



DEPARTMENT OF THE TREASURY OFFICE OF PUBLIC AFFAIRS

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**Testimony of
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before the
Committee on Financial Services
United States House of Representatives**

Chairman Oxley, Representative Frank, Members of the Committee, I appreciate this opportunity to provide the Treasury Department's views on legislation impacting financial institutions and financial markets that the Committee is considering including in broad September 11 legislation.

In particular, you asked for our views on five specific issues. Let me note that, while these legislative items merit consideration, they should not interfere with the specific 9/11 related reforms which have been called for by the President. The War on Terror continues to be fought both at home and abroad using tools existing under current law; as the 9/11 legislative proposal makes clear, there are still other weapons which are needed to continue this fight. It is imperative that the President's 9/11 legislative recommendations be enacted without delay.

Internet Gambling (H.R. 2143)

H.R. 2143 would allow six months for the federal financial regulators and the Federal Trade Commission (FTC) to promulgate regulations for payments systems that would prevent transactions relating to unlawful Internet gambling. The rules would require any designated payment systems to establish policies and procedures "reasonably designed" to identify and block, and to prevent the acceptance of payment system products or services related to, restricted transactions. Restricted transactions would be transmittals or transactions to gambling businesses that are connected to unlawful Internet gambling by another person, for example, a credit card payment.

H.R. 2143 does not legislate any new crime of Internet gambling, and it takes into consideration various characteristics of our financial system. The bill designates financial regulators and the FTC as the appropriate rule makers for payments system transactions affecting financial institutions, financial instruments, and financial products and services. It also designates the federal financial regulators as the

appropriate enforcers. The Administration opposes illegal Internet gambling and looks forward to continuing to work with Congress on this important issue.

Securities and Exchange Commission Emergency Authority (H.R. 657)

The provisions incorporated in H.R. 657 were first proposed in the wake of 9/11 to provide the SEC with enhanced authority to respond to extraordinary market disturbances. The bill would:

- broaden the SEC's emergency order authority to apply under the securities laws, not just the Securities Exchange Act of 1934;
- expand the "emergency" predicates for emergency orders;
- lengthen the potential duration of emergency orders;
- require the SEC to consult with the Treasury, Federal Reserve, and Commodity Futures Trading Commission before declaring broad trading suspensions;
- provide the Secretary of the Treasury with parallel emergency authority with respect to government securities matters under the Treasury's jurisdiction under section 15C of the Securities Exchange Act; and
- exclude "exempted markets" from the bill, subject to an exception for emergency orders affecting clearing agencies in exempted securities.

The bill leaves unchanged an existing statutory provision enabling the President to terminate any SEC emergency action. The bill also does not expand the SEC's trading suspension authority to include markets for government or other exempt securities.

Coordination continues to play an important role for financial services regulators to consider in light of the interconnected nature of today's markets. The President's Working Group on Financial Markets continues to meet regularly to discuss issues common to the financial services regulators regarding contingency planning in the event of a large scale market disruption.

Netting (H.R. 2120)

The Treasury strongly supports the enactment of financial contract netting legislation such as H.R. 2120. The President's Working Group on Financial Markets originally proposed such legislation in March 1998 and has supported financial contract netting legislative proposals ever since. In addition, in October 2001, the Treasury Department and financial institution regulators urged Congress to pass netting legislation separately from bankruptcy legislation. That letter stated that the "failure to enact these financial contract netting provisions would unnecessarily place the financial system at greater risk." To date, this legislation has not been enacted.

H.R. 2120 eliminates uncertainties that exist under current law due to changes in the market over the past several years. The legislation would update terminology to reflect more accurately existing types of financial products, clarify the FDIC's authority with regard to a failed bank, and harmonize the Bankruptcy Code and the Federal Deposit Insurance Corporation Act. This important legislation is necessary to help ensure that markets continue to operate without disruption in the event of the failure of a bank or other large market participant.

Bureau of Engraving and Printing Security Printing Act of 2004 (H.R. 3786)

H.R. 3786 would authorize the Bureau of Engraving and Printing (BEP) to print securities and other documents for foreign governments; current statutory limitations preclude BEP from providing actual production support. The authority would be limited to times when demand for United States currency postage stamps, and other Federal government products is below BEP's production capacity. In

addition, any production on behalf of a foreign government would be subject to a determination by the Secretary of State that it is consistent with the United States foreign policy.

H.R. 3786 would provide a number of benefits:

- The measure would serve as a positive tool of United States foreign policy -- augmenting beneficial relations with friendly governments and contributing to the security and stabilization of foreign currencies.
- Over the past 10 to 15 years, the Department of the Treasury was unable to meet the engraving and printing needs of five nations – Turkey, South Africa, Eritrea, Kuwait and Iraq – because it lacked the necessary statutory authority. In 2003, U.S. taxpayers paid a foreign printing company approximately \$80 million to produce the new Iraqi currency.
- H.R. 3786 would also augment the U.S. government’s anti-counterfeiting program. Empowering Treasury’s engravers and printers to work with new techniques and materials and produce notes with a wide variety of counterfeit-deterrent features would enable the Department to apply “best practices” when designing future generations of U.S. currency.
- Passage of the legislation would also defer certain fixed expenses of the Bureau of Engraving and Printing and thereby lower the cost of currency notes ordered and paid for by the Federal Reserve System. Savings achieved through enactment of this legislation would be returned to the General Fund of the Treasury by the Federal Reserve System at the end of each fiscal year.

Treasury strongly supports H.R. 3786 as it is similar to a bill that we submitted to Congress in 2001. That bill, introduced as H.R. 2509, received overwhelming bipartisan support and passed the House by a vote of 403-11 on March 19, 2002, but it was not acted on by the Senate prior to adjournment. More recently, H.R. 3786 passed the House of Representatives on March 25, 2004 by a vote of 422-2.

Clarifying Delegation Authority of Treasury Fiscal Assistant Secretary

The Office of the Fiscal Assistant Secretary performs critical functions related to the financial operations of the government and Treasury, including the delivery of payments, the collection of the government’s revenues and the management of the Treasury’s cash balances. All of these functions occur under the direction of the Fiscal Assistant Secretary. In the event of a natural or other catastrophic disaster, it may be necessary for the Treasury to take unusual or extraordinary measures to ensure these critical functions continue.

Should the Fiscal Assistant Secretary be unavailable or disabled, a senior official who is knowledgeable in the fiscal operations of the Treasury must have the authority to act on the Fiscal Assistant Secretary’s behalf. However, the authority for the Secretary to designate another official to act as the Fiscal Assistant Secretary currently is limited to an “officer of the Department.” This places at potential risk the financial operations of the government, including the issuance of benefit payments and our ability to raise cash to fund operations. The proposed legislative fix would remedy this situation. It is essential to the efficient administration and continued operation of the Treasury Department.

The proposed fix would conform the Secretary’s delegation of authority relating to the Fiscal Assistant Secretary to the Secretary’s authority relating to other Treasury officials who are not appointed by the President.