



U.S. Immigration and Customs Enforcement

STATEMENT

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**U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
DEPARTMENT OF HOMELAND SECURITY**

BEFORE THE

**FINANCIAL INSTITUTIONS AND CONSUMER CREDIT SUBCOMMITTEE
COMMITTEE ON FINANCIAL SERVICES
U.S. HOUSE OF REPRESENTATIVES**

REGARDING

“SEASONED CUSTOMER CTR EXEMPTION ACT OF 2006”

**MAY 18, 2006, 2 PM
WASHINGTON, D.C.**

2128 RAYBURN HOUSE OFFICE BUILDING

INTRODUCTION

Chairman Bachus, Ranking Member Sanders and distinguished Members of the Subcommittee on Financial Institutions and Consumer Credit, my name is Kevin DelliColli and I am the Deputy Assistant Director for Financial and Trade Investigations within the Office of Investigations, U.S. Immigration and Customs Enforcement (ICE). I appreciate the opportunity to share with you today how ICE is applying its financial investigative authorities and capabilities to identify, dismantle and disrupt criminal enterprises that threaten our Nation's borders and homeland security.

THE ICE MISSION

Among the Department of Homeland Security law enforcement agencies, ICE has the most expansive investigative authorities and the largest number of investigators. ICE's mission is to protect the American people by combating terrorists and other criminals who seek to cross our borders and threaten us here at home. The men and women of ICE accomplish this by investigating and enforcing the nation's immigration and customs laws. Working overseas, along the nation's borders and throughout the nation's interior, ICE agents and officers are demonstrating that our unified immigration and customs authorities constitute a powerful tool for identifying, disrupting and dismantling criminal organizations that violate our Nation's borders. During fiscal year 2005, ICE investigations led to the seizure of nearly \$1 billion in currency and assets from the criminals who exploit our borders. Every dollar of criminal proceeds seized is one less dollar criminals can use to fuel their businesses.

By leveraging the full potential of our immigration and customs laws, ICE makes it harder for potential terrorists and transnational criminal groups to move themselves, their supporters or their weapons across the Nation's borders through traditional human, drug, contraband or financial smuggling networks, routes and methods.

LEVERAGING AUTHORITIES

ICE has powerful tools for investigating the broad array of financial crimes that have a nexus to our borders. Since its creation in March 2003, ICE has capitalized upon its unified customs and immigration authorities to combat border, public safety, homeland and national security violations that fall within our broad jurisdiction.

One of the most significant outcomes to arise from combining these law enforcement authorities at ICE has been the aggressive application of financial investigative methods to disrupt and dismantle criminal organizations involved in immigration and human smuggling violations. By leveraging these authorities, ICE is now identifying, dismantling and seizing the profits of criminal organizations that once thrived and generated extensive wealth from violating immigration laws. Corrupt foreign nationals, who violated the trust of their countrymen and plundered their country's financial assets, once fled to the U.S. and applied for political asylum and were beyond the reach of immigration officials. Now, as Politically Exposed Persons under ICE jurisdiction,

Special Agents arrest them for their financial crimes and seize their assets for return to the governments they victimized.¹

Our Special Agents in the field are demonstrating that financial investigations are a very powerful tool in our efforts to combat the multi-billion dollar business of human smuggling and trafficking both at the border and throughout the nation's interior. We are now able to go "up-stream" against these smuggling and trafficking conspiracies and take down their leadership and seize their assets.

BATTLING THE BUSINESS OF BORDER CRIMES

ICE Special Agents operate with the understanding that the criminal activities we see are, at their core, criminal business enterprises. The criminal conspiracies to smuggle drugs, people and contraband across the border in both directions are sustained by earning and then moving the money raised by the criminal activity. For example, it is estimated that the cross-border human smuggling from Mexico into the United States nets hundreds of millions of dollars for criminal gangs -- and the drug trade, billions.

The related crimes that we see, including money laundering, murder, manslaughter, extortion, hostage taking and robberies, are some of the methods employed by criminals to maximize profit through violent means, while sustaining and growing their criminal

¹ The ICE-led Foreign Public Corruption Task Force was established at the SAC Miami to address foreign public corruption and related money laundering through U.S. financial institutions, and other investments. A primary goal of the task force is to raise awareness within ICE field offices to foreign corruption, and deliver training to foreign governments in identifying public corruption and related proceeds laundered

enterprises. Most of these activities are predicated -- at some stage -- upon the illegal movement of people, goods or money across the Nation's borders. This understanding of the criminal business model drives the ICE strategy of penetrating the financial architecture that supports continued criminal activity. ICE investigations identify cash flow routes, assets and holdings, and the means by which organizations seek to move the proceeds of their illegal activity. In so doing, ICE strikes at the heart of the criminal organization by targeting the financial infrastructure that permits criminal enterprises to flourish.

U.S. MONEY LAUNDERING THREAT ASSESSMENT

Under the leadership of the Department of the Treasury, the 2005 U.S. Money Laundering Threat Assessment (MLTA) constitutes the Federal interagency collaborative effort to identify vulnerabilities and methods employed by transnational criminal organizations to move and store their illegal funds. ICE was pleased to participate in the interagency working group, and provide information and insights relevant to the MLTA. We are proud of our contributions to this important and useful document, and are fully engaged in collaborating on the upcoming National Money Laundering Strategy.

THE ICE ASSESSMENT

As the financial, regulatory and law enforcement communities continue to tighten the enforcement of Anti-Money Laundering (AML) laws and regulations, criminal organizations are increasingly forced to resort to bulk cash smuggling, trade based money

through U.S. financial institutions. The PEP Task Force has already delivered extensive training in Central

laundering, and other schemes to move their illicit proceeds across our borders in both directions. With nearly 23,000 arrests across more than 24,000 cases in fiscal year 2005, ICE Office of Investigations has a substantial universe of information and opportunity to extract both tactical and strategic information on transnational crime and its financial infrastructure. The ICE Cornerstone initiative takes a *systemic*, rather than case-by-case, approach to the investigation of cross-border financial and trade crime. Through Cornerstone, ICE partners with the private sector, law enforcement and the regulatory community to identify and eliminate vulnerabilities within the U.S. financial and trade systems that could be exploited by terrorists and criminal organizations. ICE is educating the private sector on red flag indicators of suspect criminal behavior indicative of these illicit schemes, and taking proactive steps to close vulnerabilities once identified.² ICE also focuses on the alternative financing mechanisms that terrorist and other criminal organizations use to earn, move, and store funds.

Since July 2003, ICE Special Agents have given over 2,000 presentations to over 40,000 business leaders, government officials and law enforcement officers, worldwide, generating over 200 investigations directly attributable to Cornerstone outreach and education.

and South America, and is conducting approximately 30 investigations.

²The ICE-led El Dorado Task Force in New York identified a significant vulnerability in money laundering conducted via independently owned ATMs in and around the Greater New York area. This vulnerability was briefed to the NY State Banking authorities, the industry supplying the machines and

BULK CASH SMUGGLING

A number of the money laundering trends we have observed have developed in response to the robust anti-money laundering programs instituted by the U.S. financial industry in response to Federal legislation and regulation. As the opportunity to exploit our traditional domestic financial institutions diminishes, criminal organizations are turning to non-traditional and riskier methods to gather and move their proceeds, such as bulk cash smuggling. The ability of criminal business enterprises to advance their business model rests directly upon their ability to take possession of the money they have earned through their criminal activities.

The smuggling of bulk currency out of the United States has become a preferred method of moving illicit proceeds across our borders, forcing criminal organizations to devise methods for avoiding detection during the movement of this bulk cash across our borders. In response to this trend, Congress criminalized the act of smuggling large amounts of cash into or out of the U.S. in the USA PATRIOT Act. Specifically, Title 31 U.S.C. 5332 – Bulk Cash Smuggling - makes it a crime to smuggle or attempt to smuggle over \$10,000 in currency or monetary instruments into or out of the United States, with the specific intent to evade the U.S. currency-reporting requirements codified at 31 U.S.C. 5316. ICE Special Agents have used the Bulk Cash Smuggling statute with great effect, arresting over 330 individuals for Bulk Cash Smuggling violations. In addition to these arrests, ICE and U.S. Customs and Border Protection (CBP) have worked together to seize over \$160 million in funds involved in these bulk cash smuggling violations.

other stakeholders. NY State Banking Authorities introduced state legislation to regulate the independently

Whenever possible, these cases are developed into larger conspiracy cases to reach the highest levels of the smuggling organizations.

ICE's enforcement of the Bulk Cash Smuggling law does not end at our Nation's borders. In August 2005, ICE partnered with CBP and the State Department to initiate a joint training program for our Mexican counterparts on the methods used to smuggle bulk currency. As a direct result of this hands-on training, our Mexican counterparts seized over \$30 million in cash and negotiable instruments in violation of the Mexican currency-reporting laws, during pulse and surge operations conducted over a 9-month period. The day after this highly successful joint operation, known as Operation Firewall, was launched in August 2005, the single largest bulk cash seizure in Mexico of \$7.8 million dollars was realized. ICE has worked with our Mexican counterparts to tie these seizures to larger investigations conducted in Mexico, the United States, and other South American countries. In March 2006, building on the proven success of this initiative in Mexico, pulse and surge operations commenced again, resulting in two seizures totaling over \$7 million dollars within the first few days of the operation. The State Department continues to fund these international efforts and we are grateful for its support.

MONEY SERVICES BUSINESSES

In addition to our efforts to combat bulk cash smuggling, ICE works aggressively to identify and investigate other financial methods that criminals use to move their illicit funds out of the United States — such as the use of unlicensed money services businesses

owned ATM industry.

(MSB). These unlicensed businesses operate outside of the traditional banking system and governmental oversight, and have been long recognized by law enforcement as vulnerable for exploitation by terrorists and other criminals. The enhancements in Title 18 U.S.C. 1960, Prohibition of Unlicensed Money Transmitting Business, enacted through the USA PATRIOT Act, provided ICE with the authority to investigate unlicensed money remitters.

While many MSBs provide a legitimate service to their customers, those acting illegally evade federal reporting and record-keeping requirements. In an effort to address this vulnerability and force more transparency within the MSB industry, ICE is aggressively investigating illegal MSBs and has implemented an MSB/Informal Value Transfer System (IVTS) initiative built upon a three-tiered strategy of identification, compliance, and prosecution. The goal is to identify as many unlicensed MSBs as possible, investigate and prosecute any MSB that is linked to an ongoing ICE criminal investigation or meets federal prosecution guidelines for violation of 18 USC 1960, and work with the IRS and the Financial Crimes Enforcement Network (FinCEN) to educate and bring into compliance those unlicensed MSBs not within prosecutorial guidelines of the initiative. Since the start of our MSB initiative in January 2006, ICE has identified over 80 suspected unlicensed MSBs and opened 55 formal investigations.

ICE's unified immigration and customs investigative authorities and capabilities give our Special Agents the ability to identify and close the homeland security vulnerabilities generated by and related to unlicensed MSBs money laundering activities.

Specifically, ICE is leveraging information it generates during immigration-related enforcement activities to identify and investigate unlicensed MSBs used by undocumented individuals to move money around the world. Investigations of individuals engaged in benefit fraud, the manufacture and sale of false immigration documents, human smuggling and trafficking activities, narcotics trafficking, or other transnational crimes have a significant potential to uncover unlicensed MSBs. Since the passage of the PATRIOT Act, ICE investigations of unlicensed money- services businesses have resulted in over 171 arrests and the seizure of over \$25 million in currency.

TRADE-BASED MONEY LAUNDERING

Because of ICE's experience and continuing expertise in customs matters, our Special Agents are highly effective in investigating and combating trade and trade-based money laundering. Criminal enterprises have long misused international trade mechanisms to avoid taxes, tariffs, and customs duties. Alternative remittance systems, such as *hawalas*, have also long utilized trade to balance payments between *hawaladars*. As both the formal international financial system and money services businesses become increasingly regulated, scrutinized, and transparent, criminal money launderers and potentially terrorist financiers are more likely to use fraudulent trade-based practices in international commerce to launder, earn, move, and integrate funds and assets.

Trade-based money laundering is defined as: the use of trade to legitimize, conceal, transfer, and convert large quantities of illicit cash into less conspicuous assets or

commodities. In turn, the tangible assets or value are transferred worldwide in an effort to avoid financial transparency laws and regulations. The ICE Trade Transparency Unit (TTU) identifies anomalies related to cross-border trade that present indications of international trade-based money laundering. The TTU generates, initiates and supports investigations and prosecutions related to trade-based money laundering, the illegal movement of criminal proceeds across international borders, alternative money remittance systems, and other financial crimes. By sharing trade data with foreign governments, ICE and participating governments are able to see both sides, import and export, of commodities entering or leaving their countries. This truly makes trade transparent and will assist in the identification and investigation of international money launderers and money laundering organizations. Other benefits of trade transparency include: assisting developing nations in the potential identification of smuggling routes or public corruption, and reduction of smuggling that feeds the Black Market Peso Exchange laundering system.

The Data Analysis and Research for Trade Transparency System (DARTTS) is a proprietary ICE system that helps our Special Agents analyze foreign and domestic trade data and Bank Secrecy Act information. ICE Special Agents employ DARTTS to identify discrepancies in trade and financial data that may indicate money laundering, customs fraud and other transnational crimes. The ICE Trade Transparency Unit (TTU) develops investigative leads from analysis through DARTTS and facilitates the dissemination of investigative referrals to field entities.

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ICE launched the first TTU in Colombia to share information, better assess risks, and conduct intelligence-based investigations. Using State Department funding from Plan Colombia, ICE provided support to Colombian authorities and initiated trade based data exchanges. Under this program, U.S. investigative leads are vetted by the TTU and disseminated to ICE SAC offices for investigation. Colombian leads are disseminated to our Colombian counterparts for investigation. Recently, ICE with funding from the State Department, provided 215 computers and other equipment to Colombia's Customs Service to increase trade transparency and combat trade-based money laundering, drug trafficking, contraband smuggling, tax evasion and other crimes between Colombia and the United States.

Using the joint resources of ICE and Colombian TTUs, ICE implemented a Black Market Peso Exchange (BMPE) initiative, involving the analysis of companies and/or subject(s) involved in BMPE schemes. This initiative allows U.S. and Colombian authorities to exchange information and data for ultimate criminal or civil action, to target Colombian peso brokers, U.S. exporters, Colombian importers and financial accounts facilitating BMPE activity.

As part of U.S. efforts in the Tri-border area (TBA) of Paraguay, Brazil and Argentina, ICE is working with the U.S. Departments of State and Treasury and the governments of Argentina, Brazil and Paraguay to establish TTUs in those three countries. These initiatives are at various stages of development.

DIGITAL MONEY LAUNDERING

While the majority of border-related money laundering continues to take the form of conventional methods, such as bulk cash smuggling, money services business and trade related activities, the rapid pace of technology is continuing to open a new horizon of opportunity for money launderers in the form of digital money laundering.

Internet payment services such as PayPal, BidPay, e-gold and E-Dinar represent new methods to transfer funds globally. For example in 2004, PayPal executed 339.9 million payments totaling \$18.9 billion in value. These significant and growing mechanisms to transfer funds and value globally in an instant provide new capabilities for those engaged in money laundering.

Often these kinds of services and transactions routinely cross several international jurisdictions. Some do not require customers to establish their identities. Some accept cash in order to open accounts. And some Internet payment conveyances keep few or no records. Others with substantial record keeping may reside safely beyond the reach of U.S. law enforcement. Merely determining which country has jurisdiction over these services can often present severe challenges to law enforcement. The proliferation of these services, in combination with pre-paid value cards that can be used to withdraw cash from ATMs worldwide, poses very significant opportunities for the illicit movement of money and value outside the boundaries of current regulatory regimes.

These emergent systems and technologies represent a significant challenge to our ability to force transparency into the movement of money and bearer instruments across our borders, and are not addressed by the currency and monetary instrument reporting requirements as presently structured.

ICE USE OF BANK SECRECY ACT DATA

Law enforcement uses the entire array of Bank Secrecy Act documents in a variety of ways. ICE has a long history of collecting, analyzing and utilizing Bank Secrecy Act data in criminal investigations. ICE's use of Currency Transaction Report (CTRs) data is a valuable analytic tool for detecting illegal activity, developing leads and furthering investigations.

The so-called "placement" of funds into the financial system is the most vulnerable stage of the money laundering process for criminal organizations. Generally, individuals and businesses conducting legitimate transactions have no reason to structure deposits or withdrawals to avoid the current \$10,000 threshold for the filing of a CTR. The CTR requirement leads criminals to deliberately structure deposits into the banking system in order to avoid the reporting requirement in the hopes of avoiding suspicion and detection. Because criminals must structure their illicit proceeds, they are forced to make multiple financial transactions to place the illicit proceeds into financial institutions. This forces the criminal organization to expend additional time and effort, and it provides law enforcement with indicators used to detect illegal activity.

In an effort to circumvent the CTR requirement, international criminal organizations have employed numerous “peripheral employees” to “smurf” their illicit proceeds into financial institutions. U.S. law enforcement has learned to exploit the inherent weaknesses created by this process, as it provides law enforcement with a greater number of targets for interdiction efforts, undercover opportunities, and confidential source development.

In the course of our investigations, CTRs are used to establish links between persons and businesses, to identify co-conspirators, potential witnesses, and to reveal patterns of illegal activity. CTR information has been utilized to meet the probable cause requirement necessary to obtain search and/or arrest warrants. CTRs link individuals and businesses to financial institutions and provide this information so the investigator can utilize the information for subpoenas. CTRs can also provide critical information relating to asset identification. Most importantly, as mentioned above, the CTR requirement causes violators to deliberately structure deposits into the banking system, which is a significant red-flag indicator of criminal activity. To illustrate how important CTRs are to ICE investigations, ICE Special Agents queried CTR records over 454,000 times just in fiscal year 2005. ICE has many examples of investigations that were initiated, enhanced or perfected because of access to the Bank Secrecy Act repertoire of documents.

CONCLUSION

All forms of illegal movement of money and other financial instruments across our borders, and through our financial institutions, along with the generation of illegal proceeds from crimes that violate our customs and immigration laws constitute threats to the federal revenue, our economy, our allies, and our national security.

While financial crimes themselves are a direct threat, they also sustain and support the illicit activities of terrorists or other criminals. By aggressively enforcing our federal laws against money laundering, particularly those related to transnational crimes, ICE Special Agents are working to close existing vulnerabilities in our border and homeland security.

Although the majority of cross border-related money laundering we see today is by known methods, this illegal business is evolving in dangerous ways. Specifically, the advance of “digital currency” offers potential violators a new horizon of opportunities for money laundering. ICE Cybersmuggling Center is working with other agencies to address this emerging threat. This technology is evolving faster than the regulatory infrastructure can keep pace.

While ICE is a new agency, with newly unified immigration and customs authorities, many of our Special Agents continue to build upon their deep experience with financial investigations and immigration enforcement. We are aggressively applying our financial investigative authorities and capabilities across the full ICE portfolio, in order to identify

and close vulnerabilities in our border and homeland security. At the same time, we are bringing to bear the best of our former agencies' expertise, cultures, and techniques, while building a new federal law enforcement agency that is greater and more effective than the sum of its parts. In case after case, ICE Special Agents are putting into practice the powerful advantages that flow from our unified authorities, and are putting them to great use on behalf of the American people. The net result is a greater contribution to the Nation's border security, which is a critical element of national security.

My colleagues at ICE are grateful for the chance to serve the American people and, on their behalf, I thank this subcommittee, its distinguished members and Congress for the continued support of ICE investigative endeavors.

I would be pleased to answer your questions.