



**Testimony of Michael Morehart  
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Before the Committee on Financial Services  
Subcommittee on Financial Institutions and Consumer Credit  
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Good afternoon Mr. Chairman and distinguished members of the Subcommittee. On behalf of the Federal Bureau of Investigation, I am honored to appear before you today to discuss the FBI's efforts to disrupt and dismantle national and international money laundering operations and the operational impact of the successful utilization of information obtained from the financial sector.

***Introduction***

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.

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 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 approximately 73 percent 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. The second-tier banks then solicit individual customers, all of whom get signatory authority over the single U.S. correspondent account.

The FBI currently has over 1,200 pending cases involving some aspect of money laundering, with proceeds drawn from criminal activities including organized crime, drug trafficking, fraud against the government, securities fraud, health care fraud, mortgage fraud, and domestic and international terrorism. By first addressing the underlying criminal activity and then following the money, the FBI has made significant inroads into the financial infrastructure of domestic and international criminal and terrorist organizations, thereby depriving the criminal element of illegal profits from their schemes.

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. As I have previously testified, the FBI enjoys a cooperative and productive relationship with FinCEN, the broker 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 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. Abundant examples exist of activities noted in BSA reports which have added value to counterterrorism 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, 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. Either increasing the transaction amount at which a Currency Transaction Report (CTR) would be generated (currently at over \$10,000) or abolishing the reporting requirement altogether, would deprive law enforcement of a valuable investigative tool.

Recent macro level analysis of the impact of BSA data provided by FinCEN to the FBI reinforces the investigative significance of the BSA data as follows:

- For the years 2000 through 2005, 38.6% of all the CTRs filed reported transactions in amounts between \$10,000 and \$14,999;
- For the same time period, 18.5% of all the CTRs filed reported transactions in amounts between \$15,000 and \$19,999;
- 10.8% of all CTRs filed during the time period were on transactions of amounts between \$20,000 and \$24,999;
- 6.2% of all CTRs filed during the same period involved transactions between \$25,000 and \$29,999;
- 4.7% of all CTRs filed in the same period involved transactions of amounts between \$30,000 and \$34,999;
- 19% of the CTRs filed in that periods involved transactions of amounts between \$35,000 and \$100,000; and
- Less than 2% of all CTRs filed in that period involved transactions of \$100,000 or more.

To determine the operational impact of BSA data relative to FBI investigations, a sample of FBI records for the years 2000 through 2005 were matched by exact name and date of birth or by exact Social Security Number to almost 13,000 CTRs reported in the same time period.<sup>1</sup> This statistical sample, when extrapolated to the universe of CTRs, concludes that in excess of 3.1 million CTRs were pertinent to FBI investigations during that time period. The breakdown of the sampled CTRs deemed relevant to FBI investigations reveals:

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<sup>1</sup> Based on the random sampling of FBI investigative records from the whole of FBI investigative records for the years 2000 through 2005, it is statistically attestable that a comparison of each investigative record to all CTRs for the years 2000 through 2005 would demonstrate that more than 3.1 million CTRs directly impact FBI investigations with an error rate of less than one percent, plus or minus. This number is conservative as the matching process used exact name and date of birth or exact social security number and not the host of other identifiers available to investigators, such as telephone numbers or addresses.

- 29.2% of the CTRs reported transactions in amounts between \$10,000 and \$14,999;
- 20.2% reported transactions in amounts between \$15,000 and \$19,999;
- 10.2% reported transactions in amounts between \$20,000 and \$24,999;
- 6.2% reported transactions in amounts between \$25,000 and \$29,999;
- 6.0% reported transactions in amounts between \$30,000 and \$34,999;
- 28% reported transactions in amounts between \$35,000 and \$100,000;
- Less than 1% reported transactions in amounts over \$100,000; and
- 72% of the reported CTRs deemed pertinent to FBI investigations were in amounts less than \$35,000.

The CTR reporting threshold is set by regulation and has been fixed at \$10,000 for more than 25 years. In that time, technology associated with the movement of money has advanced significantly. The movement of funds through electronic means has now become the standard. It should be noted that CTRs are not required for the electronic movement of funds. The practical effect on law enforcement activities of an increase to the CTR threshold reporting amount would be to severely limit or even preclude law enforcement access to financial data associated with cash transactions that are not otherwise documented. In other words, the filing of CTRs, at the current reporting threshold, ensures a degree of transparency in the financial system that would not otherwise be available.

My attention now turns to the important issue of the so-called “seasoned customer” CTR exemption. As you are aware, the BSA allows financial institutions to seek CTR filing exemptions pursuant to the

“Designated Exempt Persons” (DEP) protocol. However, certain types of businesses considered most susceptible to abuse, such as money service businesses, are ineligible for the DEP exemptions. We are opposed to any such exemptions for these currently ineligible entities. We would also caution against the use of a specified time period as the only requirement for exemption under the DEP.

While the Suspicious Activity Report (SAR) is an extremely valuable tool, 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 only 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. 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 banks 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.

Any decision to change the working of the current CTR customer exemptions should be undertaken with great care, so as not to deprive our law enforcement and intelligence personnel of highly valuable data points. This is particularly so because of the steadily increasing ability of the Bureau to use these data points to meaningfully track national security threats and criminal activity. Though information on the evolution of this capability is not appropriate for public discussion, we are happy to provide nonpublic briefings on it and have done so already for some members of your staffs.



The Bureau and the Administration are committed to continuing to work with this Subcommittee and the Congress to ascertain whether certain categories of CTRs can be eliminated without harm to our investigative capabilities and, if so, to find effective methods to stop the filing of those, and only those, CTRs. But we should not eliminate the filing of any category of CTRs absent study of the utility of that category. Simply put, our adversaries are patient and will wait years, if necessary, to accomplish their mission.

### *Conclusion*

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 majority of CTRs of value to the law enforcement and intelligence communities are typically those that are prepared at or near the current reporting requirements. To dramatically alter currency transaction reporting requirements -- without careful, independent study -- could be devastating and a significant setback to investigative and intelligence efforts relative to both the global war on terrorism and traditional criminal activities.