PATRIOT ACT OVERSIGHT: INVESTIGATING PATTERNS OF TERRORIST FINANCING

HEARING

BEFORE THE

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OVERSIGHT AND INVESTIGATIONS

OF THE

COMMITTEE ON FINANCIAL SERVICES

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CONTENTS

PATRIOT ACT OVERSIGHT: INVESTIGATING PATTERNS OF TERRORIST FINANCING

TUESDAY, FEBRUARY 12, 2002

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS,
COMMITTEE ON FINANCIAL SERVICES,
Washington, DC.

The subcommittee met, pursuant to call, at 2:00 p.m. in room 2167, Rayburn House Office Building, Hon. Sue W. Kelly, [chairwoman of the subcommittee], presiding.

Present: Chairwoman Kelly; Representatives Tiberi, Gutierrez, Crowley, Clay, Bereuter, Grucci, and Bachus.

Chairwoman KELLY. This hearing of the Subcommittee on Oversight and Investigations will come to order. I want to thank all Members of Congress who are present today. Without objection, all Members present will participate fully in the hearing, and all opening statements and questions will be made part of the official hearing record.

On September 11th, the world we live in fundamentally changed with the horrendous acts of terrorists. After putting aside the initial shock, the Nation quickly responded to President Bush's call to join in the fight against the evildoers responsible for the attack.

In the Financial Services Committee, we acted swiftly to construct consensus legislation to ensure our law enforcement has the best tools possible to identify the patterns of financing used by terrorists and hence stop the terrorists before any future acts could occur. With this Act, we seek to prevent terrorists from using our money system as an unwilling accomplice of their evil acts.

President Bush signed the USA PATRIOT Act into law October 26th. With his signature, he ended not only the prologue of this subcommittee's efforts to combat money laundering operations which many benefit many terrorists, but also it's the beginning of things that we need to continue to consider.

This hearing is just part of a long-term agenda that this subcommittee has to ensure that we do all in our power to break up terrorist cells by making use of our financial system to raise every red flag possible. In this effort, the anti-money laundering provisions of Title III of the PATRIOT Act are a good step in the right direction. However, much more will be necessary before we reach our goal of eradicating the threat of terrorism. In this effort, we will remain vigilant to balance our efforts to ensure that we do not infringe upon the rights and liberties of Americans.

This is, of course, a narrow line to walk. And that's why our education as to questions of money laundering and terrorism financing

must be continuous. I believe we have an excellent opportunity here today to further our knowledge of these latest developments in the war against terrorism. In the past 5 months, we have had an unprecedented investigative effort by law enforcement to identify, freeze and seize terrorist assets. We have never had as many law enforcement officers focused on the same goal. And from this, we have learned countless lessons about the familiarity of the terrorists with our laws and their sophistication in avoiding any suspicion.

In their effort to blend in, the terrorists responsible for the September 11th attack opened bank accounts, used money orders, wire transfers and credit cards. We also know that the terrorists also relied on fraud and ID theft, and they continue to do that today. They obtain drivers licenses, hazardous material licenses and open bank accounts. One issue I found particularly intriguing is the issue of "hawalahs." This is an Arabic word which means "word of mouth." Hawalah is an international underground economic system by which financial operators in different locations honor each other's financial obligations by making payments wherever needed. In essence, hawalah continues because people look for ways to avoid taxes and tariffs in their efforts to send funds to other countries. And we also know that it's a way of moving cash without any trace.

Such activities have no apparent victim other than the Government, and it involves people who can be legitimate businessmen in every other way. But everyone involved in the transaction profits. And such transactions are extremely difficult to detect.

The PATRIOT Act contained a number of provisions that seek to combat hawalahs, and I will be most interested in hearing if any of the investigative efforts have brought us closer to closing down illegal hawalahs. It's my understanding that the November 7th action taken against Al Barakaat has provided a great deal of information on the modern operation of hawalahs.

We will also hear from law enforcement and industry on this issue and explore potential new patterns that they may have identified as terrorist financing schemes. This subcommittee thanks you all for your appearance here today. We understand the sensitive nature of the information that we're discussing, and with that in mind we have hope that we will continue to have a dialogue with you to address our concerns that the PATRIOT Act is enough to allow you to do the job which Congress intended when we enacted the PATRIOT Act.

I would like to let Members of the subcommittee and their staff know that it is my intention to enforce the 5-minute rule, and I would appreciate their cooperation in this.

I also want to say that with this panel, we have a new sound system in this room. You have the power over your own microphones. You have to turn them on and turn them off. So if we can't hear you, it's your responsibility to make sure we can.

Now I will recognize my good friend from Chicago, Luis Gutierrez, the distinguished Ranking Member of this subcommittee for his opening statement. Mr. Gutierrez.

[The prepared statement of Hon. Sue W. Kelly can be found on page 40 in the appendix.]

Mr. GUTIERREZ. Chairwoman Kelly, thank you for holding this hearing today. I would like to commend Senator Sarbanes for moving this legislation in the Senate and Chairman Oxley and Ranking Member LaFalce for their leadership in the House.

This afternoon, we will hear testimony about the financial aspects of the ongoing war on terrorism and about the implementation of anti-money laundering provisions incorporated in the PATRIOT Act, a bill which I and other Members were proud to support. This landmark legislation will give our country the necessary tools to fight terrorists by blocking the schemes used to finance their horrific crimes.

Treasury Secretary O'Neill recently said that $104 million had been frozen since the September attacks. However, we do not know whether this sum represents most or just a small percentage of the pool of the potential money that could be used to finance terrorist attacks. Although we have made progress, we have much work to do.

To eliminate Al Qaeda, we need the appropriate law enforcement tools and personnel to continue the financial assault on terrorism made possible by the PATRIOT Act. Our fight against terrorism financing is a broad-based effort extending beyond the Al Qaeda network. It means nothing to build a concerted effort between financial institutions and law enforcement agencies at home without instituting similar actions abroad. The help of other nations is therefore essential.

We need expeditious compliance with the new laws. Many of these regulations are scheduled to be implemented throughout this year. But it is imperative that Treasury acts quickly and effectively in their search for terrorists and their co-conspirators.

Before I conclude, I would like to touch on another related issue that is of great concern to me. While I strongly support the increased protections against terrorist activity which the USA PATRIOT Act created, I would like to urge some caution and common sense when it comes to promulgating regulations that address some areas. I am particularly concerned with the implementation of some of these rules as they pertain to verification of identification, which may pose a great risk to immigrants trying to enter our banking system. Currently, approximately 28 million foreign-born people live in the United States, the majority of whom are making enormous contributions to America's stability and security, economic and otherwise.

I hope, and I think we all agree, that law enforcement officials will use financial data to focus on those people, native or foreign-born, who truly pose a threat to our country, rather than those, including immigrants, who are making us safer and stronger as a Nation. If banks are required to compare clients' names with a list of known terrorists, how will accuracy be guaranteed? There are many common names on the list, and the possibility exists for incorrect matches. How will banks respond if a customer's name matches the list? How will they go about verifying the customer's identity? I am very concerned that the answers to these questions could have a detrimental effect on immigrants and could pose an additional burden on immigrants' ability to receive and/or interest in receiving and seeking valid banking services.

One's inability to enter the banking system results in a higher cost of borrowing, a lack of access to home mortgages and other basic services, and a range of other problems. Without access to banking services, the unbanked are forced to turn to payday lenders and check-cashing vendors, who in most cases charge outrageous fees for services. In the last 5 years, check-cashing outlets have doubled, and their revenues exceeded $2 billion in the year 2000. It often means vulnerability to crime, robberies and other abuses to which many immigrants are subjected mainly because they are unable to enter the financial services sector due to their immigration status. Worse yet, these victims may never report these incidents for fear of deportation. They come here seeking a better life through their hard work, and I must note, their taxes. These people are making better lives for all of us in America. And at the same time, they are also working to make life better for the people in their home countries; for relatives who use that money for basic necessities such as food and shelter.

During the past 20 years, remittances to Latin America, for example, have increased not only in volume, but as a share of the national income and total imports. This year, approximately $9 billion will be sent to Mexico via remittances, representing Mexico's third largest form of foreign income. However, such transfers are costly due to the large range of fees, many of which are hidden. Unfortunately, this group of immigrants usually can't use alternatives to remittances offered by banks because of prohibitions on individual's ability to open accounts without tax identification numbers and/or Social Security numbers. Giving immigrants access to banking will not make the United States weaker. It will enrich communities here and in other countries, creating steady income and jobs for people who might otherwise migrate to the U.S. to find work. Currently, Wells Fargo, First Bank of the Americas, credit unions and other financial institutions offer programs to help more immigrants become part of the banking system by accepting identification cards issued by the Mexican consulate and offering free checking services to those affected by regulations.

I hope that in implementing the PATRIOT Act regulations, Treasury takes these concerns into consideration. I know that Congress, when drafting this bill, did not intend to further alienate a group of people who already are largely separated from our banking system. We, as legislators, have no greater duty than to protect our country and our people from future terrorist acts. To do so, we need speedy, yet careful, implementation of the PATRIOT Act. But in achieving that goal, we need not forget the needs of those who rightfully seek access to the important financial services that most of us take for granted.

Thank you again, Chairwoman Kelly, for holding this important hearing, and I appreciate having the opportunity to share my views on these important issues of vital importance to our Nation.

[The prepared statement of Hon. Luis Gutierrez can be found on page 47 in the appendix.]

Chairwoman KELLY. Thank you very much, Mr. Gutierrez.

Mr. Bereuter, have you an opening statement?

Mr. BEREUTER. Madam Chairwoman, yes I do. Thank you very much for letting me sit in on the subcommittee since I'm not a

Member of this subcommittee. I find that the topic of your hearing today is very important, and also, has overlapped with my service on the House Permanent Select Committee on Intelligence. And since I have a committee conflict later and may not have a chance to ask this question, I wanted to ask it in effect in advance in my opening statement.

And I would address it particularly to Ms. Warren and Mr. Lormel and say that this subcommittee and the Congress had made a great effort to increase the efficiency of the country's financial intelligent unit, FinCEN. However, I am aware that as Treasury and Justice Departments work to meet the reporting requirements of Section 906(b) of the USA PATRIOT Act, there may be a behind-the-scenes tug of war over the fate of the Foreign Terrorist Asset Tracking Center and possibly about FinCEN's role as an agency neutral central repository of financial information that can be used to investigate both terrorist financing and money laundering.

I am concerned that if parallel financial intelligence databases are set up, the U.S. Government will both spend money unnecessarily and decrease investigative and enforcement effiency. And so I'm hoping that in your testimony you might supplement it by assuring if you can that the FBI or the Department of Justice are not trying, frankly, to hijack or usurp the role of FinCEN.

And Mr. Lormel, in your testimony, particularly on page 4, you devote a great deal of discussion to the activities of the Financial Review Group, which you say has developed, quote: "a centralized financial database," and developed predictive analysis models to deal with terrorist financing. And frankly, I thought that was the job of FinCEN. So then can you explain how having parallel computer systems, if I read it correctly, is not expensive, duplicative and inefficient? These are things I hope you might be able to address in your comment, particularly those of Mr. Lormel and Ms. Warren.

Thank you, Madam Chairwoman.

Chairwoman KELLY. Thank you, Mr. Bereuter.

Mr. Crowley, welcome. Have you a statement?

Mr. CROWLEY. Yes I do, Madam Chairwoman.

Chairwoman KELLY. Please proceed.

Mr. CROWLEY. Thank you, Chairwoman Kelly and Ranking Member Gutierrez. This hearing will permit us to have an important discussion on a critical element in the war against terrorism. The USA PATRIOT Act is a landmark piece of legislation. It provides the law enforcement and intelligence communities, as well as the financial services industry, with tools required to help stop terrorists before they are able to act. No law, regulation, or policy that addresses finance has ever had as significant an impact on America's security as this legislation is likely to have. Aggressive, but intelligent, implementation is critical for the legislation to succeed.

I am concerned that the Administration may not be acting quickly enough or allocating sufficient resources to have a significant impact on the financing of global terrorism. The United States must work with our European allies and other partners in the war against terrorism to shut down the operations of groups like Al

Qaeda and Hamas. We must also ensure, however, that they have the information required to act swiftly and decisively.

It was recognized that our European allies may have different views on the Israeli-Palestinian peace process, but we should not permit them to use divergent political views as an excuse to refrain from cracking down on terrorist groups.

We must crack down on illegal hawalahs which terrorists use to move funds around the world without a trace. However, we must also recognize the important role that legitimate hawalahs play in communities of immigrants, like mine, who lack the resources to pay exorbitant transfer fees and whose families overseas have no access to formal banking. These legitimate institutions must be permitted to continue to operate within the bounds of the law.

I am eager to hear from the Administration's panelists how the Administration plans to use the tools given to it by the USA PATRIOT Act. I am interested also to learn from the other panelists how the financial industry and immigrant communities are likely to be affected by this Act.

And, Madam Chairwoman, I just also want to state that I will also in all likelihood be pulled away for a resolution on the floor that I am sponsoring. So if you would forgive me when that time comes, and will the panelists also as well. Thank you very much. I yield back.

[The prepared statement of Hon. Joseph Crowley can be found on page 45 in the appendix.]

Chairwoman KELLY. Thank you very much, Mr. Crowley.

At this point, if there are no more opening statements, I would like to introduce the witnesses on our first panel. Before us we have the Honorable Juan Zarate, the Deputy Assistant Secretary for Terrorism and Violent Crimes for the Office of Enforcement in the U.S. Department of the Treasury. We welcome you, Mr. Zarate. Accompanying Mr. Zarate we have Mr. John Varrone, the Assistant Commissioner for the Office of Investigations in the U.S. Customs Service, and along with him, we have also Mr. R. Richard Newcomb, who is the Director of the Office of Foreign Assets Control for the U.S. Department of the Treasury; and James F. Sloan, who is the Director of the Financial Crimes Enforcement Network in the U.S. Department of the Treasury.

Then we will hear from the Honorable Mary Lee Warren, who is Deputy Assistant Attorney General for the Criminal Division of the U.S. Department of Justice. Welcome. And finally, we have Dennis Lormel, who is the Chief of the Financial Crimes Section of the Criminal Investigations Division for the FBI.

We start now with Mr. Juan Zarate. Thank you very much, Mr. Zarate, for joining us. Without objection, all your written statements will be made a part of this record. I am going to recognize each of you for 5 minutes. Obviously there are certain time constraints on Members of the subcommittee. They will be moving in and out as floor action dictates. But the lights in front of you, if you haven't done this before, indicate how much time you have. The green light is that you are in the first 4 minutes of your testimony. The yellow light means that that's the warning light. You have 1 more minute. And when it's red, I would hope that you would then summarize anything you have left in the testimony

knowing that your testimony will be made, the written testimony, all of it will be made a part of the record.

So we will begin now with you, Mr. Zarate.

STATEMENT OF HON. JUAN C. ZARATE, DEPUTY ASSISTANT SECRETARY, TERRORISM AND VIOLENT CRIME, U.S. DEPARTMENT OF THE TREASURY

Mr. ZARATE. Thank you, Madam Chairwoman, and again I apologize for the snafu in terms of getting you the written testimony before the hearing.

Madam Chairwoman and distinguished Members of the Subcommittee on Oversight and Investigations, thank you for inviting me to testify today about the measures the Treasury Department has taken to disrupt terrorist financing, the lessons we have learned to date about patterns of terrorist fundraising and money movement, and how the provisions of the recently enacted and seminal USA PATRIOT Act are helping us in our mission.

With me today, as Madam Chairwoman indicated, are three individuals who are assisting the Treasury Department in their counterterrorist financing efforts: James Sloan, Director of FinCEN; Richard Newcomb, Director of the Office of Foreign Assets Control; and John Varrone, Assistant Commissioner, U.S. Customs Service. Thank you for having all three of us here to address you, all four, that is.

Before I begin my remarks, I would like to thank this subcommittee and Congress in general for your support in our efforts to uncover and uproot the sources of terrorist financing. The passage of the USA PATRIOT Act has served as an important step in allowing us to prosecute this war on terrorist financing aggressively and in a unified manner. In that respect, I also want to thank, as Deputy Secretary Dam did 2 weeks ago, our sister agencies and departments, including the intelligence community, for their unprecedented levels of cooperation in these efforts.

Madam Chairwoman, before I speak to the issues raised in your invitation letter, I would like to read to you a portion of the Al Qaeda manual that I think is instructive to our discussion today. The manual, as you may know, was discovered during the search of an Al Qaeda member's home in England and was introduced in evidence during the embassy bombings trial in New York. The third lesson in the manual, entitled "Counterfeit Currency and Forged Documents", discusses financial security precautions that Al Qaeda members should take to secure their operations. It reads as follows:

1. Dividing operational funds into two parts. One part is to be invested in projects that offer financial return, and the other is to be saved and not spent except during operations.

2. Not placing operational funds all in one place.

3. Not telling the organization members about the location of the funds.

4. Having proper protection while carrying large amounts of money.

5. Leaving the money with non-members and spending it as needed.

Madam Chairwoman, as you can see, this is an enemy that understands the need to cover their financial tracks while simultaneously fueling funds into new acts of terror. Because we are facing an enemy with faceless tentacles planted around the world, we must employ all our assets to track and disrupt the financing of Al Qaeda and other terrorist groups of global reach.

That is precisely why after September 11th the President directed the Treasury Department to lead the Nation's war against global terrorist financing. We have followed the President's orders and marshalled the Treasury Department's unique financial forensic expertise and experience in financial and electronic crimes as well as our contacts with the financial community both here and abroad and our unique ability to take immediate action to freeze terrorist-related assets.

Treasury, in close partnership with the State Department, the Defense Department, the Department of Justice, the Federal Bureau of Investigation, the intelligence community, and many other parts of the Federal Government, has been dealing with the terrorist financing issue on multiple levels. Allow me very briefly to highlight the efforts the Treasury Department has taken along with these sister agencies to tackle the global problem.

Led in part by the Office of Foreign Assets Control, along with the Department of Justice and the Department of State, we have identified and designated 168 individuals and entities as terrorist-related entities pursuant to the President's September 23rd Executive Order. In this process we have identified, among other entities, front companies, charities, a bank, and a hawalah conglomerate that served as the financial support networks for Al Qaeda and other global terrorist groups.

We have shut down the operations of these entities in the United States and abroad. And since September 11th, the U.S. and other countries have frozen more than $104 million in terrorist-related assets. Since the attacks, the U.S. alone has blocked over $34 million.

The process of identifying and investigating targets is ongoing, and we are currently investigating other financial entities, businesses, groups and persons for listing. We also created Operation Green Quest, which is a new multi-agency financial enforcement initiative intended to augment existing counterterrorist efforts in order to focus on terrorist financing. This task force is led by the Customs Service, and includes the IRS, Secret Service, the ATF, OFAC, FinCEN, the Postal Inspection Service, the FBI, DOJ, the Naval Criminal Investigative Service, and we are dealing with other agencies as well.

Green Quest brings together the extensive financial expertise of the Treasury Bureaus along with the exceptional experience of our partner agencies. Green Quest's work, along with the Department of Justice, has led to 11 arrests, 3 indictments, the seizure of nearly $4 million, and bulk cash seizures—cash smuggling—of over $9 million. Green Quest, along with the FBI and other agencies, has also traveled abroad to follow leads, exploit documents recovered, and to provide assistance to foreign governments.

We have also been committed to the FBI's Financial Review Group, which is a seminal part of the focus on terrorist financing.

Immediately after the attacks, we deployed our Treasury assets to the FRG to deal with the September 11th attacks and the financing surrounding those attacks.

I see that my time is rapidly approaching.

Chairwoman KELLY. Is gone.

Mr. ZARATE. It's gone. Let me just address a couple of things, if I can, Madam Chairwoman. To address the questions in your letter, in our investigations and in our actions, we've identified, as I mentioned, several means and methods that terrorists have used to funnel money, one of which is charities. On two different occasions we identified and designated charities under the President's Executive Order and we have found that charities are used both here and abroad as a way of siphoning money to terrorist groups.

Second, Madam Chairwoman, you mentioned the Al Barakaat operation. Al Barakaat was a significant blow, we believe, to bin Laden's ability to move money internationally. Al Barakaat was a money remitting system that operated abroad as a hawalah system to move money into Somalia through Dubai. The Al Barakaat operation was located in upward of 40 countries. We worked closely with our foreign partners in addition to the United Arab Emirates to shut down Al Barakaat's operations, and we feel that we have done so. And it is a success story, quite honestly, with respect to shutting down a means that Al Qaeda was using to move funds.

Very briefly, Madam Chairwoman, as I mentioned, the USA PATRIOT Act is an essential tool for us at this point. The information-sharing provisions, the provisions that allow us to target specific risks in the financial markets with respect to abuse of our financial system, as well as coordinating efforts with the financial industry, are essential elements to our efforts with respect to tracking terrorist financing.

Madam Chairwoman, I would be more than happy to answer any questions, and I thank you for your time and your interest and certainly your support in our efforts.

[The prepared statement of Hon. Juan C. Zarate can be found on page 51 in the appendix.]

Chairwoman KELLY. Thank you very much, Mr. Zarate.

Next we would like to hear from Mary Lee Warren.

STATEMENT OF MARY LEE WARREN, DEPUTY ASSISTANT ATTORNEY GENERAL, CRIMINAL DIVISION, U.S. DEPARTMENT OF JUSTICE

Ms. WARREN. Thank you, Madam Chairwoman. And thank you, Ranking Member, Mr. Gutierrez, and other Members of the subcommittee.

I am honored to appear before the subcommittee to outline Justice's progress on the financial front on the ongoing war on terrorism. I appreciate this opportunity and will try and give you a brief summary of our efforts, including information developed by the Financial Review Group, an interagency task force supporting FBI's Counterterrorism Division, as well as the Department's actions taken so far under the USA PATRIOT Act.

We are grateful for the USA PATRIOT Act and your quick action after the September 11th events. We intend to and already are using it vigorously and I believe responsibly.

In offering a brief summary of the Department's work—of course, I am not at liberty to disclose ongoing criminal investigations or information that might compromise those investigations—but, I can give a brief overview of the areas and ways in which we are working.

Through financial analysis, we continue our work to reconstruct the web of planning and finance that supported the September 11th terror attacks. At the same time we are trying to work to detect other threats to our national security, whether by persons affiliated with Al Qaeda or with other groups. We have found that in almost all areas of the criminal law, following the money is the way to determine what has happened. It also provides evidence of the conspiracy itself, of its membership, and of its criminal activities, evidence that we use in court.

As you know, the Attorney General has the responsibility for investigating all acts of terrorism in the Federal system, and looking into terrorism financing is a critical part of our larger anti-terrorism strategy to seek out and eliminate those terrorist organizations attempting to destroy us.

Within days of September 11th, the Attorney General, exercising this authority, established the Financial Review Group within the FBI's Counterterrorism Division. We include, as Mr. Zarate said, important help from the Treasury Department and all of its components. We also have enormous support from the National Drug Intelligence Center. Many sections of the Criminal Division of the Department of Justice as well as Assistant United States Attorneys also assist in that operation.

And over the past several months, we have been able to compile and analyze financial information gathered by Federal agents working domestically and internationally as well as information from the U.S. Attorneys offices from across the country in the course of their ongoing terrorism investigations.

By having this central repository for relevant evidence—all those bank records, travel records, credit card and retail receipts—for in-depth financial and forensic analysis, we have been able to integrate and use that information with the other terrorism evidence that we collect and being able to cross that information has helped to spur the larger investigations along. I don't believe it's duplicative of what the Foreign Terrorist Asset Tracking Center does or of FinCEN. Indeed, we rely very heavily on FinCEN's assistance in our work.

At the same time that the Attorney General established the Financial Review Group, he also established a task force of prosecutors to work with the Financial Review Group. Prosecutors from Washington as well as from across the country. They work in a network with the Financial Review Group in this large anti-terrorism strategy. They also work with the FBI's Joint Terrorism Task Forces across the country in a coordinated effort to collect and analyze and disseminate information.

We are using computerized "data mining" to learn more about the information that we already have, to learn about terrorist acts in the past and to try and predict those that might harm us in the future.

We have learned ways that the terrorists use fraud in credit cards and licenses, as the Chair noted, and we are proceeding against them. We have collected an enormous amount of material, as reported in the larger statement, and our analysis continues. One thing that I would like to mention is just in terms of the September 11th investigation, we do have some charts that show money that came into the terrorists from the United Arab Emirates through wire transfers, passing through a New York bank to a Florida bank to the terrorists, in this instance, the one who crashed Flight 175 into the South Tower of the World Trade Center, Marwan Al-Shehhi, and Mohamed Atta, the one who crashed the American Airlines Flight 11 into the North Tower of the World Trade Center.

The next chart shows the movement of the money out. They cleared their accounts and transferred the money back to the United Arab Emirates just before September 11th—September 8th, 9th and 10th, clearing those accounts. These charts show only a very few of the transactions that we are studying. The work, of course, is continuing.

I look forward to a later time when it may be appropriate to provide the subcommittee with additional information from these now still ongoing criminal investigations of the September 11th events and much more widely.

In terms of implementation of the USA PATRIOT Act, we have already brought charges in the Commonwealth of Massachusetts for operating an illegal money transferring business. We have seized for forfeiture assets attributed to terrorists. No one has come forward to claim that money, not surprisingly. We have used the correspondent bank forfeiture provision of the new Act and many others. We are working with Treasury in terms of their heavy obligations of promulgating regulations in the various areas provided by the Act.

Again, I express our appreciation for the support the subcommittee and the committee have demonstrated for the Administration's anti-money laundering efforts, and I look forward to opportunities to continue to work with the committee and its staff as we implement the USA PATRIOT Act. If there are any gaps that we find or repairs that need making or any uncertainties that emerge, we look forward to identifying those with the subcommittee so that we can continue our work. Thank you.

[The prepared statement of Mary Lee Warren can be found on page 80 in the appendix.]

Chairwoman KELLY. Thank you very much, Ms. Warren. We look forward to working with you also.

Next we have finally on this panel, Mr. Dennis Lormel.

STATEMENT OF DENNIS M. LORMEL, CHIEF, FINANCIAL CRIMES SECTION, CRIMINAL INVESTIGATIONS DIVISION, FEDERAL BUREAU OF INVESTIGATION

Mr. LORMEL. We in the Bureau appreciate the opportunity to participate today. I have submitted a written statement, as Mr. Bereuter has alluded to, and hopefully, sir, we can address your concerns, because I don't think you have it in the right context in

terms of that whole thing, and hopefully I will have time to address that.

In terms of what we have done to date, we have taken a two-track approach in our investigation. We have conducted a comprehensive financial investigation of the 19 hijackers. We have gone beyond the 19 hijackers to the support mechanisms, and collateral to that, we have established a template for future investigations in terms of developing proactive, preventive and predictive terrorist financial investigations.

To accomplish this, we have to rely on—and it's not just an FBI-driven initiative, it's a coalition, as my colleagues at the table will attest to and you've heard, we're all partners in this endeavor, be it through our Financial Review Group or Customs' Green Quest and OFAC, we're all working together. Clearly, each of those other agencies and the whole gamut of agencies that work financial investigations are part of our initiative.

We are conducting a broad-based and multi-faceted investigation. In one area, we are trying to conduct predictive and preventive-type analytical investigative means. And in that regard, we're conducting data mining projects, which includes the SAR database, which obviously is administered by FinCEN, and working with FinCEN, we are extracting certain algorithms and anomalies and clearly working hand-in-hand with FinCEN. Our database, sir, is one that is meant to be a financial terrorist database, more encompassing than just focused on the terrorist aspects, and certainly meant to work in conjunction and augment the other agencies.

Real quickly, let me hit statistics. Some of the things we've gotten. Through our investigation to date, we have collected over 321,000 financial documents of over 10,500 individuals in terms of account information and the like, and we've entered over 104,000 of those documents in our database, which again, we are using for predictive analytical capabilities.

I would like to add that on a daily basis, we share our database downloads with Operation Green Quest, and we are working in conjunction with each other in regard to the information coming out of that and in terms of future investigative leads.

When you look at the terrorist financing, we've got to look at a number of levels here. You've got terrorist organizations. There are terrorist organizational fundraising mechanisms, which clearly we all have that interest in—terrorist organizational funding expended in furtherance of terrorist activities, and then terrorist-specific funding.

What I'd like to concentrate on for you is the terrorist-specific funding at this point in terms of what we found. We've done a pretty comprehensive review of the 19 hijackers. In my statement, you will see a pretty good overview of financial profiles, of account profiles, transaction profiles and so on. And in that regard, the 19 hijackers were mission-specific. So they are a mission-specific cell, if you would.

If you look at the Germans, they're a little different. If you look at the Spanish, they operated differently. Looking at the Spanish, they incorporated credit card fraud into their activity. An interesting note is the 19 hijackers here pretty much used true identity,

and they pretty much used debit cards as opposed to credit cards to facilitate their fraudulent activities.

In terms of the cells in Malaysia and in terms of the cells in Singapore, you'll find people that were more of a sleeper oriented-type base where they had legitimate jobs and where they had legitimate work activities, and any terrorist funding would have been funneled in and meshed into the legitimate type of funding and earnings.

I'm coming to the close on my statements, but in response, sir, to your immediate concern on the Foreign Terrorist Asset Tracking Center, I think part of the concern there, and it's not that the Bureau or the Department are attempting to muscle in, so to speak, on that, but the issue at hand is in light of the PATRIOT Act and the acts after September 11th, if in fact the FTAT is better housed at OFAC or handled in a different fashion, maybe through CIA. And that is being addressed at the deputy director level. And in fact, on Friday, there will be meeting among the deputies to discuss this. It's an ongoing topic.

We all clearly agree that there needs to be a collective repository, and we need to have our collective capabilities and assets aligned with each other to have the best impact and certainly the most effective approach to the terrorist problem. So clearly, and I hope it's not construed that the Bureau, the Department or any of these agencies are trying to work against each other. We are actually working very hard together. Certainly we have interagency concerns that we work through. So I'd hope, Mr. Bereuter, we can have a discussion and dialogue to allay any concerns you may have. Ma'am?

[The prepared statement of Dennis M. Lormel can be found on page 102 in the appendix.]

Chairwoman KELLY. Thank you very much.

With the unanimous consent of the subcommittee, I am going to change the order of the questioning, because a number of the Members are on very tight time schedules. They have a deep, strong interest in the topic. And with that being said, with the unanimous consent of the subcommittee, I'm going to allow Mr. Bereuter to go first and give him 2 minutes for questioning. Then we will go to Mr. Crowley for 2 minutes for questioning so that he can be excused if he needs to go. Both of these Members, then, I remind you that you can submit written questions to our witnesses following that. We will pick up Mr. Tiberi, who is also on a very tight time schedule. Then we will go back to regular order.

So, with that being said, Mr. Bereuter.

Mr. BEREUTER. Madam Chairwoman, Mr. Gutierrez, I very much appreciate your special courtesy and other Members as well.

Mr. Lormel, you have the essence of my question and you attempted to address it here, but the concerns are real. And I'm not sure I'm taking it out of context. It's something that probably we will need to have some further discussion and reassurance on. But you did say, if I understood you correctly just in your comments, your oral comments here, that the database—and I assume you're talking about the Financial Review database—will be focused on terrorist financing.

But that looks like exactly one of the functions that FinCEN was supposed to proceed with. And while there may be an interagency effort going on to examine where it best ought to be located so that we don't have—hopefully, you have the same objectives—duplicative database and duplicative functions in general, the Congress and this subcommittee in particular has tried to cultivate FinCEN before September 11th in effect for this particular function. So I'm not sure why there is any discussion about an alternative terrorist finance database and analytical center. I'll leave it there and see how you'd like to respond further if you have any at this point.

Mr. LORMEL. One of the things we're attempting is to serve as an operational support mechanism for our terrorism section and in furtherance of those terrorist investigations, you know, clearly we've collected evidence. We're certainly not attempting to duplicate anything FinCEN is doing. And maybe I'll ask Jim Sloan for some help. Because I don't see that we are duplicating anything that FinCEN was intended to do. And clearly, we are sharing information.

Mr. BEREUTER. But aren't you also, if I may interrupt, aren't you also attempting to create a database as a part of it, wherein FinCEN was supposed to do that for money laundering and terrorist purposes and other functions?

Mr. LORMEL. Yes, we have. And clearly, ours is an operational, investigative database. I think FinCEN's more I'll say regulatory geared, and between the two clearly there will be overlap. But I think there's clearly room for both. In an automated sense, in terms of what can be shared, I don't see a real problem.

Mr. BEREUTER. Madam Chairwoman, I'll just conclude with a comment and say that one of the concerns we've had pre- and post-September 11th is a different culture, different objective in the FBI, and that is, that you are interested, understandably, in putting people in prison and protecting evidence. But certain information has to be shared rather broadly with other domestic as well as intelligence agencies. And if, in fact, you establish your own database, we may be working to reinforce what has been a problem.

Mr. LORMEL. If I may, ma'am, I'd like to respond to that, because on a daily basis, we give a download of our data to Customs. And we have FinCEN agents and analysts assigned to our task force. So if I've given you the impression that we're being parochial, please, that's anything but the truth. As of September 11th in this regard, I'm not a terrorist agent. I've been a criminal investigator since September 11th. The only thing I've worked is financial terrorism. And believe me, there's nothing in my being that is not team oriented. And I insist that the people that work for me share that model, and clearly, we are working in conjunction with.

Now we can have semantics about should we or shouldn't we have a database. The bottom line is, we need to attack financial terrorism, and one of the best mechanisms to do it is for us to have that capability. If I could, I'll defer to Jim.

Mr. BEREUTER. I'll defer to the Chairwoman. If you want to have us continue, that's up to you.

Chairwoman KELLY. Mr. Sloan, you wanted to say something. Please do make it short, because these other Members also need the courtesy.

Mr. SLOAN. Yes, ma'am, certainly. Clearly, we would be paying very close attention at FinCEN to a parallel database being constructed at the FBI. Perhaps it's the way in which the words were presented on paper, but in fairness to the Financial Review Group, as well as our other clients, Operation Green Quest or OFAC's FTAT, the product that FinCEN is delivering to them is a finished product of analytical wealth developed from our databases.

And in the case of the FBI, they do combine in their database, 6(e) grand jury material, and other material that's coming from a lot of different sources that FinCEN certainly wouldn't have access to from the financial aspect. Perhaps the choice of words is unfortunate, but their database is not something that we would be endorsing if we thought it was in exact parallel to what we're providing. They are an important client, and they do get the product of our database. And we're paying close attention to making sure that our resources are not competing with one another.

Chairwoman KELLY. Thank you very much, Mr. Sloan.

Mr. Crowley.

Mr. CROWLEY. Thank you, Madam Chairwoman. I appreciate the courtesy you extended. Thank you very much. I have a series of questions. I'm only going to ask one and I'll submit the others in writing and appreciate again the courtesy extended.

Al Qaeda is responsible for the deaths of thousands of U.S. citizens. In my district, as a result of the September 11th attack, at least 105 of my constituents were killed in the attack on the World Trade Center. Hamas and Islamic Jihad admit to killing dozens and wounding hundreds of innocent civilians, including Americans, in Israel and throughout the globe.

The U.S. Government has prevented the former U.S. hostages in Iran, people who dedicated their lives to public service and who gave up 444 days of their lives as prisoners of the Iranian regime, from claiming damages from the Iranian government's frozen assets. Will assets belonging to Al Qaeda, Hamas, Islamic Jihad and other terrorist groups that are confiscated under the authorities of the USA PATRIOT Act be subject to court judgments if the victims or the survivors, including the 105 constituents and their survivors that I represent, seek damages for their pain and suffering? And that would be addressed either to Justice or to Treasury.

Mr. ZARATE. I could address that briefly, Congressman. And I will pass it off to Rick Newcomb, who administers the programs under which assets are frozen by the U.S. Government by OFAC. Presently under the President's Executive Order, the assets that are frozen are not subject to court orders or are not subject to payment to victims or victims' families. That's consistent with the way sanctions programs generally have been administered by the United States Government.

Our intent is to freeze the assets. For example, in the case of the Afghanistani assets, it is often the case that the assets are at some point unfrozen and given back to the established regime, in this case, the regime in Afghanistan.

But I will pass the question off to Rick Newcomb, who can answer perhaps in more detail your question.

Mr. NEWCOMB. Thank you, Mr. Crowley. We have had such claim settlement programs, most recently in legislation entitled Mack Laudenberg for claimants against Cuba for the shootdown of Brothers to the Rescue and for various claimants that had judgments in Federal court against the government of Iran. Those are the only two active claim settlement programs that we currently administer, and those are almost complete at this time, based on claimants having adjudicated judgments. Should there be another claim settlement program, we may be called upon to implement that, but at this time, we have no such program.

Chairwoman KELLY. Thank you, Mr. Crowley.

Mr. Tiberi.

Mr. TIBERI. Thank you, Madam Chairwoman.

My question is directed at two of you, Ms. Warren and Mr. Zarate. And I apologize if you addressed this before I got here. I leafed through both your testimonies and didn't see it.

My question revolves around a provision requiring financial institutions to verify the identity of individuals when opening up a new account in the PATRIOT Act, and the House added a provision, as you may know, that dealt with criminal penalties for consumers who falsify information to those financial institutions. And my question to both Justice and to Treasury is through your rulemaking process, are you pursuing that provision?

Mr. ZARATE. Congressman I can address that first. I believe you're referring to Section 326 of the PATRIOT Act. If that's the provision you're referring to, sir, yes, we are proceeding with issuing regulations. For that matter, we're proceeding aggressively and on time, for the most part, with issuing relevant regulations with respect to all PATRIOT Act provisions.

As Congressman Gutierrez indicated in his opening statement, there are certainly considerations that we need to take into account and are taking into account with respect to privacy interests and sensitivities of that nature. That's precisely why we have set forth aggressively with working groups, interagency working groups, working with Federal regulators, working with the Department of Justice very closely to implement regulations on a timely basis.

Ms. WARREN. Maybe if I could just extend that remark a bit. As Mr. Zarate said, we at Justice are working closely with them on those regulations. But in a more general way, we often use that kind of fraud that is found, and if the accounts have been opened on counterfeit information, we use that kind of fraud in furtherance of our investigations of larger criminal acts.

Recently the U.S. Attorney's office, working with Federal agencies in Utah, looked at fraud in, for instance, Social Security numbers, and found that 60 people at the Salt Lake City International Airport had used fraudulent documents to get jobs at the airport in very significant positions just before the Olympics started out there.

Just 2 or 3 days ago in Miami, a similar effort was launched by the Federal agencies and the U.S. Attorney's office there when they found that fraud had been used in immigration documents for com-

mercial pilots as well as ground access people at the Miami International Airport as well as the Broward County Airport.

These are of enormous significance to homeland security, these kinds of special areas. And we look at that kind of fraud as an adjunct to these larger investigations. With Mr. Zarate, we at Justice agree that this has to be handled with the right balance so that individuals who ought to have access to financial services have that right along with everyone else in the United States, whether they are immigrants or natural born. So it is a sensitive area, but an important one.

Chairwoman KELLY. Thank you, Mr. Tiberi.

Now, I'd like to ask a couple of questions. One, I'd like to address to Mary Lee Warren and Mr. Zarate. I'd like to know if the current laws that you have to work with now are sufficient to ensure that the currency and securities markets are able to detect and halt the illegal movement of funds. We've talked about the bank accounts. We've talked about hawalah. I'd like to know whether or not these current laws that we have in the PATRIOT Act are enough for you to address the possibility of money transfer with currency and securities markets. And I'd like to ask that question specifically of the two of you.

Mr. ZARATE. We think at this stage that the PATRIOT Act does, to a certain extent, give us appropriate regulatory authority to look at those industries that you have mentioned. In particular, the securities interest. As you are well aware, Madam Chairwoman, the PATRIOT Act provides that securities and broker dealers will have to start complying with the suspicious activity report requirements under the Bank Secrecy Act starting by April 24th, which is when we are scheduled to issue the final regulation. That we think will provide a very strong measure for tracking money going through those dealers. In fact, we think it will form part of the mosaic that is currently put together by FinCEN when they look at SARs from other industries as well as CTRs and other information that they have in the Bank Secrecy Act database.

Madam Chairwoman, as you know as well, financial institutions are defined very broadly in the PATRIOT Act. And we're looking at ways of applying the anti-money laundering provisions, in particular, Section 356, to certain industries, including currency exchange, pawnbrokers, other industries that may be of concern to us and could provide a way and a means for money launderers, criminals, and terrorist financiers to move money.

So we are certainly cognizant of those vulnerabilities and are extremely willing and aggressive to use those provisions to look at those industries.

Chairwoman KELLY. Thank you.

Ms. Warren.

Ms. WARREN. I agree with Mr. Zarate, and we look forward to the implementation dates of the regulations. I think thereafter, as we watch the regulations come on line and the responses from the industry, we'll know better whether we need additional help. But at the moment, it looks like we're really well positioned to be able to follow the money through those particular services businesses.

Chairwoman KELLY. Thank you very much. Ms. Warren, I wanted to ask you, on page 16 of your statement you mention, and I'm

quoting: "The very restrictive 1-year limitation of 18 U.S.C. Section 984." Does that limitation, that 1-year limitation, need to be extended in your opinion? And if so, how long do you think would be the ideal?

Ms. WARREN. We have suggested in the past that it be extended to at least 2 years. Chasing the money around the globe is often difficult, even difficult to find a physical location of some banks. With the addition of the PATRIOT Act and our ability to proceed against correspondent accounts in the United States, we are able to move more swiftly. But the sophistication of some money laundering schemes and the rapid rate that money moves internationally sometimes take us a much longer time to trace than 1 year. And we would be at a severe loss not being able to complete our investigation within that time and use the advantage of the PATRIOT Act.

So far, we have been able to use that provision, 319, to very good advantage within the 1-year limitation period. Again, I think we will need to watch it now that we have the ability to proceed against the correspondent account and not have to find some Pacific atoll bank and try and find someone to serve our process on. Again, as I said in the beginning, this is something that we look forward to working with the subcommittee on as we discover whether it will work or not under the conditions presented.

Chairwoman KELLY. I'm out of time, so I'm going to call on Mr. Gutierrez, but I want to say that we may go into a second round, because there are still some very pertinent and significant questions that need to be addressed right now.

Mr. Gutierrez.

Mr. GUTIERREZ. Thank you very much.

Mr. Zarate, in the ABA Resource Guide, it states that neither a visa or foreign passport identification system, quote: "should be able to stand on its own as a form of identification." Would a potential cardholder be required to provide a Social Security number or a U.S. Government-issued ID, State driver's license to open an account?

Mr. ZARATE. Congressman Gutierrez, we are currently working on minimum requirements for account openings. And that's part and parcel of our implementation of Section 326 of the PATRIOT Act. I tend to agree with the statement in the ABA document in the sense that those documents can be and often are counterfeited. So we are looking at ways to establish minimum requirements for account opening.

We are subject to the PATRIOT Act provisions, required to issue a report on better ways to enable financial institutions to monitor and to verify documents used. We haven't come to any conclusions yet, but we are working diligently on that report. And I certainly understand your concerns, Congressman Gutierrez, with respect to the possible hindrance to opening accounts to immigrants who have to rely on those types of documents. So it's something we're thinking about very thoroughly.

Mr. GUTIERREZ. So you don't have any idea of what the minimum? When will we have the regulations, do you feel? Can you give us an estimate, Mr. Zarate?

Mr. ZARATE. To be quite honest, Congressman, I don't have the timetable in front of me. But the timetable set forth by Congress are quite vigorous, so I assume it's very soon.

Mr. GUTIERREZ. Sometimes a little too vigorous. We haven't quite got the airports ready for the luggage yet.

Mr. ZARATE. Yes. And we're working as hard as we can to get that out, and we certainly will work closely with this subcommittee in terms of getting you that information as soon as we have it.

Again, I'd like to stress, this is very much an interagency process in terms of how we are dealing with these issues. It's also a process by which we are talking directly with different industries where we need to find out how best we can regulate and how best to come out with regulations that are going to be effective and efficient. So that's part of our strategy.

Mr. GUTIERREZ. Number one, I want to thank you for your work and for coming to testify here today. And I say that to all of the panelists here today. And I just want to figure out how we—there are a lot of people, obviously, that come in harm's way. Another part of our justice system deals with them, because of the fact that they have to cash their checks at currency exchanges and carry large amounts of cash. I would think it would be safer and better for us and for our intelligence services to have people at banking institutions versus currency exchanges. We know more about the people. We have an address on the person. We have more information about where they work. And, obviously, we know where they're sending money versus Western Union or Moneygram.

And if we force people by—and I know you have a broad definition of "banking services"—and if we force people to stop using traditional banking services, what I have been seeing lately, Mr. Zarate and other members, is that, for example, the Mexican government. They are issuing a matricula. It's a form of identification that they certify using a Mexican passport. And maybe we should work with countries such as Mexico and other countries to see what kinds of ID. I mean, what we're talking about is undocumented workers in the United States, to be clear. Those that are documented don't need and can obtain other forms of identification.

And then they come by my office, for example. Because one of the interesting things about our Department of Justice and our justice system is that they can't get a work permit, but we're happy to take—the IRS is happy to give them a tax identification number so that we can know what they paid in withholding. I mean, it's just a fact. It's one of those—I didn't come to criticize, it's just one of those things.

But since we have that going on and I can get them a tax identification number—my wife is a branch manager—and we get them tax identification, between that and the matricula, they can establish an account. We have an institution saying, yes, this is who this is. And we go for purposes of them fulfilling their financial responsibilities. So people come by my office all the time and I tell them, fill out your income tax because, you know, if President Bush and President Fox figure it out and we have another program like we had in 1986, the Immigration Reform and Control Act, we certainly don't want you to be disallowed because you didn't pay income taxes.

And what we've found is, in a broad definition, people that are working, paying taxes and following our laws, we should understand that they are not disappearing. So we've got 8 million people, approximately, in the United States, 12 million according to some folks. I think it's probably closer to 8 million. But we have a lot of people, and we are working, I think.

There's going to be a meeting after the 20th of March between President Fox and President Bush. I know they're going to engage in that conversation once again on a process of legalization. They have different terminologies for it.

But we are engaged in that process, and I hope you would take that into consideration so that we can get hard working people the kind of banking services that they need and they can send their money, not for terrorist activity, but just back to mom and dad and the wife and the kids, and we can help stimulate economies abroad. Thank you all for being here this afternoon. I really appreciate it. Thank you for your work.

Chairwoman KELLY. Thank you very much, Mr. Gutierrez.

We have been joined by Mr. Grucci. Mr. Grucci, have you questions at this time?

Mr. GRUCCI. No, Madam Chairwoman, not at this time, thank you.

Chairwoman KELLY. Thank you very much. Then I'd like to go for a second round to start with Mr. Tiberi.

Mr. TIBERI. Thank you, Madam Chairwoman.

I'm going to go back again to Mr. Zarate and Ms. Warren. You mention, Ms. Warren, in the context of money laundering. And in fact you mentioned out in Utah. Can I get back to the point again of individual money launderers who go into a bank and use a false ID or false identification of any kind to open a bank account? In the PATRIOT Act there was a provision the House added that we wanted to see those individuals be criminalized for that act. Can you please comment on what Justice is doing with respect to the rule on that individual who seeks to defraud the bank by using false identification?

Ms. WARREN. I can tell you that we haven't had any prosecutions under that yet. We are still collecting information and look forward to the Treasury regulations on exactly what will be appropriate bank account opening identification that will help us learn more about how to proceed in that particular area.

We have a long history of proceeding in terms of fraud for credit and have learned a great deal when there have been applications for loans at banks where there's fraud involved, whether in the identification or in the amount of collateral available. I think there's a lot that we can transfer there to learn more about how to proceed here.

Mr. TIBERI. Thank you. Mr. Zarate, in terms of the rule with respect to that provision, where are we on that?

Mr. ZARATE. We are proceeding on schedule, sir. Something I failed to mention when I answered your question the first time, one of the things we're looking at is possible administrative sanctions as well under the Bank Secrecy Act. As Ms. Warren has indicated, we are looking for the right balance here for the financial commu-

nity. They have to be able to rely on documents provided by individuals for account opening and other transactions.

At the same time, we must send a message to those who use fraudulent documents and who attempt to defraud the bank in the way you described that that's not acceptable. And one of the options we are looking at is the administrative sanction possibility. But we are also working with Justice to look at the potential criminalization.

Mr. TIBERI. You would agree with the provision that was passed, the language that was passed in the PATRIOT Act with respect to the criminalization, as you mention, of providing the false information?

Mr. ZARATE. Generally, yes. I mean, we are looking at the best way of implementing that provision and the timing of it. But certainly, yes.

Mr. TIBERI. You agree with the legislative intent then?

Mr. ZARATE. Certainly.

Mr. TIBERI. Thank you.

Chairwoman KELLY. Mr. Gutierrez.

Mr. GUTIERREZ. Apparently we did a little better than with the screening at the airports, and it's a year enactment. So we'll have an opportunity for all of us to talk. I'm not saying that lightly. It's just I'm happy we gave ourselves a little more time. We were real quick with checking of the bags and we haven't quite got the screeners.

Mr. ZARATE. Thank you.

Mr. GUTIERREZ. So, I'm sure, given the work that you've already done, and I know we're going to receive the recommendations by April, and then by the end, so we have some time to look at these things. Thanks once again.

Mr. ZARATE. Thank you, Congressman.

Chairwoman KELLY. Thank you, Mr. Gutierrez.

I have a couple of questions that I'd like to ask. Section 373 of the PATRIOT Act was amended to strengthen law enforcement's ability to stop illegal money service businesses like the unlicensed hawalahs. How significant do you feel that change has been? This is a multi-choice question here. I'd like to know how significant you feel that change has been. I'd like to know if you're actually able to use it as we've done the law, and whether or not that amended version in Section 1960 was the basis for the Al Barakaat arrests in Boston. I believe that it was, but I'm not sure. So I'd like to know about that. And I will throw that out to the two of you.

Ms. Warren.

Ms. WARREN. It was the basis for the Section 1960 charges in the district of Massachusetts. It's the way we are proceeding against the principals of the Boston branch of Al Barakaat. So it has a significant effect. We were able to combine those charges with all the other efforts against Al Barakaat, brought together on a single day to have a real broad based impact on an effective hawalah institution. I'm sure we'll continue to use that section as we uncover other unlicensed money transmitting businesses and as we learn more about how they are used for illicit purposes.

Chairwoman KELLY. Thank you very much.

Mr. Zarate.

Mr. ZARATE. I agree with Ms. Warren. It was an essential part of the Al Barakaat takedown in Boston. And though neither Ms. Warren nor I can comment on ongoing investigations, I can assure this subcommittee that that provision is proving helpful.

With respect to regulation of MSBs generally, I think that this issue addresses Congressman Gutierrez's concerns about the marginalization of people to using non-banking institutions. One of the beautiful portions of the PATRIOT Act is that it now allows us to start regulating and start looking at transactions that occur in some of these marginalized institutions, which are sometimes mom and pop wire remitting companies.

To date, we've had, I think, fairly good success in terms of getting these companies registered. Mr. Sloan could perhaps talk to that more specifically. And we think that this is going to provide not only the enforcement element that Ms. Warren has talked about, but also an additional tool with respect to getting more information. Because they will be subject to the Bank Secrecy Act provisions with respect to filing SARs, and those regulations are forthcoming.

Chairwoman KELLY. Mr. Sloan, do you want to address that?

Mr. SLOAN. Madam Chairwoman, as Mr. Zarate indicated, the money services businesses rule that took effect on New Year's Eve, December 31st, is somewhat of a success story as far as the registration of those in the United States that choose to register as money services businesses. Clearly, if somebody is operating as a hawala and they choose not to register, then it becomes an additional tool for law enforcement in that regard.

But to follow on to Mr. Zarate's comment, the registration process is helping us to determine the universe of the so-called money services businesses in the United States. We began this process by utilizing the data that was coming from the 45 States that actually regulated this industry at the State level, and taking that data we were able to determine that there were probably around 11,000 principals out there that needed to be registered. We essentially contacted every one of them and found out that there's probably closer to 9,000 principals who are money services businesses who are legitimate. And as of 2 weeks ago, about 8,700 of them have registered with FinCEN and the Government.

So the registration process is a success story, and the reason it's important, with regard to your comment, is that it then becomes an even more important tool for law enforcement when they, through surveillance or undercover activity or just general investigative activity, determine that someone is offering themselves as a money remitter in an informal or underground way. It's another tool for law enforcement.

Chairwoman KELLY. Mr. Sloan, speaking of tools, it's come to my intention that the Financial Crimes Enforcement Network does not make use of the Social Security Administration's death master file. Instead, you use a third party source for that information.

Last Friday, I sent a letter to Secretary O'Neill asking him to look into this. And I wanted to bring this to your attention. With unanimous consent, I'm going to insert a copy of this letter in the record. I wanted to bring that to your attention. I think that may be a resource for you you may want to look at.

[The information referred to can be found on page 42 in the appendix.]

Mr. SLOAN. Madam Chairwoman, the Secretary's office has already delivered your letter to me. And just for the record, we are examining, and we're working with the Social Security Administration Office of Inspector General, who incidentally is part of the FinCEN network.

We are actually developing some state of the art artificial intelligence tools, that given the right safeguards, this information will be incredibly important to us. You're right. We've been using a third party source of information, and the timeliness is not what we would hope.

Chairwoman KELLY. Mr. Grucci.

Mr. GRUCCI. Thank you, Madam Chairwoman. Just a couple of questions if I could.

Mr. Zarate, what gaps in regulations or authority to regulate exist and what is the Treasury doing to fill them?

Mr. ZARATE. Congressman, as Ms. Warren indicated earlier, I think it's too early to tell with respect to potential gaps in the regulatory framework and our authority to enforce those regulations. Right now, because we are in the middle of implementing aggressively the provisions of the PATRIOT Act, our concentration and our focus has been on those implementation efforts.

Generally, we think that the broad scope of the PATRIOT Act, and as I mentioned earlier, for example, the broad definition of what a financial institution is, provides us a wonderful tool to think about and potentially regulate industries that have not fallen directly under our regulatory strictures to date.

Mr. GRUCCI. Maybe I should have been a little bit more specific. I really meant in the context of credit cards.

Mr. ZARATE. We are looking at that. In particular, the sections that are of most use to us with respect to the credit card industry, are Sections 252, which provide for or ask for an anti-money laundering regime to be established by institutions, all financial institutions. This could affect credit card companies.

But as you know, Congressman, credit card transactions and credit card use in general is an extremely complex process. You have issuers. You have acquirers, you have associations, you have the merchants and then you have the actual customer. To date, we feel that the provisions of the Bank Secrecy Act allow us to at least track some of those transactions that occur, because at some point during the transaction, a U.S. financial institution is involved, whether it's as the issuer or as the actual participant in the transaction.

That being said, we are looking at ways of regulating the credit card industry. And we are fully engaging, again, as I said before, in the interagency process to do that.

Mr. GRUCCI. Just one more quick question if I may. Could you elaborate on what steps the Treasury is taking to address the potential abuse of credit cards for terrorist financing and money laundering?

Mr. ZARATE. Certainly. Immediately after the September 11th attacks, the U.S. Secret Service, which has expertise in credit card use and abuse and investigations, was immediately tasked by the

FBI and by the Treasury Department to look into credit card use by the 19 hijackers. That was the first thing that we did.

Second, we have engaged the Secret Service's New York Electronic Crimes Task Force, which deals with credit card issues and credit card fraud in the investigations by the FBI's FRG as well as in Operation Green Quest.

Finally, we are working to regulate, potentially regulate the credit card industry so that we are able, as I said before, to create a full mosaic of what transactions we're looking at, what suspicious transactions look like, what anomalous transactions we can identify. But quite honestly, at this stage, it's very hard to tell what further regulations we can ask for to make those things happen.

But we are fully engaged in the issue and certainly recognize that credit card use can form a way of not only laundering money, but of financing terrorist cells around the world.

Mr. GRUCCI. Thank you. Thank you, Madam Chairwoman.

Mr. LORMEL. Madam Chairwoman, if I may?

Chairwoman KELLY. Yes.

Mr. LORMEL. Just as a follow up, from an investigative standpoint, we really haven't seen that much, the real significant use of credit cards. Initially we thought that the 19 hijackers had an extensive amount of credit cards and we thought they were involved in bust-out schemes. But when we got through the name associations, we found that they were heavily involved with debit cards as opposed to credit cards, because they couldn't get credit cards here in the U.S.

The only place where we have seen a substantial use of credit cards for fraud is with a cell of the terrorists in Spain. Certainly we see credit card abuses and fraud, and we've had a project ongoing with Secret Service in that regard, but we haven't seen a crossover into terrorism.

Chairwoman KELLY. Thank you very much. Yes, the credit card issue is a thorny one, and it's an ongoing one, and we do continue to need to address it.

If there are no more questions, the Chair notes that some Members will have additional questions, and there are Members who had intended to be here today who for one reason or another have not been able to be here. And they may wish to submit questions in writing. So without objection, we will hold the hearing record open for 30 days for Members to submit written questions to the witnesses and to place their responses in the record.

I thank this first panel very much. You have all been very indulgent with your time, and we are grateful. You are excused with the subcommittee's great appreciation for your time. And the second panel, without ado, we hope you will please take your seats. Thank you so much.

Mr. ZARATE. Thank you, Madam Chairwoman.

Chairwoman KELLY. On our second panel we have Mr. Steven Emerson, who is the Executive Director of the Investigative Project. Next we are going to hear from Mr. Jeffrey Neubert, the President and CEO of the New York Clearing House Association. Next we are going to hear from Mr. John Byrne, who is Senior Counsel and Compliance Manager for the ABA, the American Bankers Association. And finally, we will hear from Mr. John A.

Herrera, the Vice President of Latino-Hispanic Affairs for the Self Help Credit Union, who is testifying on behalf of the Credit Union National Association and the World Council of Credit Unions.

I want to thank all of you for taking your time today to share your thoughts with us on this very interesting topic. And without objection, your written statements in full will be made a part of the record.

You will each be recognized for 5 minutes in turn. I want to remind you that I will try to enforce the 5-minute rule. And we will begin with you, Mr. Emerson.

STATEMENT OF STEVEN EMERSON, EXECUTIVE DIRECTOR, THE INVESTIGATIVE PROJECT

Mr. EMERSON. Thank you very much. I would like to ask that the chart that was prepared in the testimony on page 3 be also introduced into the record which I think provides a very good display of the worldwide Al Qaeda network through the use of charities, front groups, websites, human rights groups. It's on page 3 of the testimony. And I think the degree to which the Al Qaeda, as well as other organizational networks connected to terrorism, have been able to enrich their coffers as well as fund the organizations' movements worldwide based on the legitimate institutions goes to the heart of the problem that underlay the ability of terrorists to hide under the radar screen and to execute their horrific atrocity on 9/11.

I will say this. I am not a member of the Government. I operate as a terrorism investigator and analyst. I operate an institution that collects material documents and intelligence on radical Middle Eastern and Islamic terrorist organizations and their infrastructure. We have obviously been working very diligently since 9/11 to find out exactly how these organizations have been able to fund terrorist acts. Primarily, I think we have come to the conclusion, at least tentatively—and I will say this. I think Government agents and officials in various agencies deserve a great deal of credit for the very hard work, the tireless work that they have engaged in since 9/11 in terms of trying to play catch-up against a terrorist entity that is very elusive, very secretive, and often disguises their financing in clandestine ways.

Without going into the macro detail as outlined in the testimony, the basic paradigm by which Al Qaeda has been able to enrich its coffers as well as fund its activities, not just Al Qaeda, but also Hamas, Hizballah, the Islamic Jihad and other terrorist groups, have been primarily through five or six different conduits over the last 10 years.

One is the use of charitable organizations, non-profits, some of them which are actual tax deductible organizations in the United States, which have become conduits for the movement of people, the transfer of assets and actual movement of actual terrorist institutional apparatuses such as passports and other credentials. These charitable conduits have primarily been able to operate because of the fact that they are not investigated. And I think one of the problems that we need to ensure in the future is that the IRS be given more abilities to ensure that the declared charitable

aim of these organizations is kept true to what the statements are made and not used falsely.

Number two, there are financial institutions, corporate front companies similar to companies that have been used by organized crime. There is also internet-based funding that has solicited tens of thousands dollars that we have tracked for Jihad-based organizations over the last 5 years. I believe that the ability of terrorist movements, in particular Al Qaeda, but also for Hamas, Hizballah and others, to exploit the freedoms in the United States, also to evade restrictions because of the fact that they are adhering, at least on paper, to the declared aim of what papers they have filed on behalf of their financial institutions goes to the core of why 9/11 needs to have a much greater degree of analytical attention I think focused on the future of how terrorists can raise money.

Clearly, transferring money through bank accounts and credit card transactions has been a major vehicle. But I think terrorists have been on the winning end in terms of being able to advance their agenda by basically exploiting the loopholes and the freedoms, the naivete, the generosity of the United States, has included which USAID has unwittingly assisted some radical Islamic charities by giving them actual financial assistance and a platform on the basis of their declarations to USAID.

I see that my time is up, and I ask that the rest of my testimony be submitted. Thank you.

[The prepared statement of Steven Emerson can be found on page 122 in the appendix.]

Chairwoman KELLY. All of the written testimony will be submitted in full in the written record. And I appreciate the fact that you are sensitive to the time.

Next we turn to you, Mr. Neubert, and I hope you've had more than a turkey sandwich before you arrived here. That was an interesting piece of testimony you submitted.

STATEMENT OF JEFFREY P. NEUBERT, PRESIDENT AND CEO, THE NEW YORK CLEARING HOUSE ASSOCIATION, L.L.C.

Mr. NEUBERT. Thank you very much, Madam Chairwoman. And, yes, I have. And I thank you and Ranking Member Gutierrez and the rest of the Members of the subcommittee. I am Jeff Neubert of the New York Clearing House. The Clearing House has been in business for nearly 150 years and has been involved in the payment system throughout that entire time.

We operate electronic payment systems that process more than eight million transactions per day involving about $1.5 trillion U.S. dollars. We also clear and settle paper checks and operate electronic check payment services. And very importantly and germane to today's testimony is the fact that the Clearing House has served as a forum for its members to discuss common interests and to identify and prevent potential problems in the financial sector as well as to deal with financial and other crises. And it seems to me and us that there's never been a problem more urgent, more global than the need to combat international terrorism.

I want to thank you for the opportunity to tell you today about the extraordinary cooperative effort between the financial services community, financial regulators and law enforcement in response

to the attacks of September 11th. There have been two principal aspects of this effort. The first was to assure the continued operation of the payment services and the payment infrastructure and the clearing of settlement payments in the immediate aftermath of the attack, and the second was to identify and prevent the funding of terrorists, including the Intercept Forum, which is a team of 34 public and private sector organizations which are working together to find ways to identify, reduce and ultimately eliminate the flow of funds to and from terrorist organizations.

On the first aspect, the critical payment systems continued to operate in large part due to the public and private sectors banding together in the hours and days immediately following those attacks. And that teamwork and cooperation continues today. Senior officials from both the public and private sectors did and are working together to find ways to eliminate terrorist access to our financial system. And we are committed to do our part. It's part of a broader campaign, and much like the military and political effort, the fight on the financial front is a long-term commitment and it will take time to fully accomplish our mission.

What emerged in the aftermath of this tragedy is an unprecedented, it seems to me, shared purpose. For those of us in financial services, our unity of purpose with law enforcement and bank regulatory authorities is to prevent individuals and organizations from taking advantage of our financial system.

I was particularly touched by this since my offices are mere blocks from the Trade Center, and I was in my office both during the time of the attack, the implosions, and for 3 days thereafter. But there was no time to think about the disaster at that time other than to make sure all of my employees were safe and sound, which I thank the Lord they were. Rather, I turned my attention, as did my team, to making sure the payment systems continued to operate. We immediately reached out to the Federal Reserve, and with their agreement, we set up a series of conference calls which took place beginning at 10:30 the morning of the 11th and continued throughout the days and evenings of that week to make sure that the fundamental infrastructure of the payment systems not only for banks, but for the securities industry and other financial industries continued to operate. And I'm glad to say that indeed they did.

Perhaps, because of our traditional role and maybe, because of those calls and the relative success we had that first week, the Clearing House was called into service again on October 1st when I received a call from one of our board members asking if we would convene a forum to discuss and determine what financial institutions, working with the public sector could do to eliminate the flow of funds to terrorists and their organizations.

On October 11th, exactly one month after the attack, we convened our first Intercept Forum meeting and we had 100 percent attendance from 34 public and private sector organizations who quickly determined that the mission of our group would be to determine ways to identify and intercept the flow of funds to and from terrorists and their organizations and thereby deter and ultimately eliminate that flow.

From that mission, we divided into five task groups. Each group is co-chaired by a public and private sector executive and involves public and private sector professionals working on those task groups all with the same mission, to identify and interrupt the flow of funds to terrorists.

I think that this forum is a great example of the public and private sectors' ability to come together, to meet and discuss and take positions and move forward. And from the very first meeting, it was very clear to all who were present that we had a common purpose and that teamwork was the fundamental mantra of our group.

I thank you for your time this afternoon for the opportunity to enter my testimony with you.

[The prepared statement of Jeffrey P. Neubert can be found on page 153 in the appendix.]

Chairwoman KELLY. Thank you very much.

We go now to Mr. Byrne.

STATEMENT OF JOHN J. BYRNE, SENIOR COUNSEL AND COMPLIANCE MANAGER, AMERICAN BANKERS ASSOCIATION

Mr. BYRNE. Madam Chairwoman, Congressman Gutierrez, I am pleased to be here today to present our views on the important work of the industry to address the changes in our country's money laundering laws since the passage of the USA PATRIOT Act.

Madam Chairwoman, we pledged in October to support fully efforts to find and prosecute the perpetrators of these heinous acts and their supporters and work with Congress and this subcommittee to enact new tools in the campaign against terrorism. We helped fulfill that pledge with our strong support of the USA PATRIOT Act, and we continue to work closely with the Government to ensure that any new tools created are used effectively to achieve our mutual goal. That goal, of course, is to prevent our Nation's financial system from being used by terrorists.

In my statement today, I'd like to briefly cover several points. First of all, the banking industry strongly supported Title III of the USA PATRIOT Act. As we now enter the regulatory implementation process, it is more important than ever that Congressional intent be followed and that the industry continue to work with the appropriate agencies charged with the anti-terrorism efforts.

The ABA has also prepared, and we are releasing today, a resource guide for our members addressing the importance of a strong and effective account opening procedure. This guide, attached to this testimony for your information, is the product of extensive work and input from both the private and public sectors. As the Treasury Department considers its regulatory obligation to draft a regulation dealing with the verification of identities at the account opening stage, we believe this guide will be of great assistance.

I would like to also direct your attention to a number of the provisions in Title III. A few of these we believe can improve the industry's and the Government's ability to address terrorist activities. Specifically, Section 314, Cooperative Efforts to Deter Money Laundering, requires the Treasury Department to issue regulations to, quote: "encourage further cooperation" among financial institutions, their regulatory authorities and law enforcement authorities

through the sharing of information on terrorist and money laundering activities. The ABA has long stressed the need for clarity on what information can be shared to protect our institutions from being used unwittingly by criminals.

The Federal agencies have opined on the ability of banks to share fraud-related information as long as the fact of a Suspicious Activity Report being filed is not disclosed. The industry, however, needs additional guidance, we believe this regulation has the potential of assisting us in that effort.

While we await the Treasury's proposal, the industry remains hopeful that the rule will actually facilitate information and not place unnecessary burdens on the industry. For example, the "notice" requirement—notice to Treasury that financial institutions are sharing information—has the potential of discouraging the transfer of information if it becomes a major unnecessary reporting requirement. The ABA believes that Section 314 should permit the filing of SARs as compliant with the notice provisions. While we realize that there may be mechanical problems with this approach, we would still argue that it should be considered.

Section 355 of the Act is another important provision. This section addresses a long-standing industry concern for preventing criminal activity by permitting depository institutions to provide information in a written employment reference to other institutions concerning the possible involvement in potentially unlawful activity by a current or former employee. The passage of 355 should greatly enhance the industry's ability to protect its institutions and account holders. In order to encourage banks to use this new authority, we are publishing an article on how to implement this in the March-April edition of our Bank Compliance magazine. The author, Robert Serino, the former Deputy Chief Counsel of the Office of the Comptroller of the Currency, points out that Section 355 will protect financial institutions and their employees from liability when they take steps to keep dishonest individuals out of the financial services industry.

Finally, Section 326 of the Act requires the Secretary to issue regulations to establish minimum procedures for financial institutions to use in verifying the identity of a customer during the account opening process. The ABA as part of its overall effort has been moving to address this issue aggressively, even in advance of the regulatory process. In fact, ABA began a process to address the account opening issue prior to the passage of the Act and obviously before the Notice of Proposed Rulemaking.

We have learned today from our witnesses and in the press that the 9/11 terrorists that utilized financial institutions did so by opening up checking accounts with minimal identification and low dollar amounts. In fact, the identification offered were visas and the potential customers did not possess Social Security numbers. Section 326, when implemented across industry lines, will prevent criminals from using any financial enterprises following these rules.

Madam Chairwoman, I will end here and just say we welcome the opportunity to answer any questions you might have and appreciate the opportunity to present today before the subcommittee.

[The prepared statement of John J. Byrne can be found on page 160 in the appendix.]

Chairwoman KELLY. Thank you very much. I appreciate your keeping that condensed and right on time. Thank you so much.

Now we go to Mr. Herrera.

STATEMENT OF JOHN A. HERRERA, VICE PRESIDENT FOR LATINO/HISPANIC AFFAIRS, SELF-HELP CREDIT UNION, ON BEHALF OF THE CREDIT UNION NATIONAL ASSOCIATION AND WORLD COUNCIL OF CREDIT UNIONS

Mr. HERRERA. Buenas tardes, Chairwoman Kelly, Ranking Member Gutierrez, and Members of the subcommittee. Thank you for the opportunity to provide comments on implementation of the USA PATRIOT Act. I am John Herrera, Vice President of Self-Help Credit Union and founding member and current Board Chair of the Latino Community Credit Union with offices in Durham and Charlotte, North Carolina. I appear before you today on behalf of the Credit Union National Association, and the World Council of Credit Unions.

I would like to commend Congress for the swift passage of the PATRIOT Act and assure the subcommittee that credit unions are committed to being a part of the effort to ensure that terrorists and those seeking to abuse our financial markets through money laundering are identified, pursued and punished.

It is also important to recognize that the United States, which is facing its highest level of immigration since the Depression era, has a growing population of unbanked individuals. There are an estimated 28.4 million foreign-born individuals residing in the United States today, comprising over 12.4 percent of our work force. Half of these immigrants are from Latin America. This recent influx of immigrants has been identified by Federal Reserve Board Chairman Alan Greenspan as one of the key reasons for the unprecedented period of economic growth and low inflation during the 1990s.

Ninety percent of the Latino Community Credit Union's 4,000 members are immigrants. Two-thirds of them have never previously had a financial account in their lives. Nationwide, approximately 60 percent of all Latino immigrants are unbanked, compared to 10 percent of the total U.S. population that is unbanked.

Regarding the PATRIOT Act, credit unions went to work with the Treasury Department and the National Credit Union Administration to support implementing regulations that are consistent with Congressional intent. We certainly appreciate the importance of meeting our compliance responsibilities, particularly after September 11th.

But one concern relates to Section 326, which requires the Treasury Department to study whether foreign nationals must obtain an additional identification number, which will function similarly to a Social Security number or a tax identification number.

Another concern is with the proposal to establish a database to be maintained by the Government to identify foreign nationals seeking to open accounts. In addition to raising privacy concerns, the security goals of these proposals seem to be met by the Office of Foreign Assets Control. Today, credit unions and banks gen-

erally open non-interest-bearing accounts for undocumented members and then assist them in obtaining individual tax identification numbers so that they can earn interest and pay taxes. In fact, the World Council has even published a manual on how to serve undocumented individuals which I will offer to place in the record.

If we had to refuse opening a non-interest-bearing account pending the tax ID number, the potential member would revert to the world of less secure cash transactions, often becoming victims of crime and predatory lenders. Again, I want to work with the Treasury and Congress to avoid having a chilling effect on the ability of unbanked individuals to use traditional financial institutions.

I would also like to briefly call attention to the issue of money transfers, given their importance in immigrant communities. The Inter-American Development Bank estimates that an additional $3 billion per year could be sent to Latin America by immigrants in the United States if the costs of transmissions were more reasonable.

Our efforts to reach low-income and unbanked individuals, however, will be significantly enhanced with a policy change. We propose that credit unions be permitted to provide check cashing and remittance services to non-members, such as those within the field of membership. CUNA agrees with the National Credit Union Administration, which recently requested such a legislative change in the Federal Credit Union Act of Chairman Oxley. Such a change would provide an excellent opportunity for individuals to access a low-cost, viable alternative to less regulated and higher cost financial intermediaries.

In conclusion, to quote James W. Ziglar, the Immigration Commissioner, "the events of September 11 were caused by evil, not by immigration." Many credit unions throughout the country such as the Latino Community Credit Union are leading the way in ensuring that immigrants have access to affordable financial services. And, as we seek to protect our homeland, it is important to maintain access to our financial services industry.

Thank you for this opportunity to comment, and I would be glad to answer any questions from the subcommittee.

[The prepared statement of John A. Herrera can be found on page 168 in the appendix.]

Chairwoman KELLY. Thank you very much.

I have a couple of questions for this panel. One that I think I'd like to ask you, Mr. Byrne, on page 4 of your testimony, you mention—I'm quoting here: "The Federal agencies have opined on the ability of banks to share fraud related information as long as the fact of a SAR being filed is not disclosed. The industry, however, needs additional guidance, and this regulation has the potential of assisting us in that effort." Is this sufficient with the regulation or do you need more?

Mr. BYRNE. We hope that this will be sufficient. The issue, very briefly, and it happened obviously prior to 9/11, was banks want to share information on check fraud or debit card fraud or something like that between institutions. And it was always unclear to us that if somebody had filed a Suspicious Activity Report, you clearly can't disclose that fact to the other institution. But the agencies have said from time to time that you could share some of the elements

in the SARs. You always run the risk that if you tell another bank, here's the check fraud, that you may also innocently disclose the fact that you did something about it and filed a SAR and that potentially there's an issue.

Section 314, we believe, can be the answer. And certainly if it's done carefully and it takes that into consideration, we think we may not need any more. We won't know till the proposal comes out. We're looking very carefully. We've offered some of our suggestions already to the Treasury. But we're looking forward to that as something that will help not only the institution, but will protect the account holders as well as the safety and soundness of the industry.

Chairwoman KELLY. Thank you very much for that clarification. Mr. Emerson, what's your estimate of the total amount of funding that organizations in the United States have raised for Al Qaeda and for other terrorist groups?

Mr. EMERSON. That's a very difficult question to answer precisely because of the nature of the clandestine conduits that are used to funnel money. For example, non-profit charities may account for tens of millions of dollars over the last few years to militant Islamic groups. And the problem is that when you look at the accounts of some of these groups, you won't find a ledger or a cash transaction for weapons or for any type of military component, so that the real burden becomes proving that the organization is serving as a conduit in terms of its worldwide operations.

Based on what we have looked at in terms of documents from the Government, as well as open source material and other documents we've obtained and information, it is certainly within the realm of probability that Al Qaeda worldwide, because it's hard to compartmentalize the money they raised here or brought in, certainly raised worldwide through their network of front companies in terms of their use of the internet, the use of charitable conduits and false human rights groups, probably on the magnitude of $25 to minimally $50 million every year.

Again, because of the way the structure is set up, it's hard to pinpoint exactly where the money is at any one time. They're multinational and global and can shift monies on a moment's notice, and it's very hard. It's like squeezing air in a balloon in terms of focusing on one, let's say subsidiary of a militant Islamic charity. It can transfer its money immediately to another chapter overseas and eradicate any trace of where the money was.

Chairwoman KELLY. When they raise this money, are they using the U.S. mail? Are they doing it at rallies? Is it coming in in cash? Do they use things like people writing checks, using credit cards and so on? How are they raising this money?

Mr. BYRNE. Well, in fact, all of the above. And one of the problems is also discerning at least when they raise it publicly, let's say at a rally or through the internet or through the mail, whether in fact the donor is really knowingly contributing to a terrorist conduit or whether he's doing it naively or she's doing it naively.

And so you have a situation where they can freely advertise raising money for families in Chechnya or families in, quote: "Palestine," and the donor may not know that it's actually going to fuel Hamas or funding the Al Qaeda movement in Chechnya. On the other hand, at rallies where you hear "Death to America" and then

they pass the hat around, you can be pretty sure that the monies are going to a nefarious purpose.

So it's very difficult to get a handle on this. The tax returns of 990s, which are the annual tax returns, provide some indication. But my suspicion is that that represents only a fraction of the amount of monies raised in the United States. And some of those 990s actually show transfers of money from the Middle East into the U.S. where they're parked and laundered, and then they are shipped out in the following year.

Chairwoman KELLY. That takes me to another question with regard to the security that banks and other entities are taking within all of you in financial situations. I'm wondering whether or not you are going back and looking at, as we are in the airline industry, are you looking at who is working for you? Is it possible for people to put someone in your financial institutions, a plant that could disrupt the flow of what you're doing or subvert it in another way? Are you going back and having a look at who's working for you? What kind of implementation have you put, what kind of things have you put in place? And Mr. Byrne, I think really I'm going more at you than check clearing and so on. But, credit unions also have an obligation, I think, to all of us who use them.

Mr. BYRNE. Madam Chairwoman, that's an excellent question. And in fact, there is a partial response in the PATRIOT Act. Section 355 of the Act deals with the issue that we have been grappling with for quite a while, and that is if we dismiss somebody for committing a crime or we believe has committed a crime, but it's such a low dollar amount that nobody prosecutes that individual, they go to an institution down the road, and we can't tell that institution why we dismissed the employee. Section 355 of the PATRIOT Act, which you obviously passed last year gives us some ability to do that, and that obviously will deal with some issues.

We also do fingerprint every new employee. The Clearing House is involved in that project as are we. And you run those fingerprints by the FBI, and if you get a match of someone who's been convicted before, that does help weed out some of this. So it does address it to some degree, 355 plus the fingerprint program which many of our banks are engaged in.

Chairwoman KELLY. Do you use biometrics?

Mr. BYRNE. That's a bank-by-bank decision. I think some banks are exploring those possibilities, but I couldn't tell you that it's an industry practice. Some groups are using it, others are still looking at the technology.

Chairwoman KELLY. Thank you very much.

Mr. Gutierrez.

Mr. GUTIERREZ. Thank you very much.

Let me ask Mr. Herrera, how can we comply with the US PATRIOT Act and the regulations and at the same time serve the unbanked, undocumented immigrant community of the United States?

Mr. HERRERA. Congressman Gutierrez, that's a really good question and I think we want to work together on finding the most efficient way to do that. I think we already have at the credit union level a lot of policies and security procedures that are in place to track suspicious movements. Just to give you an example, wire

transfers are one of the most popular services that we provide in my credit union. Every time we do a wire transfer overseas, we match that name against the list of OFAC.

I think it's better to have more information, and we really know, credit unions are uniquely positioned in the sense that we really know our members. We're more intrinsically linked. Our members—I'm sorry. I just lost my train of thought. I believe the systems that we have in place are very efficient. We really have a very special relationship with our members and our board of directors, I mean, we work with volunteer communities. We are membership organizations. From the personnel to the folks that work in credit unions, we really know who our members are. We are limited by fields of membership. So we just don't serve everyone. But I think that uniquely qualifies us to be more aware of any illegal use by potential terrorists.

Mr. GUTIERREZ. I think that it's probably going to be incumbent upon organizations such as yours to come up with those scenarios and structures that is going to allow the undocumented immigrant community to continue to send their remittances back home. I obviously agree with you.

But I think you can see by the tenor of the debate here in Washington, DC. and the declarations that are made by law enforcement officers time and time again, there has been a continuing linkage between terrorists and immigrants, almost to the point where one has become synonymous with the other. That's an unfortunate reality and an untrue reality, but it's one that we continue to see more and more today.

The people that came here to strike against our country on September 11th weren't immigrants. They were terrorists. They didn't come here to contribute, to work, to sweat, to toil, to bring us their creativity and their imagination as other immigrant groups that came before them. They came here with one sole express purpose: To try to destroy this Nation.

We know that there are millions of immigrants in this country that come here to work and provide vital services. But I think that unless we come up with our own series of safeguards, the day in which I can give someone as a Member of Congress or relate to someone as a Member of Congress and get them their tax identification card and/or their consulate offices issuing some kind of identification form, those days may come to an end, thereby taking an immigrant community that wants to continue to—and I don't know that people are going to be in the mood to hear and discuss the debate.

Let's remember that President Fox was here on September 5th and 6th. And I remember when the Democratic and the Republican party couldn't get closer to him. There was a big debate here in Washington, DC. who was the biggest friend of the immigrant community, who had done more, who was going to do more. And then, 5 days later, it was like we washed our hands like Pontius Pilot of the immigrant community and people couldn't run away faster from the immigrant community and the policies that we were addressing at that point.

I'm hopeful that we can engage in a serious debate of what we do with our immigrant community in a serious light, and not one

affected adversely by the actions of terrorists on September 11th. Because it's pretty unfair, as you and I both know. This Government, as a member of it, and this Congress, has showed absolutely no will to bring about an effort to deport the 8 million people. There is no funding for their deportation. There is no political will for their deportation. There is no program. And no Member of Congress has ever articulated a manner in which to do that.

So given the absence of will, that means that we are acquiescing to their presence here in this country. We all know it. Every time we bite into a piece of fruit, everyone knows that 60 percent of all of the agriculture industry in this country is undocumented workers, but we eat the apple. We chew on the grapes. Every time we go into a restaurant there's a nice clean plate. "Oh, it's nice and clean in here and the food is delicious." We know who's washing those dishes. Everybody in this room knows who's washing those dishes.

And we walk into a beautiful building and it's marvelous, so nicely shined, we step on it and we say, "Oh, let me not slip. This is such a wonderful place." Or walk into a hotel room and say, "Isn't this a wonderfully cleaned room?" We sleep in the rooms. They even take care of our children and raise our most precious asset, our most precious commodity. What is it? Our children. Every day I see them, they go "Toma comida. Guidamera." Take care of her. Feed her. And then they go off to work.

So we know they're here. Everyone in this room. And I'm happy you brought up Mr. Greenspan—and I'll conclude in 15 seconds. Mr. Greenspan says that one of the reasons of our unprecedented economic growth in this Nation during the decade of the 1990s was the immigrant community, because they keep inflation down. Because they work hard and toil at the jobs that most people born in the United States of America, citizens of this country, would never consider doing.

So in the absence of a program to eliminate them, and since they're here, I think we should allow them to continue to have banking services and not confuse one with the other. And I think that's going to be a real challenge for this House and I thank you for your work, Mr. Herrera.

Mr. HERRERA. Thank you, Mr. Gutierrez.

Chairwoman KELLY. Mr. Bachus, welcome. Thank you.

Mr. BACHUS. Mr. Emerson, you're an expert on Osama bin Laden and his operations and Al Qaeda and their financial network around the world. As you well know, he was based in the country of Sudan for the first half of the 1990s, I think he left in 1996. And there has been, many believe, I'll just put it that way, that since his departure in 1996, the Sudan has continued to give financial and logistical and diplomatic support to Osama bin Laden and to Al Qaeda. What's your assessment? Are you in the camp that agrees with that?

Mr. EMERSON. I definitely believe that the Sudan has continued—bin Laden was in the Sudan from 1991 through 1996, and he left under, quote: "government pressure" at that point because of the appropriate pressure, but not enough appropriate pressure placed on by the Clinton Administration. And I know there have been some reports that he was offered up to the United States.

But frankly, the Sudanese government has continued to engage and support international terrorism and involve itself in the operations of Al Qaeda, as evidenced most recently in terms of testimony in open source material by the trial of the embassy bombing defendants from Kenya and Tanzania who describe the role of the Sudan in supporting Al Qaeda.

Now the question could be asked, what has happened since 9/11? Frankly, any superficial effort to sort of please the United States must be contrasted with the continuation of support for other terrorist groups such as Hamas or the Islamic Jihad, the training camps that are in the Sudan today, and the extent to which there has been no accountability for the years of support that the Sudan provided to Al Qaeda and to bin Laden personally.

Mr. BACHUS. It's interesting what you talk about, after September 11th. When our Government was saying that Sudan is a member of the alliance and they're cooperating with us. After they made some of those statements, I actually read in the *Wall Street Journal* where some of the Sudanese government officials said "We're going through the motions. We're really not cooperating."

I very much suspect any so-called cooperation we're getting with Sudan. Do you think it's real in any way?

Mr. EMERSON. I think that there is, you know, it's an illusory type of cooperation. On the one hand, they may trumpet a certain amount of public statements or public acts. On the other hand, there is no doubt that Al Qaeda terrorists operate and have used Sudanese passports and continue to use them. And Sudanese financial institutions have been directly involved in the support of Al Qaeda. And it was only because the U.S. Government froze the assets of some of those groups, institutions, that those monies were not available. It was not because of the Sudan freezing the assets of those groups after 9/11.

Mr. BACHUS. You know, there are certain financial institutions that have been linked with Osama bin Laden, and two of those are in Sudan. That's Taba Investments and Al-Shamal.

Mr. EMERSON. Al-Shamal Bank. Exactly.

Mr. BACHUS. Al-Shamal Bank. Number one, what role does Taba Investments play in the Osama bin Laden financial network? And number two, I know Al-Shamal—is that how you pronounce it?

Mr. EMERSON. Yes, sir.

Mr. BACHUS. They wired $250,000 to an Osama bin Laden operative in Texas back in what, 1993? And they bought a plane for Osama bin Laden. Can you update us on those two financial institutions? And also, to your knowledge, does Al-Shamal Bank maintain any correspondent accounts, either directly or indirectly, with any U.S. financial institution?

Mr. EMERSON. Let me just take the last question. I'm not familiar with whether they maintain any corresponding accounts. As far as Al-Shamal, as well as Taba Investments, they were direct bin Laden financially owned acquisitions. He was the largest shareholder.

Mr. BACHUS. Yes, he owned it actually, didn't he?

Mr. EMERSON. Right. Although there were other shareholders, he directly controlled both institutions. And they were used to basically provide wire transfers and liquidity to the bin Laden empire,

which consisted of more than—I'm looking here at the chart that we assembled—the minimum of a dozen financial institutions and another one-and-a-half dozen companies worldwide that generated, quote: "legitimate profit," but were serving as a vehicle basically for terrorism.

As far as what the current status is, I will have to get back to you about what the exact current status is in the last 5 months about Shamal and Taba Investments. But I can assure you that up until 9/11, they were very active. And again, it was only because of the Executive Orders issued by the President that their financial operations were interrupted. It was not because of any unilateral action by the Sudanese government.

Mr. BACHUS. And I'll just close by saying, you know, the Sudanese government since 9/11 has actually strafed people in the south of the Sudan when they were picking up food drops. They continue to say that they're waging Jihad against the people of the Christian and other faiths in the south of the Sudan.

Mr. EMERSON. The black minority, the Christian black minority has been subjected to what human rights organizations called genocide. And they've killed tens of thousands. And that has continued. That has not stopped at all since 9/11.

Mr. BACHUS. So it's hard for me to believe that we have a comfortable alliance with people that are doing what we witnessed on September 11. Thank you.

Chairwoman KELLY. Thank you very much, Mr. Bachus. I don't believe there's any more questions from the subcommittee, and so the Chair will note that Members may have additional questions of this panel as well, which they may wish to submit in writing. Without objection, the hearing record is going to remain open for 30 days for Members to submit those written questions to these witnesses and to place their responses in the record.

This panel is excused, and we are very grateful for your testimony on a very interesting topic. Thank you very much. We appreciate your time. The hearing is adjourned.

[Whereupon, at 4:24 p.m., the hearing was adjourned.]

A P P E N D I X

February 12, 2002

Statement of Chairwoman Sue Kelly; House Committee on Financial Services Subcommittee on Oversight and Investigations Hearing on USA PATRIOT Act Oversight, Investigating Patterns of Terrorist Financing

February 12, 2002; 2:00 p.m.; 2167 Rayburn

This hearing of the Subcommittee on Oversight and Investigations will come to order.

I want to thank all Members of Congress who are present today. Without objection all Members present will participate fully in the hearing and all opening statements and questions will be made part of the official hearing record.

On September 11 the world we live in fundamentally changed with the horrendous acts of terrorists. After putting aside the initial shock, the nation quickly responded to President Bush's call to join in the fight against the evil doers responsible for the attack. In the Financial Services Committee we acted swiftly to construct consensus legislation to ensure our law enforcement has the best tools possible to identify the patterns of financing used by terrorists and hence stop the terrorists before any future acts could occur. With this Act we seek to prevent terrorists from using our monetary system as an unwilling accomplice in their evil acts.

President Bush signed the USA PATRIOT Act into law on October 26. With his signature he ended only the prologue of this committee's efforts to combat money laundering operations which may benefit terrorists. This hearing is just part of the long term agenda of this committee to ensure we do all in our power to break up terrorist cells by making their use of our financial system raise every red flag possible. In this effort, the anti-money laundering provisions of title III of the PATRIOT Act are a good step in the right direction, however, much more will be necessary before we reach our goal of

eradicating the threat of terrorism. In this effort we will remain vigilant to balance our efforts to ensure that we do not infringe upon the rights and liberties of Americans. This is of course a narrow line to walk, and that is why our education as to questions of money laundering and terrorism financing must be continuous. I believe we have an excellent opportunity here today to further our knowledge of these latest developments in the war against terrorism.

In the past five months we have had an unprecedented investigative effort by law enforcement to identify, freeze and seize terrorist assets. We have never had as many law enforcement officers focused on the same goal, and from this, we have learned countless lessons about the familiarity of the terrorists with our laws and their sophistication in avoiding any suspicion. In their effort to blend in, the terrorists responsible for the September 11 attack opened bank accounts, used money orders, wire transfers and credit cards. We also know that terrorists also rely on fraud and ID theft to obtain driver's licenses, hazardous material licenses and their bank accounts.

One issue I found particularly intriguing is "Hawalas" -- an Arabic word that means "word of mouth." Hawala is an international underground economic system by which financial operators in different locations honor each others' financial obligations by making payments wherever needed. In essence, hawala continues because people look for ways to avoid taxes and tariffs in their efforts to send funds to people in other countries. Such activities have no apparent victim other than a government and involves people who can be legitimate businessmen in every other way. Hence, everyone involved in the transaction profits, and such transactions are extremely difficult to detect. The PARTIOT Act contained a number of provisions that seek to combat Hawalas, and I will be most interested in hearing if any of the investigative efforts have brought us closer to closing these illegal Hawalas down. It is my understanding that the November 7 action taken against Al Barakaat has provided a great deal of information on the modern operation of Hawalas.

We will also hear from law enforcement and industry on this issue and explore potential new patterns they have identified as terrorist financing schemes.

This committee thanks you for your appearance today. We understand the sensitive nature of the information we are discussing, and with that in mind, hope for a continuing dialog with you to address our concerns that the PATRIOT Act is enough to allow you to do the job which Congress intended.

February 8, 2002

The Honorable Paul H. O'Neill
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, DC 20220

Dear Secretary O'Neill:

I am writing to ask that the Treasury Department use its authority to ensure that the law enforcement officials now fighting terrorism and money laundering can make rapid, effective use of one of the most important databases compiled by the Federal government, the Social Security Administration's Death Master File (DMF).

I understand that the Financial Crimes Enforcement Network (FinCEN) at Treasury does not currently subscribe to the DMF, which contains updated information about deaths in the United States. Further, I understand that FinCEN instead obtains some of the information in the DMF through queries to a private-sector database. This results in a massive time delay – in a world where financial transactions are conducted nearly instantaneously – and precludes a search of the information by FinCEN's advanced artificial intelligence technology.

In a joint hearing of the Oversight and Investigations Subcommittee and the Ways and Means Social Security Subcommittee on November 8, 2001, we heard testimony that the terrorists who killed over 3,000 of our fellow citizens on September 11 used identity theft of Social Security numbers of the deceased as a method to perpetrate their schemes. Regularly updated integration of complete death information into FinCEN's databases on a real-time basis — with appropriate privacy safeguards similar to those already in use at FinCEN — would provide an important investigative tool to detect and prevent identity theft, money laundering, and associated crimes.

Please report, no later than February 22, 2002, on FinCEN's plans to subscribe to the DMF, with the first of the direct transfers no later than April 1, 2002. If you have further questions, please contact Joe Pinder and Andrew Cochran, Counsels to the Committee on Financial Services, at (202) 225-7502.

Sincerely,

Sue W. Kelly
Chairwoman, Subcommittee on
Oversight and Investigations

Prepared, not delivered
Opening Statement

Chairman Michael G. Oxley

Committee on Financial Services

Subcommittee on Oversight and Investigations
"PATRIOT Act Oversight: Investigating Patterns of Terrorist Financing"
February 12, 2002

Today's hearing of the Subcommittee on Oversight and Investigations represents the first opportunity the Committee has had since last October to examine what Federal investigators are learning about al Qaeda financial operations and to evaluate how well the USA PATRIOT Act equips law enforcement to disrupt those patterns of funding.

I commend Chairwoman Kelly for keeping the spotlight on terrorist financing. As time passes, and the shock of the crumbling towers of the World Trade Center, the smoldering ruins of the Pentagon, and the rural pit in Pennsylvania fades, we run the risk of losing the sense of urgency we felt in the immediate post-9/11 period. Let me reassure our witnesses and anyone else watching that we are in this for the long haul. Our doors are open to those in government and industry who need a sounding board on their investigative findings or on challenges that stand in their way. And, if we don't hear from you, you will hear from us. We pledge to give you the best support we can but, at the same time, to hold you accountable. It is in that spirit that we have invited you here today.

We look forward to your testimony and to better understanding how al Qaeda agents can so easily finance their terror right under our noses; how nine of them could sign up for bank accounts at one local bank here in the U.S., use credit cards to pay for flight training, wire thousands of dollars back and forth from the Middle East, bring $35,000 in cash into the country, and exploit charities and honey trade – of all things – to support their operations. The Moussaoui indictment issued in December offers a fascinating window into some of the ways in which the 19 hijackers moved funds. I can't help but wonder if the same transactions occurred today, would our law enforcement officials, banks and financial institutions find them suspicious or are they so ordinary as to escape notice? Hopefully, if we can identify the vulnerabilities of our financial system, we can not only freeze terrorist assets after the fact, but find ways to actually predict and prevent future attacks.

Again, I thank the Chairwoman for convening this hearing and our distinguished witnesses for testifying. You are on the front lines of the financial war against terrorism and the American people owe you a deep debt of gratitude for the extraordinary effort, long hours, and personal sacrifice many of you, your subordinates, and your families, have made. You, too, are America's patriots.

Thank you.

OPENING STATEMENT
Congressman William Lacy Clay
Subcommittee on Oversight and Investigations
Committee on Financial Services

Thank you Mr. Chairman. I welcome the opportunity to meet with the committee today. I look forward to examining the issues surrounding the combating of terrorism and the national strategies in place for this purpose. This issue before us, "patriot act oversight: investigating patterns of terrorist financing", is pertinent to the security of every American and to the free world.

I also look forward, Mr. Chairman, to working with you on this endeavor. I look forward to working with my fellow democrats on the committee and all members of the committee.

The financing of terrorism is an item of great concern that is not as we viewed it in the past, something that happened overseas. It is both domestic and foreign and we must be prepared to combat it wherever it threatens Americans. This financial web has tenacles that embrace identity theft, social security number fraud, credit card fraud, money laundering and many other criminal activities. Many of their activities appear to be legal.

We must articulate and develop strategies and policies to coordinate all of our financial counterterrorism efforts so that we are successful in this regard. We must not be fragmented in any way in our approach to handling this endeavor.

At this point I ask unanimous consent to submit my statement to the record. Thank you.

Congressman Joseph Crowley

STATEMENT FOR THE RECORD

House Committee on Financial Services
Subcommittee on Oversight and Investigations

Hearing: "PATRIOT Act Oversight:
Investigating Patterns of Terrorist Financing."

Tuesday, February 12, 2002, 2:00 p.m.

- Thank you, Chairwoman Kelly and Ranking Member Gutierrez. This hearing will permit us to have an important discussion on a critical element in the war against terrorism.

- The USA PATRIOT Act is a landmark piece of legislation.

- It provides the law enforcement and intelligence communities, as well as the financial services industry, with tools required to help stop terrorists before they are able to act.

- No law, regulation, or policy that addresses finance has ever had as significant an impact on America's security as this legislation is likely to have.

- Aggressive, but intelligent, implementation is critical for the legislation to succeed.

- This hearing will allow Congress to check on the progress of the implementation of the Patriot Act and its results

- Having said that, I am concerned that the Administration may not be acting quickly enough, issuing regulations, staffing operations, or providing the resources to have the desired impact on the financing of global terrorism.

- Additionally, The United States must continue to demand that all of our European allies and other partners in the war against terrorism continue to be vigilant in shutting down the operations of groups like al-Qaeda and other global terrorist rings like Hamas. We must also ensure, however, that they have the information required to act swiftly and decisively.

- This is not only a war against al-Qaeda but against all terrorism

- Therefore, regardless of the differing views of some of our allies with respect to the Middle East peace process, the United States cannot allow them to use divergent political views as an excuse to refrain from cracking down hard on all terrorist groups.

- Furthermore, the global community must crack down on illegal hawalas, which terrorists use to move funds around the world without a trace.

- However, we must also recognize the important role that legitimate hawalas play in communities of immigrants who lack the resources to pay exorbitant transfer fees and whose families overseas have no access to formal banks.

- These legitimate institutions must be permitted to continue to operate within the bounds of the law.

- As the President stated to the world before Congress, "you are either with us or against us."

- Today, we will get the chance to see who in the global community is really with us, as opposed to simply paying lip service, in our global campaign against money laundering and terrorism funding.

- I am eager to hear from the Administration's panelists how the Administration is using the tools given to it by the USA PATRIOT Act, the results to date, and the cooperation we are receiving from our allies abroad. I am also interested to learn from the other panelists how the financial industry, American consumers, and immigrant communities have been affected by this legislation and its implementation.

- Thank you.

OPENING STATEMENT OF
LUIS V. GUTIERREZ
RANKING DEMOCRAT
SUBCOMMITTEE ON OVERSIGHT & INVESTIGATIONS
"PATRIOT ACT OVERSIGHT: INVESTIGATING PATTERNS OF TERRORIST FINANCING"
FEBRUARY 12, 2002

Chairwoman Kelly, thank you for holding this hearing today.

I would like to commend Senator Sarbanes for moving this legislation in the Senate and Chairman Oxley and Ranking Member LaFalce for their leadership in the House.

This afternoon, we will hear testimony about the financial aspects of the ongoing war on terrorism and about the implementation of the anti-money laundering provisions incorporated in the Patriot Act, a bill which I and other members were proud to support.

This landmark legislation will give our country the necessary tools to fight terrorists by blocking the schemes used to finance their horrific crimes.

Treasury Secretary O'Neil recently said that $104 million had been frozen since the September attacks. However, we do not know whether that sum represents most or just a small percentage of the pool of potential money that could be used to finance terrorists attacks.

Although we have made progress, we have much work to do.

To eliminate Al Qaeda, we need the appropriate law enforcement tools and personnel to continue the financial assault on terrorism made possible by the Patriot Act.

Our fight against terrorist financing is a broad-based effort extending beyond the Al Qaeda network. It means nothing to build a concerted effort between financial institutions and law enforcement agencies at home without instituting similar actions abroad. The help of other nations is essential.

We need expeditious compliance with the new laws. Many of these regulations are scheduled to be implemented throughout this year. But, it is imperative that Treasury acts quickly and effectively in their search for terrorists' and their conspirators.

Before I conclude, I would like to touch on another related issue that is of great concern to me. While I strongly support the increased protections against terrorist activities which the USA

Patriot Act created, I would like to urge some caution and common sense when it comes to promulgating regulations that address some areas.

I am particularly concerned that the implementation of some of these rules as they pertain to verification of identification may pose a greater risk of immigrants in entering the banking system.

Currently, approximately 28 million foreign-born live in the U.S., the majority of whom are making enormous contributions to America's stability and security, economic and otherwise.

I hope, and I think we all agree, that law enforcement officials will use financial data to focus on those people (native or foreign-born) who truly pose a threat to our country, rather than those (including immigrants) who are making us safer and stronger as a nation.

If banks are required to compare client's names with a list of known terrorists, how will the accuracy be guaranteed? There are many common names on the list and the possibility exists for incorrect matches. How will banks respond if a customer's name matches the list? How would they go about verifying the customer's identity?

I am very concerned that the answer to these questions could have a detrimental effect on immigrants and could pose an additional burden on immigrants' ability to receive (or interest in seeking) valid banking services.

One's inability to enter the banking system results in a higher cost of borrowing, a lack of access to home mortgages and other basic services, and a range of problems.

Without access to banking services, the unbanked are forced to turn to payday lenders and check cashing vendors, who in most cases, charge outrageous fees for services. In the last five years, check cashing outlets have doubled, and their revenues exceeded $2 billion in 2000.

It very often means vulnerability to crime, robberies and other abuses to which may immigrants are subjected mainly because they are unable to enter the financial services sector due to their immigration status. Worse yet, these victims may never report these incidents for fear of deportation. They came here seeking a better life. Through their hard work and, I must note, their taxes, these people are making better lives for all of us in America.

At the same time, they are also working to make life better for people in their home countries, for relatives who use that money for basic necessities such as food and shelter.

During the past 20 years, remittances to Latin American countries have increased not only in volume but also as a share of national income and total imports. This year approximately $9 billion dollars will be sent to Mexico via remittances, representing Mexico's third largest form of foreign income. However, such transfers are costly due to a range of fees, many of which are hidden.

Unfortunately, this group of immigrants usually cannot use alternatives to remittances offered by banks because of prohibitions on individuals' ability to open accounts without Tax Identification Numbers or Social Security Numbers.

Giving Immigrants access to banking services will not make the U.S. weaker. It will enrich communities here and in other countries, creating steady income and jobs for people who might otherwise migrate to the U.S. to find work.

Currently, Wells Fargo, First Bank of the Americas, Credit Unions and other financial institutions offer programs to help more immigrants become part of the banking system by accepting identification cards issued by the Mexican consulate and offering free checking services. I am concerned that these programs that have made tremendous headway in banking the unbanked may be affected by these regulations.

I hope that in implementing the Patriot Act regulations, Treasury takes these concerns into consideration. I know that Congress, when drafting this bill, did not intend to further alienate a group of people who already are largely separated from our banking system.

We, as legislators, have no greater duty than to protect our country and our people from future terrorists attacks. To do so, we need speedy, yet careful, implementation of the Patriot Act. But in achieving that goal, we need not forget the needs of those who rightfully seek access to the important financial services that most of us take for granted.

Thank you again Chairwoman Kelly for holding this important hearing and I appreciate having the opportunity to share my views on these issues of vital importance to our country.

QUESTION SUBMITTED FOR THE RECORD BY CONGRESSMAN BACHUS
House Committee on Financial Services
Subcommittee on Oversight and Investigations
"PATRIOT Act Oversight: Patterns of Terrorist Financing"

UNITED STATES CUSTOMS SERVICE

OUTBOUND MAIL

QUESTION:

What is the Customs Service doing to ensure that the Postal Service is not an avenue for the smuggling of cash and other contraband? Please describe your plans to close the postal loophole that exists in current law.

ANSWER:

We appreciate your continued support of our efforts to deter the smuggling of cash and other contraband through the mail. In reference to Congressman Bachus' question, we are increasing our scrutiny of mail shipments entering the United States for delivery, relying largely on intelligence, risk management, and physical or x-ray examinations. With regard to outbound mail, legislative action would ensure that mail is not an avenue for the smuggling of bulk cash, monetary instruments, and other contraband.

Once it is cleared by the Office of Management and Budget, Customs will submit a report entitled "Customs Inspection of International Mail and Parity With Private Carriers" to the House Appropriations Committee. This report, originally a joint effort with the Postal Service, identifies access to outbound and in-transit mail shipments (i.e., mail that enters the United States on its way to a third country) for Customs inspection as the primary areas of enforcement difficulty between the two agencies. Although Customs disagrees with the legal authority cited by the Postal Service, the Postal Service continues to refuse to provide Customs access to in-transit or outbound mail as it does for mail to be delivered in the United States.

To close the outbound loophole, Customs supports legislation, such as found in the Customs Authorization Bills, H.R. 3129 and S. 1209, which are pending before Congress, that would allow access to outbound mail, while providing the same protections for personal correspondence as exist for inbound mail.

Testimony of

Juan C. Zarate

Deputy Assistant Secretary
Terrorism and Violent Crime

U.S. Department of the Treasury

House Financial Subcommittee
Oversight and Investigations

2:00 p.m. February 12, 2002

The United States House of Representatives

2167 Rayburn House Office Building

Chairman Kelly and distinguished members of the House Financial Services Subcommittee, permit me to begin by thanking you for inviting me to testify today about the measures the Treasury Department has taken to disrupt terrorist financing, the lessons we have learned to date about patterns of financing and fundraising, and how the provisions of the recently enacted USA PATRIOT Act (PATRIOT Act) are helping us in our mission. With me today are three individuals who are assisting the Treasury Department in connection with the U.S. government's efforts to investigate the financing of terrorism: John Varrone, Assistant Commissioner, Office of Investigations, U.S. Customs Service; R. Richard Newcomb, Director of the Office of Foreign Assets Control (OFAC); and James F. Sloan, Director of the Financial Crimes Network (FinCEN). Thank you for having us here today to address you.

As you are aware, on September 24, 2001, President Bush stated, "We will direct every resource at our command to win the war against terrorists, every means of diplomacy, every tool of intelligence, every instrument of law enforcement, every financial influence. We will starve the terrorists of funding." The President directed Secretary O'Neill to lead the nation's war against the financing of global terrorism, and we have devoted our extensive resources and expertise to fulfill this mandate. In our actions and in our words, the Treasury Department has shown quite clearly that in this war, financial intermediaries and facilitators who infuse terrorist organizations with money, materiel, and support must be held accountable along with those who perpetrate terrorist acts.

The Treasury Department owes this Committee, and Congress in general, a debt of gratitude in helping us with the resources and authority to identify, disrupt, and dismantle terrorist financial networks. Immediately after the horrific attacks of September 11th, Congress worked closely with the Department of the Treasury, along with the Department of Justice and other agencies and departments, to make significant improvements in the law that allows us to

tackle the issue of terrorist financing in a more unified, aggressive manner. Of particular importance to our counter-terrorist efforts, the PATRIOT Act clarifies the law enforcement and intelligence communities authority to share financial information regarding terrorist investigations. These provisions are already being utilized and are bearing fruit in disrupting financing networks.

Before I address the specific issues raised in your invitation letter, allow me to share with you the efforts the Treasury Department has taken to date, along with our sister departments and agencies, to combat terrorist financing.

THE BATTLE AGAINST TERRORIST FINANCING:

Treasury, in close partnership with the State Department, the Defense Department, the Department of Justice, the Federal Bureau of Investigation, the intelligence community, and many other parts of the federal government, has been dealing with terrorist financing on multiple levels. We have concentrated much of our enforcement efforts and resources on identifying, tracing, and blocking terrorist-related assets. In this endeavor, we have collected the financial expertise, information, and authorities that are unique to the Treasury Department to attack terrorist financing on all fronts. We have also engaged the world, in bilateral and multilateral fora, to ensure international cooperation in our anti-terrorist campaign. Allow me to highlight briefly the efforts the Treasury Department has taken to date to tackle the global problem of terrorist financing.

TREASURY ENFORCEMENT ACTIONS

First, the Treasury Department chairs the inter-agency working group that has been targeting and listing individuals and entities pursuant to the President's September 23, 2001 Executive Order. In this inter-agency process, we have assembled experts and policymakers from the Treasury Department, including the Office of Foreign Assets Control (OFAC), the Department of Justice, the Department of State, the Federal Bureau of Investigation (FBI), the intelligence community, and the White House. Through this process, the U.S. Government has designated 168 individuals and entities as terrorist-related entities pursuant to the Executive Order. Since September 11th, the United States and other countries have frozen more than $104 million in terrorist-related assets. Since the attacks, the United States alone has blocked over $34 million. A portion of that amount has since been unblocked for the new Afghan Interim Authority.

In this process, we have identified, among other entities, front companies, charities, banks, and a hawala conglomerate that served as the financial support networks for al-Qaida and other global terrorist groups. We have shut down the operations of these entities in the United States and abroad.

Second, as part of the anti-terrorist financing strategy, we utilized the inter-agency Foreign Terrorist Asset Tracking Center (FTAT), led by Treasury's OFAC, immediately after the September 11th attacks to serve as an analytical center for attacking the problem of terrorist financing. Treasury's OFAC and its FTAT division have served not only to provide essential

analysis on particular targets and networks, but the center is a place where intelligence and law enforcement agencies can share and analyze information for a common purpose. This inter-agency concentration on hunting the sources of terrorist financing complements the work being done by the FBI's Financial Review Group, the Department of Defense and the intelligence community to uncover terrorists. Though FTAT is still in its infancy, it continues to make a significant impact on this cooperative and concentrated venture.

The process of identifying and investigating targets is ongoing, and we are currently investigating other financial entities, businesses, groups, and persons for potential listing. We are focusing on uncovering high-impact financial intermediaries that act as financial conduits and facilitators for terrorist groups. Our ultimate goal is to use all the tools at our disposal to disrupt vigorously terrorist financing in an effort to prevent the perpetration of further terrorist attacks.

Third, on October 25, 2001, Treasury created Operation Green Quest ("Green Quest"), a new multi-agency financial enforcement initiative intended "to augment existing counter-terrorist efforts by bringing the full scope of the government's financial expertise to bear against systems, individuals, and organizations that serve as sources of terrorist funding." Green Quest is aimed at identifying, freezing and seizing the accounts and assets of terrorist organizations that pose a threat to the United States and to all nations of the world. This task force is led by the Customs Service, and includes the Internal Revenue Service, the Secret Service, the Bureau of Alcohol Tobacco and Firearms (ATF), Treasury's Office of Foreign Asset Control (OFAC), FinCEN, the Postal Inspection Service, the Federal Bureau of Investigation (FBI), the Department of Justice, and the Naval Criminal Investigative Service (NCIS). Green Quest brings together the extensive financial expertise of the Treasury Bureaus along with the exceptional experience of our partner agencies and departments to focus on terrorist financing.

Green Quest has complemented the work of OFAC and FTAT in identifying terrorist networks at home and abroad, and it has served as an investigative arm in aid of blocking actions. Green Quest's work has led to 11 arrests, 3 indictments, the seizure of nearly $4 million, and bulk cash seizures—cash smuggling—of over $9 million. Green Quest, along with the FBI and other government agencies, has also traveled abroad to follow leads, exploit documents recovered, and to provide assistance to foreign governments. In this effort, Green Quest has made full use of its overseas Customs Attachés to investigate suspect networks and to gather information for its own use and the use of FTAT. The work of these financial experts is just starting as they have opened numerous terrorist financing investigations and are following leads on a daily basis. Green Quest's work, in combination with the work of OFAC and FTAT, serves as a seminal part of our enforcement efforts.

Finally, we have also been committed fully since the terrorist attacks to the FBI-led investigation into the September 11th mass murders. Immediately after the attacks, Treasury assets were deployed to engage in the FBI efforts to bring the perpetrators and their financiers to justice. Treasury agents and analysts from the Customs Service, IRS-Criminal Investigation Division, U.S. Secret Service, the Bureau of Alcohol, Tobacco, and Firearms, and FinCEN combined efforts with the FBI's Financial Review Group, bringing with them their unique financial investigative capabilities, contacts in the financial sector, and expertise.

For example, the U.S. Secret Service was able to bring its experience in credit card and identity fraud as well as its electronic crimes expertise to bear immediately on the investigation, working with the Department of Justice in the following ways:

- Assisting in developing complete financial profiles of all suspects (living and deceased) in the investigation;
- Identifying other suspects through current and historical financial investigations;
- Contributing to an intelligence assessment regarding possible future acts through analysis of money movement, expenditures, and other financial data;
- Developing an analysis of current credit card usage by the suspects in the investigation; and
- Investigating more than 17,000 leads in support of the Department of Justice investigation.

As you can see, the U.S. Secret Service, along with the other Treasury Bureaus, has made significant contributions in close coordination with the FBI to tracking the perpetrators and facilitators of the September 11th attacks.

INTERNATIONAL COOPERATION

Our efforts cannot be successful if prosecuted unilaterally and are ultimately doomed to failure if we cannot obtain the cooperation of other nations. To date, all but a handful of countries have expressed their support for the international fight against terrorist financing. Currently, 149 countries and jurisdictions around the world can block terrorist assets. The U.S. government is working with a number of countries with respect to technical assistance to strengthen their capacity to freeze terrorist funds. Daily, we are in contact with foreign financial officials and are engaged in bilateral and multilateral discussions regarding international cooperation and action against terrorist activities and financing.

Treasury has engaged in numerous international fora, including the G7, G8, G20, the Financial Action Task Force (FATF), the global network of Financial Intelligence Units (FIUs) of which FinCEN is a key member, and the international financial institutions to combat terrorist financing in a global, systematic way. Treasury has also worked with regional organizations such as APEC and the Manila Framework Group to further coordinate international efforts to stop the financing of terrorism. In March, we, along with the State Department, will be participating in an ASEAN Regional Forum and Pacific Island Forum regarding counter-terrorism and financing issues.

A good example of the work of Treasury, State and Justice on this issue is in the role of the United States in the FATF on Money Laundering, a thirty-one member organization. We have directed the international effort to use the successful FATF to address the issue of terrorist financing. The United States hosted an Extraordinary FATF Plenary session in October of 2001, at which FATF members established 8 Special Recommendations on Terrorist Financing that have quickly become the international standard on how countries can ensure that their financial regimes are not being abused by terrorist financiers. Our delegation just returned from a Plenary Session in Hong Kong in which, among other things, FATF is engaging all countries, including non-members, in a self assessment process concerning measures against terrorist financing in

their respective financial regimes. This FATF effort, along with our continued engagement at a bilateral and multilateral level, will ensure that we are marginalizing terrorist financiers by securing the global financial system.

Also, on November 17, the G20 finance ministers and central bank governors met in Ottawa, Canada and agreed that they would block terrorist assets in their respective countries, and report publicly on precisely which terrorist groups each country has blocked and the amount of actual monies blocked, if any. Meeting the next day, the governing body of the IMF announced that the IMF will take similar steps.

This past weekend, the G7 group of industrial countries met in Ottawa and agreed to an ambitious new work program. In particular, the G7 agreed to develop a mechanism to identify jointly terrorists whose assets would be subject to freezing. This will require even closer cooperation and commitment. We will also develop key principles regarding information to be shared, the procedures for sharing it, and the protection of sensitive information.

Treasury also supports FinCEN's active involvement in the growing network of financial intelligence networks or FIUs. The specialized agencies created by governments to fight money laundering first met in 1995 at the Egmont-Arenberg Palace in Belgium to share experiences. Now known as the Egmont Group, these FIUs meet annually to find ways to cooperate, especially in the areas of information exchange, training, and the sharing of expertise.

This global network of information exchange and cooperation has been a valuable and responsive avenue of terrorist-related information. FinCEN hosted a special meeting of the Egmont Group on terrorist financing in October 2001 to support the unprecedented law enforcement investigation in the wake of the events of September 11. During the special meeting, the Egmont Group agreed to: (1) review existing national legislation to identify and eliminate existing impediments to exchanging information between FIUs, especially when such information concerns terrorist activity; (2) encourage national governments to make terrorist financing a predicate offense to money laundering and to consider terrorist financing one form of suspicious activity for which financial institutions should be on the look out; (3) pass requests for information involving FIUs exclusively between FIUs rather than other government agencies; (4) have FIUs play a greater role screening requests for information; and (5) to pool Egmont Group resources, where appropriate, to conduct joint strategic studies of money laundering vulnerabilities, including Hawala.

THE WORLDWIDE AL-BARAKAAT INVESTIGATION AND FREEZING OF ASSETS

The November 7, 2001 designation of Al-Barakaat as a terrorist-related financial entity is a good example of how Treasury efforts both domestically and abroad, along with the fine work of our inter-agency partners, can lead to results in this war on terrorist financing. Al-Barakaat is a Somali-based hawaladar[1] operation, with locations in the United States and in 40 countries, that

[1] Hawala is a type of alternative remittance system that is common in many parts of the world, including the Middle East and Far East. A hawaladar is an entity that engages in hawala transactions.

was used to finance and support terrorists around the world.[2] OFAC, FinCEN, and intelligence analysis, along with investigative work by the U.S. Customs Service, IRS-Criminal Investigation Division, and the FBI, identified Al-Barakaat as a major financial operation that supported terrorist organizations and was providing materiel, financial, and logistical support to Usama bin Laden and other terrorist groups.

Treasury and the FBI took decisive action to block assets and to take law enforcement actions against Al-Barakaat. On November 7, 2001, federal agents executed search warrants in three cities across the country (Boston, Columbus, and Alexandria) and shut down eight Al-Barakaat offices across the U.S., including locations in the following cities:

- Boston, Massachusetts;
- Columbus, Ohio;
- Alexandria, Virginia;
- Seattle, Washington; and
- Minneapolis, Minnesota.

At the same time, OFAC was able to freeze approximately $1,100,00 domestically in Al-Barakaat-related funds. As part of the Department's international outreach efforts, Treasury also worked closely with the United Arab Emirates to enable the UAE to block Al-Barakaat's assets at its financial center of operations in Dubai. Disruptions to Al-Barakaat's cash flows, resulting from OFAC's designation actions and international cooperation, are estimated to be in excess of $65 million from the United States alone. In addition, the combined work of OFAC, Operation Green Quest, and law enforcement had led to additional leads in the Al-Barakaat investigation.

This is an example of what our combined efforts can accomplish when we join our resources and our expertise to fight the common scourge of terrorist financing.

In sum, Treasury is tapping the full spectrum of our financial forensic expertise as well as the experience and resources of other agencies and foreign governments to execute the President's mission to detect, disrupt, and dismantle the financial infrastructure of terrorist financing.

TERRORIST FINANCING TRENDS

Based on our combined efforts and our experience in this war against terrorist financing, we are beginning to see more clearly the mosaic of terrorist financing and the movement of suspected terrorist funds. Terrorist groups differ from other criminal organizations or networks because of the motive behind the crime. Unlike drug traffickers and organized crime groups that primarily seek monetary gain, terrorist groups usually have non-financial goals: publicity; the dissemination of an ideology; the destruction of a society or regime; and simply sowing terror and intimidation.

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[2] Some individuals may have used Al-Barakaat as a legitimate means to transfer value between individuals in different countries without passing through the formal international banking system.

Terrorist financing, therefore, is different than classic money laundering. In cases of money laundering, the proceeds of illicit activity are laundered or layered in ways to make the proceeds appear legitimate, and the ultimate goal is usually the attainment of more money. With terrorist financing, the source of funding or financing is often legitimate – as in the case of charitable donations or profits from store-front businesses – and the ultimate goal is not necessarily the attainment of more funds. The ultimate goal of terrorist financing is destruction.

Uncovering the sources and methods of terrorist financing is a complex endeavor. The complexity stems in part from the sophistication of the individuals attempting to hide their activities. It is also difficult to attribute certain types of activities or movement of money directly to terrorism.

Nevertheless, there are similarities in the way international criminal enterprises and terrorist organizations of global reach, like al-Qaida, move money or attempt to hide their financial tracks. International terrorist groups need money to attract, support, and retain adherents throughout the world as well as to secure the loyalty of other groups that share the same goals. Thus, there is a need to devise schemes to raise, collect, and distribute money to operatives preparing for attacks. This need to move money makes the terrorist funds vulnerable to detection if we have the right safeguards in place.

SOURCES OF TERRORIST FUNDING

There are a plethora of terrorist funding sources, and the means used by particular terrorist organizations varies from group to group. Some terrorist groups, such as those in Europe, East Asia, and Latin America, rely on common criminal activities including extortion, kidnapping, narcotics trafficking, counterfeiting, and fraud to support their heinous acts. Other groups, such as those in the Middle East, rely on commercial enterprises, donations, and funds skimmed from charitable organizations to not only fund their activities but also to move materiel and personnel. Still other groups rely on state sponsors for funding.

The following is a basic summary of the sources of funding and the means used to move money that we believe terrorist organizations and their supporters use to plan attacks and to support their networks.

1. DONATIONS TO CHARITIES

Investigation and analysis by enforcement agencies have yielded information indicating that terrorist organizations sometimes utilize charities to facilitate funding and to funnel money. Charitable donations to non-governmental organizations (NGOs) are commingled and then often diverted or siphoned to groups or organizations that support terrorism. Fundraising may involve community solicitation in the United States, Canada, Europe, and the Middle East or solicitations directly to wealthy donors. Though these charities may be offering humanitarian services here or abroad, funds raised by these various charities are sometimes diverted to terrorist causes. This scheme is particularly troubling because of the perverse use of funds donated in good will to fuel terrorist acts.

We have seen clear examples of this type of scheme in our efforts to identify and freeze terrorist-related assets. In one instance, Hamas, a foreign terrorist organization, used the largest U.S. Islamic charity, the Holy Land for Relief and Development (Holy Land), as a fundraising source for its terrorist activities. Based on preliminary work of the FBI, we acted to designate Holy Land on December 4, 2001, pursuant to E.O. 12334 and to freeze the assets of Holy Land because it was being used as a charitable front to raise and funnel money to Hamas. In another example, on January 9, 2002, the Treasury Department blocked the assets of two foreign charities that were funneling funds to al-Qaida: the Afghan Support Committee and the Pakistan and Afghanistan offices of the Revival of Islamic Heritage Society (RIHS).

The Treasury Department continues to scrutinize the activities of suspect charitable organizations, both in North America and abroad that may have ties to terrorist organizations. In addition, we will continue to work closely with our international partners to ensure that there are monitoring and regulatory mechanisms in place for any such NGOs in their jurisdiction. As we have said before, charities advertising to help refugees, widows and orphans should be doing just that–not being used, wittingly or otherwise, to funnel money to terrorist organizations or to indoctrinate impoverished populations with political-religious extremism and with it a potential breeding ground for future terrorism.

2. COMPANIES AND BUSINESSES

Terrorist groups create front businesses and corporations, transfer funds between them, and "layer" the financial transactions to avoid detection. We have designated several companies, such as the Al-Barakaat companies, as fronts for terrorist organizations pursuant to the President's Executive Order.

Seemingly legitimate businesses have been used by terrorists and their supporters as "fronts" to disguise a variety of criminal activities. These businesses often can be convenience stores, restaurants, or fast food stores. The businesses are usually acquired using funds furnished by a single individual. This investor, in exchange for providing financing, receives a portion of the profits from legitimate business operations until the investment is repaid. In some cases, it is alleged that the "seed" money to acquire the businesses is provided by terrorist groups.

Small retail businesses that deal extensively in cash are ideal for laundering the proceeds from a variety of criminal activities and provide retail outlets for stolen merchandise. They are also ideal locations from which informal money remittors, like hawaldars, can transact business.

Regular fraud schemes frequently result in illegal profits and resulting criminal investigations that ultimately uncover terrorist financing. One clear example of this occurred last year, when an inter-agency task force, involving the FBI, the Bureau of Alcohol, Tobacco, and Firearms, the Immigration and Naturalization Service, and other law enforcement uncovered a contraband cigarette trafficking and fraud scheme involving approximately a dozen Lebanese individuals. In the course of investigating this scheme, the task force uncovered that some of the participants were involved in a military procurement program designed to obtain and send dual use items to Hizbollah operations in Lebannon.

We continue to monitor, analyze, and investigate the links between businesses, in the United States and elsewhere, and terrorist groups. Using Bank Secrecy Act data and analysis provided by FinCEN and other relevant data from various Treasury databases, we are able to target suspicious business activities and anomalous transactions. This type of methodical investigative and analytical work will continue to uncover networks of businesses used to generate and funnel money to terrorist groups.

3. TRADE MISPRICING

International trade may be utilized by terrorist organizations to disguise funding sources. Terrorist front companies might overvalue or undervalue merchandise, or they might use double invoicing or might fabricate shipments altogether. The Treasury Department is looking into this method of raising funds, but there has as yet been no direct link established to terrorist financing.

There are various Customs commercial databases that are capable of identifying trends and anomalies in a particular company or industry. Specifically, the U.S. Customs Service has developed a program known as the Numerically Integrated Profiling Systems (NIPS). NIPS allows for the manipulation of trade data, BSA data, commerce data and I-94 passenger data. Green Quest has applied NIPS in targeting commodities and companies that may be funneling funds in support of terrorism. NIPS is a component of the Green Quest strategy to target trade-based money laundering or terrorist financing systems.

An example of this type of activity involved an analysis conducted by the U.S. Customs Service Offices of Strategic Trade and Intelligence. This analysis involved the exportation of honey to Middle Eastern countries. On October 12, 2001, the Treasury Department named two honey companies as fronts for terrorist funding to al-Qaida. The Customs Service analysis identified anomalies in the packing weight, shipping weight and the reported value of the shipped honey, which may be indicative of trade-based money laundering or terrorist financing.

4. USE OF CREDIT CARDS

While I cannot comment on ongoing investigations into credit card usage, in connection with several regulatory provisions of the USA PATRIOT Act, we are exploring whether whether and what type of further regulatory action is warranted.

5. NARCOTICS TRAFFICKING

From our experience with terrorist groups, we know that some use narco-trafficking to support and fuel their militant activities. We also know that the portion of Afghanistan that the Taliban previously controlled produced at least three-quarters of poppy in the world and that al-Qaida members may have been involved in the heroin trade.
Green Quest and the Customs Service will continue to pursue narcotics investigations for any terrorist related links to further disrupt the funding of any future acts of terrorism against the United States.

METHODS OF MOVING MONEY

Terrorist groups, including al-Qaida, use different means of moving money to support their respective organizations. This money movement around the world, which largely still relies on traditional wire transfers, provides the footprints to where sleeper cells lie and allows us to attempt to disrupt those fund flows. Like other criminal organizations, terrorist groups use various means to move money. The following is a brief summary of ways in which money may be moved to terrorist organizations.

1. USE OF CORRESPONDENT ACCOUNTS AND OFFSHORE SHELL BANKS

There is some evidence to indicate that those who support terrorist groups use shell banks and companies and perhaps correspondent accounts to collect and move money. On November 7, 2001, the Treasury Department listed Bank al-Taqwa, a Bahamian-based shell bank, as a terrorist financing source. In 1997, it was reported that the $60 million collected annually for Hamas was moved to accounts with Bank Al Taqwa. As of October 2000, Bank Al Taqwa appeared to be providing a clandestine line of credit to a close associate of bin Laden and as of late September 2001, bin Laden and his al-Qaida organization received financial assistance from the chairman of that bank.

The Treasury Department continues to monitor the use of shell bank, shell companies, and correspondent accounts to move illicit funds or funds directed for terrorist financing purposes. Though Bank Secrecy Act (BSA) data, including Suspicious Activity Reports (SARs) and Currency Transaction Reports (CTRs), reflects documented use of correspondent accounts and shell entities for money laundering purposes, it is difficult, without knowing more about the transactions, to link such suspicious activities to terrorism. Nevertheless, over the past twenty months, the Treasury's Financial Crimes Enforcement Network (FinCEN) has enhanced its support to law enforcement in the area of counter-terrorism by proactively analyzing Bank Secrecy Act (BSA) data to help identify activities indicative of the movement of funds that may be associated with terrorism. During this period, tactical information was developed and supplied to law enforcement and others for action, as appropriate. There are ongoing investigations of such companies and banks that I cannot discuss at this time. As part of our ongoing efforts with respect to this threat, FinCEN issued an advisory in January 2002 relating to the Republic of Nauru, pursuant to Section 313 of the USA PATRIOT Act, reminding banks of their obligation to terminate any correspondent accounts provided to foreign shell banks.

The banking sector plays an important role in monitoring and policing correspondent accounts and relationships with shell entities. Banks have actively reported information regarding activity in correspondent accounts that has proven valuable to law enforcement. In addition, some U.S. banks have voluntarily closed correspondent accounts with foreign-based banks when there have been suspicious wire transfers or "shell" entities involved. The reporting and record keeping rules contained in the Bank Secrecy Act ("BSA"), administered by FinCEN, create a paper trail to trace funds through the financial system. Information reported under existing suspicious transaction-reporting rules for banks is currently being forwarded to law

enforcement on an expedited basis through the establishment of a toll-free hotline operated by FinCEN.

The Treasury Department will continue to investigate the use of correspondent accounts and shell entities for terrorist financing for blocking purposes as well as to providing assistance to the Department of Justice.

2. INFORMAL VALUE AND UNDERGROUND BANKING SYSTEMS

Informal systems of moving money may be used by al-Qaida and other terrorist groups operating in Third World countries to support related organizations, sleeper cells, or supporters. One system of transfer is called "hawala" which operates on trust, guaranteed anonymity, outside traditional regulation and with virtually no paper trail. Operators engaged in this system deliver money across borders without physically moving it–assured the account will be settled by money or material goods returned in a future reverse transaction. Used widely in the Middle East and South Asia for centuries, there are indications that the system is being exploited by Al-Qaida and other terrorist organizations.

As mentioned above, on November 7, 2001, the Treasury Department blocked the assets of the al-Barakaat network, which was a global money remitting company being used by Usama bin Laden to support terrorist activities. Though the operations of Al-Barakaat in the United States relied on traditional banking systems, internationally it operated as a hawala network that allowed for funds to be funneled into Somalia through Dubai. This hawala network was not only used to finance bin Laden's organization, but also to provide logistical support for his network. Our actions put that hawala network out of business.

At this stage, FinCEN is examining non-traditional money remittance systems, such as hawala, because funds have the potential of being moved anonymously. In an effort to broaden its understanding of alternate remittance systems, FinCEN is forming an Alternate Remittance Branch which will be responsible for the analysis of BSA data and other information to identify mechanisms and systems used by criminal organizations to move operational funds in support of domestic and international activity. Analysis will focus initially on Informal Value Transfer Systems (IVTS) such as hawala, hundi and other Asian and South American systems as a potentially key but inadequately understood methodology for funds movement; development of indicators of IVTS use by criminal organizations to support law enforcement initiatives to combat criminal activity; and identification of policy implications of IVTS for law enforcement and financial regulators. Analysis will expand to include identification of the methods by which IVTS intersects with regulated funds transfer systems, and then identification of criminal funds movement methodologies based entirely on the legitimate financial industry.

The branch will be responsible for monitoring law enforcement support activities provided by FinCEN as a whole in order to identify trends and patterns in financial or fund raising activities. Strategic products will include trend and pattern analysis; industry/technology vulnerability analysis; methodology bulletins and advisories for law enforcement, regulators and the financial industry; threat assessments; and policy papers. The branch will work jointly and/or coordinate its analytic efforts with appropriate law enforcement and intelligence

organizations in the production of national threat assessments related to the funding of domestic and international criminal activity.

3. BULK CASH SMUGGLING

Law enforcement has always suspected that bulk cash smuggling is used by some terrorist organizations to move large amounts of currency. In response to the September 11th events, Customs utilized an existing outbound currency operation, OPERATION OASIS, and refocused its efforts to target twenty three identified nations involved in the laundering of money for terrorist organizations. After September 11th, Oasis was implemented at seven airports and five courier hubs around the United States. Customs' success with Oasis has led to the nationwide expansion of the operation.

To date, Customs Operation Oasis has seized $9,030,100. The Customs Service has primary jurisdictional authority for enforcing those regulations requiring the reporting of the international transportation of currency and monetary instruments in excess of $10,000 (Title 31 U.S.C. § 5316 et al.). The USA PATRIOT Act has enhanced the Customs Service's ability to investigate terrorist related financial crimes by making inbound and outbound smuggling of bulk cash a criminal offense (Title 31 U.S.C. § 5332(a)). By criminalizing this activity, Congress has recognized that bulk cash smuggling is an inherently more serious offense than simply failing to file a Customs report.

In short, we will continue to pursue all the means and methods that terrorists and their supporters could use to fund and funnel money intended for terrorist acts. Our vigilance will not waiver in this mission.

TOOLS AVAILABLE UNDER TITLE III OF THE USA PATRIOT ACT TO COMBAT MONEY LAUNDERING AND TERRORIST FINANCING

Title III of the USA PATRIOT Act (PATRIOT Act) supplied Treasury with a host of new and important weapons to both systematically eliminate known risks to our financial system as well as to identify and nullify new risks that develop. The tragic events of September 11 have taught us three key lessons about financial crime: (1) although distinct in important respects, our ability to combat terrorist financing is inextricably linked with our ability to combat money laundering generally; (2) we must remain vigilant in our continuing efforts to identify the new ways in which criminals and terrorists will attempt to use our own financial system to fuel their enterprises; and (3) the ability of governmental entities to obtain and share financial information is critical to our success in identifying and bringing down terrorist networks. Title III of the PATRIOT Act reflects these lessons, providing us with the mechanisms, the authority, and the initiative to take the steps necessary to protect our financial system.

As this Committee is aware, Treasury, with the full cooperation and assistance of the various agencies and departments, continues the ambitious task of implementing the regulatory provisions of Title III under their tight deadlines. To utilize existing resources within the government, we created interagency working groups chaired by Treasury to help develop, and in some cases, draft the regulations. The cooperation and assistance that we have received has been

tremendous. Though the task is daunting, we accept the challenge. Today I repeat the pledge of Deputy Secretary Dam that Treasury will work diligently to attempt to meet these deadlines, while taking the time necessary to ensure that educated and informed policy decisions are made along the way. This is especially true for those provisions of the Act that support our financial war on terrorism. This is a learning process for us. As we focus on each section to draft regulations, we are better able to identify the vulnerabilities of our financial system and how best to eliminate them.

I will briefly highlight some of the significant provisions of Title III that form the foundation of the regulatory side of Treasury's fresh approach to combating money laundering and terrorist financing.

1. Critical Information-Sharing Provisions

One challenge in the financial war on terrorism is to maximize the use of existing information resources to identify the terrorist financing networks. Because different governmental entities and financial institutions maintain important information, we must have the ability to access that information and review it as a whole. Thus, some of the more important provisions of the PATRIOT Act are those permitting greater information sharing among law enforcement and other governmental entities. The information sharing provisions found in section 358 provided an immediate impact in our financial war on terrorism. With this expanded ability to access and share important financial information, law enforcement and the intelligence community are working together to identify better the financing mechanisms of terrorist networks. Section 358 expanded Treasury's ability to share Bank Secrecy Act information with the intelligence community, clarified that the Right to Financial Privacy Act does not preclude the use of financial information to combat international terrorism, and gave law enforcement and intelligence agencies access to credit reports when the inquiry relates to international terrorism.

Similarly, we will shortly issue regulations implementing section 314 of the Act, a provision in which the Congress allowed for and encouraged both the sharing of information among financial institutions as well as the sharing of information between law enforcement and financial institutions. We are confident that the ability of financial institutions to share information concerning suspected terrorists or money launderers will allow the financial institutions—the ones who are uniquely positioned to identify risks early—to work together, discuss their suspicions, and notify law enforcement of potential criminal activity at an early stage. Moreover, while we are still developing our proposal for sharing information between law enforcement and financial institutions, it is clear that open and developed channels of communication are essential. Along with FinCEN's development of a highly secure computer network under section 362, we look to improve the timing and efficiency of information sharing to maximize our ability to identify and respond to threats to our financial system.

With this new information sharing authority, however, comes the responsibility of ensuring that important privacy interests are not sacrificed. A fundamental principle of Treasury's implementation strategy is to respect these privacy interests while achieving our goal of eliminating risks of money laundering and terrorist financing.

2. The Systematic Elimination of Known or Unacceptable Risks

The approach of this Congress to money laundering is as bold as it is simple: identify risky financial practices and accounts at the outset and deny them access to our financial system. Correspondent accounts maintained in the U.S. by foreign banks, under certain circumstances, form the channel through which illicit funds find their way into our system. The public record is replete with evidence of their abuse in connection with money laundering. Thus, eliminating the known risks associated with correspondent accounts was the genesis for several provisions of Title III.

For example, Section 313's prohibition on U.S. financial institutions maintaining correspondent accounts for foreign shell banks and section 312's requirement that financial institutions apply enhanced due diligence when maintaining correspondent accounts for foreign banks located in jurisdictions lacking sufficient anti-money laundering regimes both require financial institutions to minimize the risks associated with correspondent accounts. Section 313 in particular is a bold step forward, sending a strong message about our commitment to cutting off unregulated foreign shell banks. Treasury has already provided guidance to U.S. financial institutions on how to comply with section 313. We will issue a final rule after we have reviewed comments submitted. By the April deadline, Treasury intends to issue regulations setting forth the due diligence procedures required under section 312.

Private banking accounts have likewise proven to present risks of abuse, such as in the *Salinas* case. Under section 312, such accounts for foreign individuals, especially accounts maintained for senior political figures or their family members, are subject to enhanced due diligence procedures by financial institutions, including the identification of the source of funds. Due diligence policies for private banking accounts will also be addressed in regulations under section 312. Similarly, the GAO report on the activities of Raul Salinas described the danger of concentration accounts in which clients' funds are commingled without linking the client to the funds. Under section 325, Treasury and bank regulators are working to ascertain whether regulations governing the use of concentration accounts are needed. Although we have not yet seen the abuse of these accounts in our terrorist financing investigations, elimination of these risks may be appropriate to ensure that they are not abused in the future.

This systematic approach to avoiding unreasonable risk is also embodied in two other important provisions of Title III: sections 326 and 352, which require customer identity verification and anti-money laundering programs, respectively, for all financial institutions. These provisions in particular will allow Treasury to close loopholes in our anti-money laundering regime and make certain that as terrorists and money launderers move toward less traditional financial institutions, they will not be able to avoid our regulatory controls. Treasury is moving aggressively to implement both sections, paying particular attention to financial institutions such as the insurance industry, the mutual fund industry, credit card companies and others that are not currently subject to Bank Secrecy Act requirements. We intend to protect our financial system by preventing migration to these and other unregulated industries. Through this process in particular, however, we are carefully educating ourselves about the industries in order

to derive sensible regulations that accomplish our objectives without imposing undue or unnecessary regulatory burdens.

Also, section 371 addressed the known risks associated with the smuggling of bulk cash and currency by making it an offense under Title 31 not to declare amounts in excess of $10,000 to the Customs Service. With lead responsibility for ensuring the safety of our borders, and primary authority for enforcing section 371, such provisions further aid the Customs Service in its efforts to disrupt terrorism. As noted, this provision has already netted substantial seizures.

3. Authority to Identify and Respond to Specific Risks

Equally as important to a comprehensive anti-money laundering regime is the ability to identify specific risks and take steps necessary to eliminate it. Various provisions in Title III help us to do just that. A cornerstone of the Bank Secrecy Act is our reliance on financial institutions notifying us of suspicious activities. Title III emphasizes the expansion of suspicious activity reporting by directing Treasury develop regulations for securities brokers and dealers, and authorizing such regulations for futures commission merchants, commodities trading advisors, and commodity pool operators. This is not only consistent with Treasury's implementation goal to eliminate regulatory arbitrage, but also provides law enforcement with an increased capacity to identify threats. Similarly, section 365—a provision that Treasury implemented four months ahead of its statutory deadline—provides Treasury and law enforcement with access to currency reports filed by non-financial trades or businesses, a form previously difficult to obtain in light of IRS confidentiality restrictions. Because non-financial trades and businesses were under an existing obligation to file such reports with the IRS, Treasury issued a regulation permitting the filing of a single form to satisfy both statutory requirements.

The provision that best enables Treasury to respond to specific, identified threats is section 311, which authorizes the Secretary of the Treasury to require financial institutions to impose graduated, proportionate measures against a foreign jurisdiction, financial institution, class of transaction, or account designated a primary money laundering concern. The special measures range from increased record-keeping requirements to prohibiting certain types of correspondent or payable through accounts. The statute requires Treasury to define certain key terms in section 311 by regulation. Because some of those same definitions are incorporated in section 312 of Title III, Treasury intends to define such terms in April in conjunction with the regulation outlining the due diligence requirements of section 312. Given the need to define key terms and the significance of naming a jurisdiction or financial institution a primary money laundering concern, Treasury is proceeding cautiously. Care must be taken to assemble sufficient evidence to support the designation and to make sure that the designation will not actually undermine our overall anti-money laundering or anti-terrorist financing strategy. Furthermore, the Secretary of the Treasury is required to consult with both the Attorney General and the Secretary of State prior to making any designation. We are now working on internal procedures for making designations that will ensure compliance with the consultation requirements while still enabling us to respond quickly to identified threats.

Finally, under section 319(b), the Secretary of the Treasury has the authority to issue administrative subpoenas to foreign banks maintaining correspondent accounts in the U.S. for documents related to those accounts, regardless of whether the documents are located in the U.S. Treasury has already issued interim guidance and a proposed rule covering the record-keeping portion of this provision. Given the potential impact of this provision on existing forms of information sharing between the U.S. and foreign governments, such as mutual legal assistance treaties, Treasury is looking to create internal procedures for exercising that authority with due regard for existing practices.

IDENTIFIED LOOPHOLES IN THE ANTI-TERRORIST FINANCING OR ANTI-MONEY LAUNDERING REGIME

As we continue to expand our efforts to undermine the financial underpinnings of terrorism, we learn more about the vulnerabilities of our system. Through the process of analyzing the applicability of the various provisions of Title III to the wide range of financial institutions and drafting implementing regulations, we learn more about how our regulatory regime can be used to eliminate those vulnerabilities. To this point, our focus has been, first and foremost, to locate and seize terrorist assets in order to prevent any further attacks. With regard to the PATRIOT Act, we have spent our time doing everything we can to meet the aggressive implementation deadlines. As Deputy Secretary Dam noted two weeks ago, we have not yet identified a need for additional legislation and, correspondingly, we have not identified any obvious loopholes in the forthcoming regulatory regime. But I stress that we are only at the beginning of the process of implementing regulations; thus, we may discover loopholes as we work through the issues.

We are especially aware of the need to carefully examine the proposed regulatory regime being imposed on those entities not previously subject to Bank Secrecy Act regulation. These include, for example, the insurance industry and the commodity futures industry. At this moment, we are working with industry representatives to understand how they operate, how they can best be regulated under the Bank Secrecy Act, and whether we have the necessary statutory authority.

Also, as I discussed previously, we are concerned with the ability of alternative remittance systems or informal money transfer systems to avoid regulation. Section 359 of the Act requests that Treasury notify Congress in October 2002 of the need for additional legislation. With FinCEN's initiatives in this area, Treasury will be well positioned to offer suggestions. We look forward to continuing to work with this Committee as issues develop.

CONCLUSION

I was heartened to read the words of Committee Chairman Michael G. Oxley regarding this hearing when he stated the following: "Make no mistake -- we are in this battle against terrorist financing for the long haul." Indeed, as President Bush has stated on numerous occasions, this is a long-term war that will require us to uproot the networks of terror. As part of this war, the battle against terrorist financing is a long-term mission for the Treasury Department and the entire U.S. government. We must work tirelessly as a government to choke the flow of funds so as to prevent further acts of terror such as those we witnessed on September 11th. Ours is a long-term campaign to save lives by denying the terrorists the funds they need to train, to plan, to travel, to hide, and to attack. By denying these evil doers dollars and yen, we are depriving them of bullets and bombs.

This is a war we must win, with every tool at our disposal, because there is no other alternative. I thank you for your support. I will be happy to answer any questions you may have.

QUESTIONS AND ANSWERS FOR THE RECORD
Congressman Joseph Crowley

Hearing: "PATRIOT Act Oversight:
Investigating Patterns of Terrorist Financing"
February 12, 2002

Question 1: (3 parts)

Question 1a:
Al-Qaeda is responsible for the deaths of thousands of Americans, including at least 105 of my constituents from Queens and the Bronx who perished in the attacks on the World Trade Center. Hamas and Islamic Jihad admit to killing dozens and wounding hundreds of innocent civilians including Americans, in Israel and throughout the globe. The U.S. government has prevented the former U.S. hostages in Iran – people who dedicated their lives to public service and gave up 444 days of their lives as prisoners of the Iranian regime – from claiming damages from the Iranian Government's frozen assets. Will assets belonging to Al-Qaeda, Hamas, Islamic Jihad, and other terrorist groups that are confiscated under the authorities of the USA PATRIOT Act be subject to court judgments if the victims or their survivors seek damages for their suffering?

Answer 1a:
Experience has shown that these groups seldom have assets held in their names or can clearly be shown to be the ultimate beneficial owners of blocked funds held in the names of groups linked to them. In addition, amounts blocked thus far have been fairly small and most are the subject of ongoing or anticipated litigation that must be resolved before the issue of confiscation and ultimate use of the funds can be addressed.

Question 1b:
Is it your belief that the Administration has the authority to make confiscated funds available if it so desires, or would additional legislation be required to do so?

Answer 1b.:
Under the U.S.A. PATRIOT ACT, when the U.S. is engaged in armed hostilities or has been attacked, the Executive Branch has authority to seize and vest assets of foreign persons or organizations that have planned, authorized, aided or engaged in such hostilities or armed attacks against the U.S. As I discussed in 1a. above, however, the beneficial interests of the terrorist groups in the blocked funds are often difficult to determine precisely, amounts blocked that could ultimately be subject to confiscation are likely to be fairly small, and numerous litigation-related issues must be addressed first.

Question 1c.:
Mr. Zarate, you stated during the hearing that funds frozen under other sanctions-related provisions, such as those seized from the Taliban regime in Afghanistan, are not made available to the victims of the owners of these funds, because the U.S. government may wish to "unfreeze" the funds at whatever time a legitimate owner (i.e., a legitimate successor government) becomes available to reassume possession of the assets. However, al-Qaeda, Hamas, and other

organizations designated as terrorist groups have no legitimate successors. Their assets are ill-gotten gains. It does not appear possible to return such assets to "legitimate" owners. Given the nature of these funds and the groups from which they have been confiscated, what does the Administration intend to do with the funds if not make them available to victims of the owners' murderous acts?

Answer 1c.:
I agree that organizations such as al-Qaeda and Hamas groups can hardly be regarded as "legitimate," but I again note that the issues discussed in 1a. and 1b. must be addressed before the question of the confiscation and ultimate use of blocked funds can be answered.

Question 2:
This Administration has designated groups like Hamas as a terrorist organization. Their designation as such, combined with the provisions of the USA PATRIOT Act, enables the United States to work with allies in Europe and the Middle East to monitor and disrupt these organizations' financial networks. Could you tell us what steps the Administration is taking to destroy the funding of these terrorist entities? Moreover, how are our European allies dealing with this group. I was very disturbed by an article in yesterday's Wall Street Journal that suggested the Administration is unhappy with the level of support provided by our European allies in the fight against terrorist money laundering. Please explain how we are working with our allies to encourage more active enforcement on their part. Is there anything Congress can do to spur our Allies to action?

Answer:
As I mentioned in my testimony, we are working very closely with our allies in all regions of the world to combat the scourge of terrorist financing. We know that our efforts at tracking and disrupting the financing of terrorist groups cannot be successful unless we obtain the support of our partners and that we must continue to stress the short and long term importance of this issue with our allies. A good example of this international cooperation and continued focus came on March 11, 2002, when the United States and the Kingdom of Saudi Arabia jointly designated the Bosnia and Somalia offices of the Saudi-based charity Al-Haramain. The blocking of the assets of those branches will stem the flow of funds to terrorist organizations. This joint designation marks a new level of coordination in the international cooperation that has characterized the fight against international terrorism to date.

In addition to freezing assets, we are working with our allies to coordinate law enforcement action, to share information about suspect individuals and entities, and to address jointly how best to deal with suspected terrorist supporters and financiers. In this endeavor, we are working on a bilateral and multilateral basis.

Furthermore, we are working to address systemic issues on a global basis to secure the international financial system from the corroding effects of terrorist financiers. We are doing this, in part, through the Financial Action Task Force on Money Laundering, which has directed its resources and international standard-making clout to the issue of terrorist financing, and other

international fora such as the G7 and G20. Dealing with these issues internationally takes close coordination with our partners.

In this endeavor, the Treasury Department has deployed its resources to work on a bilateral and regional basis to achieve these ends. For example, Secretary O'Neill led a Treasury delegation the week of March 4, 2002, of which I was a part, to Bahrain, Kuwait, Saudi Arabia, and the United Arab Emirates where we discussed with these countries, among other things, ways that the international community could better regulate charities, hawalas, and other financial systems like traditional and Islamic banks to ensure that they are not misused and corrupted by terrorist groups. In addition, Under Secretary (Enforcement) Gurulé will be meeting with foreign officials at the ASEAN Regional Forum and the Pacific Island Regional Forum on March 25-26, 2002, to discuss the importance of our collective battle against terrorist financing.

With respect to Europe, we remain fully engaged with our close allies in that region. Secretary O'Neill will be traveling to Europe next month to speak to our allies about financial issues as well as to reiterate the need to take aggressive, concerted actions to freeze terrorist assets. At the staff level, the entire U.S. government is engaged with our European partners on all relevant law enforcement and financial issues. Treasury remains committed to engaging all our allies – bilaterally, regionally, and in multilateral fora – for them to take actions within their jurisdictions to confront the issue of terrorist financing.

At this point, Congress has given us the tools, with the passage of the USA PATRIOT Act, to take aggressive steps, both domestically and internationally, to deal with identified money laundering and terrorist financing risks in the financial sector. Your continued support for and attention to our mission to disrupt and dismantle terrorist financial networks is most appreciated.

Question 3:
Section 330 of the USA PATRIOT Act States the Sense of the Congress that the Administration should work to ensure that foreign financial institutions maintain adequate records relating to foreign terrorist organizations and money laundering activities and that they make such records available to U.S. law enforcement officials and financial institution supervisors. Could you describe how the Administration plans to work with foreign governments, and with foreign financial institutions with operations in the United States, to accomplish these objectives? In addition, could you tell us which countries have been most and least willing to work with the United States to combat terrorists' money laundering?

Answer:
As you indicate in your question, Section 330 of the USA PATRIOT Act advises that the President should direct the Secretary, the Attorney General, and the Secretary of State, to enter into negotiations with foreign financial supervisory agencies in jurisdictions doing business with the United States or in jurisdictions where foreign terrorist organizations may operate. Section 330 indicates that the purpose of such negotiations is to enter into information exchange agreements and MLATs to facilitate the international exchange of information regarding money laundering and terrorist financing.

As you are aware, terrorist organizations, and in particular al-Qaeda cells, exist in many countries throughout the world. Though the Secretary has not yet engaged in formal negotiations under this Section 330 authority, the Administration is engaging foreign governments and their respective regulatory bodies, as well as the foreign private financial community, to deal with the issue of information sharing and record keeping with many countries. In addition, the Administration is dealing both formally and informally with governments to obtain information valuable to the U.S. government. In this regard, we are taking advantage of the Egmont Group of Financial Intelligence Units agreement to share critical financial-related information in terrorist-related matters.

The U.S. government is also dealing with the problem of lax record-keeping by promoting the Financial Action Task Force Special Recommendations on Terrorist Financing. Of particular relevance to Section 330 is Recommendation 5 (International Cooperation) that calls on each country to offer "the greatest possible measure of assistance in connection with criminal, civil enforcement, and administrative investigations, inquiries and proceedings relating to the financing of terrorism, terrorist acts and terrorist organizations."

Finally, other provisions of the PATRIOT Act, such as Sections 319(b) and 328, provide the United States with the tools to obtain necessary information from abroad and will help the Treasury Department to obtain necessary information by force of law.

We are pleased with the level of cooperation we have received from countries to date in freezing terrorist assets and in sharing information. In the previous answer, I noted the strong cooperative efforts by Saudi Arabia, in which they became the first country to designate an entity jointly with us. Other countries have taken overt and less publicized actions to help in our efforts – both to shut down terrorist operations and to obtain more information about suspect entities and individuals. We continue to engage our international partners to obtain critical financial information regarding terrorist financing targets.

Question 4:
Section 314 of the USA PATRIOT Act requires the Treasury Department to issue regulations within 120 days of enactment to encourage cooperation among financial institutions and regulatory and law enforcement agencies. Since this deadline is coming up soon, can you give us a preview of the types of steps the Treasury Department plans to take?

Answer:
On February 26th, the Secretary approved an interim final rule immediately implementing information sharing procedures between financial institutions that are designed to enhance the institution's ability to identify and report to the federal government suspected instances of money flows in aid of terrorism or money laundering. The interim final rule requires financial institutions that wish to share information with one another to provide a yearly certification to FinCEN, which can be accomplished through the FinCEN web site. The certification requires participants to protect the confidentiality and security of shared information and use the information solely for identifying and reporting suspected terrorism or money laundering.

At the same time, the Secretary approved the issuance of a notice of proposed rulemaking of a regulation designed to establish a link between federal law enforcement and financial institutions so that vital information about terrorism financing and money laundering can be quickly and efficiently exchanged between them. The proposed rule uses the communications resources and networking ability of FinCEN to quickly locate the accounts of persons and entities engaged in such illegal activity. Federal law enforcement will provide the identities of suspected terrorists and money launderers to FinCEN who will then distribute the information to financial institutions to check for accounts and transactions. Any matches found will be immediately transmitted to law enforcement for appropriate follow up. The rule is intended to formalize and streamline the information sharing and reporting process the federal government undertook following the attacks of September 11, 2001, by permitting FinCEN to serve as a conduit for information sharing between federal law enforcement agencies and financial institutions.

Both of the rules were published in the Federal Register on March 4, 2002, and have a 30-day comment period.

Responses from
The Honorable Juan Zarate,
Deputy Assistant Secretary of the Treasury for Terrorism and Violent Crime
to Congresswoman Kelly's Questions For the Record
from the February 12, 2002, hearing entitled,
"PATRIOT Act Oversight: Investigating Patterns of Terrorist Financing"

1. **Following the September 11th attacks, we have become increasingly concerned with the potential abuse of credit cards not only for money laundering, but also terrorist financing. Does Treasury have the authority to regulate each of the institutions involved in a credit purchase, namely, the issuer, the credit card association, and the acquiring institution?**

We are analyzing this question currently. We believe that Treasury has the authority generally to regulate the credit card industry under the Bank Secrecy Act. We believe that all or nearly all credit card transactions in which either the credit card was issued in the U.S. or goods or services were purchased in U.S. pass through institutions with anti-money laundering controls required by the BSA. Yet the regulatory scheme for all entities involved in a credit card transaction is complex.

- Issuer: We believe that all or nearly all the institutions that issue credit cards in the U.S. are state or federally chartered financial institutions. As a result, such issuers are subject to BSA regulation and anti-money laundering controls.
- Acquirer: The cardholder purchases goods or services from merchants that accept the card. Those merchants have a relationship with the acquirer, a bank. Because all or nearly all the acquirers in the U.S. are financial institutions subject to U.S. or state regulation, such acquirers are subject to BSA regulation as well.
- Association: The credit card systems or associations, such as VISA or Mastercard, are the link between the issuer and the acquirer. The association owns the trademark and provides the infrastructure for authorizing and clearing credit transactions. Treasury has the authority to regulate credit card systems or associations because the BSA defines a financial institution to include an "operator of a credit card system." However, Treasury has not yet extended regulations under the BSA to these operators.
- Merchant: The merchant is the business entity that sells the goods or services to the cardholder. The merchant must have a relationship with the acquirer in order to accept a particular credit card. Generally, Treasury has no authority to prescribe BSA regulations on merchants, unless those merchants are identified as, or the Secretary designates them as, financial institutions under the BSA.
- Cardholder: This is either the legitimate customer or a criminal seeking to abuse a credit relationship. The BSA does not provide for regulation of the individual consumer.

2. **Does the USA PATRIOT Act have an impact on the regulation of credit card companies and credit transactions?**

Yes. Section 352 requires all financial institutions, including operators of credit card systems, to have a basic anti-money laundering program in place by April 24, 2002. While the USA PATRIOT Act does not provide additional authority for regulating credit card companies or institutions involved in credit transactions, its importance lies in the message that it sends—we must ensure appropriate regulation of all financial institutions. Sections 326 and 352 in particular create the framework for Treasury to apply BSA measures to the full range of financial institutions. As a result, we are aggressively moving toward including operators of a credit card system under the BSA anti-money laundering regulations.

3. **What gaps in regulations or authority to regulate credit cards exist, and what is Treasury doing to fill them?**

All or nearly all credit card transactions occurring in the U.S. will be conducted through a U.S. financial institution at some point. Thus, the transaction will pass through an institution with anti-money laundering controls as required by the BSA. But the problem may well be that a single financial institution may not be in the best position to identify suspicious activity. The larger issue, then, is whether gaps in the regulatory regime may stand in the way of adequate anti-money laundering protection. As we begin to focus on this issue, we have identified the following potential gaps in regulation under the BSA:

- If the issuer of the credit card is not a state or federally chartered financial institution, it is not subject to BSA regulation. We are analyzing this issue to determine whether there are such institutions and, if so, whether they are subject to the BSA.

- The credit card companies or associations themselves, such as Mastercard, VISA, American Express and Discover, are not presently regulated under the BSA. American Express, however, is a money services business and is thus now required to register with FinCEN and file suspicious activity reports in connection with money service business. Also, American Express issues certain of its credit cards through an affiliated bank, and Discover Cards are also issued by a state-chartered bank, each of which would be required to have an anti-money laundering compliance program and to file Suspicious Activity Reports.

- Foreign bank issuers of credit cards located outside of the U.S. are not subject to U.S. regulation. VISA, Mastercard, and American Express, for example, authorize foreign banks to issue their cards.

- Acquiring banks located outside of the U.S. are not subject to U.S. regulation.

Treasury has already begun taking the steps necessary to fill the gaps. Initially, under section 352 and 326, we will be extending BSA regulation to operators of credit card systems. We have begun reaching out to the affected companies to discuss the forthcoming regulation. We are also working internally to consider our options and authority for ensuring that non-U.S. issuing banks or acquiring banks are properly vetted before being given the authority to issue credit cards that can be used in the U.S.

4. **The credit card companies or associations are the common link in all credit transactions in the U.S., even when the card is issued by a foreign bank. Will Treasury act quickly to bring appropriate regulation to these associations, and will Treasury consider whether it can require credit card companies or associations to exercise minimum due diligence of their foreign partners or financial institutions, possibly even requiring the credit card companies to cut off relationships with high risk financial institutions?**

We understand this concern and the process of bringing the operators of credit card systems under BSA regulation is already in motion. With respect to specific limitations or requirements, we are reviewing our authority under the BSA.

5. **Could you elaborate on what steps is Treasury taking to address the potential abuse of credit cards for terrorist financing and money laundering?**

First, it is important to distinguish between pure credit card fraud and money laundering or terrorist financing. Credit card fraud exists in many forms and, if done well, will not likely be picked up in traditional anti-money laundering programs. Examples include acts as simple as theft of credit card numbers to more sophisticated schemes where the information in a card is captured electronically by criminals and replicated on a bogus card. While these are important abuses of credit cards, they are not typically the focus of an anti-money laundering program. A core mission of the Secret Service is to work to investigate credit card fraud, including identity theft, and, they are on the cutting edge of this issue.

Aside from typical fraud, Treasury is working to address the abuse of credit cards for money laundering and terrorist financing purposes. The GAO is currently investigating the involvement of credit cards in money laundering. Treasury is assisting the GAO by having FinCEN search its SAR database for suspected violations where the narrative includes a reference to credit cards. FinCEN has provided a report to the GAO.

The IRS is also working to identify people who are using credit cards to tap funds that they have secretly placed in offshore tax havens. The scheme is quite simple. After placing funds into the offshore jurisdiction, a financial institution located in the tax haven issues the account holder a credit card. Often, the credit card is backed by an account in the issuing financial institution with funds equal to or in excess of the credit limit of the card. In October of 2000, the Justice Department in an *ex parte* petition requested permission for the IRS to serve summons for civil enforcement purposes on two major credit card companies to determine the identity of U.S. taxpayers who had credit cards issued by offshore entities. The summonses were issued after the government established that a reasonable basis existed for concluding that persons holding these accounts may have failed to pay their taxes. Records have been received and the IRS is now culling the records to identify potential criminal investigations or civil audits. It is possible that terrorists may likewise attempt to utilize offshore tax havens to conceal their movements.

Finally, as I mentioned, we are working on the regulatory side to close the gaps in regulation to give enforcement additional tools.

6. **Through the USA PATRIOT Act, Congress sought to create a comprehensive anti-money laundering regime that protects the U.S. financial system. One area of potential concern is the insurance industry. What steps is Treasury taking to ensure the insurance industry is not vulnerable to money laundering and terrorist financing risks?**

As we have previously indicated, important goals for Treasury in implementing the USA PATRIOT Act are to prevent regulatory arbitrage and to protect our financial system. Although the Bank Secrecy Act contemplates including insurance companies in our anti-money laundering regime, the insurance industry has traditionally not been subject to BSA requirements such as anti-money laundering programs, suspicious activity reporting or customer identification requirements. We are now in the process of determining sensible ways to apply anti-money laundering principles to this diverse industry. We seek to craft regulations that are targeted toward risks posed by insurance products and to ensure that services offered by insurance companies are regulated to the same degree as similar services offered by other financial institutions.

Several provisions of the USA PATRIOT Act, such as the customer identification and anti-money laundering program sections, provide the opportunity and impetus for us to extend basic anti-money laundering principles to the insurance industry. We will issue regulations outlining the minimum standards for an anti-money laundering program as well as customer identification requirements.

We have begun the process of reaching out to the insurance industry, which has generally been quite receptive and eager to provide us with information. As you know, insurance is regulated at the state level. Thus, we are in contact with the National Association of Insurance Commissioners to tap their regulatory expertise and knowledge of the industry, as well as industry trade associations. The NAIC will issue shortly a Joint Bulletin that will advise all insurers of their obligation to have an anti-money laundering program in effect on or before April 24, 2002. The products and services offered are diverse and care must be taken to craft appropriate regulatory language.

7. **It is very important that the potential gap in the U.S. anti-money laundering regime posed by insurance products be closed as soon as possible. What is your time frame for issuing regulations?**

As you know, section 352, which requires all financial institutions to have an anti-money laundering program, takes effect on April 24, 2002. We have identified the insurance industry as an important priority for crafting and issuing implementing regulations, and, as a result, we intend to issue proposed regulations as promptly as possible. With respect to customer identification requirements, the deadline for issuing regulations is in October. However, we have once again placed a high priority on the insurance industry and will work to issue regulations as expeditiously as possible.

8. **The insurance industry relies heavily, if not exclusively in most cases, on the use of agents and brokers to market their products, sometimes using them to sell policies, collect premiums or assist in settling claims. Often the only contact between a customer and an insurance underwriter is through an agent or a broker. It seems that any meaningful anti-money laundering regime for the insurance industry must include brokers and agents, the ones who have the contact with the customers. Does Treasury plan to include brokers and agents in its regulatory proposals?**

We agree that brokers and agents appear to be an important link in an anti-money laundering regime designed to identify and eliminate money laundering risks. As a result, Treasury is considering whether to include brokers and agents in regulations for the insurance industry. Our review of the industry reveals that brokers and agents may be well positioned to have information about customers, their business, and potential money laundering risks. We are currently reviewing the statutory authority to determine whether it is appropriate to apply Bank Secrecy Act requirements to brokers and agents as well as insurance underwriters.

The inclusion of brokers and agents presents a host of issues stemming from coverage to enforcement. We are working through those issues and welcome the input of Congress and the agent and broker industry to further educate us about the business and the risks involved.

ANSWERS TO REP. GUTIERREZ'S QUESTIONS
FROM UNDER SECRETARY JUAN ZARATE
FEBRUARY 12, 2002 HEARING
PATRIOT ACT OVERSIGHT

1. When will the Foreign Terrorist Asset Tracking Center be fully operational?

A:

The Foreign Terrorist Asset Tracking Center (FTAT) was in the process of being organized and staffed when the terrorist attacks of September 11th occurred. In fact, the Financial Crimes Enforcement Network (FinCEN) had already been staffed for the purpose of providing analytical support to the interagency FTAT and was supplying the product of that staffing to the Office of Foreign Assets Control (OFAC). Immediately following the attacks, the Treasury Department helped to accelerate the development of the interagency FTAT by establishing a temporary operational presence within the secure environment of FinCEN. The unit quickly began to serve as an analytical center for combating the problem of terrorist financing.

Section 906 of the USA PATRIOT Act requires that the Director of the CIA, the Attorney General and the Secretary of the Treasury jointly file a report on the "feasibility and desirability" of reconfiguring FTAT. This matter was reviewed by senior government officials, including the Principals Committee of the National Security Council. Based on that review, a decision was made to move and reconfigure FTAT to ensure it was fully integrated into the ongoing terrorist financing activities of other agencies – in particular, the intelligence community.

Despite this change of venue for FTAT, Treasury will still be playing a leadership role in the operations of the FTAT as reconfigured. The Section 906 Report is currently being drafted to set forth the structure and operations of FTAT, and personnel have been committed from various agencies to run the FTAT. The FTAT, as reconfigured, should be operational shortly. Let me assure this Subcommittee that Treasury will continue its leadership role in FTAT and in the broader efforts to disrupt and dismantle terrorist financing.

2. What kind of information is your office considering on requiring before opening a bank account?

As you know, section 326 of the USA PATRIOT Act directs Treasury to issue, jointly with the Federal functional regulators, regulations setting forth the minimum standards to which financial institutions must adhere in connection with customer identification and verification at the time of account opening. We are completing work on a notice of proposed rulemaking implementing section 326 for banks, thrifts, and credit unions. This proposed rule will be issued jointly with the Federal functional regulators and should be issued shortly, followed by a comparable rule for securities brokers and dealers. Additionally, Treasury, in consultation with the Federal functional regulators, is completing a report on issues relating to domestic financial institutions' identification of foreign nationals. This report will be provided to Congress shortly as well.

Our challenge under section 326 is to create a regulatory scheme that ensures appropriate customer identification and verification while acknowledging the difficulties posed by the great diversity in types of identification documents and the myriad ways in which customers might effectively be identified. A corporation using internet banking would clearly identify itself in a different way than an individual who walks into a bank lobby to open an account. Beyond that, Treasury is aware of the importance of encouraging "unbanked" families and individuals, including non-U.S. persons living and working in the United States, to use mainstream financial services. An unduly rigid identification structure may well further discourage domestic financial institutions from serving these populations. Accordingly, our focus is first on ensuring that banks have in place and follow a compliance program with established customer identification and verification procedures. This will serve as the baseline for the regulation from which the specific identification requirements will emanate.

Beyond that, we believe it is appropriate that banks retain flexibility in determining which forms of identification will suffice within the framework of their identification and verification program. Acceptable forms of identification will include items currently used by banks such as validly issued state driver's licenses, social security numbers, taxpayer identification numbers, passports, or other validly issued government identification. The goal is to ensure first that banks have a clear program in place and then that the procedures appropriately utilize available identification.

The specifics of our proposal will be set forth in the proposed rule we intend to issue in the very near future, as will our recommendations relating to the identification of foreign nationals that will be contained in our report to Congress. At that time, we look forward to further discussions with Congress on this important issue.

3. Cracking down on charities?

A:

As I mentioned in my testimony, we have discovered that terrorist groups abuse the institution of charities. Terrorists use charities not only to raise and move money but also to provide logistical support for their operations.

Since the President signed Executive Order 13224 on September 23, 2001, the United States has named five (5) charities that have been coopted by terrorist groups. Of particular note, the United States and the Kingdom of Saudi Arabia jointly designated the Somali and Bosnian branches of a Saudi charity, al-Haramain, on March 11, 2002.

This designation followed a successful trip by Secretary O'Neill and a Treasury delegation, of which I was a part, to the Gulf region including Saudi Arabia. During that trip, the Secretary emphasized the need to track terrorist money through all channels, including charities. Concomitantly, he also reassured our Arab allies that we are committed to charitable giving and to preserving the **important work** of charities. To this end, the United States is working with its Gulf allies to develop international "best practices" for charities worldwide to ensure that charities are not abused. During a recent trip to Europe, the Secretary also engaged our German,

French, and British allies to work on this same issue. The development of standards or "best practices" for charities forms part of the development of the Financial Action Task Force's (FATF) Special Eight Recommendations on Terrorist Financing.

Thus, we will continue to follow terrorist-related money wherever it leads, including into and through charities. We are also working to develop systematic safeguards to ensure that charities in particular are not misused by terrorist organizations.

4. Working to secure legitimate charitable organizations are not affected by dishonest charities?

A:

As mentioned above, we are concerned that our efforts to combat terrorist financing not be perceived either domestically or internationally as an attempt to squelch charitable giving. As the Secretary has noted often, the American people are a generous people, and charities form a critical part of our civil society. Thus, we are committed to ensuring that the operations of legitimate charities are not affected by the abusive actions of a few charities connected to terrorist groups.

To this end, we are in the process of developing "best practices" for domestic and international use that will allow citizens to evaluate the operations and management of charities. Related to these standards, we are concerned that the overseas operations of domestic charities not be abused by criminals or terrorists for their own use. Thus, we are working on standards to address this issue. As part of this effort, we are and will be engaging in outreach to non-governmental organizations, private oversight organizations, and to community groups that will allow the U.S. government to work cooperatively with the private sector to ensure that charities are not abused.

Testimony of Mary Lee Warren
Deputy Assistant Attorney General, Criminal Division
United States Department of Justice
on February 12, 2002

Before the Subcommittee on Oversight and Investigations
Committee on Financial Services
United States House of Representatives

Chairman Kelly, Ranking Minority Member Gutierrez, members of the Subcommittee, I am honored to appear before the Subcommittee on Oversight and Investigations of the House Financial Services Committee to address our progress on the financial front of the ongoing war on terrorism. As a Deputy Assistant Attorney General of the Criminal Division, I appreciate the opportunity to provide you with a summary of the Department of Justice's efforts in this endeavor, including information developed by the FINANCIAL REVIEW GROUP or FRG, an interagency task force supporting the Federal Bureau of Investigation's Counterterrorism Division, as well as the Department's actions to implement the authorities set forth in Title III of the USA PATRIOT Act, also known as the International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001.

Initially, I would like to thank the members of this Subcommittee and Congress for their prompt response to the terrorist threat posed to the United States and all civilized countries. The USA PATRIOT Act provided those of us whose mission it is to protect the people of the United States with a wide array of new measures that will serve to enhance our ability to carry out this work. We welcome the new authority granted by the USA PATRIOT Act and are committed to using our new powers in a vigorous but responsible manner.

As the members of this Committee are well aware, our country faces an extraordinary and grave threat to its national security and the safety of our citizens. As a result of the horrific

acts of September 11, 2001, in which over 3,000 innocent civilians were murdered by terrorists in New York City, in Pennsylvania and at the Pentagon, the United States is actively pursuing a world-wide anti-terrorism campaign today. Osama bin Laden has told the world that "the battle has moved inside America." Let there be no doubt: He and the forces of al Qaeda and other terrorist groups intend to continue their heinous acts of terrorism.

Accordingly, preventing future terrorist attacks and bringing terrorists to justice are now the top priorities of the Department of Justice. Law enforcement is currently engaged in a cooperative effort to identify, disrupt and dismantle terrorist networks. Terrorism requires financing and terrorists rely on the flow of funds across international borders. To conceal their identities and their unlawful purpose, terrorists exploit weaknesses in domestic and international financial systems. As the members of this Subcommittee can appreciate, curtailing terrorism requires a systemic approach to investigating the financial links to the terrorist organizations.

On September 24, 2001, less than two weeks after the terrorist attacks, Attorney General John Ashcroft appeared before the House Judiciary Committee, and then on September 25th, before the Senate Judiciary Committee to testify about the Administration's proposed anti-terrorism and money laundering legislation. In particular, the Department of Justice encouraged the prompt adoption of the Administration's bill because it was necessary to update our money laundering laws.

Due in great part to important work done by the House of Representatives and the Committee on Financial Services, Congress responded expeditiously, enacting a major part of the Administration's proposal. On October 26, 2001, the USA PATRIOT Act was enacted, which included as Title III, the International Money Laundering Abatement and Financial Anti-

Terrorism Act of 2001. Title III of the USA PATRIOT Act has provided law enforcement with important new authority to investigate and prosecute the financing of crime, including terrorism.

Among the many new provisions of the USA PATRIOT Act is the authority to seize and forfeit terrorist assets, both foreign and domestic, if the property (or its owner) is involved in, related to, or used in support of acts of domestic or international terrorism. The new law also furthered our ability to fight transnational crime by making the smuggling of bulk cash across our border unlawful, adding terrorism and other offenses to the list of racketeering offenses, and providing prosecutors with the authority to seize money subject to forfeiture in a foreign bank account by authorizing the seizure of such a foreign bank's funds held in a U.S. correspondent account. Other important provisions expanded our ability to prosecute unlicensed money transmitters, provided authority for the service of administrative subpoenas on foreign banks concerning records for foreign transactions, and allowed law enforcement more immediate access to reports of currency transactions in excess of $10,000 by a trade or business. These provisions will prove to be powerful new weapons in our fight against international terrorism as well as other kinds of international criminal activity.

The financial aspects of U.S. anti-terrorism initiatives

I would like to offer you a brief summary of the Department's work to date using our present money laundering laws against terrorism. I am not, of course, at liberty to disclose information that might compromise or undermine ongoing criminal investigations; however, I will be able to offer a list of areas in which the Department of Justice, in conjunction with other departments and agencies, is making headway to expose terrorist financing and to promote robust cooperation with our international partners in the global war on terrorism.

Through financial analysis, we continue our work to reconstruct the web of planning and finance that supported the September 11 terror attacks, and we continue to work to detect other threats to our national security, whether by persons affiliated with al Qaeda or by other state or non-state actors who target the U.S. or its interests anywhere in the world. Moreover, we have found that, as in many other criminal cases, following the money trail not only leads to other co-conspirators, but also provides strong proof of the conspiracy, its membership, and its criminal actions.

As you know, the Attorney General has the responsibility for investigating all Federal crimes of terrorism under Title 18, U.S. Code, Sections 2332b(f) and 2339B(e)(1). The investigation and destruction of terrorist financing is a critical part of our anti-terrorism strategy, but it is just that – one aspect of our overall efforts to seek out and eliminate those terrorist organizations that are attempting to destroy us. Realizing the importance of investigating terrorist financing, within days of September 11th, under the Attorney General's authority to investigate terrorism and support thereof, the Department established the FRG, which consists of over 100 agents and analysts from the federal law enforcement community, including the Department of the Treasury and analysts from the National Drug Intelligence Center. The FRG, under the leadership of the FBI's Financial Crimes Section, is a component of the FBI's Counterterrorism Division and includes Department of Justice Criminal Division attorneys from the Terrorism and Violent Crimes Section, the Asset Forfeiture and Money Laundering Section, and the Office of International Affairs. Over the past several months, the FRG has compiled and analyzed financial information gathered by federal agents and U.S. Attorneys' Offices around the country in the course of the ongoing terrorism investigation. By collecting this information

in one location, we have created a central depository for relevant evidence – bank records, travel records, credit card and retail receipts – for financial and forensic analysis. This evidence can then be interpreted and integrated with the fuller body of terrorist evidence collected by law enforcement and others. The work of the FRG is, of course, international in scope as we continue to work with the Department of State to encourage our counterterrorism partners in other countries to follow the money trail. I fully expect the FRG will play a continuing critical role in all terrorist financing investigations.

At the same time we established the FRG, the Department created a task force of prosecutors to work with the FRG and other law enforcement entities in developing terrorist financing cases, with an emphasis on non-governmental organizations and charities that may be providing cover for terrorist activity. This Terrorist Financing Task Force, located in the Terrorism and Violent Crime Section of the Criminal Division, also includes representatives from the Criminal Division's Fraud, Asset Forfeiture and Money Laundering, and Appellate Sections, the Tax Division's Criminal Enforcement Sections, and Assistant U.S. Attorneys from Virginia, New York, and Colorado.

The Terrorist Financing Task Force and the FRG are working directly with the Anti-Terrorism Task Forces, or ATTFs, which the Attorney General created in each judicial district. The ATTFs are comprised of federal prosecutors from the U.S. Attorney's Office, members of the federal law enforcement agencies, as well as the primary state and local law enforcement officials in each district. They coordinate closely with many of the existing FBI Joint Terrorism Task Forces. The ATTFs form a national network, which is the foundation of

our effort to coordinate the collection, analysis and dissemination of information and to develop the investigative and prosecutorial anti-terrorism strategy for the country.

The efforts of the FRG, the Terrorist Financing Task Force and the ATTFs, along with the work of the Treasury Department's Operation Green Quest, have resulted in targeted law enforcement actions that are at the heart of the Administration's assault on terrorism. On November 7, 2001, the Attorney General announced a nationwide enforcement action against the al Barakaat network, including coordinated arrests and the execution of search warrants in Massachusetts, Virginia and Ohio. These actions were coordinated with the Treasury's execution of blocking actions against al Barakaat-related entities in Georgia, Minnesota and Washington State, pursuant to Executive Order 13224. More recently, on December 4, 2001, the President, along with the Attorney General and the Secretary of the Treasury, announced the designation and blocking action against the Texas-based charity known as the Holy Land Foundation for Relief and Development, alleged to be a North American "front" for the terrorist organization Hamas. These actions demonstrate that our fight against terrorist financing is a broad-based effort extending well beyond the al Qaeda network.

In addition to the coordinated shut-down of al Barakaat's operation on November 7th, the United States Attorney for the District of Massachusetts is prosecuting the principals of al Barakaat's Boston branch for operating an unlicensed money transmitting business. Between January and September 2001, while operating without a license under Massachusetts law, Barakaat North America knowingly caused the transfer of over $3,000,000 to banks in the United Arab Emirates. On November 14, 2001, a federal grand jury in Boston returned an indictment charging Liban Hussein, the president of al Barakaat, and his brother, Mohamed

Hussein, with a violation of 18 U.S.C. § 1960 (prohibition of illegal money transmitting businesses). Mohamed Hussein has been detained pending trial, and we are seeking to extradite Liban Hussein through a request made to Canada.

There is another aspect of our terrorist financing efforts that is particularly promising. We are using computers to analyze information obtained in the course of criminal investigations, to uncover patterns of behavior that, before the advent of such efficient technology, would have eluded us. Through what has come to be called "data mining" and predictive technology, we seek to identify other potential terrorists and terrorism financing networks. In our search for terrorists and terrorist cells, we are employing technology that was previously used primarily by the business community.

We have reason to believe that terrorists have long utilized identity theft and social security number fraud to enable them to obtain employment and access to secure locations, such as airports. In addition, they have used these and similar means to obtain driver's licenses, hazardous material licenses, and bank and credit accounts through which terrorism financing dollars are transferred. The Utah ATTF, under the leadership of U.S. Attorney Paul Warner, recently undertook a computerized data verification operation that uncovered fraud committed by some 60 persons employed in sensitive locations throughout the Salt Lake City International Airport. These efforts are part the Attorney General's stated goal of aggressively using existing law enforcement tools and government-maintained data to bolster our national security.

As you know, in addition to United States v. Liban Hussein, et al., in Boston a number of other criminal prosecutions related to terrorism are underway. For example, in December of last year, a federal grand jury in Alexandria, Virginia, returned an indictment charging Zacarias

Moussaoui of France with six criminal conspiracy charges, each of which carries a maximum penalty of death. As the indictment alleges, Moussaoui is linked to the al Qaeda organization in part through financial connections. And, last month, a federal grand jury in Boston indicted another al Qaeda-trained operative for his attempt to destroy an American Airlines jet in December over the Atlantic, in part for a new offense created by the USA PATRIOT Act (18 U.S.C. § 1993(a) (attempted destruction of mass transportation vehicle)). One week ago today, a grand jury of the Eastern District of Virginia in Alexandria returned a 10-count indictment against John Walker Lindh. Among other counts, the indictment charges Lindh with conspiracy to murder U.S. nationals, in violation of 18 U.S.C. § 2332(b), and with providing material support to foreign terrorist organizations, in violation of 18 U.S.C. § 2339B. We will bring all available financial evidence and analytic techniques to bear in these prosecutions, as well.

The Department of Justice is also using the civil forfeiture laws to combat the financing of terrorism. While few details are publicly available at this point in time, bank accounts used by, or related to, the September 11th terrorists have been seized by the United States Attorneys in the District of New Jersey and the Southern District of New York.

We continue to work with other government departments and agencies, including the Department of the Treasury's "Operation Green Quest," in connection with the investigation and freezing of bank accounts and assets related to various organizations claiming to be charitable entities, but which have channeled funds to al Qaeda or other terrorist organizations.

In conjunction with our international partners, we have made substantial progress in the global war against terrorism. Even before September 11th, the Criminal Division was involved in efforts to attack terrorist financing on a global scale. Beginning in 1997, we played a key role

in negotiations that led to the development of the International Convention for the Suppression of the Financing of Terrorism. This Convention obligates State parties to create criminal offenses specific to terrorist financing, and to extradite or submit for prosecution persons engaged in such offenses. The Senate is to be commended for its swift action to grant advice and consent to ratification of that Convention. We look forward to working with the Congress to resolve any outstanding issues regarding the Convention's implementing legislation.

The Departments of Justice, State and the Treasury continue to play leading roles in the Financial Action Task Force against Money Laundering (FATF). Prior to September 11, the FATF adopted its 40 Recommendations on Money Laundering, which have become the global standard for an effective anti-money laundering regime, and fostered an initiative on "Non-Cooperative Countries and Territories" (NCCT), which endeavors to identify publicly the locations of the most prevalent money laundering activities in the world and the jurisdictions with the weakest anti-money laundering legal and regulatory framework. Following September 11th, FATF convened an emergency session in Washington on terrorist financing and agreed to focus its efforts and expertise on the global effort to combat terrorist financing. Attorney General Ashcroft addressed the group of international anti-money laundering experts on October 30th. At the conclusion of this extraordinary session, the FATF issued new Special Recommendations on Terrorist Financing, which, among other things, call upon all countries to criminalize the financing of terrorism and terrorist organizations, freeze and confiscate terrorist assets, report suspicious transactions linked to terrorism and impose anti-money laundering controls on non-traditional banking systems, such as hawalas. The FATF set forth a timetable for action, which requires the development of additional guidance for financial institutions on the

techniques and mechanisms used in the financing of terrorism. In connection with that timetable, on February 1, 2002, the FATF Plenary completed a global Forum in Hong Kong, attended by delegations from approximately 60 countries as well as FATF-style regional organizations and banking supervisors. Among other things, the FATF Forum called on all countries to adopt and implement the Eight Special Recommendations agreed upon at the October 30, 2001, meeting in Washington, D.C.

As you know, the Criminal Division also works extensively to provide assistance to countries that seek to improve their money laundering and asset forfeiture laws and enhance their enforcement programs. Prior to September 11th, the Criminal Division designed and presented a training course to share with foreign governments and practitioners our knowledge and expertise in rooting out terrorist financing. Since September 11th, we have placed increased emphasis on providing training and assistance to other countries to aid them in developing mechanisms to detect and disrupt financial crime. At present, we have attorneys from the Asset Forfeiture and Money Laundering Section participating as members of State Department-led interagency training and technical assistance assessment teams overseas. These teams will evaluate the various countries' mechanisms to identify money laundering and to freeze or seize terrorist assets. The assessment reports will be used to develop specific action plans for each of these countries as we provide training and technical assistance in the future.

Similarly, we have already held several training sessions on the new USA PATRIOT Act provisions for our own prosecutors and law enforcement agents. These efforts include a conference for prosecutors in December at our National Advocacy Center in South Carolina and a joint national Justice/Treasury conference last month in New York as part of the National

Money Laundering Strategy. We have additional training sessions scheduled throughout February.

Terrorist Financing

The FRG has made substantial progress in tracing financing related to the September 11th attacks as well as the financial underpinnings of Osama bin Laden's al Qaeda organization. The FRG has identified certain trends and patterns associated with the financing of terrorism, some of which I am able to share with the Subcommittee today.

To date, over 1000 search warrants have been executed and numerous subpoenas have been served seeking information on over 10,500 persons or accounts. Over 321,000 documents have been processed and over 2,450 accounts have been examined, including more than 90 foreign bank accounts. In addition, analysts have reviewed over 940 credit card accounts and scrutinized more than 13,000 domestic and foreign wire transfers. While the analysis continues, through financial information, we have established how the hijackers received their money, how and where they were trained to fly, where they lived and – perhaps most significantly – the names and whereabouts of persons with whom they worked and came into contact.

I have two charts available today. The first describes the terrorists' use of international wire transfers, an example of a formal funding mechanism. The chart depicts a series of four wire transfers from the United Arab Emirates, wired to the terrorists' Florida bank accounts, via a bank in New York, during July, August and September 2000. The four wires were in amounts that would not normally raise suspicions. The funds, totaling approximately $110,000, were deposited in the Suntrust Bank accounts of Marwan Al-Shehhi, one of the terrorists who

hijacked American Airlines Flight 175, and Mohamed Atta, one of the hijackers of American Airlines Flight 11.

The next chart shows the terrorists' use of money service businesses to transfer unused funds back to the United Arab Emirates immediately prior to September 11th. For example, on September 8th, Mohamed Atta wired $2,860 and $5,000 to a co-conspirator in the United Arab Emirates; on September 9th, Waleed al-Shehri wired $5,000 to a co-conspirator in the UAE; and on September 10th, Marwan Al-Shehhi wired $5,400 to a co-conspirator in the UAE. As with the inbound money transfers, these are not amounts that would normally raise concerns or suspicions.

These charts describe only a few of the financial transactions associated with the September 11th terrorists. However, the scope of the FRG's mandate extends beyond September 11th. Under the Attorney General's authority to investigate terrorism and in support of the FBI's Counterterrorism Division, the FRG is analyzing records associated with terrorist financing on a global nature. At a later time, it may be appropriate to provide the Subcommittee with additional information regarding the broader aspect of the FRG's mission.

Implementation and Use of the New USA PATRIOT Act Authorities

We are working in close coordination with other departments and agencies within the Executive branch to ensure the new authorities of the USA PATRIOT Act are used appropriately and implemented consistent with congressional intent. The provisions of Title III to the USA PATRIOT Act provide important new authority to investigate financial crimes and attack those crimes on a system-wide basis, yet we remain ever mindful of our obligation to implement those authorities in a manner that protects the rights of U.S. citizens. Accordingly, shortly after enactment of the USA PATRIOT Act, the Department issued interim guidance to the United States Attorneys regarding the provisions of the new legislation, including Title III.

The Department is also working closely with other departments and agencies, particularly the Departments of State and Treasury and FinCEN, to implement the various sections of the USA PATRIOT Act. On a daily basis, there are interagency meetings chaired by the Department of the Treasury involving the drafting of implementing regulations and other guidance to ensure that the new authorities are used effectively and in a manner consistent with congressional intent.

Some of the new provisions in the Act have already been deployed with successful results. For example, the Department of Justice relied on the new civil forfeiture authority provided in the USA PATRIOT Act to seize six bank accounts in New Jersey and three in Florida related to the September 11th terrorists. On November 8, 2001, the United States Attorney's Office for the District of New Jersey obtained nine seizure warrants for bank accounts used by the terrorists based on the newly enacted USA PATRIOT Act authority codified at 18 U.S.C. 981(a)(1)(G), which provides for the seizure of all assets owned, acquired or used by any individual or organization engaged in domestic or international terrorism. Notice of the

proposed forfeiture of these accounts has been made and, not surprisingly, no one has claimed an interest in the accounts.

In addition, we recently used Section 319 of the USA PATRIOT Act to good effect. Section 319(a) provided us with a new tool to seize and forfeit criminal assets deposited into a foreign bank account through the foreign bank's correspondent bank account in the United States. This section provides that assets which are subject to forfeiture in the United States, but which are deposited abroad in a foreign bank, may be deemed to be held in the foreign bank's correspondent account in the United States. Thus, where a criminal deposits funds in a bank account in a foreign country and that bank maintains a correspondent account in the United States, the government may seize and forfeit an equivalent sum of money in the correspondent account, irrespective of whether the money in the correspondent account is traceable to the proceeds deposited in an account held by the foreign bank.

I am pleased to report that recently the use of section 319 led to the recovery of almost $1.7 million in funds, which will be used to compensate the victims of a fraud scheme. On January 18, 2002, a grand jury in the Southern District of Illinois indicted James R. Gibson for various offenses, including conspiracy to commit money laundering, mail and wire fraud. Gibson is charged with having defrauded clients of millions of dollars by fraudulently structuring settlement agreements for numerous tort victims. Gibson and his wife, who was indicted later, fled to Belize, depositing some of the proceeds of their fraud scheme in two Belizean banks.

Our efforts to recover the proceeds at first were unsuccessful. Although the government of Belize initially agreed to restrain the assets, a Belizean court ordered the freeze lifted because

local law prohibited legal assistance to the United States because the treaty providing for legal assistance between the two countries has not entered into force. The court also prohibited the government from assisting the United States law enforcement agencies further, including providing information regarding Gibson's money laundering activities. Efforts to break the impasse failed and all the while the Gibsons were systematically looting their accounts in Belize.

Following the passage of the USA PATRIOT Act and interagency consultation, the Criminal Division authorized the use of the Section 319(a) authority. A seizure warrant was served on the correspondent bank and the remaining funds were recovered. In our judgment, this case presents a compelling example of the need for, and appropriate use of, the new authority under Section 319(a).

Although this instance involved fraud, the facts of this case demonstrate the utility of this particular tool, particularly in the area of terrorist financing. Section 319(a) is, of course, an important enhancement to the law enforcement's ability to pursue assets overseas. It is also a very powerful tool and one that can affect our international relationships. Accordingly, the Criminal Division is developing a policy to provide prosecutorial oversight regarding the use of this new provision.

Similarly, Section 319(b) of the Act provides new summons and subpoena authority with respect to foreign banks that have correspondent accounts in the United States. This section authorizes the Attorney General and the Secretary of the Treasury to issue subpoenas and summonses to foreign banks that maintain correspondent accounts with banks in the United States in order to obtain records related to the U.S. correspondent accounts. We also anticipate delegating authority to use Section 319(b) to a level below the Attorney General, but because of

the international sensitivities involved, we anticipate that the use of such authority will remain subject to departmental review and approval and interagency consultation. We are currently reviewing a proposal regarding the best way to implement this important new authority.

Earlier I mentioned that the Department is working to implement the new USA PATRIOT Act authorities with a view to balancing law enforcement effectiveness and valid privacy interests. Section 358 of the USA PATRIOT Act highlights the Department 's efforts in that regard. Among the important changes made by Section 358 is an amendment to the Right to Financial Privacy Act of 1978. As you know, the RFPA places restrictions on the government's ability to obtain records from financial institutions. The USA PATRIOT Act did not change the general statutory authority or process for obtaining financial information through subpoenas or summons, but the USA PATRIOT Act recognized that, given the vital importance of prompt collection of information in fighting terrorism, RFPA procedures should not restrict letter requests by a government authority authorized to conduct investigations or intelligence analysis for purposes related to international terrorism. At this time, we are continuing to conduct financial investigations using subpoenas and summonses, but we continue to work toward implementation of this new USA PATRIOT Act authority as an effective instrument in fighting terrorism.

As described in detail earlier, Section 319 is of critical importance. This provision enhances our ability to seize and forfeit criminal assets previously beyond our reach and it provides a mechanism to obtain foreign bank records through administrative subpoenas. At present, we are implementing it in consultation with the Treasury Department and the State Department. We have plans for other provisions as well. Although still subject to the very

restrictive one-year limitation of 18 U.S.C. § 984(c), the new authority to forfeit terrorist assets, codified at 18 U.S.C. § 981(a)(1)(G), has been used effectively already, and we believe it will be of enormous importance to prosecutors. We are also confident that other USA PATRIOT Act tools, such as the enhanced ability to prosecute unlicensed money transmitters acting in violation of the amended 18 U.S.C. § 1960, and to seek forfeiture based on conspiracies to evade the reporting requirements in Title 31, will be of substantial future use in the fight against terrorism.

Conclusion

I would like to conclude by expressing the appreciation of the Department of Justice for the continuing support that this Subcommittee and the Committee on Financial Services have demonstrated for the Administration's anti-money laundering enforcement efforts.

Chairman Kelly and members of this Subcommittee, thank you for this opportunity to appear before you today. I look forward to working with you as we continue the war against terrorist financing. I would welcome any questions you may have at this time.

Responses to Questions from Congressman Crowley

Question 1a: Al Qaeda is responsible for the deaths of thousands of Americans, including at least 105 of my constituents from Queens and the Bronx who perished in the attacks on the World Trade Center. Hamas and Islamic Jihad admit to killing dozens and wounding hundreds of innocent civilians including Americans, in Israel and throughout the globe. The U.S. government has prevented the former U.S. hostages in Iran - people who dedicated their lives to public service and gave up to 444 days of their lives as prisoners of the Iranian regime - from claiming damages from the Iranian Government's frozen assets. Will assets belonging to al Qaeda, Hamas, Islamic Jihad and other terrorist groups that are confiscated under the authorities of the USA Patriot Act be subject to court judgments if the victims or their survivors seek damages for their suffering?

No, the assets belonging to al Qaeda, Hamas, Islamic Jihad and other terrorist groups that are confiscated under the authorities of the USA PATRIOT Act will probably not be subject to court judgments. Generally, there are three legal mechanisms for seizing and forfeiting terrorist assets: under the authority of the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.*), which is administered by the Treasury Department through its Office of Foreign Assets Control; under Section 806 of the PATRIOT Act and the Civil Asset Forfeiture Reform Act (CAFRA) of 2000 for civil forfeitures; and under 18 U.S.C. 982 for criminal forfeitures (Chapter 46 of Title 18, United States Code). The latter two authorities are administered by the Department of Justice. Under CAFRA and the Title 18 authority, forfeited property would not be available to satisfy court judgments of victims or their survivors who seek damages for suffering. Forfeited assets, however, may be remitted to victims who have suffered pecuniary losses as a result of the crime that led to the forfeiture. Mechanisms also are in place so that seized terrorist property that is subject to forfeiture (but not yet forfeited) may be made available to satisfy a restitution order in a Federal criminal case.

Question 1b. Is it your belief that the Administration has the authority to make confiscated funds available if it so desires, or would additional legislation be required for it to do so?

Forfeited assets are not available to satisfy court judgments of victims or their survivors who seek damages for suffering. Pursuant to Title 18, restitution may be ordered as part of a criminal sentence, and property subject to forfeiture (but not forfeited) may be available to satisfy such restitution orders. Restitution orders under 18 U.S.C. §§ 3663 and 3663A may include amounts for medical expenses, physical and occupational therapy and rehabilitation, physical, psychiatric, and psychological care, and lost income of persons who are directly and proximately harmed as a result of the commission of an offense. Restitution also may be ordered to cover funeral expenses and related services. With the passage of the Civil Asset Forfeiture Reform Act of 2000, the Department now has the authority to use funds forfeited in civil forfeiture actions to compensate victims who suffered a pecuniary loss as a direct result of the underlying crime.

2. This Administration has designated groups like Hamas as a terrorist organization. Their designation as such, combined with the provisions of the USA PATRIOT Act, enables the United States to work with allies in Europe and the Middle East to monitor and disrupt these organizations' financial networks. Could you tell us what steps the Administration is taking to destroy the funding of these terrorist entities? Moreover, how are our European allies dealing with this group. I was very disturbed by an article in yesterday's Wall Street Journal that suggested the Administration is unhappy with the level of support provided by our European allies in the fight against terrorist money laundering. Please explain how we are working with our allies to encourage more active enforcement on their part. Is there anything Congress can do to spur our Allies to action?

In his answer to this question, Dennis Lormel of the FBI described the steps that the Administration is taking to destroy the funding of terrorist groups such as Hamas. He also described the outstanding cooperation we have received from our European allies in the fight against terrorist money laundering. In her February 12 testimony, Deputy Assistant Attorney General Mary Lee Warren discussed the active role that the Financial Action Task Force (FATF) has taken in addressing terrorist financing. The FATF's Extraordinary Plenary meeting in October 2001, resulted in the adoption of new Special Recommendations on Terrorist Financing that, among other things, call upon all countries to criminalize the financing of terrorism and terrorist organizations, freeze and confiscate terrorist assets, report suspicious transactions linked to terrorism and impose anti-money laundering controls on non-traditional banking systems such as *hawalas*. At this time, we do not believe that Congressional action is necessary to spur our Allies to cooperate in our efforts against terrorist financing.

3. Section 330 of the USA PATRIOT Act states the Sense of Congress that the Administration should work to ensure that foreign financial institutions maintain adequate records relating to foreign terrorist organizations and money laundering activities and that they make such records available to U.S. law enforcement officials and financial institution supervisors. Could you describe how the Administration plans to work with foreign governments, and with foreign financial institutions with operations in the United States, to accomplish these objectives? In addition, could you tell us which countries have been the most and least willing to work with the United States to combat terrorists' money laundering?

In his answer to this question, Dennis Lormel of the FBI stated that, in general, the FBI has received outstanding cooperation from law enforcement and intelligence agencies in other countries, including a strong willingness to work with the United States to combat terrorists' money laundering. The Administration has been working with foreign governments on a broad range of fronts to address terrorist financing, including diplomatic missions, training missions and multilateral initiatives such as the Financial Action Task Force (FATF).

At this point, we do not believe that it is feasible or productive to rank countries by their willingness to work with the United States. As Mr. Lormel pointed out in his response, the willingness of other countries is not usually at issue. Cooperation may be provided in a variety of ways, depending upon the circumstances of the particular country involved and an array of other factors that may impact the nature and extent of this cooperation, notwithstanding the willingness of the foreign government to cooperate. We would note, however, that the FATF, following its February 2002 Plenary, stated that "In June 2002, the FATF will initiate a process to identify jurisdictions that lack appropriate measures to combat terrorist financing." We believe that such a multilateral initiative may well be the most effective and productive way to identify jurisdictions that are not being cooperative in addressing terrorist financing.

4. Section 314 of the USA PATRIOT Act requires the Treasury Department to issue regulations within 120 days of enactment to encourage cooperation among financial institutions and regulatory and law enforcement agencies. Since this deadline is coming up soon, can you give us a preview of the types of steps the Treasury Department plans to take?

On February 26, 2002, the Secretary of the Treasury approved an interim final rule immediately implementing information sharing procedures between financial institutions, and also approved the issuance of a notice of proposed rule-making of a regulation designed to establish a link between federal law enforcement and financial institutions so that vital information about terrorism and money laundering may be exchanged between them. Both of these rules were published in the *Federal Register* on March 4, 2002.

Reponses to Questions from Congressman Gutierrez

1: In your testimony you mentioned that the principals of Al Barakkat's are being prosecuted for operating an unlicenced money transmitting business. These people should not have been in business in the first place. In your opinion, how many such unlicenced business are currently operating in the country?

Pursuant to 31 C.F.R. § 103.41, pertaining to money service businesses, money transmitting businesses were required to register with the Department of the Treasury by December 31, 2001. (The registration requirement applies only to the owners of the businesses; individual agents or outlets are not required to register. However, the owner of a money service business is required to prepare and maintain a list of its agents.) According to information compiled from the Treasury Department's Financial Crimes Enforcement Network, more than 9,000 out of a known base of 10,745 money transmitters that are licensed by the states have complied with the Treasury registration requirement. It is not possible to determine how many transmitters are operating without state licenses. We will work with the Treasury Department to assess compliance with the new registration requirement. This effort will rely heavily on information obtained through law enforcement investigations.

2: What is the Department of Justice planning to do to prevent more unlicenced money transmitting businesses from entering and staying in the market?

The Department of Justice appreciates the improvements that Congress made to section 1960 of Title 18, United States Code (Prohibition of unlicensed money transmitting businesses) in section 373 of the USA PATRIOT Act and has done extensive training for prosecutors and investigators on these new provisions. As additional unlicensed money transmitters are identified, they will be prosecuted under the revised provisions of section 1960. The Department is encouraging prosecutors and investigating agencies to vigorously apply the new PATRIOT Act authorities, including Section 373. Individual prosecutions, and the deterrent effect of such prosecutions, should discourage unlicensed money transmitting businesses from entering and/or staying in the market.

3: According to your testimony, the Utah ATTF recently undertook a data verification operation that uncovered significant fraud being committed by persons employed in sensitive locations at the Salt Lake City International Airport. What actions were put into place to deal with these findings and address the weaknesses identified by this operation?

Operation SAFE TRAVEL was undertaken in December 2001, by the Utah Antiterrorism Task Force, under the leadership of U.S. Attorney Paul Warner, in part because the Salt Lake City International Airport was about to become one of the busiest airports in the world with the

approaching 2002 Winter Olympic Games. Although the operation uncovered evidence that several hundred people who had access to sensitive parts of the airport had misrepresented their criminal history or immigration status on their credential applications, it did not uncover any evidence that would-be terrorists were employed there. The operation, in addition to separating these persons from their sensitive positions, effectively raised the profile of airport security as an issue, which has since become an important aspect of the Department of Transportation and the Homeland Security Office's programs.

4: Could you share with us if similar operations are planned or currently underway in other U.S. airports? And if not, don't you think they should be and can we expect them to take place in other airports?

Although I cannot comment on similar operations being planned, I can say that the Department of Justice prepared an information package about the Utah operation and sent it to every U.S. Attorney's Office in the country, encouraging these offices to consider similar enforcement actions within airports and other sensitive areas in their judicial districts. There have been a number of airport investigations and "sweeps" as a result, including Boston, Charlotte, and Miami. We believe that the strategy employed in Operation SAFE TRAVEL could be extended to any sensitive area where employee access requires the issuance of particular badges or credentials.

5: As your testimony states, the amounts which were wired to the terrorists did not raise suspicions. How are you planning to address the problem of international money wires which are in amounts low enough not raise suspicions?

As I stated in my testimony, the amounts wired to, and from, the September 11th terrorists were not in amounts that would normally raise suspicions. This is generally because the amounts would not trigger Currency Transaction Reports or Currency and Monetary Instrument Reports, and, based on the amounts alone, would not generate Suspicious Activity Reports by financial institutions. The lower dollar amounts and the improbability of detecting terrorists on this basis alone persuasively demonstrates precisely why terrorist financing investigations cannot proceed in a vacuum. We are addressing this problem by promoting the integration of terrorist financing investigations with the Joint Terrorism Task Forces coordinated under the supervision of the FBI. Unless linked to other information, such as intelligence information obtained or related to the investigation of terrorism, wire transfers and other financial transactions in small amounts would have no apparent significance. Thus, terrorist financing investigations are a key component of our overall law enforcement effort to identify, prevent, disrupt and dismantle terrorism.

FEBRUARY 12, 2002

STATEMENT FOR THE RECORD
DENNIS M. LORMEL, CHIEF, FINANCIAL CRIMES SECTION
FEDERAL BUREAU OF INVESTIGATION

BEFORE THE
HOUSE COMMITTEE ON FINANCIAL SERVICES
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS
WASHINGTON, D.C.

Good afternoon Madam Chairman and members of the Subcommittee on Oversight and Investigations. On behalf of the Federal Bureau of Investigation (FBI), I would like to express my gratitude to the Subcommittee for affording us the opportunity to participate in this forum and to update the Subcommittee on what the FBI has learned since the September 11, 2001, terrorist attacks about the patterns of financing associated with Al Qaeda and global terrorist networks, and the extent to which U.S. anti-money laundering statutes provide the necessary tools to detect and disrupt those patterns.

As this Subcommittee is well aware, the FBI, in conjunction with law enforcement and intelligence agencies throughout the U.S. and the world, is engaged in the largest, most complex and perhaps the most critical criminal and terrorism investigation in our history. The FBI continues to dedicate considerable resources to this investigation and remains committed to determining the full scope of these terrorist acts, identifying all those involved in planning, executing and/or assisting in any manner the commission of these acts and others, and bringing those responsible to justice. The investigation does not end at the events surrounding September 11th, our mission extends far beyond that in the FBI's key leadership role in the global war on terrorism. First and foremost among our priorities, however, is taking all possible steps to

prevent the occurrence of any additional acts of terrorism.

The war on terrorism will be a long-term battle. It will not be won overnight nor will it be won without the highest levels of cooperation and coordination among law enforcement and intelligence agencies around the globe. Terrorism knows no borders or boundaries. The threat is not limited to any one region of the world. Law enforcement and intelligence agencies throughout the world possess tremendous resources and expertise. Allying these resources against the common enemy of terrorism is the key to dismantling these organizations and eliminating the threat they pose. Make no mistake about it, even with the combined resources and expertise possessed by law enforcement, the threat posed by terrorism is grave. Terrorists do not play by the rules of a civilized society, nor do they respect human decency. They will stop at nothing to commit acts of terror. Fighting the war on terrorism requires powerful tools. The FBI appreciates the powerful tools provided by this Subcommittee and all of Congress in enacting the USA PATRIOT ACT, including Title III enhancements, the International Money Laundering Abatement and Financial Terrorism Act of 2001, and believes they will play a key role in addressing terrorist financing matters.

Success in the war on terrorism cannot be measured merely in the form of assets seized or funds blocked, but in the ability of law enforcement to prevent future acts of terrorism. Whether it be through prosecution, disruption, blocking/freezing of funds, or allowing a funding mechanism to remain in place in order to further an investigation, prevention remains the overarching focus. Different circumstances demand different approaches. The best strategy in any given circumstances can only be determined from an overall perspective. It demands careful coordination with and the cooperation of all law enforcement and intelligence agencies involved

in an investigation. The FBI and the Department of Justice (DOJ) have primary jurisdiction in all terrorism related investigations, whether they pertain to past terrorist acts, terrorist related intelligence investigations, or terrorist financing investigations. The acts of terrorism on September 11th highlighted the need for a comprehensive law enforcement response to international terrorism. With the help of Congress, the FBI had previously established joint terrorism task forces (JTTF) in key areas of the country which brought together the combined expertise and resources of other local, state and federal law enforcement agencies. By the end of 2003, we expect to have a JTTF in each of the FBI's 56 field offices.

Identifying, tracking and dismantling the financial structure supporting terrorist groups is critical to successfully dismantling the organization and preventing future terrorist attacks. As is the case in so many types of criminal investigations, identifying and "following the money" plays a critical role in identifying those involved in the criminal activity, establishing links among them, and developing evidence of their involvement in the activity. In the early stages of the investigation into the events of September 11, it was financial evidence that quickly established direct links among the hijackers of the four flights and helped identify co-conspirators.

Financial Review Group

In order to provide a comprehensive analysis of the financial evidence, the DOJ and FBI established an inter-agency Financial Review Group (FRG) operating out of FBI Headquarters. Other participants in the FRG include representatives of the Central Intelligence Agency, National Security Agency, Defense Intelligence Agency, Drug Enforcement Agency, and

components of the Treasury Department including the U.S. Customs Service, Internal Revenue Service, Bureau of Alcohol, Tobacco and Firearms, Office of Foreign Asset Control (OFAC), United States Secret Service and Financial Crimes Enforcement Network, U.S. Postal Inspection Service, National Drug Intelligence Center, the Federal Reserve, and the Inspector General Community. From the initial focus on the events of September 11th, the mission of the FRG has evolved into a broader strategy to investigate, prosecute, disrupt, and dismantle all terrorist-related financial and fund-raising activities. In the days immediately following September 11th, the FRG was formed with a two-fold mission. On one track, a comprehensive financial analysis of the 19 hijackers was conducted to link them together and to identify their financial support structure within the U.S. and abroad. Collateral to this was the development of a template for pro-active, preventive and predictive terrorist financial investigations. The FRG has taken a leadership role in coordinating the financial investigative effort, and it is a comprehensive, far reaching effort. To accomplish our mission, the FRG has implemented, and continues to implement, strategies and initiatives to address all aspects of terrorist financing and explore all options. Among these are efforts to organize, catalog, and review vast amounts of personal and business records, develop linkage and time lines concerning terrorist cells and groups, facilitate Mutual Legal Assistance Treaty requests and Letters Rogatory, develop financial and investigative leads in support of terrorism investigations, identify criminally-related fund-raising activities by terrorist organizations, utilize the resources and expertise of the financial services community, develop a centralized financial database, and develop predictive analysis models. By bringing together participating agencies' databases and expertise, the FRG is focusing a powerful array of resources at the financial structure of terrorist organizations. Throughout this

process, the FRG has worked closely with the Department of Treasury, which has primary responsibility for the blocking and freezing of terrorist assets.

Through the FBI's historical involvement with the intelligence community, the FBI and CIA quickly coordinated and further combined their resources to investigate terrorist funding mechanisms. This relationship facilitates a seamless interaction between the FBI and intelligence community, and is in addition to other key personnel the CIA and FBI each currently have assigned to the other's headquarters. The FBI in its intelligence capacity also obtains considerable intelligence information through Foreign Intelligence Surveillance Act orders. The FRG works closely with this aspect of the FBI's Counterterrorism program in assessing and applying proper utilization of such information, pursuant to Attorney General Guidelines and the ordersof the Foreign Intelligence Surveillance Court.

The FRG has created and continues to develop a centralized terrorist financial database in concert with coordinating and assisting in the financial investigation of over 250 individuals and groups who are suspects of FBI terrorist investigations. To date, the FRG has cataloged and reviewed over 321,000 financial documents obtained as a result of numerous financial subpoenas pertaining to over 10,500 individuals and accounts. Over 104,000 of these documents have been verified as being of investigatory interest and have been entered into the terrorist financial database for linkage analysis. The FRG has obtained financial information from 54 FBI Field Divisions and 11 Legal Attache Offices, and has reviewed and documented over 66,000 financial transactions. These records include over 149 foreign bank accounts and over 5,300 foreign wire transfers.

The FRG is both an operational and coordinating entity with pro-active and reactive

responsibilities. There are any number of approaches that can be utilized in investigating these networks. Success lays in careful coordination of these approaches. By way of example, various FBI Field Offices have launched criminal financial investigative initiatives geared at fraud schemes with a potential nexus to terrorist financing. The FRG is coordinating these initiatives as I will discuss later in my statement. As an operational body, the FRG conducts national and international investigations from its headquarters in Washington, D.C., while collecting information and directing leads to the JTTFs located in each Judicial District, as well as leads to other FBI Field and Legal Attache Offices around the world.

As a participant on the National Security Council's Policy Coordinating Committee (PCC) on terrorist financing, chaired by Treasury Department General Counsel David Aufhauser, the FRG continues to function in a leadership role in the efforts to target Non-Governmental Organizations (NGOs) believed to provide financial support to known Foreign Terrorist Organizations (FTO) and other affiliated terrorist cells. The FRG is currently actively involved in the coordination of twelve multi-jurisdictional NGO investigations. In order to disrupt the terrorist financing channels, the FRG has coordinated these and other FBI terrorist investigations with the terrorist designation and asset freezing efforts of the Department of Treasury's Office of Foreign Assets Control (OFAC) and Operation Green Quest. These efforts have resulted in the freezing of millions of dollars in foreign and U.S. bank accounts. Specifically, the joint efforts targeting Al-Barakaat, the Holy Land Foundation for Relief and Development, the Global Relief Foundation, and the Benevolence International Foundation have resulted in the execution of numerous search warrants and the disruption of the fund-raising and money remittance operations of these and other NGOs. Financial investigations of these entities have revealed that

approximately $200 million in contributions passed through these organizations each year. The FRG will also coordinate with the Department of the Treasury in its other initiatives in order to help ensure their success.

The FRG has conducted an aggressive national and international outreach initiative in an effort to share information regarding terrorist financing methods with the financial community and law enforcement. The review group has built upon long-established relationships with the banking, debit, credit and financial services communities in the United States and abroad. The international outreach initiative is coordinated through the network of FBI Legal Attache Offices located in 44 key cities worldwide, providing coverage for over 200 countries, territories, and islands. The FRG has become an international model for investigating the financial components of terrorism. As a result, the FRG has assisted several foreign countries in their efforts to establish a financial terrorist investigative component that mirrors the structure of the FRG.

A significant focus of the FRG is predictive/preventive analysis. In this capacity, the FRG conducts data mining and financial profiling to identify common characteristics of terrorist financing. The FRG has developed numerous data mining projects in order to provide further predictive abilities and maximize the use of both public and private database information. This information will be used to identify terrorist cells operating in the U.S. and abroad in an effort to prevent further terrorist acts. Through the FRG's aggressive national and international outreach and liaison efforts, appropriate information regarding patterns and profiling is shared and coordinated with appropriate private and public sector entities. For example, the FRG meets regularly with representatives from the banking community and the financial services industry to share such information and to jointly develop and refine methods to detect and identify potential

terrorist and/or terrorist activity. The FRG is also reviewing and conducting additional financial analysis of prior terrorist acts in an effort to identify links and patterns that would complement current and future terrorism investigations.

The FRG directly supports the FBI's Counterterrorism Division through financial analysis of terrorism investigations. While the FRG plays a key role in the overall Counterterrorism effort, it is but one piece of the big picture. Accordingly, careful coordination at all times is critical to ensure financial investigations complement the overall strategy and do not adversely impact other efforts. Based on the FRG's role in the FBI's Counterterrorism Division, its international investigative abilities, and its close association with the intelligence community, the review group is in a unique position to coordinate anti-terrorism financial investigations domestically and internationally, and to ensure those investigations are in harmony with the overall goals and objectives of the United States' Counterterrorism program.

Anti-terrorism financial investigations represent a comprehensive labor intensive long-term commitment. It is anticipated that in order to prepare predictive analysis in support of this effort, tens of millions of financial documents (bank records, travel records, credit card and retail receipts, etc.) will need to be collected, thoroughly analyzed, and placed in a central database for relevant financial evidence. This evidence can then be integrated with other terrorist evidence collected by law enforcement and others. As I previously stated, the FRG has initiated a number of data mining projects in order to fully exploit the growing financial database and pro-actively identify and target potential terrorists and terrorist activity. This includes the use of predictive pattern recognition algorithms.

Given the enormity of the task and the long-term nature of the effort, I cannot sit here

today or next week and tell you we have all the answers. It will take time to effectively and pro-actively address terrorism financing. This is not to say that progress hasn't been made. In conjunction with pro-active long-term efforts, the FRG continues to aggressively conduct intensive financial investigations as circumstances arise; dedicating necessary resources to react immediately to new information and evolving events. The FRG has made substantial progress in our efforts and I would like to offer this Subcommittee a brief summary of this progress, subject of course to restrictions related to the disclosure of information that might compromise or undermine ongoing criminal investigations.

We have focused our financial investigations in four main areas: (1) mission specific terrorist cells such as the 19 hijackers, (2) so called "sleeper" cells that are more loosely organized but blend into communities easier through legitimate employment, (3) terrorist groups that fund their terrorist activity through fraud schemes, and (4) the funding of terrorist organizations through Non-Governmental Organizations (NGO) and charities. I would like to focus the remainder of my statement on describing what we are doing in these areas and what progress has been made.

Mission Specific Terrorist Cells

Through financial information, we have established how the hijackers responsible for the September 11 attacks received their money, details of their flight training, where they lived, and details concerning individuals associated with the hijackers. The 19 hijackers opened 24 domestic bank accounts at four different banks. The following financial profile was developed from the hijackers' domestic accounts:

ACCOUNT PROFILE

- Accounts were opened with cash/cash equivalents in the average amount of $3,000 to $5,000.
- Identification used to open the accounts were visas issued through Saudi Arabia or the U.A.E.
- Accounts were opened within 30 days after entry into the U.S.
- all accounts were normal checking accounts with debit cards.
- None of the hijackers had a social security number.
- They tended to open their accounts in groups of three or four individuals.
- Some of the accounts were joint accounts with other hijackers.
- Addresses used usually were not permanent (i.e. mail boxes, etc.) and changed frequently.
- Hijackers would often use the same address/telephone numbers on the accounts. No savings accounts or safe deposit boxes were opened.
- Hijackers would open their accounts at branches of large well known banks.
- The majority of hijackers (12) opened accounts at the same bank.

TRANSACTION PROFILE

- Some accounts would directly receive/send wire transfers of small amounts to foreign countries - UAE, Saudi Arabia, Germany.
- Hijackers would make numerous attempts of cash withdrawals which often would exceed the limit of the debit card.
- High percentage of withdrawals were from debit cards vs. low percentage of checks written.
- Numerous balance inquiries were made.
- Hijackers would often travel domestically.
  There was a tendency to use Western Union to wire money.
- One deposit would be made and then the money would trickle out a little at a time.
- Account transactions did not reflect normal living expenses for rent, utilities, auto payments, insurance, etc.

- There was no normal consistency with timing of deposits/disbursements.
- Funding for normal day to day expenditures was not evident from transactions.
- Overall transactions are below reporting requirements.
- Funding of the accounts dominated by cash and overseas wire transfers.
- ATM transactions occur where more than one hijacker present (uninterrupted series of transactions involving several hijackers at the same ATM).
- Use of debit cards by hijackers who did not own affected accounts.

INTERNATIONAL ACTIVITY

- Three of the hijackers supplemented their financing by opening foreign checking accounts and credit card accounts at banks located in the UAE.
- While in the U.S., two of the hijackers had deposits made on their behalf by unknown individuals.
- Hijackers on all four flights purchased traveler's checks overseas and brought them to the U.S. These traveler's checks were partially deposited into their U.S. checking accounts.
- Three of the hijackers (pilots/leaders) continued to maintain bank accounts in Germany after moving to the U.S.
- Two of the hijackers (pilots/leaders) had credit cards issued by German banks and maintained those after moving to the U.S.
- It is suspected that other unknown foreign accounts exist that were opened by the hijackers to further supplement the financing of the September 11, 2001 attacks.
- One of the hijackers (pilot/leader) received substantial funding through wire transfers into his German bank account in 1998 and 1999 from one individual.
- In 1999, this same hijacker opened an account in the UAE, giving power of attorney over the account to this same individual who had been wiring money to his German account.
- More than $100, 000 was wired from the UAE account of the hijacker to the German account of the hijacker in a 15-month period.

NON-FINANCIAL PROFILE

- Hijackers ranged in age from early 20s to mid 30s.
- Born in Middle Eastern country.
- Limited use of the English language.
- They mainly used bank branches located in high Muslim areas.
- Usually came into bank in groups to open accounts.
- Usually there was one spokesman for the group.
- May not want to deal with women bank personnel.
- Wanted to deal with one person at bank.

Sleeper Cells

One pattern of terrorist financing that has emerged involves Al Qaeda cells in Europe. Financial investigation has identified cells that derive income from legitimate employment/businesses within the European country in which the cell exist. For example, one company run by cell members provided home repairs involving masonry, plumbing, electrical wire, etc., and hired mujahadin arriving from areas of conflict, such as Bosnia. Another enterprise operated by cell members purchased dilapidated automobiles, repaired them, and resold them. The cars were purchased in one European country and resold in the country where the cell was located. Other investigations have identified cell members transferring money between accounts with little attempt to hide the transactions. Accounts have been funded by salaries and government payments for students, and members of the cell were supported by family members to some extent. They appeared to be living day to day and not funneling funds through their accounts. Terrorist funds were deposited into the accounts either by cash or wire transfer. Most of the money went through one or two persons' accounts. Not all members of the cell were receiving monies. Money was spent from the accounts through ATM or other cash

disbursements. The German terrorist cell operated in much this same fashion.

The FRG has conducted extensive analysis related to the Al Qaeda cell that was based in Germany which included among its members Ramzi Bin al-Shibh and hijackers Mohamed Atta and Marwin Al-Shehhi. This analysis was instrumental in linking the hijackers and their ties to Al Qaeda, determining the support it provided to the events of September 11th, and establishing other ties to the Al Qaeda organization. It also established links between the German cell, the hijackers and Zacarias Moussaoui that contributed to the indictment of Moussaoui for his role in the September 11th attacks. This analysis included tracing wire transfers from Bin al-Shibh to Moussaoui. FRG financial investigation has also helped establish links between Moussaoui and an Al Qaeda cell in Malaysia. Authorities in Malaysia have arrested and charged a number of the members of this cell. It should be noted that Bin al-Shibh was one of the five terrorists appearing in videos recovered from an Al Qaeda location in Afghanistan which were recently released by the DOJ. The videos appear to show Bin al-Shibh and the others discussing preparations to commit terrorist acts. The FRG is conducting financial investigations on the other four terrorists featured in the videos in order to help track them down.

In addition, the FRG is conducting financial investigations involving hundreds of subjects associated with terrorism investigations being conducted in various foreign countries in an effort to identify, track and locate associates, funding sources, other cell members, etc.

Terrorist Funding Through Criminal Activity

Another pattern of terrorist financing involves funding of terrorist cell activities through various criminal activity. Al Qaeda has been known to encourage and instruct terrorist cells in

terrorist training camps in Afghanistan in ways they can fund their terrorist activities through various criminal activity. For example, Ahmed Ressam, the Algerian extremist convicted in the terrorist plot to place bombs at Los Angeles International Airport among other locations, was instructed in these camps to engage in criminal activity such as bank robberies and fraud schemes to fund his terrorist activities. As another example, investigation has identified a terrorist cell based in Spain with ties to Al Qaeda that used stolen credit cards in fictitious sales scams and for numerous other purchases for the cell. They kept purchases below amount where identification would be presented. They also used stolen telephone and credit cards for communications back to Pakistan, Afghanistan, Lebanon, etc. Extensive use of false passports and travel documents were used to open bank accounts where money for the mujahadin movement was sent to and from countries such as Pakistan, Afghanistan, etc. In addition, the cell relied upon street crimes such as home burglary, car theft, and car burglary to fund their cell activities.

NGO's

The funding of terrorist organizations such as Al Qaeda and Hamas through NGOs and charitable organizations represents a significant challenge to law enforcement and is a prime focus of terrorist financial investigations. International radical fundamentalist terrorist organizations have increasingly utilized NGOs as fund-raising vehicles for their terrorist activities. NGOs may also offer terrorists logistical support in the form of cover employment, false documentation, travel facilitation and training. Financial investigation conducted prior to September 11th and since identified the Holy Land Foundation for Relief and Development (HLFRD), a Texas based charity, as an alleged North American "front" for the terrorist

organization Hamas. On December 4, 2001, the President, along with the Attorney General and the Secretary of the Treasury, announced the designation and blocking action against HLFRD. NGOs may be large international organizations which can be exploited by individual employees sympathetic to terrorist causes through local branch offices; they may be private NGOs which exist solely to support a militant cause; or they may be closely affiliated with a state sponsor of terrorism. One of the challenges in investigations involving terrorist fund-raising through NGOs is distinguishing terrorist fund-raising activities from legitimate or what may appear to be legitimate charitable fund-raising. The line is often blurred. It should be noted that it is illegal to knowingly provide any form of financial or material support to a group designated as a foreign terrorist organization, even if the provider intends such support to be used by the terrorist organization for non-terrorist purposes. Fund-raising on the part of terrorist groups which on the surface appear to be efforts to "help the poor" or fund-raising for charitable, humanitarian or other legitimate purposes actually falls squarely in the realm of logistical support for terrorist activity. Another trend that has been identified involves the funneling and/or laundering of terrorist funds raised outside the U.S. through the U.S. on its way to the Middle East.

Terrorist financing methods range from the highly sophisticated to the most basic. There is virtually no financing method that has not at some level been utilized by terrorists and terrorist groups. Traditionally, their efforts have been aided considerably by the use of correspondent bank accounts, private banking accounts, offshore shell banks, Hawalas, bulk cash smuggling, identity theft, credit card fraud, and other criminal operations such as illegal drug trafficking. We are optimistic that provisions of the USA PATRIOT Act enacted by this Congress will significantly erode the effectiveness of many of these methods.

One of the means by which terrorists and terrorist organizations seek to avoid detection is by operating in a manner that does not raise red flags, thereby falling below the financial radar screen. The FRG has assumed a leading role in coordinating the efforts of the financial services industry to assist in the terrorism investigations. The FRG has built upon long-established relationships with the banking, debit, credit and financial services community in the U.S. and abroad. The level of cooperation by U.S. financial institutions has been outstanding, and nothing short of extraordinary. These institutions possess considerable resources and expertise. In all respects, they have gone all out to provide subpoenaed information as expeditiously as possible, and have done everything possible within the legal framework to provide cooperation. In return, the FRG has utilized our aggressive national and international outreach initiative in an effort to regularly share information regarding terrorist financing methods with the financial community. This has provided new red flags and patterns of which the financial community should be aware.

Another example reflecting the significantly expanded FRG role involves terrorists' attempts to fund their terrorist activities through fraud schemes. Recognizing that terrorist cells may fund terrorist activity through various fraud schemes and that such activity could potentially fall beneath the financial radar screen, a number of FBI Field Offices have launched comprehensive initiatives to address this threat. These initiatives, which are being coordinated and assisted by the FRG, seek to target fraud schemes being committed by organized groups having a potential nexus to terrorist financing. Targeting this type of activity and pursuing the links to terrorist financing will likely result in the identification and dismantlement of previously unknown terrorist cells. Prior to September 11, and the formation of the FRG, this type of

terrorist financing often avoided law enforcement scrutiny. No Longer. The FBI and FRG will leave no stone unturned in our mission to cut off the financial lifeblood of terrorists.

U.S. authorities possess powerful tools to detect and disrupt terrorist financing, aided considerably by the provisions of the USA PATRIOT Act. While we are optimistic the provisions of the Act will have strong impacts, it is too early to judge their full usefulness at this stage. Eagerness to utilize the new tools provided in the Act must be tempered by the need for law enforcement and the DOJ to gain a complete understanding of the provisions, develop guidelines and protocols for their appropriate use, and educate investigators and prosecutors. In addition, many of the provisions require the Department of Treasury to issue new regulations and rules. While all of this is being done as expeditiously as possible, the full impact of the tools provided by the PATRIOT Act are yet to be seen. In regards to any remaining loopholes in our statutory and regulatory regimes, the FBI will defer to our colleagues from the DOJ.

CONCLUSION

Cutting off the financial lifeblood of individuals and organizations responsible for acts of terrorism is a vital step in dismantling the organization and preventing future terrorist acts. The FBI is leading law enforcement efforts to accomplish this mission. The USA PATRIOT Act has provided law enforcement with powerful new tools to assist in accomplishing this mission. The FBI welcomes the opportunity to work with this Subcommittee and others to ensure that law enforcement efforts can be the most effective. I would welcome any questions you may have at this time. Thank you.

Dennis Lormel 2/12/02 Congressional testimony, Terrorism Financial Review Group responses to questions from Congressman Joseph Crowley:

2. This Administration has designated groups like Hamas as a terrorist organization. Their designation as such, combined with the provisions of the USA Patriot Act, enables the United States to work with allies in Europe and the Middle East to monitor and disrupt these organizations' financial networks. Could you tell us what steps the Administration is taking to destroy the funding of these terrorist entities? Moreover, how are our European allies dealing with this group. I was very disturbed by an article in yesterday's Wall Street Journal that suggested the Administration is unhappy with the level of support provided by our European allies in the fight against terrorist money laundering. Please explain how we are working with our allies to encourage more active enforcement on their part. Is there anything Congress can do to spur our Allies to action?

A. In the testimony I submitted for the record, I covered the strategies being pursued to destroy the funding of various terrorist entities. These strategies revolve around disruption and dismantlement. While this can sometimes be accomplished through blocking/freezing of assets/accounts, the most effective long-term approach more often involves criminal prosecutions. To be effective, disruptions must lead to dismantlement. Criminal prosecutions are effective in total dismantlement of terrorist financial networks. Prevention of future acts of terrorism is the FBI's top priority. In most instances, taking action to destroy the funding mechanisms will play a key role in these efforts. There are occasions, however, where taking action to disrupt the funding mechanisms should be delayed in order to further ongoing investigative and intelligence operations. Actions cannot be taken in isolation but must be coordinated within the "big picture." Blocking/freezing of assets/accounts is only effective when it is used in coordination with other investigative tools. Without proper coordination, a blocking/freezing action will likely only result in the terrorist entity moving its accounts/operations elsewhere and continuing the same activity. In support of coordination efforts, the FBI participates in the National Security Council's Policy Coordinating Committee (PCC) on terrorist financing, including all three targeting, action and coalition building subgroups. It is also important to note that effective coordination must include law enforcement and intelligence agencies in other countries. The FBI continues to work very closely with our European allies as well as those in other parts of the world. Our efforts cannot be successful without their cooperation and coordination of strategies, investigations, etc. We continue to receive outstanding cooperation from our European allies. These efforts are pursued through our Legal Attache Offices around the world, and through outreach by the FBI Terrorist Financial Review Group (TFRG) which includes joint investigations and considerable interaction with law enforcement and intelligence agencies in the various countries. The TFRG has hosted numerous foreign delegations of law enforcement and intelligence agency personnel at FBIHQ to help achieve a high level of cooperation and coordination. In addition, TFRG personnel have traveled to numerous countries to accomplish similar cooperation and coordination. Finally, The FBI has participated in G-7, G-8 meetings which have focused on terrorist finance issues and how member countries can more effectively coordinate investigations and efforts to destroy terrorist financial efforts. In all

these efforts, the FBI works closely with the other components of the Department of Justice, and with the Departments of Treasury and State. The FBI would defer any questions regarding Congressional legislation to the DOJ.

3. Section 330 of the USA Patriot Act states the Sense of Congress that the Administration should work to ensure that foreign financial institutions maintain adequate records relating to foreign terrorist organizations and money laundering activities and that they make such records available to U.S. law enforcement officials and financial institution supervisors. Could you describe how the Administration plans to work with foreign Governments, and with foreign financial institutions with operations in the United States, to accomplish these objectives? In addition, could you tell us which countries have been most and least willing to work with the United States to combat terrorists' money laundering?

A. The FBI has received outstanding cooperation from law enforcement and intelligence agencies in other countries including a strong willingness to work with the U.S. to combat terrorists' money laundering. This is not to say that obstacles are not encountered. When dealing with so many different cultures and governments with different legislation, there are always difficulties that arise. However, it has been the FBI's experience for the most part, that with continuing dialogue and liaison (which includes utilizing all aspects of the U.S. Government such as our Legat Offices, DOJ, Treasury, CIA and the State Department), these difficulties can usually be worked out to everyone's satisfaction and benefit. That being said, there is always room for improvement in this process. From the FBI's perspective, it is not feasible to rank countries by the willingness to work with the U.S. Their willingness is not usually at issue; there are a variety of other factors that may impact the effectiveness of their willingness.

Dennis Lormel 2/12/02 Congressional testimony, TFRG response to question from Congressman Luis Gutierrez:

1) What is the level of day-to-day cooperation between the FBI and Greenquest?

A. The level of cooperation is professional and cordial with open lines of communication to exchange information. In view of the fact there is significant overlap in the missions of the FBI Financial Review Group and Greenquest, and as long as Greenquest remains a separate entity apart from the FBI, it is imperative that there be this open line of communication to avoid conflicts and needless duplication of efforts. In order to foster the open lines of communication, Greenquest personnel are assigned to the FBI FRG and FBI FRG personnel are assigned to Greenquest. The Greenquest personnel assigned to the FBI FRG have complete access to matters being investigated by the FRG and are provided daily downloads of information.

Testimony of Steven Emerson

Before the

House Committee on Financial Services Subcommittee on Oversight and Investigations

"PATRIOT Act Oversight: Investigating Patterns of Terrorist Fundraising"

Fund-Raising Methods and Procedures for International Terrorist Organizations

February 12, 2002

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Worldwide Al-Qaeda Network

From the testimony of Steven Emerson February 12, 2002

House Committee on Financial Services Subcommittee on Oversight and Investigations

"PATRIOT Act Oversight: Investigating Patterns of Terrorist Fundraising"

Charities

- Afghan Support Committee †
- Al-Rashid Trust †
- Help Africa People
- Human Concern International
- International Islamic Relief Organization
- Islamic Relief Agency, Dublin
- Maktab al-Khidamat
- Mercy International Relief Agency
- Muwafaq
- Qatar Charitable Society
- Rabita Trust †
- Revival of Islamic Heritage Society †
- Saudi Joint Relief Committee †
- Ummah Tameer E-Nau †
- Wafa Humanitarian Organization †

Companies

- Al-Hamati Sweets Bakeries †
- Al-Hijrah Construction
- Al-Hikma Pharmacy, Khartoum †
- Al-Nur Honey Press †
- Al-Qadir Traders †
- Al-Shifa Honey Press †
- Al-Shifa Pharmaceuticals
- Al-Themar al-Mubaraka Agriculture Company
- Anhar Trading
- Arabica Manufacturing
- Black Giant
- Khartoum Tannery
- Mamoun Darkazanli Import/Export Company †
- Qadarat Transport Company
- Wadi al-Aqiq

Financial Institutions

- National Commercial Bank
- Islamic Salvation Front
- Al-Shamal Islamic Bank
- Al-Taqwa Bank †
- Anfo Sof Ta Vir
- Barakaat †
- Habib Bank
- Ladin International
- Taba Investment

Websites

- Azzam Website — http://www.azzam.com
- Committee for the Defense of Legitimate Rights — http://www.cdlr.net
- Global Jihad Fund — http://www.ummah.net/jihad
- Islamic Observation Centre — http://www.ummah.net/ioc
- Sawt-ul-Qoqaz — http://www.qoqaz.com
- Supporters of Shariah — http://www.supportersofshariah.org
- The Road to Jihad — http://www.jihadroad.com
- Update of the War in Afghanistan — http://www.jehad.net
- Voice of the Taliban / Al-Rashid Trust — http://www.dharb-l-mumin.com

Human Rights Organizations

- Advice and Reformation Committee
- Islamic Observation Center
- Al-Muhajiroun
- Committee for the Defense of Legitimate Rights

† Designated Terrorist Front U.S Presence

Introduction

President George Bush stated on September 24, 2001, "Money is the life- blood of terrorist operations. Today, we're asking the world to stop payment." Since then, the US government has engaged in a full-court press designed to freeze, seize, interrupt, slow down and otherwise interdict the flow of funds to terrorists. To a certain extent, however, government agencies were forced to act without having first developed the critical intelligence base on terrorist fundraising that would ordinarily would have preceded prior to government action. But these were not ordinary times—and it became imperative that the flow of funds available to terrorists be shut down immediately. Government agencies and law enforcement rose to the occasion and performed brilliantly. The American public owes a great deal of gratitude to the thousands of government agents who have worked tirelessly on tracking down terrorist assets around the globe.

But with the benefit of hindsight and the opportunity to distill investigative intelligence, we can now step back and examine the primary routes through which terrorists have raised or laundered monies. . The manner in which terrorists have raised money for their horrific operations has ranged from a variety of sources including, but not limited to, the use of charitable organizations, corporate "front" entities, financial institutions, and Internet-based funding. The 1998 bombing of the U.S. Embassies in Kenya and Tanzania provided a prime example of how these means of fund-raising were all utilized.

This testimony will probe into the means of fundraising by such organizations as al-Qaeda, Hamas, and Hizballah. The significance of this broad sampling of organizations is to show that each of these terrorist organizations utilize the same types of methods to fund their terrorist activities.

I. Charities

A fundamental exploitation that Islamic fundamentalists have been able to avail themselves of so efficiently and thoroughly is through a charity or relief organization. For most of the world, charities represent all that is good about mankind—helping others in need, bringing people together, and correcting the wrongs of the world. But for the terrorist, charities represent a perfect cover for collecting large amounts of money and arms to be used for terrorist operations.

The general public often cringes at the thought that charities designed for benevolent purposes can be used to support terrorism. Often, First Amendment concerns are raised regarding a charity's freedom of speech and freedom of association and the overreaching of federal law enforcement against legitimate charities. Therefore, scrutiny of these charities by federal law enforcement authorities has sometimes been met with media criticism based on such concepts as "ethnic profiling" and discrimination.

Unfortunately, terrorists do in fact utilize charitable organizations within the United States to accomplish their funding purposes. Furthermore, because charities face far less scrutiny from the IRS than other for-profit corporations and individuals, occasionally, these same charities that engage in terrorist pursuits have succeeded in receiving financial assistance

from government-sponsored grant programs such as the U.S. Agency for International Development (USAID). For example, the Holy Land Foundation for Relief and Development (HLFRD), whose assets were ordered frozen for funding the Hamas terrorist organization, was approved by USAID to receive supplemental funding.[1] Disturbingly , when charities like HLFRD are funding terrorism, they are doing so at the expense of the American taxpayer, while undermining the fundamental values that the United States represents.

a. Al-Qaeda's Abuse of Charities

Al-Qaeda has availed itself of the freedoms inherent within the American political spectrum in order to reap financial benefits. The following examples show how this has been accomplished.

1. The International Islamic Relief Organization (IIRO)

Foremost among charities tied to Osama Bin Laden and al-Qaeda, as well as other terrorist organizations such as Hamas, is the International Islamic Relief Organization (IIRO). The IIRO, which has many branches around the world, was established in 1978 and is headquartered in Jeddah, Saudi Arabia.[2] The current Secretary-General of the IIRO is Adnan Khalil Basha. The IIRO is considered to be the "operating arm"[3] of the Muslim World League (MWL), and, according to Dr. Ahmed Mohammed Ali, Secretary-General of the MWL, it provides "humanitarian assistance" through the IIRO.[4]

There is documentary evidence of IIRO's solid ties to serving as a conduit for terrorism. Most recently, a man arrested in Canada who worked for the IIRO was found to have numerous ties to al-Qaeda and Osama Bin Laden. Mahmoud Jaballah, working as a principal in an Islamic school in Canada, was arrested in 1999 for allegedly belonging to Al Jihad, an organization thought to work closely with al-Qaeda and led by one of al-Qaeda's top lieutenants, Ayman Al-Zawahiri. Jaballah was released almost a year later due to a lack of evidence against him, but was rearrested in August 2001 when the Canadian Security Intelligence Service (CSIS) uncovered new information solidifying Jaballah's connections to al-Qaeda.[5]

During his deportation hearing, Jaballah stated he worked for the IIRO in Peshawar, Pakistan, in the capacity of "teaching orphans."[6] Despite these claims, a diagram introduced by the Canadian government at the trial tells a different story. The diagram illustrates the connections between various individuals and organizations all linked to Al Jihad. An arrow beginning at IIRO and pointing directly to Al Jihad has the words "Secretly funds terrorism" superimposed upon the arrow. [SEE EXHIBIT] It is the Canadian government's contention,

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[1] Mike Allen and Steven Mufson. "U.S. Seizes Assets of 3 Islamic Groups; U.S. Charity Among Institutions Accused Of Funding Hamas." The Washington Post. December 5, 2001.
[2] "IIRO – Welcome." http://www.arab.net/iiro
[3] State Department Cable. Document Number: 1994MANILA19999. November 1994. Page 261.
[4] Ahmed, Iftikhar. "Counter anti-Islam propaganda, says MWL sec-general." Moneyclips. May 6, 1995.
[5] "Federal judge to interview CSIS agents to determine Egyptian refugee's fate." Canadian Press Newswire. January 8, 2002.
[6] Deportation Hearing of Mahmoud Jaballah, Volume 2, Page 23

then, that IIRO funds terrorism clandestinely. Jaballah was eventually "processed for deportation as a threat to national security."[7]

A CSIS operative, named in the trial only as "Mike" to preserve his anonymity, elucidated how a relief organization could operate as a means to actively support terrorism:

> [M]ost members of Al Jihad, as cover for their operations, usually employ themselves with relief organization as teachers or as aid workers. Just to give you a few examples, Mercy International was one of the organizations that was used to support the network of Al Jihad when it was conducting its operation against American embassies in East Africa when they were blown up. An organization by the name of Human Concern International, one of whose employees is a man by the name of Ahmed Said Khadr, used the network of Human Concern International to facilitate the attack on the Egyptian embassy in Islamabad in November 1995.[8]

The IIRO's road to terrorism might even lead to September 11, 2001. Fayez Ahmed Alshehri, one of the hijackers on United Airlines Flight 175 which crashed into the southern tower of the World Trade Center, told his father he was going to go work for the IIRO and never saw his family again.[9] Whether IIRO was the gateway for this hijacker's entry into terrorism is unclear, but it necessitates a further investigation.

IIRO branches provide more than a base for recruitment for terrorists. They also provide material support, instructions, and funding. On January 7, 1999, according to Karnal Singh, a deputy inspector-general of police in India, the U.S. consulates in Madras and Calcutta were targeted by a Bangladeshi national, Sayed Abu Nasir, on orders from among others, Sheikh Al Gamdin, President of the IIRO, Asia.[10] After September 11, 2001 Pakistan deported 89 Arab aid workers in order to cut support for Bin Laden and al-Qaeda. Among the organizations that employed these workers was the IIRO.[11]

In the Philippines, the IIRO office in Zamboanga City is the coordinating center for secessionist Islamic militants in the southern region of the country where Muslims are the majority.[12] IIRO's Zamboanga City office, which was established some time in the early 1990s, was under the direct control of Mohammad Jamal Khalifa, the brother-in-law of Osama Bin Laden.[13]

In April 1994, Khalifa was indicted by Jordanian authorities for being involved in the bombing of a cinema in Jordan. Later that year, on December 1, Khalifa entered the United

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[7] Stewart Bell. "Canadian and Muslim, but are they terrorists?" The National Post. February 9, 2002.
[8] Trial of Mahmoud Jaballah, December 17, 2001, Page 330.
[9] Ba-Isa, Molouk Y. & Saud Al-Towaim. "Another Saudi 'hijacker' turns up in Tunis." Middle East Newsfile. September 18, 2001.
[10] Cecelia Dugger. "Anti-U.S. Plot in India Is Foiled." International Herald Tribune. January 21, 1999.
[11] "Pakistan Deporting 89 Arab Aid Workers." The Associated Press. October 6, 2001.
[12] Christine Herrera. "BIN LADEN FUNDS ABU SAYYAF THROUGH MUSLIM RELIEF GROUP." Philippine Daily Inquirer. August 9, 2000.
[13] Peter Chaulk. "TERRORISM - Bin Laden's Asian network." Jane's Intelligence Review. December 1, 1998.

States on a visa he had applied for earlier. Two weeks later, Khalifa was arrested and extradited to Jordan where he was subsequently acquitted of charges against him.

The State Department was gathering information pursuant to Khalifa's application for a visa and entry into the United States. In 1994, a cable from the American Embassy in Manila, Philippines, to the Secretary of State summarized the findings of the local media:

> A Saudi Arabian-based relief agency operating in Manila had been coordinating with and helping Muslim Secessionist factions in Mindanao and the ASG [Abu Sayyaf Group]. The head of the Agenqr((-#"M- [sic] (Islamic Relief Organization (IIRO)), is identified as a Saudi named Muhamad Jammal ((Khalifah)).[14]

Through Khalifa and the IIRO, Bin Laden ensured an instrumental role in the militant secessionist movement.[15]

Another cable from 1994, from the Secretary of State to American Embassy in Khartoum further solidified Khalifa's role as a terrorist:

> FYI, Osama Bin Laden's brother-in-law, Muhammad Jamal Khalifah [sic], was arrested in California on 12/16. REFTEL refers to Khalifa as a "known financier of terrorist operations" and an officer of an Islamic NGO in the Philippines that is a known Hamas front. He is under indictment in Jordan in connection with a series of cinema bombings earlier this year.[16]

According to reliable reports, western intelligence sources have traced IIRO money transfers to bank accounts in London, England and Amman, Jordan; which is then channeled through front groups to Palestinian Hamas-backed organizations in the West Bank and Gaza Strip.[17] Mohammed al-Zawahiri, brother of Dr. Ayman al-Zawahiri who is one of Osama Bin Laden's top lieutenants, worked all over the world for the IIRO.[18] Mohammed al-Zawahiri was sentenced to death in absentia in Egypt and is believed to lead the Jihad Organization's military wing.

As part of its international presence, the IIRO has a distinct but suspiciously compartmented presence in the United States. The organization epitomizes how current record keeping can make following the money flow of relief organizations and charities extremely difficult. By understanding how IIRO functions in the United States, we can better understand how to improve upon our current system of maintaining public records for these charities. Armed with more accurate records, a more effective, tight tourniquet can be made to stop the money flow supporting terrorism.

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[14] State Department Cable. Document Number: 1994MANILA19999. November 1994. Page 261.
[15] Peter Chaulk. "TERRORISM - Bin Laden's Asian network." Jane's Intelligence Review. December 1, 1998.
[16] State Department Cable. Document Number: 1994STATE335575. December 1994. Page 360.
[17] Richard Chesnoff and Robin Knight. "A helping hand from Saudi Arabia." U.S. News and World Report. July 8, 1996.
[18] "Official sources deny reports on UAE's extradition of Islamist." Al-Hayat, London. June 7, 2000.

Within the United States, the IIRO works through two other differently-named organizations, the International Relief Organization (IRO) and the Success Foundation.[19] All three organizations are in reality one and the same. According to corporate filings with the Virginia Secretary of State, the IRO is "doing business as" the "International Islamic Relief Organization."[20]

Created shortly before the U.S. Embassy bombings in East Africa in 1998, the Success Foundation was a recipient of $15,000 from the IRO (according to IRO's Tax Form 990 filed with the IRS in 1998) that was earmarked for "educational expenses." Line item 80 in Success Foundation's Tax Form 990 for 2000 filed with the IRS lists the "International Relief Organization" as an organization to which it is related, though this information is lacking in IRO's parallel form.

. With three incorporated institutions all co-existing together in the United States, this relief organization has the infrastructure ready to quickly shift funding from one to the other, as they have in the past. Thus, the money trail is extremely complicated and constantly in flux. IIRO does not limit this shifting of money to its trio of American NGOs. In 1996 through 1998, on the IRO's Income Tax Form 990, the relief organization listed among its itemized educational expenses a donation to the Holy Land Foundation for Relief and Development (HLFRD). In 1996 alone, IRO donated $21,980 to HLFRD. On December 4, 2001, the Holy Land Foundation's assets were ordered frozen, and it was branded a Specially Designated Global Terrorist [SDGT] Entity for funding the Hamas terrorist organization.

After the devastating attacks on September 11, 2001, intelligence scrambled to understand how the hijackers financed their operation. From basic issues such as housing, clothing, food, and transportation, to the logistics of the operation, including purchasing plane tickets, obtaining false identifications, and combat training, al-Qaeda necessarily provided funding. When President Bush's first Executive Order blocking terrorist property was issued on September 24, 2001, most of the world was shocked to note that charities were among the

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[19]In its corporate record registered with the Virginia Secretary of State, IRO lists its office as:

P.O. BOX 8125
Falls Church, VA 22041

On the Success Foundation's Income Tax Form 2758 for calendar year 1999, used for an application to extend time to file information with the IRS, the organization lists exact same address. Furthermore, IRO lists its phone number on its 1999 Income Tax Form 990 as (703) 820-7199. Success Foundation lists the same number on its 1999 Income Tax Form 990, despite bearing a different address.

The leadership is closely shared between the IRO and Success Foundation. In 1992, IRO on its Income Tax Form 990 listed Khaled Nouri as its Treasurer. In 1999 and 2000, IRO on its Income Tax Form 990 listed Mohamed Omeish as its President and Secretary. In 1999, Success Foundation listed on its Income Tax Form 990 that Mohamed Omeish was its Director and President and also listed Khaled Nouri as another Director. Success Foundation listed in both its 1999 and 2000 Tax Form 990 Mohamed Omeish as its President, Abdurahman Alamoudi as its Secretary and Khaled Nouri as its Treasurer. Alamoudi's signature appears on Success Foundation's Income Tax Form 2758 requesting an extension of time to file the organization's income tax return. Alamoudi's position is listed as Chairman.

[20] Virginia Secretary of State, Corporate Record., Corporate Number 378687

organizations whose assets were frozen and designated SDGTs. To fund this attack, al-Qaeda had to collect and disperse money, and they did so through various charities. Charities played a key role in the September 11th attacks, and they will continue to raise money for terrorist activities unless forceful action is taken with both care and alacrity.

2. Charities Associated with the September 11, 2001 Terrorist Attacks

The next section will discuss two charities that have been primary in the post-September 11, 2001, investigation into the funding of al-Qaeda operations. The Wafa Humanitarian Organization was included as the first charity on President Bush's initial list of organizations and individuals designated as Specially Designated Global Terrorist Entities [SDGT] that was issued on September 24, 2001. This initial list was comprised of individuals and organizations alleged to have been complicit in the terrorist attacks of September 11, 2001. The Rabita Trust for the Rehabilitation of Stranded Pakistanis was designated as a SDGT on October 12, 2001.

The Wafa Humanitarian Organization

Funded from Saudi Arabia[21], the Wafa Humanitarian Organization was the first charity tied to terrorism to have its assets frozen post-September 11. One of the highest ranking officials captured in December in Afghanistan is Abdul Aziz, a Saudi who is also with the Wafa Humanitarian Organization.[22] As reported in an Afghan Taliban radio report in June 2001, the Taliban's Minister of Public Works, Mowlawi Ahmadollah Moti, "met the head of the Wafa charity organization, esteemed Sheikh Abo Abdol Aziz Naqi" where "both sides discussed matters of mutual interest and repair of highways inside the country."[23]

Wafa also worked closely with Pakistani nuclear scientists. The FBI contends that Wafa coordinated activities with Ummah Tameer-e-Nau,[24] a charity and organization closely tied to al-Qaeda. Ummah Tameer-e-Nau's assets were frozen on December 20, 2001, by the U.S. Treasury Department and designated a SDGT. Ummah Tameer-e-Nau was founded by Sultan Bashir-ud-Din Mehmood, one of the top Pakistani nuclear scientists. Mehmood worked for more than 30 years to develop Pakistan's nuclear capabilities, and ultimately, succeeded in building a nuclear bomb in 1998.[25] Along with Mehmood, Abdul Majeed served on Pakistan's Atomic Energy Commission until the two retired in 1999.

Ummah Tameer-e-Nau epitomizes an organization operating as a charity to remain clandestine. The charity was allowed to operated freely in Afghanistan, a privilege bestowed only to a small minority of NGOs. The Taliban went so far as to permit Ummah Tameer-e-Nau to make business deals on the Taliban's behalf.[26] Given Ummah Tameer-e-Nau's status as a

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[21] "Saudi Arabia announces first freeze of terrorist bank accounts since Sept. 11." The Associated Press. February 7, 2002.
[22] James Risen. "A NATION CHALLENGED: THE MOST WANTED; Taliban Chiefs Prove Elusive, Americans Say." The New York Times. December 20, 2001.
[23] "Afghan Taleban to repair highways in south and east." Radio Voice of Shari'ah, Kabul, in Pashto. June 10, 2001.
[24] "Nuclear scientists picked by agencies." Islamabad Pakistan Observer. October 25, 2001.
[25] Peter Popham. "Campaign Against Terrorism." The Independent (London). October 31, 2001.
[26] Ibid.

charity, the world community ignored the group's involvement in Afghanistan and the Taliban. Ironically, while the world gave its tacit approval to Ummah Tameer-e-Nau, secret meetings were being held between Osama Bin Laden and the organization. Shortly after the September 11 attacks, Mehmood and Majeed were taken into custody by the Pakistani government for these meetings with Bin Laden but later freed. Both Mehmood and Majeed's assets were frozen by the U.S. Treasury Department on December 20, 2001, and both men were designated SDGTs.

Rabita Trust for the Rehabilitation of Stranded Pakistanis

The Rabita Trust, while ostensibly working in Pakistan, has its roots in Saudi Arabia. In July 1988, Pakistani President Zia ul-Haq and Dr. Abdullah Omar Naseef, the then-Secretary-General of the World League (MWL), established the Rabita Trust for the repatriation and rehabilitation of stranded Pakistanis.[27] The Muslim World League (MWL) is an organization based in Mecca, Saudi Arabia, and is funded by wealthy Saudis.[28] Naseef also served as "one of the vice-presidents of Rabita Trust"[29] and is currently the chairman of the foundation.[30] Effectively, the Rabita Trust is a subsidiary of the Muslim World League, and therefore an offshoot of a Saudi organization.

Operating under the guise of a charity, the Rabita Trust instead served to promote terrorism. According to a press release issued by the Department of the Treasury on October 12, 2001:

> The Secretary-General of the Rabita Trust Wa'el Hamza Jalaidan, one of the founders of Al-Qaeda along with Osama bin Laden. Wa'el Julaidan is the logistics chief of Bin Laden's organization and fought on Bin Laden's side in Afghanistan.

Rabita Trust was designated a SDGT on October 12, 2001, by President Bush's Executive Order freezing the assets of terrorists and terrorist groups.

3. Qatar Charitable Society

Another charity engaged in the financing of al-Qaeda and other organizational terrorist operations is the Qatar Charitable Society (QCS). According to the Qatar Charity Society's website, its mission statement claims that:

> QCS aims to offer relief and help to orphans, victims of war and disasters by supporting them financially, socially and culturally up to the age of 18. QCS aids

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[27] Syed Ehsanul Haque. "The Stranded People Who Spent 29 Years in Captivity." Daily Arab News, Jeddah, December 16, 2000

[28] Bruce Zagaris. "U.S. and Other Countries Attack Against Additional List of Terrorist Supporters. International Enforcement Law Reporter, Vol. 17, No. 12. December 2001.

[29] "News from Bangladesh." http://bangladesh-web.com/news/jun/07/nv4n589.htm

[30] Mutahir Kazmi. "Repatriation of Stranded Pakistanis to Launch in April One Thousand Housing Units Ready to House 5000 People." Pakistan News Service. http://paknews.com/art1apl-3.html

> widows to meet living expenses particularly those who lost all relatives and friends.[31]

According to a WHOIS lookup of the Qatar Charitable Society's website, www.qsociety.org, Hashem Hussein is listed as both the Administrative and Billing Contact for the site. He lists the email address "hashim@MMAA.GOV.QA," indicating that Hashem Hussein works for the Qatari government. The MMAA is The Ministry of Municipal Affairs and Agriculture, and its website can be reached at www.mmaa.gov.qa.

In trial proceedings surrounding the prosecution of individuals associated with the conspiracy to bomb the U.S. Embassies in Kenya and Tanzania in 1998, another charity was mentioned as serving as a supporting organization for al-Qaeda. This organization was the Qatar Charitable Society. Jamal Ahmed Al-Fadl, a former member of al-Qaeda and a state witness at the trial, worked with the Qatar Charitable Society in 1993.[32] When asked about his relationship with the group, Al-Fadl replied:

> The guy, he runs a group, he is one of our membership, one of the al Qaeda group membership, and also he is Islamic National Front membership, and he was in Afghanistan. So he helped our people for the travel, documents, and also if some money come from the Gulf area to the organization, he gives the group some money from that money.[33]

This leader is further identified as Dr. Abdullah Mohamed Yusef, a veterinarian whose role was elaborated more by Al-Fadl when he stated, "He helped the jihad Eritrea group, and also he give $20,000 for one of the attack outside of Sudan."[34]

In his second day on the witness stand, Al-Fadl discusses a meeting in 1994 with the Qatar Charitable Organization referred to here as Jam Qatar Heira:

Q. Where was it?

A. In Jam Qatar Heira. It's Qatar organization [Society].

Q. Is that the same organization you described yesterday or a different one?

A. Yes, same one.

Q. Is that the Qatar Charitable Organization [Society]?

A. Yes.

Q. What happened at that meeting?

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[31] http://www.qcharity.org/qenglish/index.html
[32] *United States of America v. Usama Bin Laden, el al.* Day 2, February 6, 2001. Page 329.
[33] *United States of America v. Usama Bin Laden, el al.* Day 2, February 6, 2001. Page 330
[34] Ibid.

A. Dr. Munim al Khabir, he say some members in Islamic National Front, they believe they did their best to bring Saddiq al Mahdi to make relationship with him to start something, unite all the groups of Sudan to run the government, but Saddiq al Mahdi, he don't like that because we change the government during his time, and he say some people say if we kill him is better for Sudan, because Saddiq al Mahdi got relationship with other countries, and any time we find a chance, he told them, and he make them mad against the Islamic National Front in Sudan.[35]

The Qatar Charitable Society provides another example of how the al-Qaeda terrorist organization has been able to infiltrate charitable organizations in order to provide funding for its terrorist ventures. The truth remains that this pattern of charitable organizations funding terrorism is a common denominator among terrorist groups.

b. Hamas Use of Charities

1. Holy Land Foundation for Relief and Development

On December 4, 2001, President Bush, froze the assets of the Holy Land Foundation for Relief and Development (HLFRD). While stating that HLFRD's money was used to support the Hamas terrorist organization, President Bush further stated, "Those who do business with terror will do no business with the United States or anywhere else the United States can reach."[36] HLFRD provides one of the best examples of how federal law enforcement could track the pro-terrorist activities of an organization while being unable to cease such operations.

HLFRD, from its incorporation in 1989 until the freezing of its assets in 2001, collected donations in the United States under the guise of a humanitarian and charitable organization. These funds would be wired to Hamas charitable conduits within the West Bank and Gaza Strip which would then transfer these funds to varying Hamas efforts, including, but not limited to, suicide bombings and other terrorist exploits. As a 2001 FBI report states, "a significant portion of the funds raised by the [HLFRD] are clearly being used by the HAMAS organization." Hamas is currently a designated foreign terrorist organization pursuant to powers bestowed upon the United States Department of State under the Antiterrorism and Effective Death Penalty Act of 1996.

According to the FBI's 2001 report, "In 1993 and 1994, the FBI monitored meetings of identified HAMAS leaders and senior representatives from the [HLFRD]. During these meetings, discussions were held regarding the need for HAMAS fund-raising in the United States, as well as the primary role of the [HLFRD] to serve this function." Meetings under surveillance by federal law enforcement included a 1993 meeting in Philadelphia of high-ranking members of Hamas, HLFRD, and another related organization – the Islamic Association for Palestine (IAP). According to the FBI, "It was decided that most or almost all of the funds collected in the future should be directed to enhance the Islamic Resistance Movement [Hamas] and to weaken the self-rule government [in Israel]."

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[35] *United States of America v. Usama Bin Laden, et al.* Day 3, February 7, 2001, Page 380.
[36] Remarks of President George W. Bush, December 4, 2001.

This meeting stressed that the capabilities for fund-raising within the United States were amplified by the "democratic environment in the United States." As the FBI states in its report regarding this meeting, "The participants decided that for fund-raising purposes, the United States theater was very valuable to them. They stated they could not afford to lose it." In other words, as with other terrorist organizations raising funds within the United States, the ability to exploit the freedoms here was of paramount importance and relevance. Thus, Hamas terrorist operations could flourish through the assistance of monies received from the United States vis-à-vis HLFRD. Even so, HLFRD was not the only charitable organization utilized by Hamas for funding purposes during the past two decades.

2. Al-Aqsa Educational Fund

In 1993, Abdelhalim al-Ashqar incorporated the al-Aqsa Educational Fund (AAEF), at the University of Mississippi, ostensibly to raise money for charities located in Gaza and the West Bank. Al-Aqsa Educational Fund published an advertisement in the October 15, 1993 edition of the Islamic Association for Palestine/Hamas Arabic-language publication *al-Zaytouna* that shows the primary purpose of the fund:

> [AAEF is a] non-profit charitable association acting for the education of the Palestinian with the following goals:
> - Support association for education
> - **Support the deportees in Marj al-Zuhour** [in 1992, Israel deported more than 400 members of both Hamas and the Palestinian Islamic Jihad to Lebanon where they remained in Marj al-Zuhour until international pressure forced Israel to accept these deportees bank into Israel]
> - Provide the opportunity of education for our people's children
> - **Especially the children of the martyrs, the prisoners and the fosters**
> - And for students who can't complete their studies because of financial reasons

AAEF is described as a Hamas-front in the FBI's 2001 report on the Holy Land Foundation (cited above). According to the FBI, in early 1994, the AAEF was in competition with HLFRD for Hamas fund-raising in the US.[37] The conflict arose from Hamas Political Bureau head Mousa Abu Marzook's decision to choose HLFRD over the AAEF as Hamas' primary fund-raising entity in the US.[38]

Abdelhalim al-Ashqar is a Palestinian who currently resides in Alexandria, Virginia, and has lived in the United States since 1989. The FBI Memorandum on HLFRD states that in 1992 the government of Israel notified the FBI that al-Ashqar was "a U.S.-based Hamas activist who was involved in transferring funds from the United States to Hamas in the West Bank and Gaza."[39] Al-Ashqar was the organizer of the above-referenced Philadelphia meeting in 1993 in which high-ranking members of HLFRD and Hamas were involved.

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[37] "Holy Land Foundation for Relief and Development International Emergency Economic Powers Act." Action Memorandum. Federal Bureau of Investigation. November 5, 2001.
[38] Ibid.
[39] Ibid.

After being called before a grand jury investigation exploring the activities of Hamas within the U.S., al-Ashqar refused to cooperate, and, on February 23, 1998, Judge Denise L. Cote found al-Ashqar in contempt, for which he was jailed. Al-Ashqar was subsequently released from prison, after it became clear that he would not change his mind about testifying. The April 2, 1998, edition of the Arabic-language newspaper *al-Risala* states that, at the time he was called before the grand jury to testify, al-Ashqar was a Research Associate at the United Association for Studies and Research (UASR), which was founded in 1989 by the head of the Hamas Political Bureau, Mousa Abu Marzook. Prior to moving to the United States, al-Ashqar had served as head of Public Relations at the Islamic University in Gaza for a period of about eight years. According to documents submitted in the Abu Marzook extradition proceedings, whose trial precipitated the grand jury investigation, this university was founded by, among others, Abu Marzook and Hamas founder Sheikh Ahmed Yassin (about whom UASR has written extensively).

The use of charitable organizations as fund-raising conduits for al-Qaeda and Hamas show how this tactic has been accepted by multiple terrorist organizations as a means of financing. Similar examples can be shown through charitable conduits set up by other such terrorist organizations as the Palestinian Islamic Jihad. Another means of fund-raising for terrorist organizations is through the use of corporate fronts through which terrorist activities are shielded or where corporate proceeds are used to support the various terrorist ventures.

II. Corporations/For-Profit Entities

Whereas charities and other similar non-profit entities provide excellent cover for terrorists, the usage of for-profit corporations and entities for funneling money to international terrorists has also been uncovered as a part of the support infrastructure. These for-profit bodies can alter their balance sheets and financial statements in order to hide the fact that profits from various commercial enterprises (including real estate deals, Internet ventures, and other seemingly innocuous business transactions) were used to finance terrorism worldwide. With this accounting mechanism in place, a corporate model allows terrorists to transfer money between branches around the world with little public or government scrutiny.

a. Al-Qaeda's Use of Corporate Enterprises

1. Darkazanli Import-Export Company

Darkazanli Import-Export Company (Darkazanli)[40] was the first private business to have its assets frozen by President Bush due to suspected links with the September 11 attacks. The White House executive order published on September 25, 2001, describes this Hamburg-based company as a "front group" for al-Qaeda[41] and its CEO, the Syrian-born businessman Mamoun Darkazanli, as one of Bin Laden's financial lieutenants.[42] In fact, Darkazanli offers a strategic paradigm for the manner in which a small, legitimate business with convenient European

[40] According to the Dun & Bradstreet, Inc. WorldBase, Darkazanli Import-Export Co. was founded in 1993 and specialized in the sale of whole electrical equipment such as electrical appliances, TVs, radios, etc.
[41] The Times (London). November 2, 2001. "America Denies its 'Hospitality' to Supporters of Terrorism."
[42] Agence France Press. November 2, 2001. "Updated List of People, Groups Targeted in Asset Freeze."

locations and inconspicuous business transactions, can be misused to launder money, purchase sensitive technical equipment, and facilitate the establishment – both in Europe and elsewhere – of business "front" groups for al-Qaeda.

Darkazanli has strong U.S. connections. The company's name surfaced during a 1997 FBI raid on the home of former Bin Laden personal secretary, U.S. citizen Wadih El-Hage.[43] The raid produced a business card for "Anhar Trading Co.," listing El Hage as its director and giving two addresses for the company's location. The U.S. address coincides with El-Hage's home address in Arlington, Texas; whereas, the address in Germany – "Uhlenhorster Weg 34, 2000 Hamburg 76"[44] – matches exactly the location and phone and fax numbers for Mamoun Darkazanli and Darkazanli Import-Export Company. In fact, during a 1993 business trip to Cyprus to purchase a ship for Bin Laden, Wadih El-Hage asked that all related business documents be sent to his business address in Germany, that is, the business address of Darkazanli.[45] Therefore, al-Qaeda used Darkazanli both to facilitate and to legitimate its terrorism activities by camouflaging its existence and business location behind an active "front" company.

Darkazanli is also involved with a second Bin Laden financial operative, the Sudanese engineer Mamdouh Mahmud Salim.[46] In Sudan, Salim once directed Wadi Aqiq, an umbrella company for Bin Laden, and was engaged in al-Qaeda military training.[47] In the period between 1995 and 1998, Salim made frequent trips to Germany with the purpose of obtaining electronic equipment for Bin Laden's network[48]. Washington officials also suspect that, during those trips, Salim tried to procure enriched uranium for al-Qaeda.[49] On both occasions, Mamoun Darkazanli and Darkazanli Import-Export Company provided cover, business collaboration and facilitated communication for Bin Laden's financial chief and his transactions. For instance, in 1995, Mamoun Darkazanli co-signed with Mamdouh Salim a joint Deutsche Bank business account, over which, when Salim was away from Germany, Mamoun Darkazanli had the power of attorney.[50] Mamoun Darkazanli acted as Salim's host, translator, and business partner in Germany.[51] In addition, the Darkazanli company's specialty in the import-export of electronic appliances, was a suitable cover for procuring technical equipment for al-Qaeda.

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[43] Wadih El Hage ran a number of Bin Laden's companies, and is currently serving a life sentence in U.S. prison for his role in the planning and execution of the 1998 embassy bombings in Kenya and Tanzania.
[44] See exhibit of Wadih El-Hage's business card.
[45] The New York Times. December 27, 2001. "A Tramp Freighter's Money Trail to Bin Laden."
[46] Mamdouh Mahmud Salim is currently the highest-ranking Bin Laden official in U.S. custody, awaiting trial on terrorism conspiracy charges.
[47] CNN. October 16, 2001. "Embassy Bombings Trial Revealed Bin Laden Links."
[48] The New York Times. November 18, 2001. "Retracing a Trail to Sept. 11 Plot."
[49] FBIS translation. Paris Al-Watan Al-'Arabi. November 16, 1998. "Afghanistan: Report Links Bin-Ladin, Nuclear Weapons."
[50] The New York Times. October 7, 2001. "Syrian in Hamburg Linked to Second Bin Laden Aide."
[51] Ibid.

2. Barakaat Telecommunications / InterWAVE

When corporations operating on behalf of al-Qaeda (or other terrorist organizations) desire to infiltrate a certain market or country, they often search for unwitting corporate accomplices within the particular market whose activities are respected and established. This was the situation that existed between Barakaat Telecommunications and the U.S.-based InterWAVE corporation.

After the September 11 attacks, the U.S. government froze the assets of the huge Al Barakaat conglomerate on November 7, 2001, and designated Al Barakaat and its subsidiaries as Specially Designated Global Terrorist Entities (SDGT). A prominent subsidiary of Al Barakaat is Barakaat Telecommunications, renowned for its huge telecommunications market share in Somalia. Working throughout Somalia, the network of telecommunications offices was used to foster banking activity.[52]

By controlling communications throughout Somalia, Barakaat could ensure that terrorists received a means to communicate with each other, via the Internet or over secure telephones. Furthermore, since Somalia lacks any official currency, Barakaat Telecommunications served to disperse funds around the world – usually through banks in the Gulf States. According to a United States Institute of Peace (USIP) report from October 1998, the banking division of Barakaat Telecommunications handled about U.S. $500,000 a month in transfers.[53]

Early in 2001, Barakaat Telecommunications and InterWAVE, a California-based company, formed a synergy whereby InterWAVE was to be "a turnkey supplier of GSM [Global System for Mobile Telecommunications] network equipment and services to expand Barakaat's existing GSM Network."[54] In a press release, InterWAVE and Barakaat Telecommunications celebrated their partnership, with Al Barakaat Vice President and CTO of its Dubai operations Abdullahi Hussein Kahie stating, "Since entering into a strategic relationship with InterWAVE two years ago and deploying an initial network for 10 service areas, InterWAVE has demonstrated that they not only have the robust product necessary for the task, but their product evolution is designed to get a greater number of networks up and running under capital expenditure budget restraints.... InterWAVE's project management and support capabilities have served Barakaat well and under the new political climate, we expect both ourselves and InterWAVE to benefit greatly from an exponential growth in business."[55]

The fact that Barakaat, a business working for al-Qaeda, could embark upon a business relationship with an American company without any governmental agency, let alone the corporation, knowing is testimony enough to the duplicity of terrorists. In this case, terrorists themselves were effectively working within the United States, earning money, and spending that money directly on the September 11 attacks. In terms of terrorist financing, a more frightening

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[52] Alex Bellos. "SOMALI BUSINESS ECHOES THE BOOM OF RIVAL GUNFIRE." The Guardian, London. June 20, 1997

[53] "Removing Barricades in Somalia." http://www.usip.org/pubs/pworks/pwks24/chap2_24.html

[54] "BARAKAAT TELECOMMUNICATIONS SELECTS INTERWAVE FOR NETWORK EXPANSION IN SOMALIA." Press Release. http://www.iwv.com/nt/press/barakaat.html, February 27, 2001

[55] Ibid.

scenario can hardly be imagined. Yet, another equally frightening scenario exists where this corporate example replicates itself under the onus of other terrorist organizations.

b. Hamas Utilization of Corporate Funding

1. InfoCom Corporation

On September 5, 2001, agents from the Joint Terrorism Task Force operating out of Dallas, Texas, instituted a search warrant against InfoCom Corporation, an Internet service provider in Richardson, Texas, for its ties to the Hamas terrorist organization. The Office of Foreign Assets Control (OFAC) notified InfoCom that two of its bank accounts, totaling $70,000, had been frozen due to a lump-sum investment of $250,000 provided to InfoCom in 1993 by Nadia Elashi Marzook, the wife of Hamas leader Mousa Abu Marzook who is named by OFAC as a specially-designated terrorist for his leadership role in the Hamas terrorist organization.[56] As a by-product of the search instituted against InfoCom, the Bureau of Export Administration had suspended InfoCom's export privileges based on suspicions that InfoCom had violated U.S. export control laws by making shipments to Libya and Iran, two states listed as state sponsors of terrorism to which any export shipments are prohibited under U.S. law.[57]

At the time of the search, subpoenas were served on two of InfoCom's clients, the Islamic Association for Palestine (IAP) and the Holy Land Foundation for Relief and Development (HLFRD). As previously discussed, HLFRD's assets were frozen by executive order on December 4, 2001, as a primary fund-raising entity for the Hamas terrorist organization. Furthermore, an INS document issued in August 2001 referred to IAP as "an organization which advocates the spreading of propaganda supporting HAMAS."[58]

2. Quranic Literacy Institute

In June 1998, the United States Government instituted a civil forfeiture action against the assets of the Quranic Literacy Institute (QLI), a corporation based in Chicago, Illinois, and Mohammad Salah (who will be discussed later). The basis for this civil forfeiture, an action typically reserved for drug-smuggling and dealing operations, arose as a result of a federal investigation of transfers of money by both QLI and Salah in which the FBI concluded "there is probable cause to believe that some of these transfers and transmissions have been of money intended for use in support of domestic and international terrorist activities.... [T]he illegal transfers have supported specific terrorist activities involving the extortion, kidnaping [sic] and murder of the citizens and government of the State of Israel...."[59] The focus here is the use of QLI as a corporate entity to launder funds for the Hamas terrorist organization. The

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[56] Steve McGonigle, "Local Firm's Accounts Frozen: Investment by wife of Hamas leader is behind decision, lawyer says," Dallas Morning News, September 26, 2001.

[57] Steve McGonigle, "Firm's export license lifted; Company investigated by terrorism task force predicts exoneration," Dallas Morning News, September 8, 2001.

[58] In the matter of Hasan Faisal Yousef Sabri, Notice of Revocation of petition for Amerasian, Widow, or Special Immigrant (Form I-360), Attachment.

[59] United States v. One 1997 E135 Ford Van, United States District Court for the Northern District of Illinois – Eastern Division, Case No. 98C 3548, Affidavit of FBI Special Agent Robert Wright, pp. 1-2.

interrelationship between QLI and Salah, who was arrested and served five years in prison in Israel for providing funds and instructions to Hamas military leaders in the West Bank and Gaza Strip, provides another example of how terrorist organizations have succeeded in providing funding from within the United States.

Bank records show that QLI President, Ahmad Zaki Hammad, gave Salah three checks for $6,000 each on three consecutive days in October, 1991. The checks were not drawn from QLI bank accounts, but rather came from Hammad's personal account.

On June 18, 1991, bank records show Salah received $40,500 in the form of five separate cashier's checks. The checks were obtained by Linda Abusharif, the sister of QLI treasurer Abraham Abusharif.

QLI's relationship with Salah helped him obtain a mortgage to purchase his house in Bridgeview, Illinois. QLI vouched to the lending bank that Salah was an employee of the organization, earning $36,000 a year. The FBI investigation found that Salah never was an employee of QLI as he and the organization claimed.

FBI investigators found evidence of a land deal conducted by QLI with the backing of a Saudi named Yassin Kadi whose assets have been frozen by President Bush since September 11, 2001, for his role in financing a number of al-Qaeda ventures. The FBI affidavit filed in conjunction with the civil forfeiture action stated that the intent of the deal was to raise money for Salah and others to distribute to Hamas. In short, the deal involved QLI using Kadi's money ($820,000 wired from Switzerland) to purchase a tract of land in Illinois with a company called "Golden Marble," run by Dr. Tamer Al-Rafai, a doctor and businessman. The idea apparently was to generate income by renting out the property, then sell it when a large infusion of cash was needed.

Though this case continues to be litigated in Illinois, it shows how federal law enforcement authorities have observed other means of fund-raising for terrorist causes.

c. Hizballah Money Laundering

Terrorism fund-raising and support has also been propagated under standard money laundering principles. Though this money laundering was not conducted under the auspices of corporate activities, the Lebanese Hizballah has managed to find support within the United States from individuals who are willing to supply to them technologically-advanced equipment that they could not otherwise procure. Multiple cases are currently being prosecuted in the United States; however, a singular snapshot is provided here to show how these activities were financed.

On July 21, 2000, agents from the Federal Bureau of Investigation (FBI) in Charlotte, North Carolina, arrested eleven individuals on charges of smuggling contraband cigarettes to Michigan from North Carolina and money-laundering. In a superseding indictment filed in the United States District Court for the Eastern District of North Carolina on March 28, 2001, four individuals were charged with providing "material support or resources to a foreign terrorist organization" in violation of 18 U.S.C. § 2339B. Specifically the individuals were charged with

providing "currency, financial services, training, false documentation and identification, communications equipment, explosives, and other physical assets to Hizballah, in order to facilitate its violent attacks."[60] According to the indictment, the members of the cell planned to acquire such items as night vision devices, global positioning systems, mine and metal detection equipment, stun guns, nitrogen cutters, laser range finders, and camera equipment.[61]

The money-laundering scheme alleged by the Government was simple: the defendants would buy large amounts of cigarettes in the State of North Carolina where the price of cigarettes was extremely low. Then, they would transport these cigarettes to Michigan where the price of cigarettes was significantly higher. The Government alleged that the proceeds of the sale of the cigarettes in Michigan was used to finance the purchase of the above-mentioned items for the Hizballah terrorist organization.

In addition to the funds raised from the cigarette sales, these individuals also engaged in credit card fraud to facilitate their purchases. Five individuals were charged with obtaining a false drivers license which was used to submit fraudulent credit card applications. One individual used various aliases to obtain additional fraudulent credit cards. Said Mohamad Harb, also one of these five individuals, bribed an employee of First Union National Bank to reactivate a closed account of an individual who had left the U.S. to execute a check fraud scheme.

These examples illustrate how individuals have managed to exploit lax regulations pertaining to the issuance of identification in order to engage in credit card fraud and money laundering to finance and equip terrorist organizations abroad.

III. Couriers and Financial Institutions

In addition to the use of charities and for-profit corporate entities and ventures, terrorism fund-raising has also incorporated the use of banking and other financial institutions in addition to individual courier arrangements and the concept of hawala.

a. Al-Qaeda's Hawala transaction system

For terrorists, keeping their money trail as hidden as possible engenders a constant flow of monetary resources. As such, financial transactions, one of the most heavily documented activities in the United States, are a burden for terrorists trying to maintain anonymity. To overcome this obstacle, al-Qaeda members and other terrorists have relied upon the Hawala banking system.

A Hawala transaction involves the paperless movement of money, whereby one individual sends money to a target individual through a Hawala dealer. The Hawala dealer communicates with another Hawala dealer near the target individual and has that dealer give the money to the target individual. In the case of a Hawala, money is not sent or wired. Therefore,

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[60] United States v. Mohamad Youssef Hammoud et al., No. 00 CR 147 (W.D. N.C. filed July 20, 2000, amended March 28, 2001) Superseding Bill of Indictment, ¶ 3.

[61] United States v. Hammoud, W.D. N.C., No. 00CR147, supra. at n. 4, Superseding Bill of Indictment (filed March 28, 2001), at 42-43.

records of the transaction are kept to a minimum, and, if records are kept, they are often unclear since there is no standard for record-keeping of these transactions. More importantly, these transactions can occur at any time of the day or night, providing for the rapid transfer of money. All of these attributes make Hawala banking an asset to terrorists wishing to transfer money to each other.

Al Barakaat, which as described earlier had its assets frozen and was designated a SDGT by the U.S. government, functioned as a Hawala, based out of Dubai, United Arab Emirates. Al Barakaat had branches all over the world in 40 countries, including multiple offices in the United States. The Al Barakaat conglomerate extended to over 187 offices around the world, with 60 of those being located in Somalia.[62] Al Barakaat was run by Ahmed Nur Ali Jim'Ale, reputed to have extensive ties to Osama Bin Laden by the U.S. government.

Al Barakaat's extensive network facilitated the clandestine transfer of money with ease and rapidity. Such a tangled network creates huge obstacles in following the money flow between terrorists and the speed at which the money travels makes finding where the terrorists' finances are at any given moment a Herculean task.

b. Bank al-Taqwa

According to President Bush, al-Taqwa is "an association of offshore banks and financial management firms that have helped al-Qaeda shift money around the world." Al-Taqwa's connections to al-Qaeda led the Bush administration to freeze al-Taqwa's assets on November 7, 2001. During this announcement, President Bush also stated that al-Taqwa skims money from every transaction for the benefit of terrorist organizations and enables the proceeds of crime in one country to be transferred to pay for terrorist acts in another.[63]

Al-Taqwa was founded by the Muslim Brotherhood in 1988 in the Bahamas and later in 1991 in Algeria, as the beginning of "establishing a world bank for fundamentalists" aimed to compete with Western financial institutions.[64] Al-Taqwa reportedly has other branches in Liechtenstein, Italy, Malta, and Panama with its headquarters in Switzerland. As a world bank for fundamentalists, al-Taqwa was open to money laundering with a number of terrorist organizations, most notably al-Qaeda and, in the past, Hamas.

Al-Taqwa enabled al-Qaeda's financial network to obscure its paper trail by transferring money from one al-Taqwa branch to another. French Intelligence officials claim that by 1999, the bank was channeling funds for Osama Bin Laden.[65] A Swiss investigation that started in 2000 revealed that al-Taqwa transferred funds for Bin Laden from Kuwait and the United Arab Emirates to al-Taqwa's affiliates in Malta and then on to Switzerland and the Bahamas.[66] This deceptive method of money laundering allows the source of al-Qaeda funds an additional layer

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[62] "Shutting Down the Terrorist Financial Network." U.S. Treasury Department Fact Sheet. November 7, 2001.
[63] Bush, George W. President of the United States. "George W. Bush Delivers Remarks at the Treasury Department's Financial Crimes Enforcement Network (FINCEN)." FDCH Political Transcripts. November 7, 2001.
[64] Bodansky, Yossef. "Iran's Pincer Movement Gives it a Strong Say in the Gulf and Red Sea." Defense & Foreign Affairs' Strategic Policy. March, 1992.
[65] "Terror Cash Probe." The Scotsman Publications. September 17, 2001.
[66] "Money Laundering Probe to Look at Possible Bin Laden Link." Agence France Presse. September 23, 2001.

of secrecy. In 2001, the Italian branch of al-Taqwa also came under investigation by authorities as a channeling house for Bin Laden's funds.[67]

One reason for al-Taqwa's success in laundering terrorist money is its organization as an anomalous network of loosely connected financial institutions. The Swiss branch of Al-Taqwa Management changed its name in February 2001 to "Nada Management Organization," on the advice of Swiss banking authorities.[68] Through this name change, the Swiss branch avoided any confusion with its parent group, "Taqwa," which is located in Panama.[69] This allowed al-Taqwa to further obscure the connections between its branches. In some countries, al-Taqwa has exploited organizational structure loopholes to avoid money-laundering crimes. In Switzerland, the Swiss Federal Banking Commission certified that the al-Taqwa headquarters in Geneva is neither a bank nor a financial intermediary and, as such, is not subject to the country's money laundering control regulations.[70]

Not surprisingly, al-Taqwa's support of terrorism goes beyond financial transactions. Ahmed Idris Nasreddin, a founder and director of al-Taqwa, personally financed al-Qaeda by utilizing the tax-exempt advantages of a charity. Nasreddin financially supported the Islamic Cultural Center of Milan,[71] which the U.S. Treasury press release coinciding with President Bush's Executive Order freezing terrorists' assets on September 24, 2001, described as "the main al-Qaeda station house in Europe" that "used to facilitate the movement of weapons, men and money across the world." P.F. Barchi, Nasreddin's lawyer, stated that Nasreddin made "charity" donations to the Islamic Cultural Center of Milan that paid for rent, electricity, heating and cleaning bills.[72]

Dr. Yusuf Abdullah Al-Qaradawi is on al-Taqwa's Shari'ah Board and one of Taqwa's largest shareholders as of December 31, 1999, with over 5,000 shares. Al-Qaradawi resides in Qatar and is one of the most popular clerics in the Muslim Brotherhood movement. Statements by him in the past and present indicate his affinity toward the terrorist activities of such groups as Hamas, Islamic Jihad and others and his justification of these activities as integral components of the Islamic way of life. In an interview that appeared in the September 1999 edition of the *Palestine Times* with Qaradawi, he suggests that if one cannot actively participate in the armed struggle, then he or she should provide financial support such that the Mujahideen can fight on behalf of all Muslims.

Qaradawi blesses, "the martyrdom operations in which a given Muslim fighter turns himself or herself into a human bomb that casts terror in the hearts of the enemy.... If we can't carry out acts of Jihad ourselves, we at least should support and prop up the Mujahideen financially and morally so that they will be steadfast until God's victory."[73]

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[67] "Nerves on a Knife-edge." Sunday Times (London). September 23, 2001.
[68] "Bank with Alleged Bin Laden Links Never Existed." Deutsche Presse-Agentur. September 20, 2001.
[69] "Swiss Banking Officials: 'No Evidence' bin-Ladin Funds Handled by Taqwa Group." Paris AFP. September 19, 2001.
[70] "Switzerland Confirms Role in US Anti-Terror Probe." BBC Worldwide Monitoring. September 26, 2001.
[71] "Investigation Into US Terrorist Attacks Uncovers New Swiss Connections." *Le Temps*. November 22, 2001.
[72] Hosenball, Mark. McGinn, Daniel. "Periscope." *Newsweek*. November 12, 2001.
[73] "Interview Sheikh Yousuf al-Qaradawi: Hamas and the Islamic Jihad represent the glorious face of the Islamic Umma." *Palestine Times*. September 1999.

Qaradawi has also called for an "electronic jihad" and, just a few weeks before the attacks on September 11, he published a fatwa on his website, qaradawi.net, in which he praised suicide attacks, calling them "the highest form of jihad."

c. Hamas' Al-Aqsa Bank, Beit al-Mal, and Joint Ventures with Citibank

The Al-Aqsa Bank and Beit al-Mal are both examples of terrorist organizations using financial institutions to launder money, and of a funding front integrating a legitimate business into its network. After $30 million disappeared from its accounts with the designated terrorist group al-Taqwa Bank, the "world bank for fundamentalists," Hamas established Al-Aqsa Islamic Bank in 1997.[74]

Mohammed Sarsour, a U.S. citizen and former Vice-President of Bir Zeit University, is both Deputy General of Al-Aqsa Islamic Bank and General Manager of Beit al-Mal Holdings.[75] Beit al-Mal Holdings is part owner of Al-Aqsa Islamic Bank, with a $4,000,000 capital investment.[76] Both are part owners of Sinokrot Global Group,[77] founded by mutual board member Mazen Sinokrot. Essentially, these three financial groups – Beit al-Mal, Al-Aqsa, and Sinokrot Global – share founders, board members, and funds, and cooperatively act as a buffer between Hamas and its donors.

However, due to their money laundering operations, Israel banned both Beit al-Mal's and Al-Aqsa's operations.[78] The United States, also, has frozen both companies' assets. President Bush referred to banning the banks as "freezing the assets of Hamas."[79]

In order to bypass Israeli restrictions and make its funds accessible to Hamas operatives in Israel and the territories, Al-Aqsa embarked on joint projects with Citigroup, intertwining itself with Citibank's Israel division.[80] Soon, al-Aqsa and Citibank shared a single database for Israel. Money deposited into Al-Aqsa accounts in Europe or other parts of the Middle East became accessible from Israel through Citibank chapters.

When Citibank was opening an office in Tel Aviv in January 2001, Israeli authorities formally questioned its ties to Al-Aqsa, prompting Citigroup to request advice from the U.S. Treasury Department.[81] Citigroup has not released any information on the Treasury Department's response, but has since severed its ties to Al-Aqsa. Israeli counterterrorism authorities estimate that over $1,000,000 has been deposited into al-Aqsa accounts for Hamas

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[74] "Iran's Pincer Movement Gives it a Strong Say in the Gulf and Red Sea." Defense & Foreign Affairs' Strategic Policy. March, 1992.
[75] The Palestinian Businessmen Association – Jerusalem. Http://www.pba-palestine.org/general/memers/members2.htm AND "Palestine: Ambitious Investors get a Rude Awakening." Global Information Network. May 16, 1997
[76] Al-Ayyam. July 28, 1999.
[77] Sinokrot Global Group Affiliations & Memberships. Http://www.sinokrot.com/memberships.html. 2001.
[78] "Court Asks State Why it Took $1 Million of HAMAS Cash." Ha'aretz. September 15, 2000.
[79] Ibid.
[80] "Citibank Weighs Ending Ties with an Arab Bank." New York Times. January 24, 2001.
[81] Ibid.

since its affiliation with Citibank.[82] At least some of this money reached Hamas through Citibank.[83]

d. Hamas' Use of Couriers

Similar to the hawala banking system described above, the Hamas terrorist organization has utilized a system of money couriers to transport funds from the United States to Hamas military leaders in the West Bank and Gaza Strip. The most famous example of this type of activity was the arrest in Israel of Mohammad Salah, a Chicago resident, for carrying funds from Hamas leader Mousa Abu Marzook to Hamas military leaders in January 1993. Released from Israeli prison in 1997, Salah returned to Chicago, and, in June 1998, the U.S. Government instituted a civil forfeiture action against his assets based on his alleged involvement in money laundering for terrorism. In the FBI affidavit supporting the civil forfeiture, FBI Special Agent Robert Wright detailed cash transfers from Salah to Hamas military leaders that were offset by complementary deposits by Hamas leader Marzook into Salah's U.S. bank account.

In addition to Salah, a Milwaukee family has also been implicated in carrying money from the United States to Hamas leaders in Israel and the Occupied Territories. According to the FBI report detailing the activities of the Holy Land Foundation for Relief and Development (HLFRD), the following was written regarding the Sarsour family:

> **Jamil Sarsour confession:** On October 23, 1998, Sarsour was arrested by the [Government of Israel] for his involvement with the HAMAS terrorist organization, specifically, for providing financial and other assistance to HAMAS fugitive and military activist, Adel Awadallah. At the time of his arrest, Sarsour was carrying $66,530.00, a personal telephone book and two American passports. Sarsour was interviewed and provided information concerning his and his brother, Salah's activities in support of HAMAS over the last several years.
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> During the course of his interview, Sarsour described his brother Salah Sarsour's involvement with HAMAS and fund-raising activities by the [Holy Land Foundation] ... on behalf of HAMAS. Sarsour stated that ... his brothers Salah and Imad are involved in raising money in the name of the [Holy Land Foundation] that is actually for HAMAS.

Sarsour's family name was mentioned in statements by Mohammed Salah after his arrest and conviction in Israel. In his interrogation, Salah stated that the Sarsour family provided a means for sending money to Hamas activists in the West Bank and Gaza. According to a translation of his statements, Salah stated, "The Sarsour family is famous in America." Furthermore, Mohammad Sarsour, another member of the family, is the Deputy General of Al-Aqsa Islamic Bank and General Manager of Beit al-Mal Holdings, two organizations mentioned above whose assets have been ordered frozen by President Bush for their support of the Hamas terrorist organization.

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[82] "Citibank Believed to Be Fund Conduit for Islamic group." Ha'aretz. January 25, 2001.
[83] Ibid.

IV. Terrorism Fundraising on the Internet

Another developing area where terrorists have found success in their fundraising efforts is through the medium of the Internet. Contrary to the popular belief that terrorist organizations are comprised of unsophisticated ruffians, the use of the Internet as a fundraising tool is indicative of the savvy of these organizations and their technological capabilities.

a. Al-Rashid Trust

On September 24, 2001, President Bush signed an executive order freezing the assets of the Pakistani-based Al-Rashid Trust. On October 31, 2001, Attorney General John Ashcroft requested that the State Department designate Al-Rashid and several other groups named in the executive order as "foreign terrorist organizations." Originally founded as a genuine charity in the 1980s, Al-Rashid Trust was co-opted by radical Islamists to channel funds to the Afghan mujahideen. When the Taliban took control of Afghanistan, Al-Rashid became the unofficial donor-line to aid Mullah Mohammed Omar, the Taliban's leader. In 1999, one of Al-Rashid's websites made an ominous prediction:

> "With the imposition of American sanctions upon Afghanistan, an undeclared cold was has begun between [the infidels] and Islam. In the near future conditions will deteriorate further for that Islamic country because America in its frustration will resort to further pressure-tactics and machinations, and if the proud Muslims of Afghanistan continue their firm stand (as it is hoped they will) then in all probability a fierce war will break out. In such conditions honour and prudence demand that the Muslims make timely preparations."[84]

Despite the harshness of its anti-American rhetoric, Al-Rashid has until recently been able to openly advertise its presence on the Internet and solicit funds from website visitors. On the former website of "Voice of the Taliban" (http://www.dharb-i-mumin.com), guests were greeted with a sleek pop-up appeal to donate to Al-Rashid. The appeal was directed particularly at Taliban supporters in Great Britain and the U.S., listing two wire account numbers in Pakistan – one for dollars and one for pounds-sterling. Visitors were urged to "help your Afghan brothers whole-heartedly." Like many of these radical fundraising messages, this website was being hosted on a commercial Internet provider that is, in fact, based in the United States.

b. Global Jihad Fund (GJF)

Following the U.S. missile attacks against Afghanistan and the Sudan in August 1998, a British Muslim named Mohammed Sohail announced on Internet public newsgroups that "the global alliance of democracy, sodomy and international-law (unholy trinity) has attacked the bases of Sheikh Mujahid Osama bin Laden... we Muslims must support the Sheikh against the crusader-zionist world government (new world whoreder)." Sohail finished his message by quoting the Prophet Muhammed: "Perform jihad against the disbelievers, with your wealth, yourselves and your tongues."

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[84] http://www.ummah.net.pk/dharb/services.htm

After being confronted by reporters for the British Sunday Telegraph about his statements, Sohail admitted being connected with a London-based organization known as the "Global Jihad Fund." He explained: "I work as a volunteer helping with things such as fundraising and recruitment for organizations involved in Jihad." He then went further and affirmed, "I work for two people, really, Mr. Massari and Osama Bin Laden."[85]

Visitors to the Global Jihad Fund (GJF) website[86] are shown a monograph of several flags, including those of the U.S., U.K., France, and Israel. Superimposed over this image is an Arabic phrase, commanding faithful Muslims to "kill them all until there will be no more struggle and the word of Allah will be the only one." The site continues by explaining, "the main aim... of Global Jihad Fund is to facilitate the Growth of various Jihad Movements around the World by supplying them with sufficient Funds to purchase Weapons and train their Individuals." In August 1998, Mohammed Sohail confirmed in another Internet newsgroup posting that "GJF supports Sheikh Mujahid Osama bin Laden."

On the GJF website, there are a number of articles dealing with the subject of jihad. Among the most shocking is an alleged interview with a Pakistani child who claimed to have been to Afghanistan on several occasions "to wage jihad." In addition to expressing his enjoyment at helping to kill the enemy, the young man explained that his future goal was to give the United States "a good beating."

The Global Jihad Fund maintained a relatively sophisticated fundraising network in London for the purpose of aiding international Islamic "holy warriors" in such places as Bosnia, Afghanistan, Kashmir, Kosovo, and Chechnya. The group encouraged Muslims outside of London to "Start a Jihad Support Network in your city... don't be afraid of [the tyranny of the infidels]." Its website still offers "jihad military training" in several undisclosed locations. The Sunday Telegraph investigation also revealed that, as a result, "dozens of volunteers are being drilled in the use of guns and explosives," allegedly "to prepare them for the military wing of [al-Qaeda]."[87] When e-mailed in early 2000, the coordinators of the military training confirmed that, indeed, they were recruiting international volunteers, including from the United States.

In fact, even U.S.-based Islamic radicals have established websites to support the jihadist network of Osama Bin Laden. One Muslim-American claiming to be from Las Cruces, New Mexico established "The Road to Jihad" website.[88] For almost two years prior to the events of September 11, the introductory page to the website featured a large graphic of the New York city skyline, with the American and Israeli flags burning above it. The site went on to offer audio and video of Osama Bin Laden and other famous Arab-Afghans, bank account numbers for donations to the Taliban and Laskhar-e-Taiba, and pages of practical and ideological advice for budding jihadists. On August 22, 2001, the author of jihadroad.com wrote in an e-mail that he

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[85] Hastings, Chris and Jessica Berry. "Muslim militia training in Britain." The Ottawa Citizen. November 7, 1999. Page A6.
[86] http://www.ummah.net/jihad, http://www.ummah.net.pk/jihad
[87] Hastings, Chris and Jessica Berry. "Muslim militia training in Britain." The Ottawa Citizen. November 7, 1999. Page A6.
[88] http://www.jihadroad.com, http://www.jihadpath.com, http://members.nbci.com/_XMCM/jihadroad/index.html

had just returned from Afghanistan where he had sought "training and to perform jihad." He reported that the Taliban were stockpiling large numbers of "brand new weapons (heavey[sic], med, and light) and be used only in the jihad to open palestine." When asked about Osama Bin Laden, he explained:

"I saw 100s of youth getting harsh training in remote camps all have one in mind to open land [and] liberate palestine... Shaikh osama is the most humble kind sincere faithful simple hundsom[sic] person u can ever meet... I advise u to migrate there and join the state."[89]

Though "The Road to Jihad" is no longer online, there is no indication that any official action has been taken against its former Webmaster.

c. Hamas' 101 Days Campaign

In the 101 Days charity campaign, the terrorist movement Hamas has managed to combine both the requirements of political propaganda and the endeavors of terrorism financing. Launched and advertised through the official Hamas website (http://www.palestine-info.net), 101 Days unites the resources and efforts of a number of legal and illegal Islamic charities. The purported goal is to assist "our Palestinian brothers and sisters in support of their steadfastness" against "the illegitimate occupation of Palestine." Yet, this charitable fundraising campaign is an excellent case-in-point of how terrorist movements use the internet and modern technologies to raise money and recruit supporters.

The 101 Days logo is featured by the Hamas official website in Arabic. If an Internet viewer clicks on it, the logo transports him or her to the comprehensive 101 Days Campaign site, run by the United Kingdom-based charity Interpal, or the Palestinian Relief and Development Fund.[90] According to both the Israeli government and FBI reports, Interpal belongs to the Hamas organization. Following the September 11 attacks and the U.S.-launched war on terrorism, the 101 Days website was updated to reflect the new political developments. When an Internet viewer decides to donate on-line and goes to the United States section of the 101 Days website, the names of both the Holy Land Foundation for Relief and Development (HLFRD) and the Global Relief Foundation (GRF) appear. Yet, these charities are not listed among the official organizations participating in the fundraising effort. In December 2001, the Bush administration froze the assets of both of these organizations. The Internet site for the 101 Days campaign thus provides an ingenuous way to both unite the efforts of various charity organizations and to dissemble their direct participation.

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[89] E-mail from jihad goto (go2jihad@yahoo.com). August 22, 2001.
[90] The listed website address is www.interpal.org/web/ donation.htm.

V. A Case Study: The Embassy Bombing

In a presage of the September 11 attacks, the 1998 U.S. Embassy bombings in Nairobi, Kenya, and Dar Es Salaam, Tanzania, exemplified al-Qaeda's efficient and simultaneous use of corporations, charities, and financial systems to cause mass destruction to both people and property. In a multiyear project, al-Qaeda members created a profitable fishing company, established a working charity and commandeered another, and disseminated funding to the terrorists through a Hawala bank. Most of these organizations were fully operational, and all remained undetected, while providing material support for the terrorists. For the terrorists, the fishing company provided money to live on, the charities supplied weapons and explosives, and the Hawala bank injected funding from al-Qaeda members outside the operation. In an ironic harmony, the organizations aided the terrorists with all the support they needed until havoc ensued on August 7, 1998, when two embassies were destroyed and 224 people were killed.

a. The use of corporations

1. Al-Qaeda fishing company

Another convicted conspirator in the embassy bombing attack, Mohammed Sadiq Odeh, established a fishing business in Mombassa, Kenya. Though Odeh claims to be merely a commercial entrepreneur, the facts speak otherwise. Kenyan fishing inspector Kibarua Mjitta, a government witness in the recent Embassy Bombing trial in New York, testified that Odeh's business activities were quite suspicious-- he typically unloaded his catch at night, after inspectors had already gone home: "The department was missing information, statistics from Mr. Odeh."[91] Odeh refused to hire any locals to help him, bringing in any necessary manpower exclusively from the al-Qaeda cell in Nairobi.

In fact, Odeh was using his business enterprise as fronts for al-Qaeda activities and means to provide the cash for terrorist operations. Odeh used the fishing company's boat to flee Nairobi the night before the bombings. FBI Agent Abigail Perkins, testifying based on interviews she had with Khalfan Khamis Mohamed, convicted and sentenced to life in jail for his role in the bombing, described another purpose for which Odeh's fishing boat was utilized:

> *Q. And did Khalfan Khamis Mohamed indicate to you if the boat was used for any purpose other than fishing?*
>
> A. He did.
>
> *Q. What was that?*
>
> A. He said it was also used for jihad.[92]

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[91] *United States of America v. Usama Bin Laden et al.* February 27, 2001. *Page 1614.*
[92] *United States of America v. Usama Bin Laden et al.* March 19, 2001. *Page 2812*

FBI Agent John Michael Anticev, in an exchange with Odeh's attorney Anthony Ricco, affirmed based on interviews he had with Odeh that Abu Hafs, the military commander of al-Qaeda recently killed in Afghanistan, gave the boat to Odeh:

Q. First he told you that there was a fishing business.

A. Yes.

Q. And the fishing business came from a boat that he got from Abu Hafs, right?

A. Yes.

Q. And the boat was from Al Qaeda. Right?

A. Yes.

Q. And he said that the boat provided income for other members of Al Qaeda who were in the area.[93]

This independent business structure is a particularly troubling development because it heralds the likelihood of terrorist cells operating independently from any foreign financial benefactor, raising the lionshare of their assets from otherwise legitimate, non-descript commercial entities.

2. Anhar Trading and Ties to the United States

Osama Bin Laden's former personal secretary, Wadih El-Hage, was a key figure in the 1998 terrorist attack. Despite being scrutinized by U.S. intelligence, El-Hage used his American passport to guarantee freedom of movement. He traveled across Africa and Europe to search for foreign business partners to team up with al-Qaeda front companies based in Kenya, Sudan, and elsewhere. He engaged in enterprises as diverse as leather, gemstones, and even ostriches, channeling profits from these ventures through a variety of international financial institutions, including several Cypriot branches of large U.S. banks. When FBI agents searched El-Hage's home, they found business cards for one of El-Hage's dummy corporations, "Anhar Trading." The German address on the card was, in fact, the Hamburg home of key Bin Laden financier Mamoun Darkazanli.

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[93] *United States of America v. Usama Bin Laden et al.* February 28, 2001. *Page 1709*

b. The use of charities

1. Mercy International Relief Agency (MIRA)

Wadih El-Hage was active in another typical al-Qaeda front activity: religious charity groups. The thin veneer of legitimacy associated with these charity groups was critical in preventing detection of the planned terrorist operations. A religious charity to play a major role in the terror attacks in East Africa was Mercy International. Al Qaeda operatives used the offices of Mercy in Nairobi as a critical communications and planning point. Abdullah Mohammed, an alleged Kenya embassy bomber, carried eight boxes of El-Hage's personal effects to Mercy's office. The items, seized later by the FBI, included false documents, letters, faxes, and passports.

Patrick Fitzgerald, Assistant U.S. Attorney General, referring to documents seized at Mercy International's office, affirmed the charity's hidden role as a front for al-Qaeda:

> The enterprise charged in the document is with using nongovernment organizations as a front…It is an office where documents were seized. These documents show that Mercy International, while it does have legitimate charitable purpose, has other purposes that are contrary to that.[94]

Moreover, documents that were seized show clearly the charity's involvement in smuggling weapons into Kenya, as Patrick Fitzgerald indicated:

> Receipt dated July 24, 1998, and on the back it said getting weapons from Somalia.[95]

2. "Help Africa People":

In Kenya, El-Hage registered "Help Africa People," a humanitarian group supposedly aiding indigent Africans with money raised from the U.S. and Germany. In fact, "Help Africa People" did little more than provide jobs and a cover to shield El-Hage and other conspirators from official scrutiny while they plotted to strike against America. Shockingly, registry papers for Help Africa People contained the name Moataz al-Hallak, a U.S.-based Islamic cleric who has already been linked to the purchase of a jet aircraft for use by Bin Laden. Though questioned by law enforcement on several occasions, al-Hallak remains in Maryland free of any prosecution.

c. Moving Money – Dahab Shil

Dahab Shil, a Hawala bank that functions much like Al Barakaat, should have forewarned us of the dangers that became all too apparent on September 11. Based in Somalia,

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[94] *United States of America v. Usama Bin Laden et al.* Mach 20, 2001. *Page 2998*
[95] *United States of America v. Usama Bin Laden et al.* Mach 20, 2001. *Page 2999*

Dahab Shil has at least 87 branches worldwide, including offices in Canada, New Zealand, Australia, with approximately 10 branches in the United States.

Dahab Shil's infrastructure provided unquestioning support for the al-Qaeda member, Mohamed al-Owhali, who was eventually convicted in the bombing of the U.S. Embassies in Africa. Four days after he drove the truck-bomb to the U.S. Embassy in Nairobi, al-Owhali was transferred $1,000 from an al-Qaeda member in Yemen.

VI. Recommendations/Modification of Current System

As investigators and law enforcement personnel attempt to assess the infiltration of terrorist groups and funding within mainstream America, there is a growing understanding that terrorist funding has been distributed through seemingly "legitimate" conduits. A new approach must be taken in order to prevent future funding of such groups. One area that needs to be examined is the IRS 990 Return of Organization Exempt from Income Tax form. These forms do not provide or require enough information from groups requesting 501(c)(3), tax-exempt status. There are certain groups that have made attempts to falsify their intentions in order to gain such status, thus enabling them to function in a "legitimate" manner and at times move money to terrorist groups and affiliates in a seemingly lawful method. In order to better assess the validity of their charitable pursuits, these forms must require more essential information from the submitting organization in order to better determine activities and affiliations of the group, as well as specific details of monetary distributions. Specific examples of indiscretions of such groups will be cited in order to give a better understanding of the manipulation of tax-exempt status.

Necessary Modifications to 990 Forms

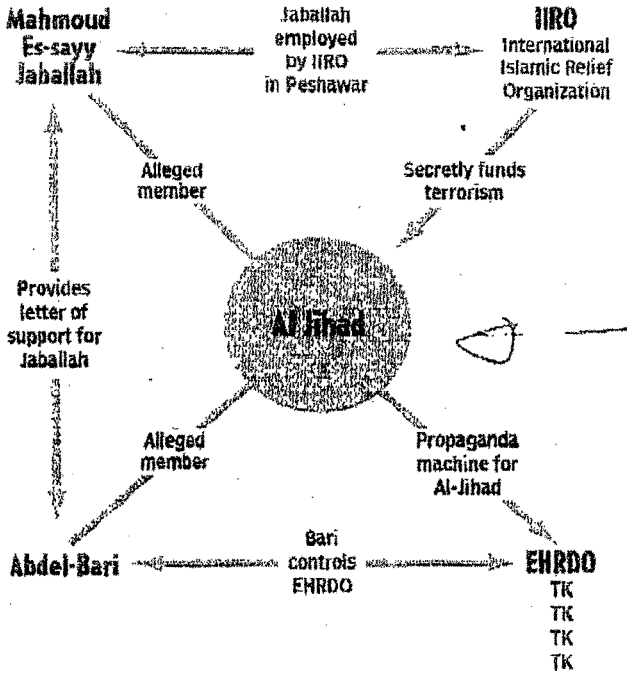
Tighter regulations need to be created in order to gain a better understanding of who the board of directors of these organizations are and what other groups they are affiliated with. A standard needs to be set—much like that in the 2001 US PATRIOT Act—where members of board of directors are mandated to provide legal names with matching address, phone and social security numbers, as well as other boards that they serve upon. These stricter recommendations will help provide authorities with a greater understanding of the board members and their affiliations with other groups. For example, Abdurahman Alamoudi, who has voiced his support of the terrorist groups Hamas and Hizballah, serves on the Board of Directors of Success Foundation, Inc., an offshoot of the International Islamic Relief Organization (IIRO), a Saudi-based charity whose charities have been used to provide money for al-Qaeda and Hamas terrorist activities. Upon further examination of the 2000 Success Foundation, Inc. annual IRS 990 form, one would find that the group provided funding to Human Appeal International, an Islamic charity based overseas. In a report submitted by the FBI on November 5, 2001, Human Appeal International was described as being closely connected to Hamas. In addition, Human Appeal received large amounts of funding from the HLFRD.:

> "FBI investigation has revealed a close relationship among the HLFRDRD, HAMAS and HAI. FBI investigation has determined that the HLFRDRD provides significant funding to HAI, which benefits the HAMAS agenda."

In that same year, Success Foundation also provided funding to Ismail Elbarassee, a key US-based Hamas leader, for Inmate Services. Elbarrasse held a joint bank account with Hamas Political Leader Musa Abu Marzook, prior to Marzook's deportation to Jordan in 1997, from which money was transferred to Muhammad Salah in Chicago. According to the FBI report released on November 5, "SDT Mohammad Salah stated that he was directed by Marzook to receive funds from Elbarasse to be used for funding HAMAS military operations."

Careful inspection of 990 forms will show that there has not been enough evaluation regarding the groups that are said to receive funds from the charitable organization. There is not enough emphasis on trying to determine how funds have been distributed and to whom. For example: in the 1999 990 form for LIFE for Relief and Development, formerly known as International Relief Association, Inc., the group offers vague descriptions of money allocated from its $9,183,936 earnings. Under Part III, Statement of Program Service Accomplishments, they offer vague explanations for money allocations. $443,538 was given for "Disaster relief, food and shelter provided in Turkey and other Asian countries." $7,174,820, a majority of the group's earnings, was spent under the description "Food, shelter and medical supplies were distributed in Iraq and Kurdistan with the help of other NGOs." These are just two examples from one particular group although there are many other organizations that could be used as illustrations of this problem.

Immediately many questions come to mind when examining these descriptions: what particular organizations and individuals received these grants? What was actually provided under the auspices of "disaster relief, food, and shelter?" What NGOs assisted in the distribution of goods? What other countries received assistance? Is there a way to be sure that the funds actually reached said groups? Are these groups considered legitimate organizations by their native lands? In order to assess these issues, organizations need to prove that they are providing funds for legitimate organizations and that these allocations are actually going to the designated recipients.



MAP DRAWN BY TERRY MCKAY, REGIONAL WAR CRIMES UNIT, GREATER TORONTO ENFORCEMENT CENTRE, CITIZENSHIP & IMMIGRATION, FOR HIS REVIEW

Testimony of
Jeffrey P. Neubert
President and CEO
The New York Clearing House Association, L.L.C.
House Financial Services Sub-Committee on Oversight and Investigations
February 12, 2002

Chairwoman Kelly, Ranking Member Gutierrez, and members of the subcommittee, I'm Jeff Neubert, President and CEO of the New York Clearing House, which is owned by eleven large, global banks (Attachment A). For nearly 150 years, the Clearing House has been at the forefront of this country's payment systems. We operate electronic payment systems that process more than eight million transactions a day involving payments of about $1.5 *trillion.* We also handle the clearing and settling of paper checks and operate electronic check presentment services. In addition, the Clearing House has served as a forum for its members to discuss common interests, to identify and prevent potential problems in the financial sector, and to deal with financial and other crises. There has never been a problem more urgent, more global and important than the need to combat international terrorism.

I want to thank you for the opportunity today to tell you about the cooperative effort between the financial services community, financial regulators and law enforcement in response to the terrorist attack of September 11. There have been two principal aspects of this effort. The first was to assure the continued operation of our payments, settlements and clearance systems in the immediate aftermath of the attack. The second was to identify and prevent the funding of terrorists. I will be discussing with you the Intercept Forum, a team of 34 public and private sector organizations, which are working together to find ways to identify, reduce, and ultimately eliminate the flow of funds to and from terrorist organizations.

You'll see that the critical payment systems continued to operate in large part due to the public and private sectors banding together in the hours and days immediately following the attacks. That teamwork and cooperation continue today. Senior officials from both the public and private sectors are working together to find ways to eliminate terrorist access to our financial system. We are committed to do our part. This is a part of a broader campaign. And, much like the military and political effort, the fight on the financial front is a long-term commitment and it will take time to fully accomplish our mission. The foundation, however, is in place.

It is clear we all have a different perspective since September 11th. What has emerged in the aftermath of this tragedy is an unprecedented shared purpose – for those of us in financial services, our unity of purpose with law enforcement and bank regulatory authorities is to prevent

individuals and organizations from taking advantage of our financial system to fund criminal, evil acts of terror.

September 11

The Clearing House was fortunate that our primary processing and back up centers for our systems were not in the immediate disaster area. Our headquarters, however, are just seven blocks from where the World Trade Center stood.

On that fateful Tuesday morning, I arrived at my Broad Street office just before 7 AM to get a jump on the day. I had finished responding to emails, reviewing an alliance proposal, and scanning my schedule of the day's meetings when I heard - and indeed felt - an enormous boom strong enough to rattle the windows in their frames. I didn't know it at the time, but from then until now and for a long time to come, the normal day's schedule would be pre-empted with far more important meetings and unimaginable, urgent new priorities. We didn't have a TV and the Internet was jammed, so I didn't realize what had happened until my wife called with the news. The cause of the explosion wasn't clear at first, but became obvious when, a few minutes later, the second plane hit.

Then came the huge boom. Our lights and monitors flickered. It was raining a fine, gray ash outside. Everything was gray. The people outside were covered with ash and the streets were immediately jammed with traffic in every direction. The next call, which was from one of our operating centers, informed me that the first building had imploded, but that our systems were running normally, and all our employees were OK.

Just when the sun began to filter through the ash, the second tower collapsed. It became black outside like a horrific storm was going on. An endless stream of people was flowing out of every building into the street. I could hear the continuous sirens over the street noise. What was astonishing to me is that within two hours, the traffic and everyone was gone. I kept wondering, where did everybody go?

Payment System Conference Calls

There was not much time for speculating though, as we had a full-blown disaster on our hands. I called Jaime Stewart, First Vice President of the Federal Reserve Bank of New York (the Reserve Bank) and we agreed that the Clearing House would provide a forum with the Reserve Bank and the Depository Trust Clearing Corporation (DTCC) for the banks to come together to get through this crisis.

By 10:30, we'd set up a conference call with our eleven owner banks, the Reserve Bank, DTCC, Securities Industry Association (SIA) and others, to determine where things stood with Fedwire, CHIPS (which clears 95% of the US dollar transactions internationally), EPN (our domestic ACH system), check clearing and Electronic Check Presentment (clears check information electronically with paper to follow the next day).

We continued these calls hourly, with the participants reporting on their situations, scheduling off-line conversations that didn't involve the whole group, and determining the timing of processing events. By mid-afternoon, the calls had many banks participating as well as the Reserve Bank, DTCC, FDIC and the New York State Banking Department. We closed our electronic payment systems at 11:00 Tuesday night, six hours late, but it was an orderly close. In subsequent days, the calls were every 90 minutes, then every 2½ hours. We checked in with each other about how CHIPS was working, how Fedwire was working, how DTCC was operating, how ACH was doing and discussed other relevant payments systems issues.

The answer in nearly every case was – everything is working! The exception, of course, was Electronic Check Presentment, which was halted due to the fact that commercial airlines were grounded and therefore we were unable to transport checks. Where special help was needed to assist one operation or another with customer service or exception processing, it was provided.

By Friday, with the exception of Electronic Check Presentment, everyone was processing normally and we discontinued the calls the following week.

The intense focus and cooperation between the parties on the calls was truly unique. Everyone participated no matter how many other very critical things they had to do. This included, in several cases, moving their operations to back up sites. Some managed their operations from hotel rooms at a conference and we even tracked one banker's progress up the east coast as he called from his car through several states to get back to his office when the planes were grounded. It was a truly dedicated team effort and remarkable.

System Performance

The Clearing House systems operated flawlessly. With CHIPS, our operations were unaffected, but 19 financial institution participants had to relocate. We extended the processing day into four nights, but settlement was completed each night. Payment volume was slightly lower than average. The ACH processing also went smoothly – systems were unaffected and no deadlines were missed. As I said earlier, our Electronic Check Presentment system was shut down, but not because the systems didn't work. The process requires "paper to follow," and with

the air transportation issues, our members choose to stop the electronic process until air service was restored. Our physical check exchange had the greatest impact to its operations. And it provides another great example of cooperation and teamwork. We processed check work for the Federal Reserve Bank of New York and they for us during the days that immediately followed the attack.

A check exchange involves the physical exchange of paper checks. Our check exchange was located at our headquarters in Lower Manhattan. This site was evacuated, but our critical staff remained, literally camping out in the basement with the checks for two days. The Fed really helped us by arranging an armed escort for our checks out of downtown and were further generous by allowing us to use their space in New Jersey to re-establish our exchange. And, when the CEOs of the DTCC and the Clearing House, who had been stationed downtown for several days, begged to know if anyone knew where to get a sandwich, another helpful participant opened their pantry doors at their basement cafeteria. I can tell you first hand, a turkey sandwich never tasted so good.

Intercept Forum

Perhaps because of our traditional role or the more recent success of the payment system conference calls, the Clearing House was called into service again. On October 1, I received a call from a senior executive of one of our owner banks asking if we would convene a forum on an urgent new topic – what financial institutions could do, working with the public sector, to eliminate the flow of funds to terrorists and their organizations.

On October 11, exactly one month after the terrorist attacks, we convened our first Intercept Forum meeting. We had 100% attendance of the most senior representatives from 34 public and private sector organizations. This in itself is a testament to the priority, urgency, and unity of purpose shared at the highest levels of the public and private sectors. Fighting terrorism on the financial front was – and continues to be – the highest priority for everyone involved. A list of participating organizations is included in Attachment B. At this meeting, we agreed on the areas of focus and the mission, which is:

> **"To determine ways to identify and intercept the flow of funds to and from terrorists and their organizations and thereby deter and ultimately eliminate that flow."**

Within two weeks of this initial meeting, on October 23rd, representatives from the organizations met again to validate and refine the areas of focus and to translate the mission into specific tasks.

Most notably, five task groups were formed, each of which is co-led by representatives from the private and public sectors. As a result of intense and lively discussion by public and private experts clearly engaged in the topic, we agreed on five areas of focus and the missions, specific tasks, next steps and potential outcomes for each task group. I have never seen a group of 80 to 100 people so energized, focused and committed to an effort.

One team is "Patterns of Behavior," with the mission to identify patterns of behavior of terrorist funding that will lead to proactive, pre-emptive and preventative measures that will diminish and ultimately eliminate the flow of funds to terrorists.

The "Control List" team's goal is to review and confirm that the existing and new policies, processes and requirements for obtaining and gathering information about suspected terrorists and reporting that information to the appropriate government agencies are in place and working appropriately.

The "Account and Transaction Monitoring" team will develop procedures and policies to identify and monitor transactions and/or account opening activity related to terrorist activity.

The "Global Cooperation and Best Practices" team focuses on the issue beyond our borders. As you know, making changes only in the U.S. will simply drive terrorist financing to other countries. Therefore this team will work globally to remove obstacles to the flow of information and to export "Best Practices" to cooperating countries.

The "Database" team has a mission to develop a highly secure, real-time electronic capability for regulatory and law enforcement agencies to download (send) suspected terrorists/terrorist organizations "identities" to financial institutions seeking account and/or transaction "hits" which in turn would be uploaded (returned) to the respective agencies. It will NOT give law enforcement and/or authorized regulatory agencies access to financial institution records/data or to individual account holders or transaction data.

We met again as a whole forum on December 19th, where each group presented their progress to the original forum from October 11. This meeting again was well attended by the senior representatives, discussion was lively, the feedback constructive, and the work continues.

The Intercept Forum is a great example of the private and public sectors' ability to come together – to meet and discuss and to take a position and move forward. From the very first meeting it was clear that financial institutions, law enforcement organizations and regulatory

agencies respect each other's core competencies. What is different is the willingness to work together, to leverage these competencies in a new way for faster, more lasting results. It's about working together better to achieve our shared goals. It's not about having financial institutions take on the role of law enforcement or vise versa. We are very clear about that, and I think that makes the work focused and productive.

Teamwork between the public and private sectors is required to prevent the use of our financial systems by terrorists. The events of September 11th and the work on the Intercept Forum have demonstrated how, by working together, we can fight – and win – the battle against terrorism.

Attachment A
Clearing House Owners

The New York Clearing House is owned by the U.S. commercial banking affiliates of: ABN AMRO, Bank of America, N.A., The Bank of New York, Bank One, N.A., Citibank, N.A., Deutsche Bank, Wachovia, FleetBoston, HSBC Bank, J.P. Morgan Chase & Co, and Wells Fargo.

Attachment B
Participating Organizations

Financial Institutions
ABN AMRO
Bank of America, N.A.
The Bank of New York
Bank One, N.A.
Citibank, N.A.
Deutsche Bank
FleetBoston
HSBC Bank
J.P. Morgan Chase & Co
Wachovia
Wells Fargo
Goldman Sachs

Associations
American Bankers Association (ABA)
American Counsel of Life Insurers (ACLI)
American Insurance Association (AIA)
New York Clearing House (NYCH)
Securities Industry Association (SIA)

Government Agencies
Department of Justice
Federal Bureau Investigation (FBI)
Federal Deposit Insurance Company (FDIC)
Federal Reserve System, Washington, D.C. (FRB DC)
Federal Reserve Bank of New York (FRBNY)
Financial Crimes Enforcement Network (FinCEN)
New York State Banking Department
Office of Comptroller of the Currency (OCC)
Office of Foreign Assets Control (OFAC)
Office of Thrift Supervision (OTS)
Secret Service
Securities and Exchange Commission (SEC)
U.S. Attorney's Office, Southern District, New York
U.S. Department of the Treasury

Other
Sullivan & Cromwell
Depository Trust & Clearing Corporation (DTCC)
FDC/Western Union

Testimony of John J. Byrne
On Behalf of the American Bankers Association
Before the
Subcommittee on Oversight and Investigations
Of the
Committee on Financial Services
United States House of Representatives

February 12, 2002

Madam Chairman and members of the Committee, I am John J. Byrne, Senior Counsel and Compliance Manager of the American Bankers Association (ABA), Washington, D.C. I am pleased to be here today to present the views of ABA on the important work of the industry to address the changes in our country's money laundering laws since the passage of the USA PATRIOT Act in October 2001. The ABA brings together all categories of banking institutions to best represent the interests of this rapidly changing industry. Its membership – which includes community, regional and money center banks and holding companies, as well as savings associations, trust companies and savings banks – makes ABA the largest bank trade association in the country.

As ABA's Deputy Executive Vice President, Edward Yingling, told the full Financial Services Committee last October:

> . . . the financial community was particularly hard hit by the [9/11] attack. However, if one of the goals of the attack on New York was an attempt to seriously disrupt the banking system, that goal was not met. While there were a few short-term problems caused by the destruction, the banking system continued to run smoothly. Both the banking industry and other financial providers have extensive back-up systems to deal with business disruptions, be they acts of nature or acts of terrorism. With $2 trillion in transactions moving through the banking system each day, protection of computer systems and emergency back-up plans are essential. The Federal Reserve did an outstanding job, working closely with the banking industry, to assure that the necessary liquidity was available to complete financial transactions that were

already in the pipeline and to assure the overall integrity of the payments system. I'm also pleased to say that the confidence of customers in the U.S. banking system held steadfast throughout this period. The banking system continues to operate smoothly, deposits are protected, and customers worldwide have access to their funds.

With respect to the issues of detection and prevention of money laundering and related crimes post 9/11, the banking industry has focused its attention on assisting law enforcement agencies in tracking the money trail of terrorists and those suspected of supporting terrorist activities. The banking industry has been providing information to law enforcement officials that has been instrumental in tracking the activities of the terrorists prior to September 11 and in developing leads on suspects, material witnesses, and others that should be questioned. We have also been diligently responding to the various lists that the government has been distributing to either block or freeze accounts or to notify law enforcement that a particular individual has an account with a specific institution.

Madam Chairman, we pledged in October to "support fully efforts to find and prosecute the perpetrators of these heinous acts and their supporters, and work with Congress and this Committee to enact new tools in the campaign against terrorism." We helped fulfill that pledge with our strong support of the USA PATRIOT Act, and we continue to work closely with the government to ensure that any new tools created are used effectively to achieve our mutual goal. That goal, of course, is to prevent our nation's financial system from being used by terrorists.

In my statement today, I would like to make three key points:

- The banking industry strongly supported Title III of the USA PATRIOT Act. As we enter the regulatory implementation process, it is important that Congressional intent be followed and that the industry continue to work with the appropriate agencies charged with anti-terrorism efforts.

- Now that the USA PATRIOT Act is law and many additional financial services providers are covered, enforcement of the laws must be applied in a consistent manner.

- The ABA has prepared a Resource Guide for our members, addressing the importance of strong and effective account opening procedures. This guide, attached to this testimony for your information, is the product of extensive work and input from both the private and public sectors. As the Treasury Department considers its regulatory obligation to draft a regulation dealing with the verification of identities at the account-opening stage, we believe this guide will be of great assistance.

The USA PATRIOT Act and Its Implementation

As has been often stated, financial institutions are the first line of defense against money launderers – they see criminal activity first and up close. The ABA and the banking industry pledged support for law enforcement and the Administration's efforts, and for enacting and implementing what became the USA PATRIOT Act to fight terrorism. Banks have worked closely with law enforcement agencies to track financial flows of the known terrorists and others who have been detained and questioned. The industry announced full support for the various executive orders but also offered solid suggestions for effectiveness and efficiency, such as our input on the process for sending the so-called "control lists" to designated personnel in each financial institution.

The industry is committed to improving the process going forward. It is also important that the regulations being proposed take into account efficiency and operational difficulties.

A key to the success is a public-private partnership. Fortunately, there has been a long history of this kind of relationship with respect to the fight against money laundering. For example, in 1994, the Treasury began working in partnership with banks and others to establish policies and regulations to prevent and detect money laundering. This partnership approach is illustrated by the work of the Bank Secrecy Act (BSA) Advisory Group, a special panel of experts (authorized by the Annunzio-Wylie Anti-Money Laundering Act of 1992) who offer advice to Treasury on increasing the utility of anti-money laundering programs to law enforcement and eliminating unnecessary or overly costly regulatory measures. The Advisory

Group consists of thirty individuals drawn from the financial community – including bankers, broker-dealers and other non-bank financial institutions – as well as from federal and state regulatory and law enforcement agencies. Chaired by the Treasury Department's Under Secretary for Enforcement, the group has helped to increase the effectiveness of money laundering laws, eliminated some unnecessary reporting requirements, simplified reporting forms, and refined the funds transfer record keeping rules, among other things. This group stands ready to work on the variety of anti-terrorism issues that must be addressed. We urge the Treasury Department to use this group aggressively going forward.

There are numerous provisions in Title III of the USA PATRIOT Act. I would like to direct your attention to a few of the provisions that, we believe, can improve both the industry's and the government's ability to address terrorist activities. Section 314 (Cooperative Effort to Deter Money Laundering) requires the Treasury Department to issue regulations to "encourage further cooperation" among financial institutions, their regulatory authorities and law enforcement authorities through the sharing of information on terrorist and money laundering activities. The ABA has long stressed the need for clarity on what information can be shared to protect our institutions from being used unwittingly by criminals.

The federal agencies have opined on the ability of banks to share fraud related information as long as the fact of a SAR being filed is not disclosed. The industry, however, needs additional guidance, and this regulation has the potential of assisting us in that effort. While we await the Treasury's proposal, the industry remains hopeful that the rule will actually facilitate information and not place unnecessary burdens on the industry. For example, the "notice" requirement (notice to the Treasury that financial institutions are sharing information) has the potential of discouraging the transfer of information if it becomes a major, unnecessary reporting requirement. The ABA believes that Section 314 should permit the filing of SARs as compliant with the notice provision.

Section 352 of the Act requires the Treasury Department to craft regulations for each financial institution to have "anti-money laundering programs." This section is a critical part of the congressional intent of ensuring that all financial institutions participate in the nation's

private sector anti-money laundering effort. It is also important to state that our members are already required to have these programs in place. We have, since 1987, been required to have policies in place that mirror the requirements of Section 352. Therefore, this section should not be used as an opportunity to create additional requirements for our industry. We do not believe that was the Congressional intent.

Section 355 of the Act is another important provision. This section addresses a long-standing industry suggestion for preventing criminal activity by permitting depository institutions to provide information, in a written employment reference, to other institutions concerning the possible involvement in potentially unlawful activity by a current or former employee.

The full Committee correctly pointed out that:

> Occasionally banks develop suspicions that a bank officer or employee has engaged in potentially unlawful activity. These suspicions typically result in the bank filing a SAR. Under present law, however, the ability of banks to share these suspicions in written employment references with other banks when such an officer or employee seeks new employment is unclear.[1]

ABA also raised this issue several times, advocating that:

> In order to protect financial institutions from hiring individuals that have already committed fraud against another institution, we urge the Congress to consider a change that grants liability protection for assisting other institutions. Financial institutions need this liability protection to improve the tools at their disposal for ensuring the safety and soundness of our financial industry.[2]

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[1] Summary of Section 208, House Report To accompany H.R. 3004, Financial Anti-Terrorism Act of 2001, which was ultimately incorporated in the PATRIOT Act as Section 355.
[2] Testimony of the ABA before the House Judiciary Committee, Subcommittee on Crime, on February 10, 2000.

The passage of Section 355 should greatly enhance the industry's ability to protect its institutions and accountholders. In order to encourage banks to use this new authority, we are publishing an article on how to implement this new authority in the March/April edition of ABA Bank Compliance magazine. One of the authors is Robert Serino, the former Deputy Chief Counsel of the Office of the Comptroller of the Currency. As Mr. Serino points out, Section 355 will protect financial institutions "and their employees from liability when they take steps to keep dishonest individuals out of the financial services industry."

Madam Chairwoman, this is an important safety and soundness issue – to combat fraud – but also could prevent the criminals or terrorists from "planting" members of their groups inside financial institutions. We applaud the Congress for passing this provision.

Consistency of Enforcement

Certainly, one of the most dramatic elements of the Act is the coverage of the plethora of financial institution providers outside of traditional banking. Whether it is the reporting of suspicious activities by underground banking systems (Section 359), the filing of SARs by the securities industry (Section 356), or the anti-money laundering program requirements mentioned above (Section 352), there must be consistent enforcement of all requirements under the Act. If education of the new requirements presents a challenge, we urge that the Treasury expand the Bank Secrecy Act Advisory Group to include the appropriate representatives.

The ABA Industry Resource Guide on Identification and Verification of Accountholders

Section 326 of the Act requires the Secretary to issue regulations (with an effective date of October 26, 2002) to establish minimum procedures for financial institutions to use in verifying the identity of a customer during the account opening process. The regulations must take into consideration situations such as the use of mail or the Internet, where the customer is not physically present at the financial institution, as well as the types of accounts and the types of identifying information available.

This section also requires a study, to be submitted within 6 months of October 26, 2001, on determining the most "timely and effective" ways to require foreign nationals to provide identification when opening up an account.

The Section directs that the regulations will, at a minimum, require that all financial institutions:

Implement, and customers (after being given adequate notice) comply with, reasonable procedures for:

(A) Verifying the identity of any person seeking to open an account to the extent reasonable and practicable;

(B) Maintaining records of the information used to verify a person's identity, including name, address, and other identifying information; and

(C) Consulting lists of known or suspected terrorists or terrorist organizations provided to the financial institution by any government agency to determine whether a person seeking to open an account appears on any such list.[3]

For depository institutions, these requirements should not present any major adjustments. Banks have long been required, under the Bank Secrecy Act examination procedures, to have account opening procedures in place.[4] The real impact of this section will be the requirement that ALL financial institutions have account opening verification procedures in place.

The ABA, as part of its overall effort, has been moving to address this issue aggressively, even in advance of its regulatory process. In fact, ABA began a process to address the account opening issue prior to the passage of the Act and the notice of proposed rulemaking on Section 326.

We have learned that the 9/11 terrorists that utilized financial institutions did so by opening up checking accounts with minimal identification and low dollar amounts. In fact, the identification offered were visas, and the potential customers did not possess social security

[3] Section 5318 (l)(2)
[4] Comptroller's Handbook, Bank Secrecy Act/Anti-Money Laundering, December 2000, pp.19-21.

numbers.[5] Section 326, if implemented across all industry lines, will prevent criminals from using financial enterprises following these rules. In addition, once the regulations are in place, we believe that consistent application of these new procedures will also assist in preventing other types of fraud, such as identity theft.

Our guide is simply meant as a resource to institutions looking for examples of how others handle the challenges presented by opening accounts in the 21st Century. Given the wide array of institutions, it is critical that the regulation not become a burdensome recordkeeping and reporting requirement. We hope that this Resource Guide (attached to the testimony) will be the first in a series of private sector initiatives that will assist all of us as we continue to address the menace of terrorism.

Conclusion

The American Bankers Association appreciates the opportunity to testify today. We pledge to work with you, Madam Chairman, this Committee, Congress and the Administration as we continue our efforts to prevent money laundering and to stop the flow of funds that support terrorist activities.

[5] We want to take this opportunity to commend the government for providing feedback to the industry on terrorist activities. For example, FinCEN recently released SAR Bulletin 4 on "Aspects of Financial Transactions Indicative of Terrorist Funding." Updates such as these are critical to our contingency planning.

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TESTIMONY OF
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SELF-HELP CREDIT UNION
AND
BOARD CHAIR OF THE LATINO COMMUNITY CREDIT UNION (LCCU)
ON BEHALF OF
CREDIT UNION NATIONAL ASSOCIATION (CUNA)
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BEFORE THE HOUSE FINANCIAL SERVICES SUBCOMMITTEE ON OVERSIGHT
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"PATRIOT Act Oversight: Investigating Patterns of Terrorist Financing"

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FEBRUARY 12, 2002

Chairwoman Kelly, ranking member Gutierrez, and members of the Subcommittee, thank you for the opportunity to provide comments on the implementation of the USA PATRIOT Act and patterns of terrorist financing. I am John Herrera, Vice President of Self-Help Credit Union and founding member and current Board Chair of the Latino Community Credit Union, with offices in Durham and Charlotte, North Carolina. I appear before you today on behalf of the Credit Union National Association (CUNA) and the World Council of Credit Unions (WOCCU).

I would like to commend Congress for the swift passage of the PATRIOT Act and assure the Subcommittee that credit unions are committed to be a part of the effort to ensure that terrorists and those seeking to abuse our financial markets through money laundering are identified, pursued and punished.

On behalf of the more than 10,300 state and federal credit unions and over 82 million member owners in the United States, I would like to provide you with the following comments. As you may know, credit unions are not-for-profit cooperatively owned financial institutions. Because credit unions are member-owned financial institutions with common bond membership requirements, we are intrinsically motivated to have a reasonable awareness of our membership.

We have before us today conflicting problems: one, we need to ensure that individuals, be they U.S. citizens or foreign nationals, seeking to do harm do not have access to our financial system; and two, the United States, which is facing its highest level of immigration since the Depression era, has a growing population of unbanked individuals. .

There are an estimated 28.4 million foreign-born individuals residing in the United States today, comprising over 12.4 percent of our work force. Nearly half of these immigrants arrived in the U.S in the last decade. This recent influx of immigrants has been identified by Federal Reserve Board Chairman Alan Greenspan as one of the key reasons for the unprecedented period of economic growth and low inflation during the 1990s. As immigrants filled low-paying jobs in the service, agriculture and manufacturing sectors, they helped suppress wage inflation throughout employment ranks.

A case in point is my home state of North Carolina. In the past decade, the Latino population of the state has grown more than 400 percent as immigrant workers helped expand businesses such

as furniture plants and construction. In 1997, officials from Duke University Hospital contacted area Latino leaders, including me, to try to identify why so many members of our community were ending up in the hospital. We realized most of these newcomers were unbanked. Criminals were targeting Latinos for robberies and assaulting them as they left the check cashers on payday. For example, Federico Ñañez was gunned down in front of his apartment and robbed of his week's pay of $500. Francisco managed to escape death, but was left paralyzed in a wheelchair for the rest of his life. Federico and many others victims like him became members of the Latino Community Credit Union. With the support of regulators, local law enforcement officials, banks, other credit unions and the community, we launched the Latino Community Credit Union in June of 2000. Today we have over 4,000 members who have deposited over $2.6 million with us – not just saving money, but saving lives. Ninety percent of our members are immigrants and the vast majority are low-income.

Two-thirds of our members have never had a financial account in their lives – neither here in the U.S. nor in their home countries – and are working long hours at multiple jobs to help support family members abroad. This is not unique to North Carolina. Nationwide, approximately 60 percent of all Latino immigrants do not have access to financial institution services, compared to 10 percent of the total U.S. population that is unbanked.

I believe that ensuring access to financial services for all immigrants and shutting down terrorists are not competing, but rather complimentary, objectives. It is clear that part of the reason so many immigrants remain unbanked is because the nation's financial institutions are unsure if, and how, they can provide service to documented and undocumented immigrants. The lack of certainty in the current regulatory environment results in many banks not welcoming immigrants. I will elaborate by providing two examples.

First, the most common way for financial institutions to authenticate a potential member's identification is with a driver's license. Many immigrants do not have driver's licenses or passports. However, they do have other forms of photo identification issued by their government at their consulates or other offices here in the United States, such as voter registration cards or consulate registry identification cards ("matricula" in Spanish). Airlines, municipalities, social service agencies and the city of Oakland, California, among others, now recognize these items as valid forms of identification. The federal government should establish a clear policy that financial institutions can rely on such identification as well.

Second, when opening an account for someone, our credit union must also consider our obligation to report interest income to the Internal Revenue Service. Usually, financial institutions require a Social Security or Individual Tax Identification Number or ITIN for this purpose. Many immigrants do not have a Social Security number and over 12 million immigrants may not be eligible to obtain one. Since September 11, members of credit unions have begun encountering problems in obtaining individual tax identification numbers so that they can open accounts, earn interest and pay taxes. For example, dozens of our members have reported to us that they feel some IRS staff have been overzealous in questioning them regarding their purpose in obtaining an ITIN and their current employment status. It truly saddens me, Madam Chairwoman and members of the subcommittee, to see so many people trying their hardest to play by the rules we established for them, only to be turned away by our government because of the terrible events of September 11. Terrorists are the exception. The immense majority of immigrants are here for one reason: to work, to prosper, and to live the American dream.

Regarding the PATRIOT Act, credit unions want to work with the Treasury Department and the National Credit Union Administration to support regulations implementing the Act that are consistent with Congressional intent. We note, however, that the Bank Secrecy Act already contains substantial record keeping and reporting requirements for financial institutions.

Also, credit unions and other financial institutions comply with the Office of Foreign Asset Control's (OFAC) requirements to check names of new members against its Specially Designated Names (SDN) and the block country list. We do this on a real-time basis for all our international money transfers – a popular service among our membership. We feel these requirements are prudent even though we are a very small institution with 11 employees and only $10 million in total assets.

We certainly appreciate the importance of meeting our compliance responsibilities, particularly after September 11. However, given these requirements we already face, we believe it is imperative that policymakers do not develop rules that will result in unreasonable obstacles to serving our members. One concern relates to Section 326 of the PATRIOT Act, which requires the Treasury Department to study and report to Congress by April 26 of this year recommendations for "requiring foreign nationals to apply for and obtain before opening an account ...an identification number which would function similarly to a Social Security number or tax identification number." We are also concerned about the provisions in the Act on "establishing a system for domestic financial institutions and agencies to review information maintained by relevant Government agencies for purposes of verifying the identities of foreign national seeking to open accounts." We question how this proposed database of functionally similar numbers to the ITIN will be used, who will have access to it, and for what purposes.

Today, credit unions and banks generally open non-interest bearing accounts for members and then assist them in obtaining Individual Tax Identification Numbers. When members receive the numbers months later we switch over the account to an interest bearing account. For example, many potential members come to us attracted to the low cost money transfer services we offer. If we had to refuse opening a non-interest bearing account pending the tax-id number, that potential member would revert to the world of less secure cash transactions, often becoming victims of crime and predatory lenders. We would lose the trust of the potential member because we would not serve his immediate needs and because we would treat him or her as a suspected terrorist.

Again, we want to work with Treasury and Congress to develop an approach to this issue that will not have a chilling effect on the ability of underserved individuals to use a traditional financial institution. Otherwise, we will undoubtedly lose them as they head back to the usurious practices of money transfer companies, check cashers, and payday lenders.

I would like to briefly call attention to the issue of money transfers, given their importance in immigrant communities and their attention within the PATRIOT Act. The practice of immigrants who send money back home to help their families is not new. For generations and across cultures, a primary motive for immigrants to come to the U.S.A. has been the belief that they could provide for themselves and their families a better life. These individuals provide a constant flow of dollars back to their home countries and have enabled recipients to improve their standard of living, pay for needed health care, start small businesses, further their education and save for the future.

However, the potential impact of these remittance inflows is weakened as a result of the exorbitant fees (5 to 28 percent of the transfer) and poor exchange rates that are offered by the

existing money transfer companies. The Inter-American Development Bank (IDB) estimates that an additional $3 billion per year could be sent to Latin America by immigrants in the U.S. if the cost of transmissions were reasonable. In a forthcoming report on the best practices in the money transmission industry by the IDB, credit unions in the U.S. and abroad are highlighted as needed alternatives to improve the practices of the money transmission industry from a cost and security perspective.

Since 1997, the World Council of Credit Unions (WOCCU) has been working with its members to facilitate remittance transfers among credit unions. In July 1999, the project became formalized and WOCCU's International Remittance Network (IRnet*) service was launched. IRnet has subsequently transferred millions of dollars for low-income immigrants in the U.S.A. to over 40 countries. There are currently 135 credit unions with 500 points of service in 20 states offering the service. Credit union national associations in El Salvador and Guatemala are distributing remittances in these countries, thereby encouraging low-income individuals in developing countries to enter into the financial system and begin saving.

Other money transfer providers often offer poor exchange rates and exorbitant fees. This is not the case with credit unions. IRnet does not charge recipients any fees for picking up the funds and exchange rates are consistently better than the competition. Senders are guaranteed the rate of exchange and informed of the amount of foreign currency or U.S. dollars to be picked up by the recipient prior to making the transfer. For as little as $10, credit unions allow individuals to send as much as $1,000 to Mexico. This service is one of many examples of how credit unions throughout the U.S. are actively reaching the needs of underserved communities.

Our efforts in this area, however, could be significantly enhanced with a policy change. Credit unions, as you know, may only serve individuals who are their members. In an effort to greatly increase outreach to low-income and unbanked individuals such as those in the immigrant community, we propose that credit unions be permitted to provide check cashing and remittance services to non-members, such as those within the field of membership. CUNA agrees with the National Credit Union Administration (NCUA), which recently requested a legislative change in the Federal Credit Union Act of Chairman Oxley. Such a change would provide an excellent opportunity to individuals with a low-cost, viable alternative to predatory and payday lenders.

I also believe there are other changes that the country can and should make in stopping terrorists and those who prey on immigrants and the unbanked. This includes closing the loopholes that are enabling a Montana-based organization to operate offshore entities which are calling themselves credit unions on the Internet but bear little if any resemblance to credit unions. These entities are registered in foreign countries such as Panama, Nevis and the Marshall Islands, where the term "credit union" is not a protected term. In Panama, the Spanish equivalent of credit union, "cooperativa de ahorro y crédito," is a protected term but the English words "credit union" are not. Credit union officials have contacted regulators in these countries and law enforcement agencies in the U.S. to encourage them to take swift action. We also believe that many of the provisions in the PATRIOT Act, as well as increased activities with the OECD's Financial Action Task Force, can move us in the right direction.

To quote James W. Ziglar, the Immigration Commissioner: " the events of September 11 were caused by evil, not by immigration...." There is no question that the root of our particular problem – the unbanked and predatory financial practices on immigrants – lies in current immigration policies. James Ziglar also said that the fundamental reality is that Mexican and Central American workers are willing to risk their lives for the chance to get a job. I urge

Congress to work with the Administration to develop an immigration policy that protects America's self-interest and addresses the issues of temporary workers and the LIFE Act.

In conclusion, many credit unions throughout the country such as LCCU are leading the way in ensuring that immigrants have access to affordable financial services. We want to work with Congress and the Administration to ensure this provision is implemented appropriately without extending the duties of the Immigration and Naturalization Service to financial institutions.

Thank you for this opportunity to comment and I will be glad to answer any questions of the Subcommittee.