REMARKS OF JAMES H. FREIS, JR.
DIRECTOR
FINANCIAL CRIMES ENFORCEMENT NETWORK

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Good morning. I very much welcome the opportunity to speak before the American Bankers Association/American Bar Association's annual money laundering enforcement conference for the fifth year in a row. In my previous years' remarks, I have addressed a number of issues that have been fundamental to FinCEN's approach to the banking industry, as well as very important to me personally–including our efforts to increase regulatory efficiency and effectiveness, the rationale behind our approach to enforcement actions as an integral part of promoting regulatory compliance, the importance FinCEN places on increasing our dialogue and outreach with the financial industry, and FinCEN's ongoing focus on combating fraud and encouraging industry to leverage anti-fraud and anti-money laundering efforts.

Today I would like to tie some of these together in the broader context of how they relate to our efforts over these past several years to promote greater consistency in our regulatory approach across different industry sectors in an attempt to mitigate the range of risks of money laundering, terrorist financing and other financial crimes.

We begin from the first principle that almost all criminal activity is motivated by money. Money laundering is, therefore, both a byproduct and essential component of financial crime, and the audience today is well familiar with the placement, layering, and integration stages of money laundering. What that means is that criminals, analogous to honest citizens, desire services to move and invest funds as they attempt to benefit from their activities.

Since banks are the core of financial intermediation in the economy, banks are natural pathways for criminals, and thus central to our efforts to avoid criminal abuse. In the 21 years since FinCEN was created to follow the money to detect and deter criminals, financial assets of banking institutions have increased from $3.3 trillion in 1990 to over $13.6 trillion as of June 2011.[1] In September 2011, Fedwire system originated nearly 11 million funds transfers with a value of over 55 trillion dollars—an average of 521,555 transfers per day with an average daily value of $2.6 trillion.[2]

According to statistics from NACHA, in the first quarter of this year, Electronic Payments Association's Automated Clearing House Network processed 4.02 billion transactions worth more than $8.4 trillion during the first quarter of 2011, an increase of almost 10% from a year earlier.[3] These are but a few indicators of the massive amounts and flows of money among which criminals would find it all but irresistible to try to hide their ill-gotten gains were it not for your anti-money laundering and counter-terrorist financing (AML/CFT) efforts.

Yet today I would like to underscore that is also critically important that we apply appropriate regulatory controls beyond the banking sector. We must attempt to ensure that other pathways criminals may take into the financial system or utilize to benefit from their illicit activities are stymied, and that the relevant financial trails are available for FinCEN and law enforcement to follow. This has long been the intention of Congress exhibited in multiple legislative steps taken over the past 41 years to broaden the applicability of the Bank Secrecy Act (BSA), most recently and notably in Title III of the USA PATRIOT Act in 2001, to ensure that we address these vulnerabilities across industry sectors. As I have said many times, the premise is a simple one: any way that money can be moved, any way that funds can be intermediated, can indeed be abused by criminal actors.

Whether we talk about regulatory gaps, opportunities for arbitrage, or market distortions as distinct from a level playing field, etc., it would be much less effective and in some cases possibly even self-defeating to attempt to establish sound AML/CFT controls in the banking sector without addressing the risks that may arise in other sectors that may offer analogous, equivalent, or alternative opportunities for the movement or investment of money, or other type of financial intermediation. Moreover, in looking at non-bank sectors, we still must be cognizant of the centrality of banks in the financial system, including that banks may provide services to actors in other sectors in an economy.

With this in mind, at a conference of bankers and the professionals who serve them, I would like to focus my remarks today to efforts FinCEN is undertaking, including notable milestones achieved within the recent past, to promote consistency in our approach to address money laundering, terrorist financing and other financial crime risks across a range of sectors in the U.S. economy.

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[1] See http://www2.fdic.gov/sdi/main.asp
[2] See http://www.frbservices.org/operations/fedwire/fedwire_funds_services_statistics.html
[3] See http://admin.nacha.org/userfiles/File/ACH_Rules/1st%20Quarter%202011.pdf

Promoting Regulatory Efficiency and Effectiveness

When I first addressed this conference in 2007, I spoke of some regulatory efficiency and effectiveness initiatives that FinCEN had begun earlier that year.[4] Recall the context of the regulatory debate: prior to the financial crisis and subsequent changes to the law, and in particular the Dodd-Frank Act, FinCEN's implementation of some of the new regulatory requirements under the USA PATRIOT Act were among the most prominent regulatory changes affecting the financial industry. Although the commitment to AML/CFT principles was clear, many commentators posed the question as to whether we were achieving the right balance in the essential partnership between governmental and industry efforts which Congress intended.

The commitment I made standing alongside then Treasury Secretary Paulson in June 2007 remains the same: In all we do, FinCEN is working hard to bring a level of consistency to the way in which the BSA is administered. In my speech earlier this year before the American Bankers Association 2011 National Conference for Community Bankers, I reviewed steps that FinCEN had taken to see through our earlier commitments, and also how a number of components would further President Obama's initiatives on Transparency and Open Government.[5]

For depository institutions in particular, the importance of consistency in the way we approach AML/CFT issues has been continually reinforced since the release of the FFIEC examination manual in 2005, and in more recent updates.[6] Most significantly, it puts Federal and State depository institution regulators on the same page on these issues, thereby seeking to remove potential differences based solely on depository institution charter. Additionally, by sharing our approach with the regulated industry, expectations between a depository institution and its supervisor(s) should be clearer as well.

FinCEN has since its inception worked closely with the Federal Banking Agencies. Since 2005, FinCEN has developed similarly strong working relationships with the State banking agencies, and we are looking to cement that with finalizing our partnerships among the few remaining States for which we have not yet formalized a memorandum of understanding for the exchange of information regarding bank compliance with FinCEN's rules. On the foundation of this strong FinCEN-State banking supervisor partnership, we are looking to build additional cooperative arrangements to strengthen AML/CFT protections compliance in other State-supervised industry sectors, to which I will turn in a moment.

FinCEN has seen through an initiative I discussed four years ago at this conference, to improve consistency across different regulated sectors. March 1 of this year marked the effective date upon which our rules and regulations were reorganized within a new Chapter X of Title 31 of the Code of Federal Regulations (CFR).[7] The reorganization

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[4] See http://www.fincen.gov/news_room/speech/pdf/20071022.pdf
[5] See http://www.fincen.gov/news_room/speech/pdf/20110222.pdf
[6] See http://www.ffiec.gov/bsa_aml_infobase/default.htm
[7] See http://www.fincen.gov/news_room/nr/pdf/20110301.pdf

streamlines FinCEN's regulations into general and industry-specific Parts, making the regulatory obligations clearer in their structure, more consistent, and more accessible to affected financial institutions. Chapter X helps all financial institutions identify their obligations under the BSA in a more organized and understandable manner, which in turn improves compliance.[8]

Three years ago at this conference, I discussed aspects of consistency in FinCEN's approach in enforcement actions. Let me quote from the beginning of that speech:

> A year later, I would like to take a further step in this [efficiency and effectiveness] initiative by providing explicit clarity on the purpose and conduct of FinCEN's enforcement program. Effective enforcement is based on the just and consistent application of the rules and enforcement penalties. Misperceptions about these matters will erode the trust and confidence in our financial system that the BSA seeks to protect. In this regard, FinCEN's general policy is to reserve civil money penalties for the most significant and systemic violations of the BSA. This is a view that I believe the banking industry shares. While lesser BSA infractions should not be ignored, FinCEN has other vehicles to address these deficiencies outside of the context of enforcement.

Our recent focus on risks outside of the banking sector can be seen in the enforcement area, where in the past year more actions were taken against non-banks than banks, especially for the failure of money transmitters to register with FinCEN. Why is it important to identify unregistered money services businesses (MSBs)? Because the registration of the MSB serves as a ***first step*** in establishing the compliance framework for applicable FinCEN regulations designed to help mitigate the risks of criminal abuse of MSBs for money laundering and terrorist financing, as the MSB seeks to provide financial services to customers for legitimate purposes. And when an institution fails to uphold this fundamental compliance obligation, it creates a vulnerability—a crack in the foundation upon which our defenses against criminal abuse are built.

Two years ago at this conference, I discussed FinCEN's outreach initiative to banks, as part of the importance for FinCEN as a regulator to understand how its rules affect the day-to-day business and related compliance decisions of regulated institutions. As evidence of the utility of two way exchange of ideas, I highlighted some examples of how FinCEN tried to be responsive to constructive suggestions from members of the financial industry as to how we can be more efficient and effective.

Last year at this conference, I noted how pleased I was to see the AML theme expanded to include the roles fraud professionals play within their financial institutions to identify and root out fraud. There has been no greater advocate on the importance of focusing on the nexus between fraud and money laundering than FinCEN, in particular as an opportunity for financial institutions to leverage their fraud resources with their anti-money laundering efforts and thereby improve efficiency and effectiveness. It really speaks to the core of FinCEN's mission to safeguard the integrity of the financial system,

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[8] See http://www.fincen.gov/statutes_regs/ChapterX/

and has been an area on which I have personally focused since I became Director of FinCEN almost five years ago.

All of the foregoing aspects of my earlier speeches here were focused primarily on the depository institution sector. Now let me turn my remarks to specific steps we at FinCEN have recently taken with respect to AML/CFT regulations for non-bank institutions that have a direct implication for greater consistency with bank controls, and thus a more consistent and comprehensive regulatory approach to mitigating risks.

New Regulations on Prepaid Access

The most significant expansion of FinCEN's regulatory purview in many years was the finalization this year of our rule with respect to prepaid access, which applies to non-bank providers and sellers as a subcomponent of activities for which an entity will be subject to FinCEN's regulations as a money services business. As I know that today I am among an audience of bankers and lawyers who by nature like to be precise and are somewhat risk-averse (speaking from personal experience as a banker and lawyer myself), I reiterate that two weeks ago FinCEN re-confirmed in response to frequently asked questions that by definition a bank cannot be a provider under the final prepaid access rule.[9]

It posed a real challenge to FinCEN to develop rules to address risks in rapidly evolving products with a great deal of consumer and commercial demand. As I have said many times before, it is always one of our biggest challenges on the regulatory front to find a way to strike the right balance. A balance between expanding financial inclusion and ensuring financial transparency for law enforcement, while staying mindful of the obligations and costs to the industry in complying with regulatory requirements – and the related potential inconvenience passed down to customers. So, for several years, FinCEN had been working with law enforcement, other regulators, and the financial industry to study the stored value/prepaid card industry.

Keep in mind the background of FinCEN's regulations of MSBs, which went into effect in 1999, that for the first time imposed broader regulatory responsibilities on an industry on the basis of its activity as opposed to its charter, as was the case with depository institutions. Now in July of this year, FinCEN issued a final rule that puts in place SAR reporting, as well as customer and transactional information collection requirements, on providers and sellers of certain types of prepaid access similar to other categories of MSBs. On September 9, FinCEN extended the compliance date for certain provisions of the final rule. While initial requirements went into effect the last week of September, full compliance will be expected by the end of March 2012.

In developing these rules, FinCEN sought to achieve a balance that would not unduly stifle innovation in this rapidly growing area of consumer payments. While prepaid access is most often associated with a card, the new rule was designed to be technology

[9] See question and answer 9 at http://www.fincen.gov/news_room/nr/html/20111102.html

neutral and is meant to be adaptable to a range of products, such as a plastic card, an internet system, or a mobile phone network.

As I noted in my remarks before the Money Transmitter Regulators Association (MTRA) earlier this fall, the final rule addresses regulatory gaps that have resulted from the proliferation of prepaid access innovations over the last 12 years and their increasing use as an accepted payment method.[10] FinCEN's prepaid access regulations also provide a balance to empower law enforcement with the information needed to attack money laundering, terrorist financing, and other illicit transactions through the financial system while preserving innovation and the many legitimate uses and societal benefits offered by prepaid access.

As I have said for some time, while our focus is on non-bank products, the risks we have identified in connection with prepaid access should also inform banks of their risks as well. Because the consumer is indifferent (they often do not know or even care who is the entity or entities behind the product), we should also be mindful and think about steps banks, as well as non-banks, should take to mitigate criminal abuse. We continue our discussion with banking regulators in this area and welcome constructive suggestions from the banking industry.

Also in July 2011, FinCEN issued a final rule that more clearly defines which businesses qualify as MSBs and are subject to our AML rules.[11] The rule enables entities to determine in a more straightforward way whether they are operating as MSBs subject to these rules. In addition, the rule requires foreign entities conducting these activities in the United States as MSBs to register. An entity that engages in money transmission in any amount is subject to the FinCEN's rules. The final rule ensures that certain foreign-located persons engaging in MSB activities within the United States are subject to the FinCEN's rules as well.

Throughout this process, a driving aspect in all we do is allowing legitimate products with consumer demand to flourish while mitigating the risk of criminal abuse.

Casinos

Although the general public might not consider a casino to be a "financial institution", they are businesses involved in the movement of a lot of money, and it is essential to include the casino and card club industry in our efforts to prevent criminal abuse.

The scope of this industry is evidenced by the fact that in the United States in 2010, commercial and tribal casinos had more than $61 billion dollars in total gross gaming revenue, and there are gaming machines in 39 states nationwide.[12] Anyone who has ever observed a casino 'cage' can see activities similar to those of a bank teller. Since

[10] See http://www.fincen.gov/news_room/speech/pdf/20111005.pdf
[11] See http://www.fincen.gov/news_room/nr/pdf/20110715.pdf
[12] See http://www.nigc.gov/LinkClick.aspx?fileticket=ta0m2dzcB3k%3d&tabid=67. and http://www.americangaming.org/files/aga/uploads/docs/sos/aga-sos-2011.pdf (page 2-3)

October 1997, Nevada casinos have been filing reports of suspicious activities under the State's previous regulatory system.[13] Effective March 25, 2003, gaming establishments (including State-licensed operations, tribal casinos and card clubs) outside Nevada have been required to report suspicious transactions.[14]

In terms of SAR filing trends, FinCEN's May 2010 *SAR Activity Review – Trends, Tips and Issues,* focused exclusively on the casino industry.[15] In reviewing the more than 40,000 suspicious activity reports (SARs) filed by casinos and card clubs between January 2004 and December 2008, more than $900 million in suspicious activity was reported. And somewhat similar to what we see in SARs filed by depository institutions, about 60% of the narratives that were sampled report individuals structuring or attempting to structure their transactions to avoid the filing of a CTR-Casino form.

Non-Bank residential mortgage lenders and originators

One of the topics on which FinCEN has focused the greatest amount of attention over the past five years has been mortgage fraud, and efforts to combat it. For most Americans, the purchase of a home will be the biggest single investment in a lifetime, often supported by a loan. In addition to traditional bank lenders, a range of non-bank lenders have come to offer services to would-be homeowners. We have also come to see how criminals have abused the system, taking advantage of both lenders and their customers. The reporting of suspicious activity by banks has been the most consistent and important source of lead information for FinCEN to help law enforcement in combating mortgage fraud. It is against the backdrop of FinCEN's experience with law enforcement investigations, as well as analytical studies that we have conducted, that we have also seen the need to close the regulatory gap between the coverage of banks and non-residential mortgage lenders and originators.

As I explained in remarks made before the Mortgage Bankers Association earlier this year,[16] FinCEN issued an Advance Notice of Proposed Rulemaking (ANPRM) in July 2009 to solicit public comment on a wide range of questions pertaining to the possible application of AML program and SAR regulations to non-bank residential mortgage lenders and originators.[17] The 2009 ANPRM suggested that any new rules likely would contain standards and requirements analogous to those currently applicable to Federally regulated depository institutions. After careful review and consideration of comments received in response to the ANPRM, in December 2010, FinCEN took the next step and issued a Notice of Proposed Rulemaking (NPRM) that would require non-bank

[13] On March 20, 2003, the Nevada Gaming Commission deleted from its Regulation 6A all state requirements related to suspicious activity reporting. On March 25, 2003, all Nevada gaming operations meeting the definition of a casino pursuant to 31 CFR §103.11(n)(5) became subject to Federal suspicious activity reporting requirements.
[14] See http://www.fincen.gov/statutes_regs/frn/pdf/casinosarfinalrule.pdf
[15] See http://www.fincen.gov/news_room/rp/files/sar_tti_17.pdf
[16] See http://www.fincen.gov/news_room/speech/pdf/20110328.pdf
[17] See http://www.fincen.gov/statutes_regs/frn/pdf/ANPRM.pdf

residential mortgage lenders and originators, like other types of financial institutions, to establish AML programs and file SARs.[18]
In both the ANPRM and the NPRM, FinCEN proposed an incremental approach to implementation of AML and SAR regulations for a broad category of financial institutions - loan and finance companies - that would focus first on those business entities that are engaged in residential mortgage lending or origination and are not currently subject to any AML or SAR program requirement under FinCEN's rules. Residential mortgage lenders and originators (*e.g.*, independent mortgage loan companies and mortgage brokers) are primary providers of mortgage finance—in most cases dealing directly with the consumer—and are in a unique position to assess and identify money laundering risks and fraud while directly assisting consumers with their financial needs and protecting them from the abuses of financial crime. The proposed rule would seek to guard against mortgage fraud including such activities as false statement, use of straw buyers, fraudulent flipping, and even identity theft associated with mortgage finance.

We are now moving towards the finalization of this rule. On October 24, the Office of Management and Budget (OMB) accepted FinCEN's mortgage broker final rule for formal review. The final rule defines non-bank residential mortgage lenders and originators as loan and finance companies for the purpose of requiring them to establish AML and SAR reporting.

From the perspective of reporting suspected mortgage fraud, the finalization of this rule would provide for consistent practices regardless of whether a residential loan was originated by a bank or non-bank. Keep in mind that in addition to FinCEN's efforts working with law enforcement to hold accountable those involved in mortgage fraud, it is in everyone's interest to ***prevent*** the fraud before it occurs. Prevention is a core purpose behind FinCEN's regulatory requirements for AML programs for financial institutions to be knowledgeable of risks and vigilant against criminal abuse. Hence, the finalization of this rule should also serve to further protect the integrity of the residential mortgage markets.

Finally with regard to combating mortgage fraud, last week FinCEN proposed regulations that would require government-sponsored enterprises (GSEs) Fannie Mae, Freddie Mac and the Federal Home Loan Banks to develop anti-money laundering programs and file SARs with FinCEN.[19] The GSEs currently file fraud reports with their regulator, the Federal Housing Finance Agency (FHFA), which then files SARs with FinCEN when the facts in a particular fraud report warrant a SAR under FinCEN's reporting standards. The proposed regulations would require that the GSEs file SARs directly with FinCEN, which will help streamline the reporting process, provide law enforcement with quicker access to data about potential fraud, and result in the reporting of a wider range of suspected financial crimes.

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[18] See http://edocket.access.gpo.gov/2010/pdf/2010-30765.pdf

[19] See http://www.fincen.gov/news_room/nr/html/20111103.html

Insurance

With respect to the insurance industry, while the risks of money laundering may be lower than for many banking activities, certain insurance products do serve a savings function or even as a way to intermediate value, and thus could serve as yet another avenue that criminals may take advantage of to disguise their illicit proceeds. The SAR-filing regulation for insurance companies, which became effective on May 2, 2006, mandated SAR filing only for those insurers that issue or underwrite specified “covered products.”[20] “Covered products” include permanent life insurance policies (other than group life insurance policies), annuity contracts (other than group annuity contracts), and any other insurance products with cash value or investment features.[21]

According to the Association of Certified Life Insurers (ACLI), at the end of 2009, life insurers held $5 trillion in total assets.[22] ACLI also noted that life insurers represent one of the largest investors in U.S. capital markets, providing long-term capital to the commercial mortgage market by financing more than $250 billion, or 10%, of U.S. commercial mortgages. And while the financial crisis affected communities across the nation, life insurers increased their bond holdings by more than 34% in 2009, the largest percentage increase among all financial industries and institutional investors.

In addition to the analytical studies we have issued on the insurance industry,[23] for the last two years, FinCEN has also worked directly with state insurance regulators and the National Association of Insurance Commissioners (NAIC) on initiatives to improve information sharing and tighten oversight of U.S. insurers' AML programs. Earlier this month I addressed the state insurance commissioners at the NAIC Fall National Meeting held near Washington, D.C.

In an important step in our work with our State partners, the State insurance commissioners recently voted to adopt enhancements to the NAIC financial examiners handbook by adding examination procedures to clarify AML program requirements of insurers subject to the BSA. As part of these increased enhancements in examinations that will be conducted by the State insurance regulators, it is the desire of FinCEN and the State insurance commissioners to enter into Memoranda of Understanding (MOU) to increase our information sharing authorities. We look forward to signing several of these MOUs in the upcoming weeks, and to a strong working partnership going forward with the State insurance regulators to protect the industry from criminal abuse.

Securities Industry

Among participants in the securities industry, FinCEN’s rules currently apply to broker-dealers and to mutual funds. The Securities and Exchange Commission (SEC) and the Financial Industry Regulatory Authority (FINRA) oversee approximately 5,100 broker-

[20] See 31 C.F.R. § 103.16.
[21] See 31 C.F.R. § 103.16(a)(4).
[22] See http://www.acli.com/Tools/Industry%20Facts/Assets%20and%20Investments/Pages/Default.aspx
[23] See http://www.fincen.gov/news_room/rp/files/Insurance_update_pub.pdf

dealers. As of the end of 2009, FINRA-registered broker-dealers held over 109 million retail and institutional accounts. Approximately 18% of FINRA-registered broker-dealers also are registered as investment advisers with the SEC or a State. FinCEN first formally began focusing public attention on investment advisers in September 2002, when we published a notice of proposed rulemaking in the Federal Register proposing that unregistered investment companies establish anti-money laundering programs.[24]

Although investment advisers are not expressly included within the definition of financial institution under the BSA, the BSA authorizes the Secretary to include additional types of entities within the definition of financial institution if it is determined that they engage in an activity ‘‘similar to, related to, or a substitute for’’ an activity of an enumerated entity.[25] Therefore, on May 5, 2003, FinCEN published a notice of proposed rulemaking in the Federal Register proposing that investment advisers establish anti-money laundering programs.[26]

Given the amount of time that had elapsed since the initial publication without further regulatory action, on November 4, 2008, FinCEN announced that it was withdrawing the proposed regulations and would not proceed with regulations for these entities without publishing new proposals and allowing for industry comments.[27] Additionally since then, there have been significant changes in the regulatory framework for investment advisers with the passage of the Dodd-Frank Act and SEC rules implementing Dodd-Frank.

According to the Investment Advisers Association, the number of investment advisers registered with the SEC totaled 11,539 in 2011, and the total assets under management reported by all investment advisers increased 13.7% to $43.8 trillion in 2011, from $38.6 trillion in 2010.[28] According to the SEC, there are more than 275,000 state-registered investment adviser representatives and more than 15,000 state-registered investment advisers.[29] Approximately 5% of SEC-registered investment advisers are also registered as broker-dealers, and 22% have a related person that is a broker-dealer. Additionally, approximately 88% of investment adviser representatives are also registered representatives of broker-dealers.

FinCEN is currently revisiting the topic of investment advisers, building on the changes to that industry pursuant to the Dodd-Frank Act, the SEC rules implementing Dodd-Frank and other changes, and is working on a regulatory proposal that would require investment advisers to establish AML programs and report suspicious activity. We look forward to working with the SEC as well as the States as we move forward.

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[24] See http://www.fincen.gov/statutes_regs/frn/pdf/352unreginvest.pdf
[25] See Section 5312(a)(2)(Y)
[26] See http://www.fincen.gov/statutes_regs/frn/pdf/352investmentadvisers_fedreg050503.pdf
[27] See http://edocket.access.gpo.gov/2008/pdf/E8-26205.pdf
[28] See http://www.nrs-inc.com/company/pdfs/NRSEvolutionRevolution2011.pdf
[29] See http://www.sec.gov/news/studies/2011/913studyfinal.pdf

FinCEN Partnership with State Supervisors

I have spoken at length this morning about how FinCEN has been working to extend its regulatory requirements designed to cut off a range of access points into our financial system by criminal actors. But these rules will only achieve their purpose if effectively implemented by the respective financial institutions. FinCEN cannot ensure compliance on its own, and thus seeks to leverage wherever possible relationships with prudential supervisors. It thus poses formidable challenges for FinCEN as we move away from the traditional notion of the financial sector – particularly banks where there is a very strong supervisory framework in place – to cases where there may be no Federal or State regulator.

The Administration's FY2012 budget proposal includes amendments to 31 U.S.C. 5318(a)(1) and 12 U.S.C. 1958 to expressly allow for reliance on examinations conducted by State supervisory agencies for categories of institutions not subject to Federal functional regulators. This new authority would clarify FinCEN's ability to rely on State examinations in the context of thousands of non-Federally regulated entities. As I have mentioned previously, we have a strong relationship with State banking supervisors. We just recently agreed to expand this partnership with State insurance regulators. We have been working together with a core group of States that regulate MSBs. States could also serve as key partners with respect to future regulatory requirements on non-bank mortgage lenders and originators as well as State-supervised entities in the securities sector. We hope that the Congress passes this proposed amendment soon, so that FinCEN can proceed with its willing State supervisory partners to ensure consistent ***implementation*** of our regulations designed to mitigate the risks of financial crime.

Conclusion

Let me now relate these examples of FinCEN regulatory activity in other sectors to the banking industry. We start from the premise that criminals are motivated by money and that they seek to move and invest the proceeds of crime, and are thus logically drawn to banks as the centerpiece of financial intermediation. As we seek to harden depository institutions against the risk of criminal abuse, illicit actors may then seek other ways to move money.

This could be outside what is traditionally considered to be the financial sector in an otherwise cash intensive industry such as gaming casinos. We must particularly be attentive to products that are offered by banks as well as non-banks, such as money transmission, prepaid access or mortgage loans. Keep in mind that the ***consumer*** will in many cases be indifferent to the offerer of the product or service – ***criminals*** are surely indifferent as well. Finally, with respect to savings and investments, we know that in addition to banks, insurance and securities firms can provide products and services. We thus should consider wherever relevant whether products and services that are similar not just in the type of financial intermediation but also from the perspective of AML/CFT risks, can and should be subject to similar risk mitigation measures.

In addition to the foregoing, we also again must note that banks are the foundation of our financial system, as each of these other types of financial intermediaries can be expected at some level to need a relationship with a bank to conduct their businesses. It is the role of the banks to serve their customers. As FinCEN and the Federal Banking Agencies have previously clarified in guidance related specifically to MSB accounts, "[w]hile banking organizations are expected to manage risk associated with all accounts, including money services business accounts, banking organizations will not be held responsible for their customers' compliance with the Bank Secrecy Act and other applicable federal and state laws and regulations."[30] FinCEN's efforts to extend its regulatory framework to additional non-bank sectors is consistent with the notion that institutions that are at risk of money laundering, terrorist financing, and other financial crimes should have a role in risk mitigation efforts.

On a final note with respect to regulatory consistency, I would like to touch briefly on the international context. We all know that AML/CFT principles are being adopted and applied globally, and I have regular opportunities to observe the situation on the ground in other countries. Last week I was in Sydney, Australia, speaking at a conference sponsored by AUSTRAC—FinCEN's counterpart AML/CFT regulator and financial intelligence unit in Australia,[31] together with law enforcement agencies and the Australian Bankers Association. Last month, I spoke in Mexico City for the third time at an event sponsored by the Association of Mexican Banks.[32] Each of these conferences in Australia and Mexico were the premier events of the year for discussing AML/CFT issues in their respective jurisdictions. In comparing those events with the context we share here today, the most striking aspect has been the ***similarity*** of issues being discussed—in particular, the fundamental need for, and commitment to, partnership between government and the financial industry to combat the scourges of money laundering, terrorist financing, and related financial crimes.

The leading financial system in the world should also lead by example in its AML/CFT efforts. Thank you for the American banking industry's partnership with FinCEN in protecting our financial system.

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[30] See http://www.fincen.gov/statutes_regs/guidance/html/guidance04262005.html
[31] See http://www.fincen.gov/news_room/speech/pdf/20111110.pdf
[32] See http://www.fincen.gov/news_room/testimony/pdf/20110929.pdf