



Highlights of [GAO-08-1058](#), a report to congressional requesters

Why GAO Did This Study

Since September 11, 2001, the United States has established tools to address the threat to the U.S. financial system of money laundering and terrorist financing. One such tool is Section 311 of the USA PATRIOT Act of 2001, which authorizes the Secretary of the Treasury (Treasury) to prohibit U.S. financial institutions from maintaining certain accounts for foreign banks if they involve foreign jurisdictions or institutions found to be of primary money laundering concern. To make this finding, Treasury examines several factors and generally issues a proposed rule announcing its intent to apply Section 311 restrictions.

GAO was asked to examine (1) the process used to implement Section 311 restrictions, (2) the process Treasury follows to finalize or withdraw a proposed rule, and (3) how Treasury assesses the impact of Section 311.

GAO reviewed financial and investigative U.S. government documents and met with government officials and representatives of affected banks

What GAO Recommends

GAO recommends that Treasury establish guidance to clarify responsibility to implement and finalize Section 311 actions.

Treasury said it will act in response to this recommendation, although the process has been improved. Justice and State did not comment.

To view the full product, including the scope and methodology, click on [GAO-08-1058](#). For more information, contact Loren Yager at (202) 512-4347 or yagerl@gao.gov.

USA PATRIOT ACT

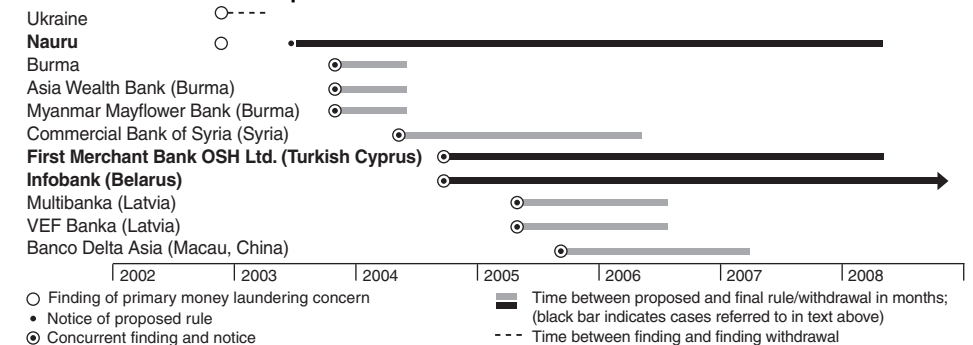
Better Interagency Coordination and Implementing Guidance for Section 311 Could Improve U.S. Anti-Money Laundering Efforts

What GAO Found

Treasury's informal process to implement Section 311 was consistent with requirements in U.S. law. From 2002 to 2005, Treasury identified 11 cases--3 jurisdictions and 8 institutions--as being of primary money laundering concern and issued proposed rules for 10 of these cases. As required, Treasury consulted with the Departments of Justice and State prior to issuing the proposed rules. However, Justice and State officials said that it was difficult for them to effectively assess the evidence on some Section 311 cases because Treasury provided them limited time. In 2006, Treasury changed its process by forming an interagency working group to discuss potential threats to the U.S. financial system. But it is unclear if the new process addressed the agencies' concerns since Treasury has issued no Section 311 findings since 2005.

Treasury determines whether to finalize or withdraw a proposed Section 311 rule by reviewing written comments and sometimes meeting with interested parties. The duration of a proposed rule is significant because U.S. financial institutions act immediately in response to its announcement. However, Treasury has taken years to complete this process in some cases. In April 2008, Treasury withdrew two of three notices--all open for between 3 and 5 years--after GAO discussed the cases with Treasury officials. Contributing to this lag was the absence of required timeframes for completing the action and of written guidance specifying a Treasury office to finalize the actions.

Duration of Section 311 Proposed Rules



Source: GAO analysis of Department of Treasury data.

Treasury views Section 311 as effective because it isolates target institutions from the U.S. financial system and encourages some foreign governments to strengthen their anti-money laundering authorities. However, some foreign government officials said that Section 311's implementation precluded their own enforcement or regulatory actions against targeted institutions as U.S. action was unilateral or provided too little information for them to act. Justice officials said that if Section 311's application is viewed as unsubstantiated, some countries may be less likely to cooperate with the U.S. government on other law enforcement matters or sanctions. Treasury officials recognized the concerns, but did not believe they diminished Section 311's effectiveness.