalance between inbound and outbound filings. For example in FY99, \$737 million was declared inbound into El Paso, but only \$15 million was declared outbound. During FY98, over \$449 million was declared inbound to Brownsville, Texas, but only \$8.5 million outbound from Brownsville.

than \$10,000 in currency or monetary instruments for the purpose of avoiding a reporting requirement. H.R. 240 states that:

the use of large sums of cash is one of the most reliable warning signs of drug trafficking, terrorism, money laundering, racketeering, tax evasion and similar crimes. The prevention, investigation and prosecution of such crimes depends upon the ability of law enforcement to deter and trace such movements of cash, and the failure to report such movements accordingly undermines law enforcement's ability to prevent and detect serious criminal activity.



DATE FEB 16 2000
 TIME REC'D 2:55 p.m.

**OFFICE OF THE GENERAL COUNSEL
 ROUTING SLIP**

DUE BY: _____
 (Date/Time)

PRIORITY: _____

GC# 2000-5-000283

HIGH PRIORITY: _____

OTHER# _____

	SEQUENCE	DISPOSITION	CONCUR	COMMENTS
<i>Nuttall</i>	<u>1</u>	<u>R</u>	<u>DGC</u>	
<i>Chen</i>	<u>2</u>		<u>DGC</u>	
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<i>Freston</i>				

I-Information A-Action R-Review D-Dispatch N-No further Action

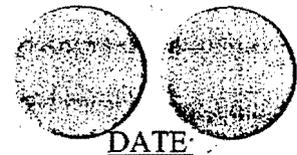
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ADDITIONAL COMMENTS:

MLB

TREASURY CLEARANCE SHEET

NO. _____



DATE _____

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

FROM: Joseph Myers

SUBJECT: HIFCA Implementation Meeting in Washington, DC

REVIEW OFFICES (Check when office clears)

- | | | | | |
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| <input type="checkbox"/> Under Secretary for Finance | <input type="checkbox"/> Enforcement | <input type="checkbox"/> ATF | <input type="checkbox"/> Policy Management | <input type="checkbox"/> Scheduling |
| <input type="checkbox"/> Domestic Finance | <input type="checkbox"/> Customs | | <input type="checkbox"/> Public Affairs/Liaison | <input type="checkbox"/> Tax Policy |
| <input type="checkbox"/> Economic Policy | <input type="checkbox"/> Secret Service | | <input type="checkbox"/> FLETC | |
| <input type="checkbox"/> Fiscal | <input type="checkbox"/> General Counsel | | <input type="checkbox"/> Treasurer | |
| <input type="checkbox"/> FMS | <input type="checkbox"/> Inspector General | | <input type="checkbox"/> E & P | |
| <input type="checkbox"/> Public Debt | <input type="checkbox"/> IRS | | <input type="checkbox"/> Mint | |
| <input type="checkbox"/> Under Secretary for International Affairs | <input type="checkbox"/> Legislative Affairs | | <input type="checkbox"/> Savings Bonds | |
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| | <input type="checkbox"/> OCC | | | |

Name	Initial	Date	Office	Tel. No.
Joseph Myers	JMM	2/16/00	Money Laundering	2-2068
REVIEWERS				
Joseph Myers	JMM	2/16/00	Senior Advisor to the Under Secretary (Enforcement)	2-2068
Will Wechster	W	2/16/00	Special Advisor to the Deputy Secretary and the Secretary	2-2912
James E. Johnson	J	2/16/00	Under Secretary	
Neal Wolin			General Counsel	

SPECIAL INSTRUCTIONS:

Requests that Deputy Secretary Eizenstat sign these memorandums pertaining to the HIFCA Implementation meeting that is scheduled to take place on February 22, 2000 in Washington, DC.

CALL

LAUREN 22068

When signed!

SEE OFFICE TO DA

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TR ORIGINALS TO ENFORCEMENT

TR CC TO SEE OFFICE (MV)

2-17-00

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TB

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Please LOG IN

2000-SE-002139

The Deputy Secretary of the Treasury

February 22, 2000

NOTE FOR JIM JOHNSON
Under Secretary for Enforcement

WILL WECHSLER

FROM: Stuart E. Eizenstat

SUBJECT: Money Laundering and the Financial
System

Excellent draft. See margin comments. The
international section has the most bit and public/Hill
resonance.

Attachment

cc: Holly Toye Moore

Room 3326

622-1080

2/18/00 JH Sign

2/18/00
For Johnson
T. Will Wicksler
HTH
FBI SA

- 1) Outrend & fin. institutions
- 2) Outrend & ABA & Accounts

DRAFT (Working): 2/10/00 8 pm

- 3) p 23 (Money C. Act) vs. p 66 (20' ML Act) vs. p 67 (1999 ML Act) - 3 bill can we consolidate

T. Monaghan

February, 2000 *Be signed*

Foreword

*Set this back
with my notes
GWS in Will
HTH copy*

*Excellent draft. See
management comments. The
intentional section must
most be a public / HTH, us case.*

permanently

When we unveiled the first *National Money Laundering Strategy* last year, we sent a clear signal that our approach toward this vital issue had changed, fundamentally and forever. The *1999 Strategy* was premised on the idea that money laundering threatened not only the United States by facilitating drug trafficking, organized crime, international terrorism, and other heinous crimes, but that it also posed a threat in and of itself, by tainting our financial institutions and undermining confidence in parts of the international financial system. The *1999 Strategy* therefore outlined a comprehensive, integrated approach to combating money laundering, both at home and around the globe, through both law enforcement and banking supervision, with government policies and public-private partnerships.

If the *1999 Strategy* was a call to arms, then the *2000 Strategy* is the order to battle. The *National Money Laundering Strategy for 2000* provides a clear, detailed plan for government action this year. The *Strategy* builds on last year's strong foundation by announcing the conclusions of several high-priority interagency policy reviews and by providing a road map for future initiatives. The *2000 Strategy* also contains a total of ___ separate action items designed to combat money laundering on a broad range of fronts. These action items include efforts to strengthen domestic enforcement, to enhance measures taken by banks and other financial institutions, to build stronger partnerships with state and local governments, to bolster international cooperation, and to work with the Congress to give the Treasury and Justice Departments critical new tools to combat international money launderers and the foreign countries that offer them no-questions-asked banking services for their dirty money.

We are committed to ensuring that the action items in the *2000 Strategy* are implemented with vigor and dispatch. Therefore, every action item now includes a designation of the government official who is accountable for its implementation and for meeting specified goals and milestones. Implementation will be overseen by the Money Laundering Steering Committee, co-chaired by Deputy Secretary of the Treasury Stuart Eizenstat and Deputy Attorney General Eric Holder.

In his State of the Union last month President Clinton spoke of the need to go after the one thing criminals value most -- their money. The *National Money Laundering Strategy of 2000* is our blueprint for doing just that.

Lawrence H. Summers
Secretary of the Treasury

Janet Reno
Attorney General

Glossary of Abbreviations

AFMLS	Asset Forfeiture and Money Laundering Section, Department of Justice
APEC	Asia Pacific Economic Cooperation
APG	Asia Pacific Group on Money Laundering
ATF	Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury
BJA	Bureau of Justice Assistance, Department of Justice
BSA	Bank Secrecy Act
BSAAG	Bank Secrecy Act Advisory Group
BMPE	Black Market Peso Exchange
C-FIC	Financial Crime-Free Communities Support Program
CFTC	Commodity Futures Trading Commission
CHFI	Committee on Hemispheric Financial Issues
CMIR	Currency or Monetary Instrument Report
CTR	Currency Transaction Report
DEA	Drug Enforcement Administration, Department of Justice
EOUSA	Executive Office of United States Attorneys, Department of Justice
FATF	Financial Action Task Force on Money Laundering
FBAR	Foreign Bank Account Report
FBI	Federal Bureau of Investigation, Department of Justice
FDIC	Federal Deposit Insurance Corporation
Fed	Federal Reserve Board
FinCEN	Financial Crimes Enforcement Network, Department of the Treasury
FIU	financial intelligence unit
FSF	Financial Stability Forum
GCC	Gulf Cooperation Council
GTO	Geographic Targeting Order
HIDTA	High Intensity Drug Trafficking Area
HIFCA	High Intensity Money Laundering and Related Financial Crime Area
IEEPA	International Emergency Economic Powers Act
INCSR	International Narcotics Control Strategy Report
IFI	international financial institution
IRS-CI	Internal Revenue Service -- Criminal Investigations, Department of the Treasury
IMF	International Monetary Fund
MLCA	Money Laundering Control Act of 1986
MLCC	Money Laundering Coordination Center, U.S. Customs Service, Department of the Treasury
MLSA	Money Laundering Suppression Act of 1994
MOU	memorandum of understanding
MSB	money services business
OCC	Office of the Comptroller of the Currency

OCDETF Organized Crime Drug Enforcement Task Force
OECD Organization for Economic Cooperation and Development
OFAC Office of Foreign Assets Control, Department of the Treasury
OFC offshore financial center
OGBS Offshore Group of Banking Supervisors
OJP Office of Justice Programs, Department of Justice
ONDCP Office of National Drug Control Policy
OTS Office of Thrift Supervision
PDD 42 Presidential Decision Directive 42
SAR Suspicious Activity Report
SARC Suspicious Activity Report for Casinos
SAR-S Suspicious Activity Report for Securities Brokers and Dealers
SEC Securities and Exchange Commission
SOD Special Operations Division, Department of Justice
USPIS United States Postal Inspection Service

Executive Summary

Background

[NOTE: This section is the same as last year. It will be modified.]

Money Laundering and the Financial System

Money laundering is criminal finance. It may involve clever maneuvers, the language of international banking, and the trappings of free enterprise. But at its heart lies the gritty reality of corrupted institutions and criminal activity, here and abroad.

At one level, money laundering is simple. Someone who conducts a financial transaction with knowledge that the funds or property involved are the proceeds of crime, and who intends to further that crime, or to conceal or disguise those proceeds, is laundering money.¹ The funds can be generated by all manner of criminal activity, from narcotics trafficking, illegal firearms sales, and extortion, to fraud and corruption. Most crimes, except crimes of violence, and even many of those, are committed for profit, and the proceeds of crime must be laundered to be used. Money laundering is a world-wide phenomenon. The criminal proceeds to be laundered can originate anywhere and take many forms.

Conceptually, money laundering is important in two respects. First and foremost, it is a critical adjunct to the underlying criminal activity. It provides the fuel that allows drug traffickers, arms dealers, terrorists, and others to conduct their criminal business, while at the same time providing law enforcement an additional means to go after these criminals. If investigators follow the money, they may find a useful hook with which to catch those who commit the underlying crimes. As has often been said, it took an accountant to catch Al Capone.

Second, money laundering is important in its own right. It taints our financial institutions, and, if unchecked, can undermine public trust in their integrity. Further, in, an age of rapidly advancing technology and globalization, the uncontrolled laundering of large sums can disturb financial stability. President Clinton underscored this point in Presidential Decision Directive 42 (PDD-42):

The primary motivation of those engaged in international organized crime is financial gain. Much of the problem posed by their activity stems from the

¹ The Money Laundering and Financial Crimes Strategy Act of 1998, Pub. L. 105-310 (October 30, 1998) (the "1998 Strategy Act"), which calls for a national money laundering strategy, describes "money laundering and related financial crime" as "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." See 31 U.S.C. 5340(2)(A).

corrosive effect on markets and governments of their large illegal funds.

Although there is a natural overlap, money laundering is distinct from capital flight. Capital flight, of course, can be a grave problem in its own right with profound consequences for a country's economic well-being -- consequences that can, at times, reverberate regionally or even globally. Unlike money laundering, however, it does not depend upon the existence of an underlying crime.

Enforcement experts divide the process of money laundering into three stages:

1. Placement. Placement involves getting the illicit funds into the financial system. In the case of currency paid for illegal narcotics, the need is obvious. Currency is anonymous, but it is difficult to handle, hard to hide, takes time to move, and attracts attention. If the crime involved creates non-currency proceeds (for example, the proceeds of a fraudulent stock sale or public corruption), placement occurs when the proceeds first come under the criminal's control.
2. Layering. The launderer's job is not over when money is placed. Large amounts of unexplained value also tend to attract attention. Funds must be moved and broken up to hide their true origin and to suggest a legitimate source. This process is called "layering." Through layering, the launderer can move funds from one nation, financial institution, or form through two or three others in a matter of moments, given the speed at which transactions can now be conducted via high-speed computer networks.
3. Integration. Once funds are layered sufficiently, they can be put to use by the criminals who have control over them. The funds are now no longer being moved simply to obscure their origin and true ownership but to refinance the criminal's activities.

The money launderer's problems are law enforcement's opportunities. The movement of money through the financial system leaves a trail. If that trail can be uncovered, it identifies those who, willingly, through willful blindness or negligence, or otherwise, facilitate and finance crime. The trail can also lead back (how directly depends upon the skill of the money launderer) to the drug dealers, arms traffickers, swindlers, or others whose crimes generated the money.

Uncovering the trail, however, is far more difficult than creating it. First, money laundering is, in one important sense, a special sort of crime. As former Treasury Secretary Robert Rubin pointed out in a 1995 speech to the Summit of the Americas, the acts through which laundering occurs are, in isolation, often not only legal but commonplace -- opening bank accounts, wiring funds, and exchanging currencies in international trade. The funds employed and the launderer's

motives make the activity criminal, so sorting out the launderers from the others in the bank line is not easy.

Second, criminal enterprises are businesses in their own right. In part as a result of successful money laundering, they mix illegal and legal activities and move back and forth with ease between the underground and legitimate economies.

Finally, the elimination of artificial barriers to the free movement of individuals and the free flow of goods, services, and capital, which is a good thing, also makes money laundering on a large scale possible. The flow of capital across national boundaries has multiplied ten times since the 1980s. A crucial requirement of effective counter-money laundering measures is that they not impede the liberalization of trade and financial movements that drives the world economy.

We do not have a precise estimate of the amount of money laundered each year in the United States. The total includes not only the proceeds of crimes committed here, but also the proceeds of crimes committed elsewhere that find their way to the United States. In addition, funds may pass into or through the United States more than once while they are being laundered.

It is, however, possible to get a rough picture of parts of the problem. The Office of National Drug Control Policy estimates that approximately \$57 billion is spent each year in the United States on illegal narcotics. If one assumes that 80 percent of that amount remains after immediate expenses have been paid, about \$46 billion in narcotics proceeds alone must be laundered each year. Even a fraction of that amount, reinvested year after year, generates a massive war chest of criminal capital.

Narcotics sales are not the only source of funds to be laundered. Losses from fraud run into tens of billions of dollars annually. Other crimes -- national or international bank or securities fraud, counterfeiting, arms trafficking, and terrorism, to take just some examples -- also generate substantial launderable funds or are financed through money laundering. It is not surprising that estimates suggest that hundreds of billions of dollars are laundered globally each year.

The Legal Framework

The federal government's fight against money laundering rests on two statutes.

The Money Laundering Control Act

The Money Laundering Control Act² establishes money laundering as a separate, independent, crime.

The statute generally makes it unlawful for a person to engage knowingly in a financial transaction with the proceeds of specified unlawful activity with either (a) the intent to promote the specified unlawful activity or to engage in conduct constituting income tax fraud, or (b), knowledge that the transaction is designed to disguise the nature of such proceeds or to avoid a transaction reporting requirement under state or federal law. The "specified activities" cover most financially-motivated federal crimes, ranging from narcotics trafficking, through various kinds of fraud and counterfeiting, to kidnapping. The money laundering statute now extends to the proceeds of more than 170 separate offenses.

The statute also makes it unlawful to transport, transmit, or transfer funds into or out of the United States with either (a) the intent to promote a specified unlawful activity, or (b) knowledge both that the funds involved in the transaction represent illicit proceeds and that the transaction is designed to disguise the nature of proceeds of a specified unlawful activity or to avoid a transaction reporting requirement under state or federal law. A related section (used in undercover money laundering investigations) makes it a crime to engage in a financial transaction with property represented to be proceeds of a specified unlawful activity. Finally, it is a crime knowingly to engage in a monetary transaction of at least \$10,000 if the funds involved derive from one of the specified unlawful activities.

The crimes that constitute money laundering are serious ones. They carry penalties of up to 20 years in prison, plus fines that can total \$500,000, or, if greater, twice the value of the funds involved.

The asset forfeiture statutes for money laundering offenses are also powerful law enforcement tools. They provide both for civil forfeiture and criminal forfeiture of property involved in a money laundering offense. (Forfeiture deprives criminals of the ill-gotten gains) needed to operate their enterprises and can be used as a strategic weapon to disrupt the operations and to dismantle the economic infrastructure of criminal organizations.³

The Bank Secrecy Act

² Pub. L. 99-570, Title XIII (October 27, 1986), as amended, codified at 18 U.S.C. 1956 and 1957.

³ See 18 U.S.C. 981 (civil forfeiture) and 18 U.S.C. 982 (criminal forfeiture).

The statute popularly called the Bank Secrecy Act (BSA),⁴ administered by the Department of the Treasury, gives investigators the means to follow the money. The popular name is somewhat misleading, since the statute significantly curtails bank secrecy in the United States.

Under BSA authority, certain financial institutions must preserve specified transaction and account records and must file with the Department of the Treasury Currency transaction reports (CTRs) for currency transactions of more than \$10,000, and Suspicious Activity Reports (SARs) describing suspicious transaction activities occurring in the United States. Suspicious Activity Reports are also required by the federal bank supervisory agencies under their general supervisory authority. The BSA also requires the reporting of the transportation of more than \$10,000 in currency or bearer instruments into or out of the United States.

Failing to observe the reporting and recordkeeping requirements of the BSA, or trying to split a transaction into parts in order to fall below reporting thresholds (called "structuring"), can itself be a crime. It can also result in civil enforcement measures including significant fines. There is no requirement under the BSA that the amounts involved in such a failure to report or to keep records derive from some other crime.⁵ That is particularly important because the suspicious financial movements that BSA information can highlight may shed light on crimes in other countries that are not subject to criminal prosecution in the United States, or for which sufficient evidence for prosecution cannot be gathered by U.S. authorities.

The Government's Counter-Money Laundering Commitment

In calling for a national strategy, Congress challenged enforcement and regulatory officials to focus on money laundering as a uniquely harmful criminal activity. It noted that combating money laundering has "taken on particular urgency as the operations of large-scale criminal organizations in the U.S. and abroad have grown increasingly sophisticated," and it expressed concern that the size, scope, and complexity of the criminal organizations and money laundering schemes involved posed significant challenges to officials in high risk areas.⁶

⁴ Pub. L. 91-508 (October 26, 1970), as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951-59, and 31 U.S.C. 5311-5330.

⁵ More technical descriptions of the Money Laundering Control Act and the BSA appear in Appendix 1.

⁶ See H.Rep. 105-608, 105th Cong., 2nd Sess. (June 25, 1998) at 7. The requirement for this Strategy, codified at 31 U.S.C. 5341, is part of the 1998 Strategy Act.

Of course, this Strategy does not mark the beginning of the government's coordinated efforts to fight money laundering and criminal finance. That effort has been underway for years. For example:

4. From 1986, when money laundering was made a separate crime, through September 1998, there were more than 5,900 convictions or guilty pleas for federal money laundering offenses.
5. Federal law enforcement authorities have conducted a number of major multi-agency money laundering investigations around the country. These include:
 - *Operation Casablanca*. This three-year undercover investigation, led by the United States Customs Service, is recognized as the largest and most comprehensive drug money laundering case in U.S. history. The investigation culminated in May 1998 with the arrest of 167 individuals and the seizure of more than \$103 million in currency.
 - *El Dorado Task Force*. This Task Force -- an inter-agency group, created by the Customs Service and the Criminal Investigation Division of the Internal Revenue Service (IRS-CID), and comprised of more than a dozen different federal, state, and local agencies in the New York area -- was established in 1992 to target systems or industries that facilitate money laundering. It has seized in excess of \$150 million in currency and arrested more than 700 individuals. Among its achievements was dramatically reducing the volume of narcotics proceeds moving to Colombia through New York money transmitters.
 - *Operation Polar Cap*. Spearheaded by the Drug Enforcement Administration (DEA), this continuing money laundering investigation, begun in the late 1980s, targeted two large scale money laundering operations of the Medellin drug trafficking cartel. Approximately \$105 million were seized, and 111 individuals were arrested.
 - Other significant investigations include *Operation Choz-Rica* (\$40 million seized); *Operation Dinero* (\$90 million seized); *Operation Greenback* (\$200 million seized); and *Operation Green Ice* (\$62.7 million seized).
- Over the past three years, the Department of Justice has prosecuted more than 2,000 defendants each year for violations of the money laundering statutes. Approximately 50 percent of these cases involved the proceeds of drug

trafficking. The remainder involve the proceeds of white collar crimes such as health care fraud and telemarketing fraud, as well as the proceeds of organized crime activity such as prostitution, gambling, extortion, and interstate transportation of stolen property.

- The United States has led the crucial effort to build international counter-money laundering cooperation, spearheading the creation of the Financial Action Task Force Against Money Laundering (FATF), whose 40 Recommendations have set the standard for national counter-money laundering regimes, as well as the organization of the Egmont Group of financial intelligence units around the world.
- The Administration has made counter-money laundering a prominent element in its major policy statements on crime, including PDD-42, the International Crime Control Strategy, issued by President Clinton in May 1998, and the annual National Drug Control Strategy.

Money laundering transcends traditional law enforcement categories, both because of the wide variety of crimes that are money laundering predicates and because of the numerous institutions through which funds can be laundered. As a result, many law enforcement agencies can investigate money laundering, and a significant number of regulatory agencies contribute to efforts to deter and detect money laundering. It is only through the cooperation of all of these actors that money laundering can be adequately addressed.

At the federal level, any agency that has jurisdiction to investigate one of the money laundering predicate crimes can investigate the laundering of the proceeds of that crime. Thus, for example, the FBI, which investigates health care fraud, can investigate the laundering of the proceeds of such fraud. In addition, investigators from IRS-CID are often assigned to work with other investigators when money laundering charges are under consideration because of their training in financial investigation. Most significant among these agencies are:

- The Department of the Treasury's U.S. Customs Service, IRS-CID, Financial Crimes Enforcement Network (FinCEN), and U.S. Secret Service;
- the Department of Justice's Federal Bureau of Investigation (FBI), DEA, and ninety-four U.S. Attorney's Offices; and
- the United States Postal Inspection Service.

The federal financial regulatory agencies -- the Federal Reserve Board, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Office of Thrift

Supervision, the National Credit Union Administration, and the Securities and Exchange Commission -- are responsible for the examination of the financial institutions within their respective jurisdictions to ensure that those institutions have created effective internal systems to detect potential money laundering.

Finally, officials throughout the government, especially at the Departments of the Treasury, Justice, and State work to ensure that domestic and international enforcement and regulatory policy complements and supports the work of active enforcement and regulatory oversight by providing investigators and examiners with the tools they require for effective counter-money laundering action and by working to build policies that make it more difficult for money launderers to exploit weaknesses in the international financial system.

Goal 1: Strengthening Domestic Enforcement To Disrupt the Flow of Illicit Money

The *1999 Strategy* identifies as its first goal the intensification of enforcement efforts to disrupt the flow of illicit money in the United States, and several important steps have been taken in the months since the *1999 Strategy's* release. Most significantly, the first High Intensity Money Laundering and Related Financial Crime Areas (HIFCAs) are being announced in this *Strategy*, and efforts are underway to establish action teams in each of these areas to target money launderers for prosecution. However, anti-money laundering enforcement efforts have not been limited solely to HIFCAs. Secretary of the Treasury Summers and Attorney General Reno have issued a joint memorandum to U.S. Attorney's Offices and federal law enforcement field offices throughout the country, communicating the importance of money laundering enforcement and emphasizing necessary steps to be taken. Additionally, we have commenced discussions with relevant industry leaders to combat the Colombian Black Market Peso Exchange, and have enhanced the capabilities of the Justice Department's Special Operations Division and the Customs Service's Money Laundering Coordination Center to target money launderers more effectively.

Much work, however, remains to be done, and strengthening federal enforcement of the money laundering laws remains the first goal of the *2000 Strategy*. In the coming year, HIFCA action teams will become operational and begin intensive efforts against money laundering in their respective areas. In the meantime, the HIFCA Working Group in Washington will monitor the action teams' progress, and will begin the process of new HIFCA designations for 2001, including the establishment of a formal application process for state and local government and law enforcement. Additionally, continued progress will be made in enhancing the efficiency and effectiveness of anti-money laundering enforcement, including more effective use of Suspicious Activity Reports (SARs) and other Bank Secrecy Act (BSA) information, and the provision of additional resources for specialized expertise, strategic analysis and regional threat assessments.

In sum, the Action Items below represent a continued concerted federal effort to identify money launderers and money laundering areas within the United States, and to take aggressive enforcement action against them.

Objective 1: Concentrate Resources in High-Risk Areas

Action Item 1.1.1: The Departments of the Treasury and Justice will oversee specially-designed counter-money laundering efforts in each newly designated High Intensity Money Laundering and Related Financial Crime Area (HIFCA).

Lead: Assistant Secretary for Enforcement, Department of the Treasury

Assistant Attorney General, Criminal Division, Department of Justice

Goal for 2000: Initiate joint federal, state, and local anti-money laundering efforts led by a newly created or designated money laundering action teams.

Milestones: Action teams will be established in each HIFCA by August 1. In preparation, the HIFCA Working Group will hold interagency meetings within each HIFCA to review existing resources and prepare recommendations for how the HIFCAs should be structured.

✓ A centerpiece of the *1999 Strategy's* federal enforcement initiatives, HIFCAs will ~~to~~ concentrate law enforcement efforts at the federal, state, and local level on combating money laundering in high-intensity money laundering zones, whether based on drug trafficking or other crimes. The designation of such areas is required by statute.⁷ The statute mandating HIFCAs sets forth an extended list of factors that must be considered in designating a HIFCA. These factors encompass three general categories of information:

delete
"to"

- ① demographic and general economic data;
- ② patterns of Bank Secrecy Act (BSA) filings and related information; and
- ③ descriptive information identifying trends and patterns in money laundering activity and the level of law enforcement response to money laundering in the region.

A HIFCA need not always be defined geographically. HIFCAs can also be created to address money laundering in an industry, sector, or a financial institution or group of financial institutions.

DESIGNATIONS FOR THE YEAR 2000

Upon the issuance of the *1999 Strategy*, the Treasury and Justice Departments led a process to identify and designate the first HIFCAs. The two Departments convened the HIFCA Working Group to collect and analyze all relevant information. The Working Group included representatives from the U.S. Customs Service, the Internal Revenue Service-Criminal Investigations (IRS-CI), the U.S. Secret Service, the Federal Bureau of Investigation (FBI), the Drug Enforcement Administration (DEA), the U.S. Postal Inspection Service (USPIS), the Executive Office for United States Attorneys (EOUSA), the Executive Office for the Organized

⁷ Designation of HIFCAs as part of the *National Strategy* is required by the 1998 Strategy Act. See 31 U.S.C. 5341(b)(8) and 5342(b).

Crime and Drug Enforcement Task Forces, and the Office of National Drug Control Policy (ONDCP).

The Working Group collected information from each participating agency concerning the nature and extent of money laundering activity in regions throughout the country, the number of investigations and prosecutions in the regions, the location of existing task forces addressing money laundering and financial crime, the law enforcement resources available in these regions and other information that would help to identify HIFCA candidates. This information was combined with an analysis of BSA data and demographic information.

Based on the recommendation of the Working Group, we are designating the following areas as the first HIFCAs:

1. New York/Northern New Jersey Region

A. Demographic/Economic Information

The New York/Northern New Jersey region is the most populous urbanized area in the country. It also encompasses the world's leading financial center. It is headquarters for the New York Stock Exchange and 44 of the top fifty banks, and also hosts a Federal Reserve Bank. The Port of New York/New Jersey is the largest port complex on the East Coast of North America. This region includes three major airports, and JFK Airport is ranked fifth in the country for cargo and sixteenth for passenger traffic. [Is JFK 1st for int'l cargo?]

B. BSA Filings

The New York metropolitan area is the area where by far the largest number of Suspicious Activity Reports (SARs) are filed. In FY 98-99, more than 14,000 SARs, with an aggregate reported amount in excess of \$33 billion, were filed in this area. In addition, in FY 98 and FY 99 the State of New York had the second highest number of Currency Transaction Report (CTR) filings in the country, with the amount of money reported in the CTRs being the highest for any state. The New York metropolitan area had the third-highest number of inbound Currency or Monetary Instrument Report (CMIR) filings and the second-highest number of outbound CMIR filings. In both cases, New York has the highest dollar amounts reflected in the CMIR filings.

C. Law Enforcement Activity

As a result of being a major financial center, the New York/Northern New Jersey area is already the focus of substantial law enforcement activity targeted against money laundering.

Additionally, New York is the primary distribution center in the Northeast for cocaine and heroin. All of the law enforcement agencies are investigating major cases in this area;

undercover investigations, in particular, indicate a great deal of money laundering activity. The United States Attorneys' Offices in this region (Southern District of New York, Eastern District of New York and District of New Jersey) filed money laundering charges (violations of 18 U.S.C. §§ 1956 and 1957) against 190 defendants in 83 cases in fiscal year 1998. *[What about FY 1999?][Should we also mention Manhattan District Attorney and other local law enforcement?]*

2. Los Angeles Metropolitan Area

A. Demographic/Economic Information

Los Angeles ranks as the second largest city in the United States and is located only 150 miles from the Mexican border. Los Angeles has the largest number of financial institutions in the country and is also the largest manufacturing center in the country. The seaport of Los Angeles is one of the busiest on the West Coast and constitutes the largest container port in the United States.

B. BSA Filings

Los Angeles' status as a major financial center is demonstrated by the number of large filings under the BSA. In fiscal year 1999 *[The original submission continually uses "FY 1998-1999". I assume this means fiscal year 1999 (which incorporates parts of calendar years 1998 and 1999). I need to know if this assumption is correct, or if the drafters actually meant both fiscal year 1998 and fiscal year 1999]*, Los Angeles had the second highest number of SAR filings (5171), with the aggregate violation amount in excess of \$7 billion. Also in fiscal year 1999, Los Angeles had the highest number of outbound CMIRs and the second highest number of inbound CMIRs in the country. Finally, the State of California experienced the highest number of CTR filings in the country in fiscal year

C. Law Enforcement Activity

Federal, state and local law enforcement resources are highly concentrated on money laundering and financial crime in the Los Angeles area. An Organized Crime Drug Enforcement Task Force (OCDETF) District Coordination Group resides in Los Angeles, Los Angeles has been designated as a High Intensity Drug Trafficking Area (HIDTA), and several HIDTA-funded task forces address drug money laundering.

In addition, Los Angeles has several task forces investigating non-drug financial crimes, including health care and telemarketing fraud. The FBI, IRS-CI, and the Customs Service each investigate a large number of major non-drug cases in the Los Angeles area, and each has a money laundering component.

Investigative activity in fiscal year 1998 [what about FY 1999] resulted in money laundering charges being filed against 197 defendants in 32 cases brought by the United States Attorney's Office for the Central District of California. The large number of money laundering and financial investigations and prosecutions in this district has resulted in law enforcement's having to set high investigative and prosecutive thresholds, which unfortunately means that a large number of cases cannot be addressed by law enforcement at this time.

3. San Juan, Puerto Rico

A. Demographic/Economic Information

?? ✓ Puerto Rico's location in the Caribbean and its status with respect to the United States [what exactly is Puerto Rico's "status" with respect to the US?] makes the island of great strategic importance with respect to drug trafficking, money laundering and financial crimes. The Caribbean region has become a focal point for both drug and non-drug money laundering. The proliferation of offshore financial crime havens in the Caribbean in the past decade have made this a region of great concern to the United States.

Puerto Rico is the Caribbean's most industrially developed island and is the transportation center of the Caribbean. The port of San Juan is the most active port of entry in the Caribbean and is the closest United States entry point for South American drug traffickers.

B. BSA Filings

In fiscal year 1999 [see comments above re. fiscal years], San Juan ranked ninth for the volume of currency reflected on inbound CMIRs and eighth for volume of currency reflected on outbound CMIRs. Although banks in Puerto Rico filed 566 SARs totaling \$627.7 million during fiscal year 1999, San Juan banks filed only 45 SARs for \$2.4 million.⁸ Further, San Juan ranks below only New York/New Jersey and Los Angeles for suspicious Postal money order activity identified by USPIS.

C. Law Enforcement Activity

⁸ [Note to drafter: This footnote was confusing. I have edited it, but need to know if I inadvertently altered the meaning.] It would be expected that San Juan banks would account for a higher percentage of SARs. The large volume of CMIR filings in Puerto Rico may account for the relatively low volume of CTR and SAR filings by banks in San Juan. The movement of cash into and out of San Juan, as well as the relative paucity of SAR filings will be a primary focus of the HIFCA-designated team.

Puerto Rico has been the location of several major law enforcement anti-money laundering operations over the past five years, and has a high concentration of federal anti-money laundering law enforcement activity. San Juan is an OCDETF District Coordination Group, has been designated as a HIDTA, and has a HIDTA-funded Money Laundering Initiative in place.

4. Cross-Border Currency Smuggling/Movement in Texas/Arizona to and from Mexico

This HIFCA designation focuses not simply on a region, but on the system through which large volumes of currency (largely derived from drug trafficking) is smuggled or moved across the border between the United States and Mexico. As domestic money laundering enforcement improves, money launderers resort more frequently to the physical removal of the currency in bulk. This phenomenon is especially significant with respect to Mexico due to the ever-larger role that Mexican drug traffickers have carved out in the transportation of drugs into the United States. In fact, at this time the majority of Customs currency seizures for FY 2000 have occurred along the Southwest border.

CREATION OF MONEY LAUNDERING ACTION TEAMS

As noted above, the HIFCA program is intended to concentrate law enforcement efforts at the federal, state, and local level on combating money laundering in designated high-intensity money laundering zones. In order to implement this goal, a money laundering action team will be created within each HIFCA to spearhead a coordinated federal, state, and local anti-money laundering effort. In certain instances, efficiency may dictate that an already existing law enforcement task force be mobilized as an action team, rather than creating a new entity. In any event, each action team will:

Action Team

- be comprised of all relevant federal, state, and local enforcement authorities, prosecutors, and financial regulators;
- focus on tracing funds to the HIFCA from other areas, and from the HIFCA to other areas, so that related investigations can be undertaken;
- focus on collaborative investigative techniques, both within the HIFCA and between the HIFCA and other areas; and
- include an asset forfeiture component as part of its work.

In targeting identified money laundering mechanisms in its chosen area, each action team will draw together all available relevant information, including SAR information, for combined analysis.

Action Item 1.1.2: The Treasury Department in consultation with the Department of Justice will continue the process of evaluating and designating HIFCAs.

Lead: Assistant Secretary for Enforcement, Department of the Treasury

Goal for 2000: Designate of additional HIFCA over the course of the year.

Milestones: By August, the Treasury Department will post on FinCEN's website the process by which localities can apply for HIFCA designation. An outreach effort to publicize the program to law enforcement and other officials will follow, and additional designations will be made as applications are received and processed. An overall status report will be included in the *2001 Strategy*. **[Need more on outreach]**

The HIFCAs designated in the *2000 Strategy* represent a new and innovative approach to money laundering enforcement. It will therefore be necessary to allow each of these HIFCAs to develop, and to assess how the action teams operate prior to future designations.

Future HIFCA will be selected from applications from prospective areas, or from candidates proposed on the initiative of the Secretary of the Treasury or the Attorney General. The procedures for requesting a HIFCA designation will be developed within the next six months, and will be posted on the FinCEN website (www.ustreas.gov/fincen/). Though the specific procedures have not yet been finalized, a prospective applicant should expect to be required to submit an application to FinCEN that include the following:

- a description of the proposed area to be designated,
- the focus and plan for the counter-money laundering projects that the designation will support, and
- the reasons such a designation is appropriate, taking into account the relevant statutory standards.

Measurement of the risk of money laundering activity in the area should be based both on local analysis and information and on relevant trend analysis. IRS-CI is now testing a pilot program designed to foster collection and analysis of such information by IRS-CI and FinCEN -- both to develop leads or critical evidence in particular cases and for use in the identification of money laundering risks in the HIFCA process. Areas seeking further information on the development of such a pilot program should contact its local IRS-CI field office or _____ (FinCEN contact).

Applications will be reviewed by the HIFCA Designation Working Group, co-chaired by the

Assistant Secretary of the Treasury for Enforcement and the Assistant Attorney General, Criminal Division, and the final selections will be made by the Secretary of the Treasury. Prospective applicants may direct questions to either of the respective HIFCA Points of Contact at the Treasury Department or Justice Department. The Treasury Department Point of Contact is Connie Fenchel (Executive Assistant Director for Law Enforcement Policy, FinCEN) and the Justice Department Point of Contact is Jeff Ross (_____, Criminal Division).

Action Item 1.1.3: The Departments of the Treasury and Justice will ensure that HIFCAs receive high-priority allocation of anti-money laundering resources.

Lead: Assistant Secretary for Enforcement, Department of the Treasury
Assistant Attorney General, Criminal Division, Department of Justice

Goal for 2000: Analyze how the designation of HIFCAs in the *2000 Strategy* affected the allocation of anti-money laundering resources to the HIFCAs.

Milestones: By November, the Assistant Secretary and the Assistant Attorney General will issue a joint report to the Money Laundering Steering Committee on anti-money laundering resource allocation in HIFCAs.

A HIFCA designation is intended to concentrate law enforcement efforts at the federal, state, and local level on combating money laundering in certain high-intensity money laundering zones. This concentration of efforts will also require a matching concentration of financial resources by the Departments of the Treasury and Justice.

It is too early to know precisely how the Departments should allocate counter-money laundering resources in these newly-designated HIFCAs, and the Departments of the Treasury and Justice will develop a flexible plan to determine how best to allocate anti-money laundering resources in HIFCAs. This issue will be addressed by the Assistant Secretary and Assistant Attorney General, who will report their findings and recommendations to the Money Laundering Steering Committee by November. The report will contain (i) an analysis of how the anti-money laundering resources of the Departments were allocated between March and September in the HIFCAs, (ii) include projected allocations of anti-money laundering resources to these areas between October 2000 and March 2001, and (iii) a discussion of how the fiscal year 2002 budget estimates to be submitted by the Departments ensure that HIFCAs receive high-priority allocation of anti-money laundering resources.

Objective 2: Communicate Money Laundering Priorities to Federal Law Enforcement in the Field

The consequences of money laundering often far exceed the dollar value of specific money

laundering violations. Money laundering investigations and prosecutions, including those money laundering operations that do not include large dollar amounts, serve to safeguard the integrity of the financial system and disrupt the illicit financial system that supports organized criminal activity. Moreover, money laundering investigations can provide important derivative information to law enforcement, regulatory, and financial policy makers. It is therefore imperative for the Departments of the Treasury and Justice to communicate and emphasize to their investigative agents and prosecutors the importance of aggressively pursuing money laundering cases.

The *1999 Strategy* contains several Action Items calling for the Departments of the Treasury and Justice to communicate various priorities to the field in the form of joint memoranda. These have been combined into a single memorandum that was issued on February __, 2000, and is attached at Appendix __. It calls for:

- investigative and prosecutive thresholds to be made more flexible to allow for cases involving lower dollar amounts to be pursued if they offer the possibility of significant impact on a particular money laundering system;
- Every federal district to establish an interagency team to review suspicious activity reports and coordinate follow-up investigations;
- agents and prosecutors to ensure that they debrief witnesses and informants for information concerning money laundering methods and techniques;
- law enforcement to utilize, when appropriate, electronic surveillance in money laundering investigations;
- an increase in multi-district money laundering investigations, coordinated, when appropriate, through the Justice Department's Special Operations Division or the Customs Service's Money Laundering Coordination Center;
- U.S. Attorneys and law enforcement agency heads to ensure that agents and prosecutors are provided with adequate and regular training in financial investigations, financial analysis, and money laundering trends and techniques; and
- incorporating an asset forfeiture component at the inception of money laundering cases in order to help dismantle criminal organizations.

Action Item 1.2.1: The Departments of the Treasury and Justice will ensure that money laundering priorities have been adequately communicated to prosecutors and investigators, and track implementation action in the field.

Lead: Assistant Secretary for Enforcement, Department of the Treasury
Assistant Attorney General, Department of Justice

Goal for 2000: Enhance the focus of federal field resources on money laundering investigations and prosecutions.

Milestones: The Assistant Secretary and the Assistant Attorney General will track the field implementation of the joint memorandum's recommendations and report progress to the Money Laundering Steering Committee by November. Recommendations for further steps will be included in the *2001 Strategy*.

The issuance of the joint memorandum is an important first step in ensuring that money laundering is recognized by field investigators and prosecutors as a systemic threat. The Departments of the Treasury and Justice will continue to monitor their law enforcement agencies and prosecutors' offices to ensure that the recommendations in the joint memorandum are incorporated into their operations. By November, the Assistant Secretary and the Assistant Attorney General will make a progress report to the Money Laundering Steering Committee, along with recommendations on further actions that should be taken.

Objective 3: Seek Legislation Enhancing Domestic Money Laundering Enforcement

As the *1999 Strategy* states, the United States has powerful statutory tools against money laundering. However, loopholes and missing pieces remain in our counter-money laundering structure. This objective discusses legislative provisions that address domestic money laundering, while Action Items 4.1.1 and 4.1.2 discuss legislative provisions that address foreign money laundering.

Action Item 1.3.1: The Administration will seek enactment of the Money Laundering Act of 2000, a bill with powerful provisions addressing domestic criminal money laundering enforcement.

Will int'l effort be separate, new powers deal with int'l havens?
Will there be 2 separate bills? Why not combine?
(p.66)

Lead: Assistant Attorney General, Office of Legislative Affairs, Department of Justice

Goal for 2000: Enactment of the Money Laundering Act of 2000.

Milestones: Introduction of the bill in the Spring of 2000, and a floor vote in Fall of 2000.

The *1999 Strategy* articulated the Administration's intention to submit a bill aimed at enhancing the ability of law enforcement to investigate and prosecute domestic money laundering. This

Will international effort be separate, e.g., new powers deal with international havens?
Will there be two separate bills?
Why not combine? (page 66)

commitment was fulfilled on November 10, 1999, when the Administration submitted to Congress the Money Laundering Act of 1999. The Administration will continue to seek enactment of this bill, now the Money Laundering Act of 2000, which includes the following important provisions:

- Expanding the Bank Secrecy Act to create a new criminal offense of bulk cash smuggling in amounts exceeding \$10,000, and authorizing the imposition of a full range of criminal sanctions when the offense is discovered. This provision will help prevent the flow of illicit cash proceeds out of the United States.
- Making it a criminal offense for a currency courier to transport more than \$10,000 of currency in interstate commerce, knowing that it is unlawfully derived.
- Closing a legal loophole by making it clear that the federal money laundering statutes apply to both parts of a parallel transaction when only one part involves criminal proceeds. (For example, if a launderer moves drug money from Account A to Account B, and then replenishes Account A with the same amount of funds from Account C, the second transaction would also constitute money laundering.)

Action Item 1.3.2: The Administration will seek legislative authority for the Customs Service to search outbound mail.

Lead: Assistant Commissioner for Congressional Affairs, U.S. Customs Service, Department of the Treasury

Goal for 2000: Enactment of a bill providing the Customs Service the same legislative authority to search outbound mail that it currently has to search inbound mail.

Milestones: Development and implementation of a legislative strategy for the introduction and enactment of a bill containing this provision.

Currently, the Customs Service has the authority to conduct border searches without warrants in virtually every situation in which merchandise crosses the U.S. border. This authority extends to the searching of: (i) individuals entering and exiting the country; (ii) luggage entering and exiting the country; (iii) international mail entering and exiting the country that is sent through private carriers; and (iv) international mail entering the country that is sent through the U.S. mail. Outbound international letter-class mail is virtually the only means by which merchandise can be transported across the U.S. border without being subject to Customs inspection (unless a warrant is obtained). This unnecessary limitation of Customs' authority handicaps its efforts to deal

comprehensively with the smuggling of currency out of the United States.

The Customs Service has long identified outbound international letter-class mail as a relatively safe and inexpensive means for criminals to transport currency out of the United States. Under Postal Service regulations, a letter-class mail parcel can weigh up to four pounds when mailed internationally (other than to Canada), and up to 60 pounds when mailed to Canada. A single four-pound letter-class parcel can accommodate approximately \$180,000 in \$100 bills.

To address this loophole, the Administration will continue to support legislation that would permit the Customs Service to search outbound international letter-class mail in cases where there is reasonable cause to suspect that the parcel contains monetary instruments, weapons of mass destruction, drugs, or merchandise mailed in violation of certain specified statutes. Such a provision would simply make Customs outbound authority parallel with its inbound authority. Customs would continue to be required to obtain a search warrant to inspect any domestic mail, or to read any correspondence contained in any international or domestic mail parcel.

Objective 4: Identify and Target Major Money Laundering Systems

Underground financial markets provide criminals an opportunity to conceal their proceeds, and ultimately to mingle them into the legitimate economy or to move them out of the country. The *1999 Strategy* identified the Black Market Peso Exchange (BMPE) as one such important underground financial market, and called for extensive action against it.

The BMPE is the primary money laundering system used by Colombian narcotics traffickers in repatriating an estimated \$5 billion annually to Colombia. It is the single most efficient and extensive money laundering system in the Western Hemisphere. This is how it works:

First, a Colombian drug cartel arranges the shipment of drugs to the United States. The drugs are sold in the U.S. in exchange for U.S. currency which is then sold to a Colombian black market peso broker's agent in the United States. The U.S. currency is sold at a discount because the broker and his agent must assume the risk of evading the BSA reporting requirements when later placing the U.S. dollars into the U.S. financial system.

Once the dollars are delivered to the U.S.-based agent of the peso broker, the peso broker in Colombia deposits the agreed upon equivalent in Colombian pesos into the cartel's account in Colombia. At this point, the cartel has laundered its money because it has successfully converted its drug dollars into pesos, and the Colombian broker and his agent now assume the risk for introducing the laundered drug dollars into the U.S. banking system, usually through a variety of surreptitious transactions. Having introduced the dollars into the U.S. banking system, the Colombian black market peso broker now has a pool of laundered funds in U.S. dollars to sell to Colombian importers. These importers then use the dollars to purchase goods, either from the

U.S. or from other markets, which are transported to Colombia, often via smuggling, in order to avoid applicable Colombian laws and customs duties.

The BMPE Working Group -- headed by the Treasury Under Secretary for Enforcement -- brings together federal enforcement, banking, and related agencies in an effort to dismantle the BMPE system. The BMPE Working Group continues to develop comprehensive and integrated plans to attack the peso exchange system from several directions simultaneously. In addition, the BMPE Working Group's multi-agency representatives work to ensure that all available investigative, regulatory, and trade policy tools are brought to bear on this effort.

✓ **Action Item 1.4.1:** The Department of Treasury will intensify and expand efforts to increase the business community's education and awareness ^{of} the Black Market Peso Exchange System. of

Lead: Deputy Assistant Secretary for Enforcement Policy, Department of the Treasury

Goal for 2000: Develop a Business-Government Outreach program to engage the business community in the attack on the BMPE.

✓ **Milestones:** By April, the Deputy Secretary and Deputy Attorney General will meet with ~~CEOs~~ companies whose products are vulnerable to the BMPE system. Additionally by April, the Departments of the Treasury and Justice will identify major trade associations whose membership includes companies whose products are vulnerable to the BMPE system, and schedule presentations on the BMPE at their annual meetings. By June, the Customs Service's Money Laundering Coordination Center, utilizing the trade and investigative data, will develop a program to identify U.S. exporters that continue to be manipulated by the BMPE system, and will focus outreach and education. By July, the BMPE Working Group will prepare and implement a Business-Government Partnership Program designed to promote the business community's education and awareness of the BMPE system and to jointly develop programs that will insulate their companies from this money laundering system. delete "CEOs of"

Essential to the continued operation of the BMPE is the peso brokers' ability to have drug proceeds deposited in the U.S. financial system and to use these proceeds to pay for U.S. trade goods that are then smuggled into Colombia. To dismantle the BMPE, we must reach out to the business community, particularly those sectors of industry whose products are vulnerable to this system, and engage them in our attack on the BMPE. We must intensify our efforts to educate the business community on the operation of the BMPE system and to make them aware of BMPE activity.

✓ Through a number of initiatives, including the creation of a business-government partnership, we will involve industry in our attack on the BMPE. The importance of this partnership will be emphasized when the Deputy Secretary and Deputy Attorney General meet in April with CEOs of companies whose products are vulnerable to the BMPE system. The purpose of the meeting will be to explain how the BMPE operates, outline efforts to eliminate it, and solicit views on public-private partnership efforts that might be taken to combat this form of money laundering. Moving forward, we will continue to solicit the business community's thoughts and suggestions on domestic and international measures that government and industry might undertake to combat the BMPE.

Senior
officials
Senior
official

Action Item 1.4.2: The Customs Service and FinCEN will continue to identify methods for placement of peso exchange funds into the financial system.

Lead: Assistant Commissioner for Investigations, U.S. Customs Service, Department of the Treasury

Goal for 2000: Develop a procedure for conducting strategic intelligence to identify emerging trends in the BMPE placement system.

Milestones: The BMPE Working Group will (i) by April conduct strategic analysis of operational and financial intelligence to identify the most common methods for placement of narcotics proceeds into the financial system, (ii) by May, complete an analysis of SARs and other BSA information that document alleged BMPE violations, and (iii) by August, identify the geographic areas of businesses and individuals that receive the bulk of BMPE dollars. In light of this analysis, the BMPE Working Group will make recommendations to the Money Laundering Steering Committee on adjustments of resource allocations and investigative priorities to ensure maximum impact on the BMPE system.

The peso broker must arrange for the placement of street currency into the financial system or for its bulk shipment out of the United States. Customs, FinCEN, USPIS, and other members of the BMPE Working Group will continue to analyze operational intelligence, postal money order data, SARs, and other BSA information in an effort to identify transaction patterns of money laundering organizations. The BMPE Working Group members will continue their outreach to alert both the business and banking industry of emerging trends in the BMPE and emerging money laundering systems. [What outreach?] [Also, need to relate the activities of the working group w/ investigations and prosecutions.]

Action Item 1.4.3: The Customs Service and FinCEN will enhance coordination of investigative efforts against the peso exchange system.

Lead: Assistant Commissioner for Investigations, U.S. Customs Service,
Department of the Treasury

Goal for 2000: Expand interagency coordination of BMPE.

Milestones: By August, the BMPE Working Group will establish interagency protocols for developing and forwarding potential BMPE investigative leads.

[Need text]

Action Item 1.4.4: The Administration will promote continued cooperation with the Governments of Colombia, Aruba, Panama, and Venezuela. [Are we sure that each of these countries is on board?]

Contract under
1/2

Contact
countries
first

Lead: Deputy Assistant Secretary for Enforcement Policy, Department of the Treasury

Goal for 2000: Establishment of an international BMPE Task Force of experts from Colombia, Aruba, Panama, Venezuela, and the United States that will examine the BMPE, as a money laundering system, with a view toward reporting its findings and recommending policy options to senior government officials from the respective jurisdictions.

Milestones: The first meeting of the Task Force will occur by June 1, with follow-on meetings in three month intervals. By September, the BMPE Task Force will be fully operational.

The BMPE Working Group brings together federal enforcement, banking, and related agencies in an effort to attack the peso exchange system. It oversees a comprehensive program to restrict the peso exchange system from several directions at once and to ensure that all available investigative, regulatory, and trade policy tools are used in that effort. This comprehensive program includes significant international initiatives, including close cooperation with Colombia. Cooperation between the U.S. and Colombia is critical to U.S. counter-narcotics policy and our strategy to combat narcotics-related money laundering. The importance of this bilateral relationship was demonstrated on January 10, 1999, President Clinton announced a \$1.28 billion emergency aid program for Colombia.

The BMPE Task Force will enhance the cooperation between the governments of Colombia, Aruba, Panama and the U.S. in combating the BMPE. The BMPE Task Force establishes another concrete step all of the governments most directly affected by BMPE operations can take to broaden communication and cooperation, including enhanced support for law enforcement

efforts.

The BMPE Task Force will be comprised of a Senior Officials Group and an Experts Working Group. The Senior Officials Group will be composed of a senior level official appointed by each participating country, [Who is the U.S. rep?] and will give overall policy direction. The Experts Working Group will be composed of no more than six banking, law enforcement, financial, trade, academic, or commercial experts from each jurisdiction. It will meet at least four times within the twelve months following its first meeting, and will report initial findings and recommendations to the Senior Officials Group no later than October 1, 2000. [This timing is confusing. It seems unrealistic given that the first meeting is June.]

Objective 5: Enhance Inter-agency Coordination of Money Laundering Investigations

The 1999 Strategy acknowledges that the increasing globalization and sophistication of underground financial markets have made money laundering investigations conducted by single agencies or in narrow locations less effective. As a result, the 1999 Strategy calls for federal, state, and local authorities to develop an increasingly sophisticated capacity to track the implications of individual investigations and relate investigative efforts to one another. The Action Items below reaffirm that commitment.

Action Item 1.5.1: The Justice Department will continue to enhance the capacity of the Special Operations Division (SOD) to contribute to financial investigations in narcotics cases.

[Note From DOJ: SOD is drafting language - this can serve as a placeholder.]

Lead: _____ (Head of SOD – maybe Chief of Narcotics Section)

Goal for 2000: The financial component of SOD will begin to identify and attack the financial underpinnings of major drug trafficking and drug distributing organizations and to coordinate multi-district cases against the financial operations of major drug traffickers.

Milestones: By July 1, the SOD will assist in the coordination of one major multi-district drug-related money laundering investigation.

The SOD is a joint national coordinating and support entity comprised of agents, analysts, and prosecutors from the DEA, the FBI, the U.S. Customs Service, and the Criminal Division of the Department of Justice. Its mission is to coordinate and support regional and national-level criminal investigations and prosecutions against the major criminal drug-trafficking organizations threatening the United States. This mission is routinely performed across both

investigative agency and jurisdictional boundaries. Where appropriate, state and local investigative and prosecutive authorities are fully integrated into SOD-coordinated drug enforcement operations. The SOD coordination process has repeatedly demonstrated its effectiveness against the major drug trafficking and distribution networks.

In 1999, the original SOD approach was expanded to include a financial component that brings together all available information to identify and target the financial infrastructure of SOD targets, assists in coordinating investigations and prosecutions, and assists in seizing and forfeiting the proceeds, assets, and instrumentalities of these major drug trafficking organizations. The new component has been expanded to include IRS-CI. During the next year, the Department of Justice will continue to enhance the capacity of SOD to identify and attack the financial underpinnings of major drug trafficking and drug distributing organizations, and will begin coordinating multi-district cases against the financial operations of these organizations.

Action Item 1.5.2: The Customs Service will make the Money Laundering Coordination Center (MLCC) fully operational with the participation of all relevant law enforcement agencies.

Lead: Assistant Commissioner for Investigations, U.S. Customs Service,
Department of the Treasury

Goal for 2000: Full federal law enforcement participation in the MLCC.

Milestones: By March, the DEA, IRS, FBI and OFAC will participate in the MLCC, and the deconfliction center will be available to all participating operations. The participation of the Postal Inspection Service will also be sought. By April, the MLCC will establish a working group of member agencies to review and enhance the procedures and protocols of the program.

The MLCC was created by the Customs Service, with assistance from FinCEN, in 1997. It serves as a depository for all intelligence information gathered through undercover money laundering investigations and functions as the coordination and deconfliction center for both domestic and international undercover money laundering operations. It can track information on subjects, businesses, financial institutions, and accounts involved in money laundering investigations. MLCC's data base also incorporates trade data and import, export, and financial intelligence through the use of the Customs Service's Numerically Integrated Profiling System (NIPS) and the Macro-Analysis Targeting System (MATS).

Investigators can use MLCC, for example, to determine whether a particular individual and corporation have been linked together in a previous undercover investigation. The MLCC also provides information to investigators about the movement of proceeds through the Black Market

Peso Exchange, as mentioned above, and links between MLCC and FinCEN promise to increase further the availability and quality of information for detailed field and long-term analysis of money laundering patterns and operations.

MLCC also provides a "deconfliction" mechanism to ensure that different undercover operations are not crossing paths and investigating each other. This function is critical to enhance the safety of agents who pose as money launderers in sting operations because relevant enforcement agencies can be alert to the presence of the undercover agents operating in the area. The MLCC's recently established deconfliction center is operational and accessible through software provided to Customs field offices. It has also been made available to the SOD.

Action Item 1.5.3: The Department of Justice will enhance the money laundering focus of counter-drug task forces.

Lead: Assistant Attorney General, Criminal Division, Department of Justice

Goal for 2000: Enhance the ability of OCDETF to capture and analyze information on the money laundering aspects of its investigations.

Milestones: By November, the Assistant Attorney General will report to the Money Laundering Steering Committee the results of a mid-year review of effectiveness of the revised OCDETF forms in capturing information on the money laundering aspects of its investigations. Additionally, the Department of Justice will include a money laundering presentation in three OCDETF Regional Conferences.

The Department of Justice's OCDETF Program has produced many of the law enforcement's most successful investigations of narcotics money laundering. In the past year, the Department of Justice has taken steps to ensure that the money laundering focus of these task forces is encouraged, and that information concerning the money laundering focus of these interagency investigations is captured and analyzed. The Department of Justice has revised OCDETF case initiation and prosecution forms to capture more information about the nature of the money laundering organizations and methods utilized to launder the drug proceeds both domestically and abroad. This additional information permits trend analysis and feedback to the field to ensure that the task forces are addressing the money laundering aspect of drug trafficking organizations.

In addition, money laundering presentations will be included on the agendas of OCDETF regional conferences in order to inform federal agents and Assistant United States Attorneys current initiatives and to stress the importance of the financial side of drug trafficking organizations.

Action Item 1.5.4: The Treasury Department will identify areas or financial sectors for use of Geographic Targeting Orders (GTOs) and use such orders to coordinate appropriate operations.

Lead: Assistant Secretary for Enforcement, Department of the Treasury

Goal for 2000: Analyze the lessons learned from the previous use of GTOs and how those lessons should influence the issuance of any future GTOs.

Milestones: By May, the Assistant Secretary will assemble a working group to review the previous use of GTOs, and report its findings to the Secretary of the Treasury by November.

GTOs can be issued by the Secretary of the Treasury to alter the reporting and recordkeeping requirements imposed on financial institutions for 60 day periods.⁹ In practice, orders substantially dropping thresholds (from \$10,000 to \$750) for reporting of cash payments by money transmission customers sending funds from the United States to Colombia and the Dominican Republic played a significant role in the El Dorado Task Force investigation of money transmitters in New York, New Jersey, and Puerto Rico.

GTOs can be especially useful tools for dealing with problems in several areas of the country at once and for coordinating efforts to do so, including efforts by HIFCAs in appropriate circumstances. For example, the New York and New Jersey efforts involved three United States Attorneys Offices and federal judicial districts in one case, and four in another. In addition, investigators outside of the GTO areas can be primed to look for the displacement of money from those areas and to follow up on the leads so created.

While the GTOs involved in the El Dorado Task force investigation were very successful, the government has not yet conducted a comprehensive review of the use of GTOs in money laundering investigations and the lessons that can be learned from the previous use of GTOs. The report that the Assistant Secretary for Enforcement will issue to the Secretary of the Treasury will conduct this analysis to address whether sufficient resources were allocated to the implementation of the GTOs and other relevant issues. The report will recommend ways to generate situations where GTOs can be used effectively again, and processes to follow when issuing new GTOs.

Objective 6: The Treasury and Justice Departments will Enhance Their Ability to Focus Assets on Money Laundering.

⁹ 18 U.S.C. 5326.

Action Item 1.6.1: The Departments of the Treasury and Justice will enhance their capacity to provide specialized assets for money laundering investigations.

Lead: Assistant Secretary for Enforcement Policy, Department of the Treasury
Assistant Attorney General, Criminal Division, Department of Justice

Goal for 2000: Develop of a two-year plan detailing how the Departments of the Treasury and Justice will provide specialized assets for money laundering investigations.

Milestones: By July, the Assistant Secretary and Assistant Attorney General will submit a two-year plan to the Secretary of the Treasury and the Attorney General on providing specialized assets for money laundering investigations. In preparation for this report, they will meet with relevant law enforcement agencies and HIFCA action teams to determine what specialized assets would be of greatest assistance.

Complex financial investigations produce a substantial flow of information. The proper analysis of this information can provide important insights into patterns of potential money laundering activity around the nation. This kind of detailed analysis requires accounting and auditing experience and knowledge of financial markets, instruments, law, and regulation. Counter-money laundering agencies need to have the resources to digest that information and turn it into integrated analyses for dissemination to federal, state, and local law enforcement officials.

Some federal investigators receive advanced and highly specialized training in forensic accounting and auditing techniques, as well as training in how to conduct money laundering and complex financial crimes investigations. These skills are not distributed equally in law enforcement agencies and are often in short supply. These experts should be able to provide their specialized training and expertise to support particular investigations and to serve as consultants, if needed, on particular investigations. These expert resources could operate from a central base or, where necessary (as in the case of the audit of a particular business, for example), be temporarily deployed in the field.

Action Item 1.6.2: The Treasury Department will enhance resources related to strategic analysis production and regional threat assessments.

Lead: Director, FinCEN, Department of the Treasury

Goal for 2000: Increase FinCEN's staff dedicated to strategic analysis and implement data mining strategies to produce regional threat assessments in support of HIFCAs.

Milestones: By April, FinCEN will identify for hire intelligence research analysts who will be used to enhance abilities to integrate all-source information into analysis of money laundering trends, patterns and methodologies. FinCEN will also continue seek to obtain full-time employee positions through the fiscal year 2001 budget process to staff a strategic analytic unit dedicated to providing regional money laundering threat assessment analysis in support of the HIFCA designation and implementation process. In the technical support area, by August FinCEN will design, develop and implement a data mining capability applied to SAR information that will generate complex investigative lead information and patterns of suspicious transaction activity to support the designation and investigative activities of HIFCAs and other federal interagency anti-money laundering task forces.

As part of its FY-2000 budget, FinCEN was given authority to hire intelligence research analysts for strategic analysis functions. On January 28, 2000 FinCEN advertised vacancies for intelligence research specialists for assignment to the Office of Research and Analysis, which performs FinCEN's strategic analysis mission. In addition, in its FY-2001 budget FinCEN has requested staffing for a new branch within its Office of Research and Analysis to provide analytic support to the HIFCA program. This strategic analysis unit will provide comprehensive support to review applications for HIFCA designation; to produce regional money laundering threat assessments as recommendations for HIFCA designation; and provide ongoing post-designation regional strategic analytic support. In February, 2000 FinCEN awarded contracts amounting to \$100,000 for design and implementation by August 30, 2000 of a proprietary data mining system (Component Analysis System—CAS) capable of using SAR data to generate regional- and national-level investigative leads, as well as patterns of suspicious transaction activity, for HIFCAs and other federal task force counter money laundering operations. A prototype CAS developed during FY-1999 will be used to provide interim support to initial HIFCA designations during the first three quarters of FY-2000.

Objective 7: Enhance the Collection, Analysis, and Sharing of Information to Target Money Launderers

The 1999 Strategy notes that reports by financial institutions of apparently suspicious conduct -- SARs -- as an important tool in targeting money launderers and money laundering systems. Increased attention is being paid to reviewing these reports and maximizing their usefulness to law enforcement.

Action Item 1.7.1: The Departments of the Treasury and Justice will ensure that their bureaus provide feedback to FinCEN on the use of Suspicious Activity Reports and other BSA information.

Lead: Assistant Secretary for Enforcement, Department of the Treasury
Assistant Attorney General, Criminal Division, Department of Justice

Goal for 2000: Institute a regular process to ensure that the federal law enforcement users of SARs and other BSA information provide feedback to FinCEN on the use of the information.

*What does this mean?
Why has been done in
past?*

*What does this
mean? What
has been done
in past?*

Milestones: By August, the Assistant Secretary and the Assistant Attorney General will provide a report to Money Laundering Steering Committee on (i) how each law enforcement bureau provides feedback to FinCEN on the use of SAR and other BSA information, (ii) any problems or issues the bureaus have had in this area, and (iii) methods to resolve any identified problems. In January 2001, the Assistant Secretary for Enforcement and the Assistant Attorney General will provide another report updating the progress that has been made.

[Question for Treasury Enf: Has a memo to bureaus on this subject been issued? If so, we should mention it.]

The 1999 Strategy recognized that the effectiveness of SARs would be enhanced through a greater analysis of their current use by the various agencies who access the SARs in their investigations. This feedback would also help FinCEN and the bank supervisory agencies work with banks to produce better reporting in the future. However, such an analysis is possible only if all agencies granted access to reports pass back to FinCEN timely information about the way the reports are used and the results achieved from their use. The process detailed above in the Milestones section will help ensure that reporting back to FinCEN by law enforcement bureaus is being conducted in a routine and effective manner.

Action Item 1.7.2: The Treasury Department will set a technology plan for enhancements of nation-wide data bases that contain BSA information.

[To be submitted by Treasury]

The computer systems that hold the bulk of the BSA information collected by the government require upgrading. These systems, housed at the Internal Revenue Service Detroit Computing Center and the Customs Computer Center in Newington, Virginia, cannot now run the programs necessary to perform the relational analysis and filtering functions (made possible by advances in software design) necessary to analyze more effectively the information the systems contain. Hardware and software improvements are necessary to permit the efficient operation of more sophisticated data analysis programs and to accommodate increased use of the information by law enforcement and regulatory agencies. Treasury will design a two-year data technology plan for the necessary improvements.

Action Item 1.7.3: The Departments of the Treasury and Justice will review available technologies to determine the utility of developing a uniform procedure for conducting document exploitation.

Lead: Assistant Attorney General, Criminal Division, Department of Justice

Goal for 2000: Develop an interagency consensus on the feasibility and utility of uniform procedures for conducting document exploitation.

Milestones: By May, the Department of Justice will convene a working group to examine this issue and will issue a report and recommendations to the Money Laundering Steering Committee by November.

Law enforcement agencies have developed different approaches for handling exploitation of large amounts of documents. The Departments of Justice and the Treasury will review available technologies and determine whether, among other things, it would be useful to develop a uniform procedure for conducting document exploitation, including standardization of financial spread sheets with data fields for money laundering and asset forfeiture issues, and whether it would be beneficial to make the system uniformly available to law enforcement agencies and U.S. Attorneys.

Objective 8: Intensify Training

No single period of training can ready a federal agent or prosecutor to deal with money laundering and other financial crimes effectively in a rapidly changing environment. Thus, the *1999 Strategy* called for financial investigative training of law enforcement agents and prosecutors to be enhanced. This mandate has been implemented in two ways. First, the Departments of the Treasury and Justice have communicated to their field agents and prosecutors the importance of continued money laundering and financial investigative training. (See Action Item 1.2.1, *supra.*): Second, the Departments of Treasury and Justice will continue to hold national and regional money laundering conferences to focus attention on money laundering and to provide a forum the exchange of information and experiences among law enforcement agents, prosecutors, and policy makers.

Action Item 1.8.1: The Departments of the Treasury and Justice will continue to sponsor national and regional money laundering conferences.

Lead: Assistant Attorney General, Criminal Division, Department of Justice

Goal for 2000: Provide a forum for federal prosecutors and investigators from around the country who are engaged in counter-money laundering effort to

exchange ideas and experiences, and to discuss money laundering trends and enforcement strategies.

Milestones: By November, the Department of Justice will hold a national money laundering conference.

By November, the Department of Justice, together with the Treasury Department, will convene a national money laundering conference of investigators and prosecutors to discuss new money laundering trends and enforcement strategies. Two years ago, the Treasury and Justice Departments began a series of national conferences to foster the exchange of ideas among investigators and prosecutors engaged in counter-money laundering efforts. These conferences will continue on an annual basis, and will focus on emerging issues affecting, for example enhancing the use and analysis of SARs. Additionally, regional or working group meetings should be held on a regular basis to consider issues affecting specific industries or parts of the country.

Goal 2: Enhancing Regulatory and Cooperative Public-Private Efforts to Prevent Money Laundering

An effective regulatory regime and close cooperation between the public and private sectors are essential to our counter-money laundering efforts. The *1999 Strategy* recognized that efforts to fight money laundering rest on denying money launderers easy access to the legitimate financial system. This, in turn, depends on the elimination of overly strict bank secrecy, promotion of standardized recordkeeping practices, reporting of large currency and potentially criminal transactions, and internal and external audit and examination. Such efforts cannot succeed without the cooperation of financial institutions such as banks, securities dealers, and money services businesses.

Striking the proper balance among the various, and at times competing, interests is a difficult and delicate task. We must take into account the public's interest in both privacy and in a sound financial system, society's interest in security from the criminal conduct that money laundering supports, and the financial community's interest in reasonable and cost-effective regulation. For that reason, the *1999 Strategy* called for three working groups to be established to examine issues in this area: (i) guidance for financial institutions on high-risk customers and transactions, (ii) improved bank examination procedures, and (iii) privacy. The *2000 Strategy* reports on the activities of these working groups, and describes the steps that they recommend for the future.

As promised in the *1999 Strategy*, the Treasury Department has now issued, in conjunction with this year's *Strategy*, the final rules for the reporting of suspicious activity by money service businesses. Additionally, the *2000 Strategy* outlines an ambitious set of goals for the upcoming year. These goals include issuing final rules for the reporting of suspicious activity by casinos, as well as a proposed rule on suspicious activity reporting by brokers and dealers in securities. Additionally, a working group will be established to enhance cooperation between financial regulators and law enforcement on money laundering issues, and the government and legal and financial professional associations will establish a partnership to enlist these important market professionals in the fight against money laundering.

Objective 1: Enhance the Defenses of U.S. Financial Institutions Against Abuse by International Criminal Organizations

The *1999 Strategy* identifies as a significant money laundering threat the movement of criminal funds generated elsewhere into the United States through electronic transmittals. These electronic transmittals often move in larger amounts than currency deposits, and are more easily disguised as legitimate international trade or investment transactions. In response to this threat, the *1999 Strategy* established two working groups to examine how bank examination procedures relating to money laundering could be improved, and how banks themselves could give enhanced

scrutiny to transactions or patterns of transactions in potentially high-risk accounts. These working groups have completed their reviews, the results and recommendations of which are discussed in this section.

Action Item 2.1.1: The Departments of the Treasury and Justice, and the federal bank regulators will work closely with the financial services industry to develop guidance for financial institutions to conduct enhanced due diligence of those customers and their transactions that pose a heightened risk of money laundering and other financial crimes.

Lead: Deputy Secretary, Department of the Treasury

Goal for 2000: In consultation with the financial services industry, issue guidance for financial institutions to conduct enhanced due diligence of those customers and their transactions that pose a heightened risk of the possibility of illicit activities, including money laundering, at or through their financial institution.

Milestones: An outreach program will seek the views of the banking and financial services industry (including local, regional, national, and international institutions and organizations), privacy advocates, the law enforcement community, and Members of Congress. These views will help shape the final guidelines.

The *1999 Strategy* called upon the Departments of the Treasury and Justice to convene a high-level working group of federal bank regulators and law enforcement officials to examine what guidance would be appropriate to enhance bank scrutiny of certain transactions or patterns of transactions in potentially high-risk accounts. The Working Group concluded that the most appropriate means to address the issue of enhanced scrutiny by financial institutions of certain customers and their transactions would be to work with the financial services industry to develop guidance or sound practices for enhanced due diligence that financial institutions (both bank and non-bank) could incorporate within their existing anti-money laundering and suspicious activity reporting regimes. The working group rejected the possibility of developing new regulations or seeking new laws.

In developing the guidance, we will explore how financial institutions should identify those categories of customers that the financial institution has reason to believe pose a heightened risk of the possibility of illicit activities, including money laundering, at or through the financial institution, and should apply an enhanced level of scrutiny for those customers. Current levels of due diligence would continue to apply to the majority of customers.

We will also examine including in the guidance "red flags" that financial institutions should be aware of, such as the size, velocity and location of the transaction, as well as other factors that are being developed in connection with the *Strategy's* review of correspondent banking and determinations of "financial crimes havens." The guidance will also likely include discussions of such things as private banking and payable through accounts.

As part of the development of the enhanced due diligence guidance, a multi-faceted outreach program will be implemented that will provide necessary information to the financial services industry and the public as to the need for such guidance, as well as provide for a forum in which the industry and public can provide comments and help shape the guidance. The program will include discussions with the banking and financial services industry (including local, regional, national, and international institutions) privacy advocates, the law enforcement community, and Members of Congress.

Action Item 2.1.2: The federal bank supervisory agencies will implement the results of their 180-day review of existing bank examination procedures relating to the prevention and detection of money laundering at financial organizations.

Lead: Deputy Comptroller, Community & Consumer Policy Division, OCC,
Department of the Treasury

Goal for 2000: Ensure that anti-money laundering supervision is risk-focused, with increased emphasis on identifying those institutions or practices that are most susceptible to money laundering.

Milestones: Each federal bank supervisory agency will continue to review existing examination procedures and, where necessary, revise, develop and implement new examination procedures consistent with the goal identified above. By November, each federal bank supervisory agency will prepare a report of the actions taken with regard to revised examination procedures and the OCC will prepare a summary report for the Money Laundering Steering Committee.

As directed in the *1999 Strategy*, the Office of the Comptroller of the Currency (OCC) chaired a working group of federal bank supervisory agencies to review existing bank examination procedures relating to the prevention and detection of money laundering at financial institutions. This review was focused primarily on the effectiveness of the revised examination procedures that were developed in accordance with the Money Laundering Suppression Act of 1994 (MLSA), which required federal banking agencies to review and enhance their procedures to better evaluate banks' programs to identify money laundering schemes involving depository institutions.

In general, the working group concluded that though the revised procedures were working well, they could be improved by ensuring that each agency's approach to anti-money laundering supervision is risk-focused, with a particular emphasis on identifying those institutions or practices that are most susceptible to money laundering. Toward that goal, each banking agency either has or is developing procedures to address high-risk areas such as private banking, payable through accounts, and wire transfer activity. Additionally, each agency either has or is developing procedures to address new trends, such as electronic banking and foreign correspondent accounts. The following are examples of anticipated actions:

- The OCC will complete and implement an updated *Comptroller's Handbook for Bank Examiners* that will include a new requirement to perform transactional testing of high risk accounts at every bank examination.
- The OCC will implement a program to target for examination institutions that are considered most vulnerable to money laundering.
- The FDIC has issued revised Bank Secrecy Act/Anti-Money Laundering risk-focused examination procedures that incorporate enhanced guidance to bank examiners on high-risk activities. These procedures will be amended in 2000 to include guidance on foreign correspondent accounts. The FDIC and OCC continue to develop joint anti-money laundering training modules, which will be completed in 2000.
- The Federal Reserve will implement new procedures that will, among other things, concentrate on ensuring that banks implement effective operating systems and procedures to manage operational, legal and reputational risks as they pertain to BSA/AML efforts; provide guidance on appropriate levels of enhanced due diligence for high-risk customers and services; and increase emphasis on maintaining systems to detect and investigate suspicious activity throughout every business sector of a banking organization.
- OTS will assess the efficacy of its recently implemented risk-focused BSA examination procedures, and will implement enhancements developed by bench-marking with other agencies.

Objective 2: Assure that All Types of Financial Institutions Are Subject to Effective Bank Secrecy Act Requirements

The *1999 Strategy* identifies as a weakness in our anti-money laundering regulatory regime the fact that depository institutions are subject to more stringent BSA requirements than other types of financial institutions. For example, only depository institutions are required to file Suspicious Activity Reports. In response, the *1999 Strategy* calls upon Treasury to issue final rules requiring suspicious activity reporting by money services businesses and casinos, and to work

with the SEC in proposing rules for suspicious activity reporting by brokers and dealers in securities. The action items below reflect the progress that has been made in this area, and reaffirm our commitment to accomplish each task by the end of this year.

Action Item 2.2.1: The Treasury Department will ensure that money services businesses (MSBs) are well equipped to comply with the new rule requiring the reporting of suspicious activity.

Lead: Director, FinCEN, Department of the Treasury

Goal for 2000: Undertake an outreach effort to identify and educate the industry on the suspicious activity reporting requirement. Additionally, establish an MSB program office within the Office of Regulatory Compliance and Enforcement at FinCEN.

Milestones: By mid-year a contract will be in place for an outreach effort that, although primarily focused on MSB registration, will be the springboard for identification and education of the MSB industry on the filing of suspicious activity reports.

With the publication of this year's *Strategy*, FinCEN is issuing a final rule requiring suspicious activity reporting by MSBs, along with guidance designed to assist the affected industry in complying with the rule. Since August 20, 1999, when FinCEN issued a final rule calling for the registration with the Department of the Treasury of MSBs, FinCEN has met with representatives of the money services business industry, state regulators and law enforcement experts in money laundering investigations and prosecutions to begin the outreach effort and to solicit input on guidance to accompany the SAR rule and forms. Issuance of the final rule for suspicious activity reporting by money services businesses will significantly expand the ability of law enforcement to focus its anti-money laundering efforts on non-bank financial institutions. In addition, the rule will assist in leveling the playing field in SAR reporting for those institutions that provide financial services to the public.

[Do we need addition paragraph on outreach and office build-up?]

Action Item 2.2.2: The Treasury Department will issue a final rule for the reporting of suspicious activity by casinos and card clubs.

Lead: Director, FinCEN, Department of the Treasury

Goal for 2000: Issue the final rule and a revised form for suspicious activity reporting. In addition, revise a casino industry compliance guide for SAR reporting. Once the rule and form are issued, will engage in a comprehensive

outreach program with the casino and card club industries and with their state regulators.

Milestones: The final rule and guidance will be issued by July. It is anticipated that the rule will go into effect in next year. The proposed final form and instructions will be revised by October, and comments will be solicited through OMB notices. Also, revised guidance will be published and distributed before the final rule becomes effective.

Why has it
taken 2 yrs
to final
Rule?
Why
has it
taken
1 years
to
Final
Rule?

On May 18, 1998, FinCEN published a proposed rule that would require casinos and card clubs subject to the Bank Secrecy Act to report suspicious transactions. The proposed standards for reporting were similar to those in effect for banks, but with a lowered threshold of \$3,000. A new form was developed -- Suspicious Activity Report for Casinos (SARC) -- and is currently utilized by Nevada casinos, which are already subject to a state requirement to file SARCs with FinCEN. Also, FinCEN prepared and distributed a report intended for the casino industry and its regulators, which discusses areas within a casino that are particularly vulnerable to money laundering abuse and that provides a series of specific examples of transactions that may constitute suspicious activity. FinCEN conducted four regional hearings during the comment period.

FinCEN has now completed its review of the comments filed and the transcripts of the public hearings and is drafting a final SAR rule, which will be published by July, and will take effect early next year. FinCEN will also revise the SARC guidance report and SARC form at the time the final rule becomes effective. Once the rule is finalized, FinCEN will undertake a concerted outreach effort with the casino and card club industries and their state regulators to assist federal authorities in ensuring compliance with these new requirements.

Action Item 2.2.3: The Treasury Department will work with the Securities and Exchange Commission to propose rules for the reporting of suspicious activity by brokers and dealers in securities.

Lead: Director, FinCEN, Department of the Treasury

Goal for 2000: Issue a proposed rule, draft form for suspicious activity reporting by securities brokers and dealers (SAR-S), and compliance guidance for the industry. Additionally, continue the process of educating the industry about the need to develop systems to guard against and detect money laundering abuse by its customers.

Milestones: By January 2001, FinCEN will issue the proposed rule, draft SAR-S form, and industry compliance guidance.

Why so late?

For the past several years, FinCEN has been working with federal and state securities regulators and law enforcement, self-regulatory organizations and representatives from the securities industry to devise an effective and practical system to both detect and report suspicious transactions conducted by brokers and dealers. Special rules and systems need to be applied to the securities industry to ensure conformity with the existing examination and enforcement programs of securities regulators and in recognition that the securities industry is generally not utilized in the money laundering "placement" stage because of near-universal policies against accepting currency for transactions. However, the services and products provided by the securities industry, including the efficient transfer of funds between accounts and to other financial institutions, the ability to conduct international transactions, and the liquidity of securities, provide opportunities for money launderers to obscure and move illicit funds.

Implementation of a SAR regime for the securities industry is an extension of FinCEN's broader effort to devise a comprehensive system of suspicious activity reporting for all significant providers of financial services. FinCEN, in consultation with the SEC and the industry's self-regulatory organizations, intends to issue a proposed rule requiring SAR reporting for the securities industry, together with a draft SAR-S reporting form and compliance guidance by the end of the year. Thereafter, it will hold at least three regional hearings to provide an opportunity for the industry to comment directly on the proposals.

Action Item 2.2.4: The Treasury Department will examine the extent to which BSA requirements, and specifically suspicious activity reporting, should be applied to insurance companies.

Lead: Director, FinCEN, Department of the Treasury

Goal for 2000: Develop recommendations on the potential for money laundering abuse within the insurance industry and on appropriate regulatory solutions, including whether to extend suspicious activity reporting to the insurance industry.

Milestones: By April, a study group, chaired by FinCEN, will be formed to examine actual and potential abuses of the insurance industry by money launderers. By November, the study group will submit a report and recommendations to the Money Laundering Steering Committee on the nature of the money laundering threat within the insurance industry and appropriate regulatory solutions.

The insurance industry has long been recognized -- both domestically and internationally -- as a sector vulnerable to money laundering abuse. In 19__, Congress identified insurance companies as financial institutions eligible for counter-money laundering BSA regulation, and the Forty

Recommendations of the Financial Action Task Force (FATF) call for counter-money laundering regimes to be applied to insurance companies. With the recent enactment of the Gramm-Leach-Bliley Act, it is now appropriate to examine the new money laundering vulnerabilities of the insurance industry, and consider the extent to which they might be addressed through BSA regulations, including suspicious activity reporting.

Action Item 2.2.5: The IRS will enhance the resources devoted to conducting BSA examinations of MSBs and casinos.

Lead: Assistant Commissioner for Examinations, IRS, Department of the Treasury

Goal for 2000: Determine whether IRS efforts are adequate to meet its responsibilities of ensuring MSB and casino compliance with the BSA.

Milestones: The Treasury Department will hold a meeting with the IRS by August to review the IRS program. Based on this meeting, by November the IRS will issue a report to the Money Laundering Steering Committee that identifies priorities and concerns, and recommends whether additional resources need to be devoted to the program.

The Secretary of the Treasury has delegated the responsibility to the IRS to examine certain nonbank financial institutions (e.g., casinos and money services businesses) for compliance with BSA.¹⁰ Just as the federal financial agencies do for banks, thrifts and credit unions, the IRS performs essential regulatory oversight of these institutions, including identifying institutions are subject to BSA requirements, educating them regarding their BSA obligations, and conducting BSA compliance examinations. Therefore, it is necessary that the IRS ensure that it is adequately meeting these counter-money laundering responsibilities, especially given the new and future suspicious activity reporting requirements of the MSB and casino industries, respectively.

Objective 3: Continue to Strengthen Counter-Money Laundering Efforts of Federal and State Financial Regulators

[NOTE: This entire objective may need to be adjusted based on the upcoming meeting on this topic chaired by Enf. and Dom Fin. At the very least, the intro will need to be rewritten].

The accustomed fields of operation and perspectives of law enforcement and regulatory officials are often different. Complementary approaches to counter-money laundering efforts require

¹⁰ See, 31 CFR Part 103.46(b)(8) and Treasury Directive 15.41.

enhanced coordination between enforcement and regulatory officials.

Action Item 2.3.1: The Departments of the Treasury and Justice and the federal financial regulators will issue a joint memorandum setting policies for enhanced sharing of information between law enforcement and regulatory authorities.

Lead: Assistant Secretary for Enforcement and Assistant Secretary for Financial Institutions, Department of the Treasury

Goal for 2000: Set policies for the enhanced sharing of information between law enforcement and regulatory authorities.

Milestones: By November, the Departments of the Treasury and Justice, and the federal financial regulators, will issue a joint memorandum setting policy on enhanced information sharing. By August, the Assistant Secretaries for Enforcement and for Financial Institutions will report to the Money Laundering Steering Committee on the status of the memorandum and any outstanding issues.

The need for enhanced and coordinated information sharing between regulatory and enforcement officials can be as great as the need for information sharing among enforcement officials themselves. Bank examiners file Suspicious Activity Reports and must continue to assure that information uncovered during bank examinations will be shared with law enforcement, where appropriate. Similarly, enforcement officials must be willing to share sensitive information with regulators so that the soundness of the institutions involved can be protected.

Complementary approaches to counter-money laundering efforts require enhanced coordination between enforcement and regulatory officials. A joint memorandum codifying the steps taken to increase information sharing would serve as a useful model for further steps at both the federal and state levels. The joint memorandum should reflect the Ten Key Principles for the Improvement of International Cooperation Regarding Financial Crime and Regulatory Abuse endorsed by the G-7 Heads of State in June 1999.

Action Item 2.3.2: The Departments of the Treasury and Justice and the federal financial regulators will begin regular meetings of senior financial enforcement and regulatory officials to review counter-money laundering efforts in each regulatory district throughout the nation.

Lead: Assistant Secretary for Enforcement and Assistant Secretary for Financial Institutions, Department of the Treasury

Goal for 2000: Expand the number of regulatory districts where enforcement and

regulatory officials meet regularly to exchange information about developing cases and discuss the possible uses of civil regulatory or criminal enforcement authority.

Milestones: By July, the number of regulatory districts where enforcement and regulatory officials meet regularly will be increased by __. By November, the Assistant Secretaries for Enforcement and for Financial Institutions will report to the Money Laundering Steering Committee on any remaining regulatory districts where such meetings are not taking place.

Regular meetings between enforcement and regulatory officials are important. They can produce a valuable exchange of information about developing cases and the possible use of civil regulatory or criminal enforcement authority to deal with aspects of the money laundering problem in particular areas. Such meetings already occur in a good part of the nation, and they will be encouraged in all regulatory districts.

Action Item 2.3.3: The Departments of the Treasury and Justice and the federal financial regulators will expand joint training opportunities for federal financial investigators and bank examiners.

Lead: Assistant Secretary for Enforcement and Assistant Secretary for Financial Institutions, Department of the Treasury

Goal for 2000: Conduct joint training of federal financial investigators and bank examiners.

Milestones: By April, the Assistant Secretaries for Enforcement and for Financial Institutions will complete a review of existing training programs for federal financial investigators and bank examiners. By September, they will report to the Money Laundering Steering Committee on opportunities for joint training that are not currently in use. By January 2001, at least two joint training sessions will be conducted.

Investigators need to increase their understanding of the methods and operating realities of financial institutions, and about what is and what is not practical in terms of screening or identifying transactions or customers. At the same time, regulators must understand more about the obstacles investigators face and the ways in which regulatory powers can be brought to bear to alleviate those obstacles. Joint training opportunities concerning counter-money laundering techniques and programs can provide a productive way to stimulate such cross-disciplinary thinking.

Objective 4: Increase Usefulness of Reported Information to Reporting Institutions

The 1999 Strategy recognizes that the existing reporting requirements impose costs on financial institutions, and that the government must therefore focus its reporting requirements to collect only information that is particularly useful for fighting financial crime. The 1999 Strategy also calls for an increased public sector-private sector dialogue about the use enforcement agencies make of reported information and how the government's analysis of reported information could be made more useful not only to law enforcement, but to the financial industry itself.

Action Item 2.4.1: FinCEN and the Bank Secrecy Act Advisory Group (BSAAG) will continue its project to expand the flow to banks of information derived from SARs and other BSA reports.

Lead: Director, FinCEN, Department of the Treasury

Goal for 2000: Develop and implement an annual work plan to identify and address key feedback issues for the banking, law enforcement, and regulatory communities. In addition, implement a SAR tracking system to identify how law enforcement uses SARs and provide information about such use to the banking community through the BSAAG.

Something more is needed here. It leaves implication that we do not do anything with SARs. It leaves impression that we don't do anything with SARs.

Milestones: A report on the feedback plan and progress in its implementation will be provided at each regular meeting of the BSAAG. In addition, by October the U.S. Customs Service, U.S. Secret Service, IRS-CI, and FinCEN will design a SAR tracking system to identify how law enforcement utilizes SAR information.

[Need to anticipate the "you don't already do this?" reaction.]

In June 1999, the BSAAG began formally addressing the issue of feedback with respect to the banking, law enforcement and regulatory communities, and specifically to discuss and implement ways to improve mutual feedback on the value of SARs. Since that time, the BSAAG has identified priority feedback issues in the following areas: (i) analytic feedback on money laundering trends, patterns and methodologies, (ii) utility and usage of SARs by law enforcement, and (iii) banking industry compliance. The BSAAG is developing a plan and implementation strategy to address these issues. In addition, the Treasury Department Under Secretary for Enforcement has instructed FinCEN, the Customs Service, and the Secret Service, and requested IRS participation, to develop and implement a SAR tracking system to identify how SAR information is used by Treasury law enforcement.

Objective 5: Work in Partnership with Associations of Legal and Financial Professionals to Ensure that Money Launderers are Denied Access to the Financial System.

Because of the role they play as the “gatekeepers” to the domestic and international financial system, professionals -- especially lawyers, accountants and auditors -- are uniquely positioned either to facilitate money laundering or, on the other hand, to deter and detect the crime. The importance of vigorous enforcement efforts that apply equally to money launderers and the corrupt professionals who design and maintain the systems through which the money launderers operate is addressed elsewhere in this *Strategy*. The *1999 Strategy* recognizes, however, that the legal and financial professionals whose services are used by money launderers are often not knowingly engaged in the schemes. That is, they are not corrupt professionals but instead are unwitting facilitators of money laundering schemes.

The effort to combat money laundering could be greatly enhanced if professionals take steps to ensure that they, and the businesses they serve, are not unwittingly complicit in money laundering. The government is committed to an ongoing effort to work with professionals who operate in the financial system to put systems in place to detect and prevent money laundering, and to ensure that the individuals who stand at the gate to the domestic and international financial systems have the knowledge and training to identify and assist in protecting both their institutions and the public from money laundering.

Action Item 2.5.1: A study group consisting of the Department of the Treasury, FinCEN, the SEC, the federal bank regulators, and relevant accounting and auditing organizations will determine how best to utilize accountants and auditors in the detection and deterrence of money laundering.

Lead: Director, FinCEN, Department of the Treasury

Goal for 2000: Work with expert auditing and accounting professionals and professional associations to heighten auditor awareness of possible money laundering and to develop additional guidance, training, and educational materials that address money laundering vulnerabilities. In addition, continue to monitor various measures undertaken by the accounting profession from other countries to determine their applicability to the U.S. experience.

Milestones: By September, the Director of FinCEN will report to the Money Laundering Steering Committee on the progress of the study group in developing further approaches to money laundering that can be integrated into the work of both internal and external accounting professionals.

The study group, which is chaired by a representative from the American Institute of Certified Public Accountants (AICPA), was established by the Treasury Department [*WHEN?*] to enhance knowledge about money laundering, encourage the issuance of guidance on money laundering vulnerabilities, and promote effective internal controls. The study group continues to improve

the baseline level of knowledge among a wide assortment of accounting professionals, including management accountants, internal auditors, external auditors, and government accountants, through education and training. It has already developed and published materials for the accounting profession that highlight the risks of money laundering activity in various industries. For example, as a result of the study group's efforts, Audit Risk Alerts issued for auditors of the banking, securities brokerage, investment company, and insurance industries, included segments on money laundering. The study group will consider additional audit alerts.

Going forward, the study group will develop further approaches to money laundering that can be integrated into the work of both internal and external accounting professionals. For example, the study group is assessing how existing accounting literature, including statements on auditing standards concerning illegal acts by clients, internal controls and fraud (SAS 54, SAS 78 and SAS 82), can further its work in this area. The study group will continue its work with the AICPA, as well as with other relevant accounting organizations. In addition, the group is working with FATF, which recently discussed issue at the February 2000 meeting of its Financial Services Forum, at which a presentation was given by the International Federation of Accountants and the AICPA. FATF is likely to continue to explore ways that the accounting profession can be enlisted to assist in the fight against money laundering.

Action Item 2.5.2: Review the professional responsibilities of lawyers and accountants with regard to money laundering and make recommendations about additional professional guidance as might be needed.

Lead: *[Chief, Asset Forfeiture and Money Laundering Section, Department of Justice]*

Goal for 2000: Determine what, if any, additional professional guidance is needed for lawyers and accountants.

Milestones: By April, an interagency working group will propose to the Money Laundering Steering Committee preliminary recommendations. These recommendations could range from enhanced education, standards, and rules to legislation. During the next few months, the working group will develop and refine the recommendations, and continue to meet with associations of lawyers and accountants. Meetings have already been held or scheduled with representatives from the American Law Institute, the American Institute of Certified Public Accountants, and the American Bar Association. Final recommendations will be issued by December.

The *2000 Strategy* remains committed to the discussion of the relationship between legitimate professional activity and unlawful participation by professionals in money laundering. As noted

in the *1999 Strategy*, it is not always easy to distinguish between conduct that is criminal and conduct that amounts to either an honest effort to represent a client aggressively or to a simple failure to perform adequate due diligence. Legal rules properly insulate professional consultations from overly broad scrutiny and create a zone of safety within which professionals can advise their clients. But those rules must not create a cover for criminal conduct.

The importance of examining this issue has recently been endorsed internationally. In October 1999, the G-8 Justice and Interior Ministers met in Moscow to discuss combating transnational organized crime. The resulting "Moscow Communiqué" called for, among other things, countries to consider various means to address money laundering by the professional "gatekeepers" of the international financial system, *e.g.*, lawyers, accountants, auditors, and company formation agents.

Action Item 2.5.3: Conduct a 180-day review of U.S. company formation law and practice in order to determine whether changes should be considered to overcome obstacles to anti-money laundering regulatory and enforcement efforts.

Lead: Chief Counsel, FinCEN, Department of the Treasury

Goal for 2000: Educate the interagency community as to the law and practice of company formation, registration, and oversight in the United States, and develop a consensus policy view as to whether such law and practice constitutes a serious obstacle to domestic or international anti-money laundering efforts.

Milestones: By May, the Chief Counsel of FinCEN will convene an interagency working group, and arrange for a series of tutorials by leading academics and practitioners involved in the formation of companies, trusts, and other legal entities, both in the U.S. and abroad. The group will also solicit input from financial institutions. At the conclusion of its fact-gathering phase, the working group will report its findings to the Money Laundering Steering Committee by November, including recommendations about what, if any, changes should be considered to ensure that U.S. company formation law and practice do not unduly interfere with domestic or international efforts to combat money laundering.

Increasingly, sophisticated criminal enterprises conceal the proceeds of their crimes by creating layer upon layer of legal entities – often manipulating numerous different national regimes of company formation law and practice – that make it difficult, if not impossible, for financial institutions or investigators to determine the true beneficial owner of funds. Clearly, the law and practice related to the formation of companies, trusts, and other legal entities is intimately related to the ability of financial institutions and investigators to identify beneficial owners, and thus to the effectiveness of due diligence and international information sharing arrangements. Company

law and practice are also closely related to the "gatekeeper" issues described above. The international community has recognized these realities, and various proposals have been made to articulate international standards to ensure that "least common denominator" commercial law regimes do not frustrate otherwise effective regulatory and enforcement systems. Some of our allies have pointed to U.S. law and practice as an impediment in this area.

like what?
more info.
like what?
give example.

In this area, a number of different perspectives and equities will need to be balanced. However, the federal community involved in administering anti-money laundering policy is insufficiently informed about precisely how U.S. law and practice in this area works, and how it relates to regimes in place in other countries. Accordingly, we must begin by embarking upon a comprehensive review of law and practice, with an eye toward developing a set of recommendations about how to address the issues.

Among the measures that should be considered are:

- licensing and regulating company formation agents and company service providers;
- requiring company formation agents and company service providers to file SARs;
- allowing incorporation only if corporate officers are physically present in the United States and/or if the corporation or other business entity is actually carrying out trading activities in the United States;
- requiring that beneficial ownership and any changes thereto be declared to a licensing authority (with an exception for publicly traded companies below a certain percentage of ownership or otherwise as currently required by the SEC).

Objective 6: *Ensure that Regulatory Efforts to Prevent Money Laundering Are Responsive to the Continuing Development of New Technologies*

Action Item 2.6.1: The Departments of the Treasury and Justice and the federal financial regulators will continue outreach to the private sector to ensure that anti-money laundering safeguards respond to new technologies.

Lead: Director, FinCEN, Department of the Treasury

Goal for 2000: Monitor new technologies, financial services, and commercial developments -- particularly regarding the Internet and smart-cards -- and work in partnership with the private sector to encourage the implementation of anti-money laundering safeguards in new technologies.

Milestones: *[Who?]* will continue to prepare an internal government monthly entitled "CyberNotes" which reports on significant commercial, legal or regulatory developments affecting financial services utilizing emerging technologies. Additionally, by April *[Who?]* will publish for general audiences a comprehensive survey of developments affecting stored value products, Internet banking operations and Internet gaming activities.

The development of new technologies -- such as electronic cash, electronic purses, Internet- or smart-card-based electronic payment systems, and Internet banking -- is increasing the ability of individuals to rapidly transfer large sums of money, and could pose potential money laundering problems. Consequently, bank regulatory and law enforcement agencies are monitoring -- both domestically and internationally -- new legal and technological developments in these fields, and law enforcement and regulatory enforcement measures taken with respect to these businesses. In the coming year, the Departments of the Treasury and Justice and the federal financial regulators will continue this work, and will seek to expand their outreach and partnership with the private sector by meeting with developers and providers of stored value, Internet banking, and Internet casino products to identify, understand, and mitigate any problems.

Action Item 2.6.2: The Departments of the Treasury and Justice, and the Federal Reserve, will examine whether current statutes and regulations contain the necessary authority to regulate, and where appropriate prosecute, seize and forfeit the monetary value held in stored value cards.

Lead: Assistant Secretary for Enforcement, Department of the Treasury
Assistant Attorney General, Criminal Division, Department of Justice

Goal for 2000: Develop a better understanding of the status of stored value cards under current the legal frameworks, and identify solutions to statutory or regulatory weak spots where they appear.

Milestones: By May, the Departments of the Treasury and Justice will convene a study group to examine whether current statutes and regulations contain the necessary authority to regulate, and where appropriate, prosecute, seize and forfeit the monetary value held in stored value cards. Particular attention will be given to the status of these cards within the CMIR reporting requirements. By November, the Assistant Secretary and the Assistant Attorney General will issue a report and recommendations to the Money Laundering Steering Committee.

Stored value cards offer money launderers a new and efficient means of transporting large sums of money in small, easily concealed cards. As the use of stored value cards becomes more prevalent, it is important to understand how this new technology fits into current statutory and

A lot of this report talks about studies and examinations. Will this be seen as "Action?"

A lot of this report talks about studies and examinations. Will this be seen as "Action?"

regulatory schemes, and to ensure that it does not open loopholes for money launderers to exploit.

Action Item 2.6.3: The Departments of the Treasury and Justice, and the Federal Reserve, will examine the feasibility of requiring financial institutions or entities advertising financial services on the Internet to be federally licensed.

Lead: Assistant Secretary for Enforcement, Department of the Treasury
Assistant Attorney General, Criminal Division, Department of Justice

Goal for 2000: Develop recommendations on the feasibility of requiring financial institutions or entities advertising financial services (including stored value cards) on the Internet and accessible in the U.S., to be federally licensed and to require any such licensed entity to establish and maintain records of beneficial ownership and an audit trail of transactions.

[Need text]

Objective 7: *Understand Implications of Counter-Money Laundering Programs for Personal Privacy*

The *1999 Strategy* recognizes the importance of protecting the personal privacy of our citizens from unwarranted intrusions. The fight against money laundering should not -- and need not -- compromise personal privacy. Indeed, personal financial security is enhanced by safeguarding the integrity of the financial system and reducing the opportunities for abuse, manipulation, and corruption by money launderers. Following the publication of the *1999 Strategy*, a Working Group on Privacy Policy and Money Laundering began a detailed examination of the steps currently taken to ensure the security and confidentiality of collected BSA information, which is intended to result in a comprehensive review of steps that might be taken to improve the protection of personal financial information without compromising the effectiveness of our anti-money laundering efforts.

Action Item 2.7.1: The Treasury Department's Working Group on Personal Privacy and Money Laundering will continue its review of counter-money laundering and privacy policies, and will recommend modifications to existing counter-money laundering laws and regulations, as necessary, to enhance the protection of personal information obtained to carry out these counter-money laundering programs.

Lead: General Counsel, Department of the Treasury

Goal for 2000: Examine the need to enhance the protection provided to personal financial information that banks and other entities provide to the government to comply with the BSA, and that is shared among federal, state and local law enforcement agencies.

Milestones: By May, the working group will complete its detailed description of the existing legal protections for personal information provided to the government pursuant to the BSA. By October, the working group will meet with privacy advocates, representatives of the financial services industry, law enforcement officials, Members of Congress, and others to better understand whether the current money laundering privacy protections should be modified. By November, the working group will make recommendations to the Secretary of the Treasury for regulatory and/or legislative action, as appropriate, to enhance the protection of personal financial information.

The *1999 Strategy* established an interagency Working Group to conduct a 180-day review on the relationship between counter-money laundering and privacy policies. The Working Group has focused principally on preparing a comprehensive description of the existing privacy protections for personal financial information obtained by the government as part of its counter-money laundering efforts. The Working Group plans to complete its descriptive study by May and will then use its paper as the basis for an intensive study of the need for enhanced privacy protections of personal information. The Working Group will meet with privacy advocates, representatives of the financial services industry, law enforcement officials, Members of Congress and others interested persons to better understand whether the system for protecting the privacy of personal information collected as part of our anti-money laundering efforts should be modified. The Working Group will present its conclusions and recommendations, if any, for regulatory and/or legislative action to the Secretary of the Treasury by January 2001.