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**Before the**  
**House Financial Services Subcommittee**  
**Oversight and Investigations**  
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**The United States House of Representatives**

Chairman Kelly, Congressman Gutierrez and distinguished members of the Committee, thank you for inviting me to address the issue of improving oversight of the integrity of the domestic and international financial systems. The subject is central both to efforts to frustrate, identify and eliminate criminal wrongdoing and to make it plain hard, if not impossible, for our financial borders to be penetrated by terrorist design and purpose.

Probably one of the most vexing issues you face today as members of this Committee is the unprecedented nature of the threat of terrorism. The DNA of war has, in fact, changed inalterably. Confirming the asymmetric power of our military, no sentient force confronts the United States on a conventional battlefield with a uniformed army under recognized flag. Nor is there a finite list of strategic targets to bunker with concrete and steel. Rather, the highest of profile targets are said to be “soft,” open to the most outrage and the most unspeakable scenes of mayhem and despair – a school bus, a marketplace, a monument, a place of worship, and even these very halls.

The greatest infamy, of course, in this uncommon war is the premium placed on the death of innocents. Bullets and boots on the ground will not alone protect us. This is shadow warfare and it requires a “rethink” or a reengineering of what it means to defend a nation.

Every element of national power must be brought to bear, even the finance ministry of the United States, as anomalous as that sounds. With so many targets that defy military purpose and, therefore, escape common measures of detection, the three most critical factors that emerge are (i) the need for enhanced intelligence, (ii) the leveraging effect of disrupting the logistical lines that constitute the purchase for stealth and the export of terror, and (iii) the need for citizen soldiers and, in particular, a genuine partnership between business and government.

The funding of terror is the one common denominator in all three theorems. **First**, it is virtually the only intelligence that has true integrity in this war. All other information is suspect, the product of bribery, deceit, custodial interrogation, betrayal or, even in some cases, torture. But financial records do not lie. They are diaries, the confessions of which can save a populace – as was the case – from a mass poisoning of the London subway system.

**Second**, the ambition of a terrorist cell is defined by its resources. Moreover, the only link in the chain of terror that is subject to deterrence is the would-be banker who otherwise enjoys his affluence, his family's prominence and his freedom. If he is deterred, the reach of terrorist design is cut short, as is the quotient of violence in the world.

**Third**, no one is better suited to help police our financial borders than the financial services community itself. Indeed, the infinite number of ways that money can be spirited around the globe with the intention of killing people drives the need for more gatekeepers than government possesses.

That is part of the genius and part of the burden of Title III to the Patriot Act. To be sure, it is and was at best a proxy for getting at a lethal challenge that we have never encountered before. It has, accordingly, been administered in a manner that permits maximum discretion and that asks each relevant industry actor to identify the kind of risks that are unique to their enterprise.

Three consequences flow from that character of governing: substantial freedom to determine what is required of you; uncertainty because it isn't cast in stone, yet can have legal consequence of profound reputational impact; and genuine human interest in determining whether this all has real world consequence.

The latter is indisputably the case. The correct question is not who we have caught, but rather who has declined to move forward with terrorist design for fear of detection. During my tenure at Treasury and the NSC, there was ample intelligence that the enhanced scrutiny warded off acts of terrorism.

What is less certain is whether we have made the most out of the Patriot Act. Four issues merit examination by this Committee:

- (i) Section 314 establishes a safe-harbor for financial institutions to share suspicions about counter-party accounts and matters. Perhaps because it is new, or perhaps because of appropriate conservatism about sharing confidential financial information, the utility of this private party sleuthing has not born full fruit.
- (ii) Section 314 similarly permits government to share material information with its gatekeepers. Yet this discourse has been similarly

abbreviated, principally due to security concerns that are both procedural – secured lines of communication – and substantive – prejudice to an on going investigation due to premature disclosure.

- (iii) Much of the information that is submitted to the government under the Bank Secrecy Act is merely lodged like a book on a library shelf without a card-catalogue. In the absence of an express and pointed request from law enforcement, the information remains unexploited. Surely, we ought to have an artificial intelligence program that red flags patterns and concerns for investigation without specific targeted inquiry. And
- (iv) Too few meaningful topologies of terrorist financing have been developed that can be models for suspicious activity triggers. In an age of Silicon Valley and extraordinary sophistication in the financial community, this particular missing ingredient screams for remedy.

The Riggs-Saudi accounts put the matter in high relief. One of the things that threaten us most is not money expressly earmarked to underwrite a specific act of terror, but the rivers of money that flow throughout the Islamic Diaspora to fund the teaching of intolerance and hate. It is that money that ignites tinderboxes and serves as a crucible for the alchemy that morphs intolerance into terror. Identifying and stemming the flow of those funds is the challenge with the most far-reaching consequence, and one that requires a rich and complete sharing of information between government and private industry.

Virtually all of my talk has been about terrorism. But the lesson of Madrid confirms an unholy alliance between common pedestrian crime and money laundering and acts of terror that can literally topple governments. The Madrid funding apparently was sourced from the sale of hashish, the forgery of false identity papers and the smuggling of aliens into Spain and Europe.

This is crime that not only corrupts, but kills. And it is crime that affirms the wisdom of the Patriot Act in taking down the “the wall,” the barrier that muted all dialogue between intelligence and law enforcement, thereby savaging any hope of an integrated response to threat. The Patriot Act, in fact, takes that one step further, permitting an open dialogue between government and the financial services community. The challenge to the Treasury Department and this Committee to find a key that finally unlocks that door of reluctance to establish a financial intelligence source that is both a safety net and weapon against the killers.

The long-term war against terrorism requires a change of hearts and minds. But we need not wait for that generational challenge to succeed. The immediate hope for a respite against terror is tracing and stopping the money.

Al Qaeda tried to use commerce to destroy commerce, leveraging the loss of 3000 lives with catastrophic economic loss and in the daily “tax” that we all pay for heightened security at every door through which we now pass. An effective use of our financial regulatory structure can make those doors swing more freely.

One last note. I do not want to sound Pollyannaish. The President’s war on terror has had a devastating impact on the hierarchy and banking network of Al Qaeda. But the organization is more movement than enterprise today. It has given birth to a hundred cancers, some characterized by simple nihilism, others by a political desire only to demonstrate the limits of U.S. power. Allied with local crime fronts, they pose with some irony even more threat to our well being than the monster we faced on September 11. The sheer number and diversity of our

enemies underscores the continuing need for vigilance at the financial borders and the wisdom of enlisting the financial community in the war. Trying to figure out the character of money is quixotic in a world of peace. It is critical in a world of war.