



**STATEMENT OF WILLIAM J. FOX
DIRECTOR, FINANCIAL CRIMES ENFORCEMENT NETWORK
UNITED STATES DEPARTMENT OF THE TREASURY**

**BEFORE THE
HOUSE SUBCOMMITTEE ON FINANCIAL INSTITUTIONS AND CONSUMER CREDIT
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Chairman Bachus, Ranking Member Sanders and distinguished members of the Subcommittee, I appreciate the opportunity to appear before you today to discuss your efforts to balance the burdens imposed on the financial industry by the requirements of the Bank Secrecy Act of 1970, specifically, providing the government with highly relevant information that assists law enforcement in making our financial system more transparent and our country safer. I am the Director of the Financial Crimes Enforcement Network, which has been delegated the responsibility by the Secretary of the Treasury to administer the Bank Secrecy Act. The Financial Crimes Enforcement Network is part of Treasury's new Office of Terrorism and Financial Intelligence, led by Under Secretary Stuart Levey. The creation of this office has greatly enhanced Treasury's efforts and accomplishments on issues relating to money laundering, terrorist financing and other financial crime.

As the administrator of the Bank Secrecy Act, we bear responsibility for ensuring that the Bank Secrecy Act is implemented in a way that achieves the policy aim intended by the Congress, which is, simply stated, to safeguard the United States financial system from the abuses of financial crime, including money laundering and terrorist or other illicit financing. This is a day-to-day challenge in a financial system where we generally promote the unfettered, free-flow of commerce and where criminals strive to manipulate the system with the same ingenuity and sophistication of the very best in the industry.

Ensuring that we strike the right balance between the cost and benefit of this regulatory regime is, in my view, a central responsibility for my agency. While I do not believe this cost / benefit analysis can be reduced to a mathematical formula, I believe we must constantly study how we can more effectively tailor this regime to minimize the costs and other burdens imposed on our financial institutions while at the same time ensuring that the law enforcement community receives the information it needs to combat financial crime and terrorism.

This effort is particularly important because I am more certain than ever that compliance with the Bank Secrecy Act's regulatory regime is a critical component to our country's ability to utilize financial information to combat terrorism, terrorist financing, money laundering, and other serious financial crime. Moreover, the systems and

programs that are mandated by the Bank Secrecy Act make our financial system safer and more transparent.

Over the past year I have traveled quite a bit around the country listening to the frustrations members of the financial industry have with the Bank Secrecy Act. Many of those frustrations relate to how the Act is being implemented. Many in the financial industry complained about the lack of clarity in requirements and consistency in examination. At the same time, the Congress has questioned the effectiveness of our collective ability to implement this regime in light of several highly publicized and significant regulatory failures by certain financial institutions. Mr. Chairman, I am pleased to report that by working diligently with my colleagues at this table, we have made significant progress on these issues. In the past year:

- We have signed groundbreaking information-sharing agreements with the five Federal Banking Agencies, the Internal Revenue Service and thirty-three (33) state authorities. We are working to finalize similar agreements with the Securities and Exchange Commission and the Commodities Futures Trading Commission.
- We have assisted the Federal Banking Agencies with the development of a comprehensive Bank Secrecy Act examination manual that we believe will ensure greater consistency in examinations for depository institutions, and will provide a significant source of guidance and help for those institutions.
- We are together issuing more and better guidance to ensure greater clarity and consistency of regulatory policy. A good example of this is the recent guidance we issued jointly with the Federal Banking Agencies on the provision of banking services to money services businesses.
- We have created and staffed an Office of Compliance within our Regulatory Division to ensure better clarity and consistency in how the Bank Secrecy Act is implemented and provide us with an assessment of the overall success of our Bank Secrecy Act Regulatory Program.
- We are – for the first time – devoting nearly 25% of our analytic muscle to regulatory issues and programs. These analysts are not only identifying compliance problems and targeting problematic institutions for examination, they will also develop and provide information to the financial industry to help them better understand and assess the risks posed by their business lines and customer base.

We believe these steps and the steps we have planned have helped improve the overall implementation and effectiveness of the Bank Secrecy Act. Ensuring that we present the financial industry with regulatory requirements that are both clear and

consistent is, in my view, one of the best ways we can reduce the burden associated with Bank Secrecy Act compliance.

Consistency is a crucial element of the effective implementation of the Bank Secrecy Act, and, indeed, is one of our core objectives. While we, of course, stand ready to assist the Committee and this Congress by examining any aspect of the Bank Secrecy Act, I would emphasize that over the past year, the level of cooperation between my agency and the Federal Banking Agencies has grown significantly. As reflected in the steps we have taken together, we all recognize the need for a consistent voice on these important regulatory issues, and are building the necessary coordination mechanisms.

The focus of my testimony before the subcommittee today is on HR 3505, specifically, how that bill would affect the Bank Secrecy Act. I would like to focus on one key concept in this legislation; your effort to reduce the burden imposed on the financial industry of filing Currency Transaction Reports. We have been grappling with the issue of how to improve the Currency Transaction Report regime for some time. We know that Currency Transaction Reports are valuable to law enforcement. These reports – often coupled with other information – are used every day to identify and locate criminals and terrorists. However, we also know that some of the Currency Transaction Reports filed by financial institutions are of little relevance in the investigation of financial crime. We also know that depository institutions, especially our community banks, identify the time and expense of filing Currency Transaction Reports as the number one regulatory expense. Indeed, the Congress has in the past recognized the need to reduce the number of Currency Transaction Reports that may not have a high degree of usefulness to law enforcement, ordering us to find a way to do so. However, it is clear that our efforts to encourage the exemption of routine filings on certain customers have not brought about the reductions in filing that were sought.

Two years ago we turned to the Bank Secrecy Act Advisory Group, bringing in the viewpoints of the industry, law enforcement, and regulatory communities, to address this question. Through this process, we learned that our colleagues in law enforcement have made significant strides recently in their ability to utilize currency transaction reporting data, marrying this data with other law enforcement data to maximize its benefit. We also have enhanced our analytic capability to exploit this data source on both micro and macro levels. Such innovations enhance the utility of our analysis, and it is essential that we not reduce the flow of critical information just as the technical firepower to exploit this information is reaching new heights.

This Committee now is considering language that would amend current exemptions by allowing banks to qualify certain customers as exempt from routine currency transaction reporting. We believe this language addresses many of the issues with our current exemption regime that were causing it not to have its intended effect. Due to its complexity and the burden involved in exempting customers, financial institutions were not taking advantage of the exemption regime. This proposal seeks to streamline the exemption process by focusing on a one-time notice to my agency of an

exemption and focusing on the customer's relationship with the bank as the grounds for such exemption. We believe that these changes will make the exemptions more effective while still ensuring that currency transaction reporting information critical to identifying criminal financial activity is made available to law enforcement.

However, we also recognize that we need to monitor these changes to ensure that they do not result in a reduction in information that would be highly useful to our law enforcement clients, and accordingly the proposal contains a wise requirement to conduct a study after some time has elapsed to ensure that we are striking the proper balance.

In conclusion, Mr. Chairman, I hope that my testimony today conveys the sense of commitment, energy, and balance with which all of us at the Financial Crimes Enforcement Network are addressing the challenging issues that confront our administration of the Bank Secrecy Act. The importance of your personal and direct support of these efforts cannot be overstated. Your oversight will ensure that we meet the challenges that we are facing. I know how critical it is that we do so, and we hope you know how committed we are to meeting those challenges. Thank you.