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Before the Committee on Financial Services  
Subcommittee on Oversight and Investigations  
May 10, 2007**

***Introduction***

Good morning Mr. Chairman, Ranking Member Miller and members of the subcommittee. On behalf of the Federal Bureau of Investigation, I am honored to appear before you today to discuss how the FBI successfully utilizes information obtained from the private financial sector. Chief among the investigative responsibilities of the FBI is the mission to proactively neutralize threats to the economic and national security of the United States of America. Whether motivated by criminal greed or a radical ideology, the activity underlying both criminal and counterterrorism investigations is best prevented by access to financial information by law enforcement and the intelligence community. The FBI considers this information to be of great value in carrying out its mission to protect the citizens of this country, and over the past few years, we have made significant advances in utilizing this information to carry out our mission.

In the “criminal greed” model, the FBI utilizes a two-step approach to deprive the criminal of the proceeds of his crime. The first step involves aggressively investigating the underlying criminal activity, which establishes the specified unlawful activity requirement of the federal money laundering statutes, and the second step involves following the money to identify the financial infrastructures used to launder proceeds of criminal activity. In the counterterrorism model, the keystone of the FBI's strategy against terrorism is countering the manner in which terror networks recruit, train,

plan and effect operations, each of which requires a measure of financial support. The FBI established the Terrorist Financing Operations Section (TFOS) of the Counterterrorism Division on the premise that the required financial support of terrorism inherently includes the generation, movement and expenditure of resources, which are oftentimes identifiable and traceable through records created and maintained by financial institutions.

The analysis of financial records generated by the private financial services sector provides law enforcement and the intelligence community real opportunities to proactively identify criminal enterprises and terrorist networks and disrupt their nefarious designs.

### ***Traditional Criminal Money Laundering Investigations***

Money laundering has a significant impact on the global economy and can contribute to political and social instability, especially in developing countries or those historically associated with the drug trade. The International Monetary Fund estimates that money laundering could account for two to five percent of the world's gross domestic product. In some countries, people eschew formal banking systems in favor of Informal Value Transfer systems such as hawalas or trade-based money laundering schemes such as the Colombian Black Market Peso Exchange, which the Drug Enforcement Administration estimates is responsible for transferring \$5 billion in drug proceeds per year from the United States to Colombia. Hawalas are centuries-old remittance systems located primarily in ethnic communities and based on trust. In countries where modern financial services are unavailable or unreliable, hawalas fill the void for immigrants wanting to remit money home to family members, and unfortunately, for the criminal element to launder the proceeds of illegal activity.

There are several more formalized venues that criminals use to launder the proceeds of their crimes, the most common of which is the United States banking system, followed by cash intensive businesses like gas stations and convenience stores, offshore banking, shell companies, bulk cash smuggling operations, and casinos. Money services businesses such as money transmitters and issuers of money orders or stored value cards serve an important and useful role in our society, but are also particularly vulnerable to money laundering activities. A recent review of Suspicious Activity Reports filed with the Financial Crimes Enforcement Network

(FinCEN) indicated that a significant number of money services business filings involved money laundering or structuring.

The transfer of funds to foreign bank accounts continues to present a major problem for law enforcement. Statistical analysis indicates that the most common destinations for international fund transfers are Mexico, Switzerland, and Colombia. As electronic banking becomes more common, traditional fraud detection measures become less effective, as customers open accounts, transfer funds, and layer their transactions via the Internet or telephone with little regulatory oversight. The farther removed an individual or business entity is from a traditional bank, the more difficult it is to verify the customer's identity. With the relatively new problem of "nesting" through correspondent bank accounts, a whole array of unknown individuals suddenly have access to the U.S. banking system through a single correspondent account. Nesting occurs when a foreign bank uses the U.S. correspondent account of another foreign bank to accommodate its customers. A foreign bank can conduct dollar-denominated transactions and move funds into and out of the United States by simply paying a wire processing fee to a U.S. bank. This eliminates the need for the foreign bank to maintain a branch in the United States. For example, a foreign bank could open a correspondent account at a U.S. bank and then invite other foreign banks to use that correspondent account. This would then cause the U.S. bank to not know the actual individual or entity conducting the transaction.

The FBI's pending money laundering cases include examples of proceeds generated from criminal activities such as organized crime, drug trafficking, fraud against the government, securities fraud, health care fraud, mortgage fraud, and domestic and international terrorism. By taking a two-step approach to these investigations; step one being the investigation of the underlying criminal activity and the second step being following the money, the FBI has made significant inroads into identifying the financial infrastructure of the domestic and international criminal or terrorist organizations. Once the underlying criminal activity is identified and the financial infrastructure has been discovered the FBI has aggressively applied the asset forfeiture laws in order to seize and forfeit the proceeds of the illegal activity.

In recent years the international community has become more aware of the economic and political dangers of money laundering and has formed alliances on several fronts to share information and conduct joint investigations. Members of the Egmont Group, a consortium of Financial

Intelligence Units (FIU) of which the United States is a member, can access a secure website developed by FinCEN (the United States' FIU) to share vital information on money laundering between participating countries. In a further demonstration of international cooperation, the international community [over 150 nations] has endorsed the 40 anti-money laundering recommendations and the nine anti-terrorist financing recommendations of the Financial Action Task Force (FATF). As it relates to international money laundering enforcement, the FBI is an active participant in the United States' delegation to the FATF. Since its creation, the FATF has spearheaded the effort to adopt and implement measures designed to counter the use of the financial system by criminals. It issued a slate of 40 recommendations in 1990, which were revised in 1996 and again in 2003, to ensure that the approach they create remains current and relevant to the evolving threat of money laundering. The FATF's 40 recommendations on money laundering and nine recommendations on terrorist financing together set out the framework for anti-money laundering and counter terrorist financing efforts and are of universal application. All member countries have their implementation of the forty recommendations monitored through a two-pronged approach: an annual self-assessment exercise and a more detailed quadrennial mutual evaluation process. The FBI participated in the recent FATF mutual evaluation of the United States' compliance with the 40 anti-money laundering and the nine counterterrorist financing recommendations.

### ***Terrorism Investigations***

Access to financial information significantly enhances the ability of law enforcement and members of the intelligence community to thwart terrorist activity. The lack of complete transparency in the financial regulatory system is a weakness on which money launderers and financiers of terrorism rely to reap the proceeds of their crimes and to finance terrorist attacks. Limited access to financial records inhibits law enforcement's ability to identify the financial activities of terror networks. Efforts to detect terrorist activity through financial analysis are further complicated by the fact that the funding of terrorism may differ from traditional money laundering because funds used to support terrorism are sometimes legitimately acquired, *e.g.*, charitable contributions and the proceeds of legitimate business. Overcoming these challenges so we can prevent acts of terror has increased the importance of cooperation with our partner law enforcement agencies, the intelligence community, and the private financial and charitable sectors.

Records created and maintained by financial institutions pursuant to the Bank Secrecy Act (BSA) are of considerable value to these critical efforts. The FBI enjoys a cooperative and productive relationship with FinCEN, the purveyor of BSA information. FBI cooperation with FinCEN has broadened our access to BSA information which, in turn, has allowed us to analyze this data in ways not previously possible. When BSA data is combined with the sum of information collected by the law enforcement and the intelligence communities, investigators are better able to “connect the dots” and, thus, are better able to identify the means employed to transfer currency or move value.

The result of this collaborative relationship and access to financial intelligence is a significant improvement in the efficiency of our investigation of terrorist financing matters.

The ability to quickly and securely access and compare BSA data to classified intelligence and law enforcement information is critical. Sometimes the investigative significance of a BSA filing cannot be appreciated until the items included on the document are compared against predicated law enforcement or intelligence information that may not be of the public record. Such critical information can be biographical or descriptive information, the identification of previously unknown associates and co-conspirators, and, in certain instances, the location of a subject in time and place. In addition the BSA filings can also include the identification of other bank accounts, assets or banking relationships that were previously unknown to the investigation. Abundant anecdotal examples exist of activities noted in BSA reports which have added value to counterterrorism and criminal investigations, oftentimes in ways that could not have been predicted from the reports alone. BSA data allows for a more complete identification of the respective subjects such as personal information, non-terrorism related criminal activity, bank accounts, previously unknown businesses and personal associations, travel patterns, communication methods, resource procurement, and Internet service providers.

The value of BSA data to our anti-money laundering and counterterrorism efforts cannot be overstated; the importance of access to that information has already proven invaluable on the micro, or individual case level, as well as on the macro, or strategic level. BSA data has proven

its great utility in counterterrorism matters, and any contemplated change to the underlying reporting and recordkeeping requirements of the BSA should be measured and carefully considered before such action is taken.

While the Suspicious Activity Report (SAR) is also an extremely valuable tool and has provided significant operational uplift, the suggestion that a SAR requirement could effectively substitute for the intelligence gleaned from a CTR misunderstands the differences between the requirements and the manner in which they complement each other. CTRs are objective reports that document an event in time, providing such information as the identity of the transactor, the bank name, account number, account owner, and dollar amount. Additionally, these reports are available for at least a ten-year period, and investigators and analysts have the ability to directly query these reports when necessary.

In contrast, SARs are available on select matters where a bank official has made the subjective determination that a particular transaction or activity is suspicious. Although the banks are doing an outstanding job on reporting suspicious activity, SARs are not a substitute for the objective transaction reporting provided by CTRs. Additionally, since banks are not privy and do not have access to the same information as law enforcement or the intelligence community, many CTRs may be filed before a bank may be able to identify and report the activity as suspicious, provided they are even able to reach that determination from the information available to them. Also, the 314(a) process, designed to promote cooperation among financial institutions, regulatory authorities, and law enforcement authorities, can only be used on the most significant terrorism and money laundering investigations, and only after all other financial leads have been exhausted, which include reviewing CTRs. The financial institutions are only required to review accounts maintained by the named subject during the preceding 12 months and transactions conducted within the last 6 months, in sharp contrast to the ten years of data provided by the CTRs. Moreover, all three tools, complementary and collectively, are of tremendous value.

### *Use of CTR and BSA Data*

In respect to the FBI, the FBI has direct access to FinCEN's BSA database and we receive regular updates of BSA reports for ingestion into the FBI's Investigative Data Warehouse. The FBI works closely with its law enforcement counterparts in the utilization of SARs, for example the FBI participates in Suspicious Activity Report Review Teams around the country. These methods allow us to conduct robust analysis on a pro-active and re-

active basis. In addition, the FBI works closely with FinCEN. The FBI has a Supervisory Special Agent from the Financial Crimes Section serving as a Liaison between the FBI and FinCEN. Assisting this liaison are FBI analysts and other professional support personnel

SAR/CTR and BSA data is used in a myriad of ways. Whether or not SAR/CTRs drive an investigation or are confirmatory, is wholly dependent upon the type and nature of the investigation. They can and have been the impetus for an investigation in addition they can add significant value to ongoing investigations by providing previously unknown subjects/co-conspirators, accounts and banking relationships to name just a few. The FBI has taken pro-active steps to further examine this information. Utilizing technology we are able to identify financial patterns associated with money laundering, bank fraud, check fraud, and other aberrant financial activities. However, while SARs have been regarded as traditional indicators of criminal activity, these records may reveal evidence of terrorism and intelligence activities as well. The identification of criminal financial links will provide leads for criminal investigations. Leads developed from analysis of SAR activity may be instrumental in “connecting the dots” for cross-program investigations of criminal, terrorist and intelligence networks, all of which rely on financial transactions to operate. Application of technology enables agents and analysts to visualize financial patterns, link discrete criminal activities, and display the activities in easily readable formats for use in cases.

The FBI works closely with our State and Local partners in task force environments, to include our Joint Terrorism Task Forces and others that are established at either the Field Office or national level. In addition, State and Local law enforcement have access to BSA data through state coordinators designated by FinCEN.

If there is any doubt that law enforcement vigorously and proactively utilizes BSA data, and especially SARs, I would like to dispel that doubt right now. Federal law enforcement agencies review and utilize SARs in a proactive manner to identify both potential money laundering cases as well as money laundering trends. Moreover, as indicated in the 2007 National Money Laundering Strategy that was released last week, law enforcement agencies do not review the SARs in isolation. The Departments of Justice, Treasury, and Homeland Security encourage the formation of interagency SAR review teams to review and discuss the SARs in a coordinated manner, in order to exchange information and avoid duplication of effort. There are

80 SAR Review Teams operating across the United States analyzing BSA data to identify evidence of financial crimes and money laundering. In many cases, these groups include representatives from state and local law enforcement. The investigations resulting from these task forces frequently result in successful investigations of money laundering, fraud, drug trafficking, and other offenses. While we are limited in our ability to discuss such cases openly because of the confidentiality requirements surrounding SARs, we would welcome the opportunity to provide you with examples of such successful investigations.

In conclusion, BSA data is invaluable to both our counterterrorism efforts and our more traditional criminal investigations. Our experience shows that terrorism activities are relatively inexpensive to carry out and that the utilization of data obtained pursuant to the BSA provides significant operational uplift. The FBI is committed to collaborating with this Committee and the Congress to ascertain whether certain categories of the BSA can be reworked without harm to our investigative capabilities. The GAO is currently studying this issue, with a report due in early 2008, and the FBI has been an active participant in this study. However, to alter the current BSA reporting requirements -- without careful study to determine the range of implications -- could be a significant setback to investigative and intelligence efforts relative to both the global war on terrorism and traditional criminal activities.