DEPARTMENT OF THE TREASURY

TREASURY NEWS

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FACSIMILE COVER SHEET

DATE: 5/20 NO. OF PAGES TO FOLLOW: ______

TO: José Cerda

FAX: ______

FROM: Bob Weaver

COMMENTS: Kelly Talking Points

REMARKS OF RAYMOND W. KELLY
UNDER SECRETARY (ENFORCEMENT) OF THE TREASURY
ON PROPOSED REGULATIONS FOR MONEY SERVICES BUSINESSES
WASHINGTON, D.C.
MAY 19, 1997

TREASURY'S EL DORADO TASK FORCE DEVELOPED EVIDENCE THAT CERTAIN NEW YORK MONEY TRANSMITTERS AND THEIR AGENTS WERE BEING USED BY DRUG CARTELS TO SEND THEIR CASH TO COLOMBIA. THEY STRUCTURED LARGE CASH TRANSACTIONS TO AVOID RECORD-KEEPING AND REPORTING REQUIREMENTS.

1. WE ESTIMATED THAT 12 TRANSMITTERS IN QUEENS ALONE SENT $800 MILLION TO COLOMBIA A YEAR.

2. TO ACCOUNT FOR THIS MONEY LEGITIMATELY, EACH COLOMBIAN HOUSEHOLD IN THE AREA WOULD HAVE HAD TO WIRE $30,000 TO COLOMBIA -- AN AMOUNT WHICH EXCEEDS THE AVERAGE ANNUAL INCOME FOR THIS COMMUNITY OF $27,000.

3. IN RESPONSE TO THIS EVIDENCE, I SIGNED A "GEOGRAPHIC TARGETING ORDER" REQUIRING ORIGINALLY 12 -- AND LATER 23 -- TRANSMITTERS AND THEIR AGENTS TO REPORT INFORMATION ABOUT SENDERS AND RECIPIENTS OF ALL CASH PURCHASED TRANSMISSIONS TO COLOMBIA OF $750 OR MORE.

4. THE RESULTS WERE IMMEDIATE AND DRAMATIC.

5. SINCE THE GTO WENT INTO EFFECT, CUSTOMS, IRS, THE NYPD AND OTHER MEMBERS OF EL DORADO HAVE MADE 7 ARRESTS, EXECUTED 24 FEDERAL SEARCH WARRANTS, AND SEIZED $600,000.

6. ADDITIONALLY, IN THE FIRST SIX MONTHS AFTER THE GTO WAS ISSUED, CUSTOMS SEIZED $50 MILLION AT EASTERN PORTS -- APPROXIMATELY FOUR TIMES THE AMOUNT SEIZED FOR THE SAME PERIOD THE PREVIOUS YEAR.

7. IN RESPONSE TO THIS SUCCESS, THE PRESIDENT DIRECTED THE TREASURY TO LOOK FOR WAYS TO EXTEND THE GTO NATIONALLY AND ON A PERMANENT BASIS.

8. TODAY, WE ANNOUNCE THREE NEW PROPOSED RULES THAT WOULD ACCOMPLISH THIS GOAL AND MORE.

9. THE RULES ARE INTENDED TO PREVENT AND DETECT MONEY LAUNDERING NOT ONLY AMONG MONEY TRANSMITTERS, BUT FOR ALL MONEY SERVICES BUSINESSES,

10. SUCH AS THE ISSUERS, SELLERS AND REDEEMERS OF MONEY ORDERS AND TRAVELER'S CHECKS, CHECK CASHERS AND CURRENCY EXCHANGERS.

11. OBVIOUSLY, NOT EVERY ENTITY -- OR EVEN MOST -- ENGAGED IN THESE BUSINESSES IS INVOLVED IN MONEY LAUNDERING.

12. HOWEVER, AS WE HAVE MADE IT MORE DIFFICULT TO LAUNDER MONEY THROUGH BANKS, CRIMINALS HAVE TURNED IN INCREASING NUMBERS TO THESE FINANCIAL SERVICES TO LAUNDER THEIR DIRTY MONEY.

13. A FACT HIGHLIGHTED BY OUR EXPERIENCE WITH THE NEW YORK GTO.

14. THE FIRST OF THE PROPOSED REGULATIONS REQUIRES ALL QUALIFYING MONEY SERVICES BUSINESSES TO REGISTER WITH FINCEN.

15. THE SECOND RULE WOULD EXTEND THE SUSPICIOUS ACTIVITY REPORTING REQUIREMENT, WHICH IS ALREADY REQUIRED OF BANKS, TO THE ISSUERS, SELLERS AND REDEEMERS OF MONEY ORDERS AND TRAVELER'S CHECKS.

16. THE FINAL NEW REGULATION ESSENTIALLY EXTENDS THE NEW YORK GTO NATIONALLY WITH A FEW ADJUSTMENTS. UNDER THE PROPOSED RULE A MONEY TRANSMITTER MUST REPORT ANY REMITTANCE EQUAL TO OR GREATER THAN $750 TO ANY PLACE OUTSIDE THE UNITED STATES.

17. THE RULE THUS MIRRORS THE GTO IN REDUCING THE REPORTING THRESHOLD FOR MONEY TRANSMITTERS FROM $10,000 TO $750.

18. BUT, WHILE THE GTO ONLY REQUIRED REPORTING REMITTANCES IN EXCESS OF $750 TO COLOMBIA, THE PROPOSED RULE REQUIRES REPORTING TRANSACTIONS TO ANY PLACE OUTSIDE THE UNITED STATES.

19. THESE STEPS MAKE IT HARDER FOR THE CARTELS TO SMUGGLE MONEY OUT OF THE U.S., WHILE HELPING TO PROTECT LEGITIMATE BUSINESS FROM MANIPULATION BY ORGANIZED CRIME.

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Questions and Answers
On New Treasury Rules To Crackdown on Money Laundering

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Q. **Registration seems like a potentially huge undertaking. How will Treasury handle the task of registration and regulation of such a large and varied group?**

A. Since the majority of MSB registrants will be principles (which are much smaller in number than their agents), we expect a total registration database of approximately 10,000. FinCEN will work closely with the Detroit Computing Center of the Internal Revenue Service -- who are accomplished experts at BSA data entry -- to implement this registration process. FinCEN will also work with the Examination Division of the Internal Revenue Service to provide outreach to this industry and to examine their compliance with this requirement.

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Q. **What did you learn from the GTO about the money transmitter segment of the NBFI industry?**

A. We learned that the money transmitter industry's structure and operating patterns unfortunately create a significant potential for long-term abuse by drug traffickers and others seeking to send dirty money out of the United States. The results of the GTO indicate that hundreds of millions of criminal proceeds annually are being sent abroad, often unwittingly but sometimes with the collusion of, money remitters and their agents. Let me give you a few representative statistics:

We believe that about $300 million a year of narcotics proceeds is transmitted to Colombia via New York money transmitters. The annual business volume to Colombia of the 12 originally targeted remitters was about $800 million; the volume has dropped by 30 per cent since the GTO went into effect, but the number of transactions below the GTO reporting floor of $750 has increased by 33 per cent since the GTO took effect, <u>and the dollar volume of those transactions has increased by 90 per cent</u>. This indicates significant structuring activity even at these low levels and a number of structuring investigations are underway.

Seizure activity --that we believe involved money that the traffickers have to move in new ways now that the GTO is in effect --is up approximately 400 per cent since the GTO was put in place.

Finally, we were able to take all that we have learned and report to the President. The President asked us to examine ways to extend the GTO nationally. The proposed regulations announced today are part of that effort.

Q. Under what authority did the GTO issue?

A. The authority to issue geographic targeting orders is found in the Bank Secrecy Act ("BSA") and its implementing regulations, a so-called "geographic targeting order" or "GTO" may be issued if the Secretary (or his designee) finds, either upon his own initiative or at the request of an appropriate law enforcement official, that "reasonable grounds exist for concluding that additional record keeping and reporting requirements are necessary to carry out the purposes . . . and prevent evasions [of the BSA]."

A GTO may require "any domestic financial institution or group of domestic financial institutions in a geographic area" to obtain and report information about transactions in currency or monetary instruments in amounts determined by the Secretary, as well as information about any persons participating in such transactions.

Q. Has the Treasury used the GTO authority in the past?

A. The Treasury Department has exercised its authority to issue a GTO on two prior occasions, in Phoenix in 1989 and in Houston in 1991. The Phoenix GTO required approximately 90 money transmitters to report, for 30 days, all international wire transfers of $1,000 or more paid for in cash.

The Houston GTO required 50 money transmitters to report, for 60 days, all international wire transfers of $100 or more paid for in cash.

Q. Could you briefly describe the El Dorado Task Force and Operation Wire Drill?

A. The Task Force is a joint effort of federal, state and local authorities, and includes approximately 140 agents, police officers and administrative support personnel from Customs, IRS/CID, the Secret Service, the New York State Banking Department, the New York City Police Department, and a number of other local police authorities. Its efforts have resulted in the seizure of more than $170 million, and in excess of 750 arrests.

One specific focus of El Dorado ("Operation Wire Drill"), has been the money transmitting industry in the New York area and its use by drug traffickers to return drug proceeds to narcotics source countries. In the course of its work, El Dorado developed evidence that strongly indicates that a segment of the money remitting industry in New York had become a haven for drug money launderers because of its speed, reliability, anonymity, and cost-effectiveness.

To date, Wire Drill has been responsible for more than 100 arrests and the seizure or forfeiture of in excess of $10 million. More importantly, the Wire Drill strategy of integrating law enforcement and regulatory action is working.

Q. Why has the GTO been so successful?

A. The key reason the GTO has been so successful is the context in which it was issued -- an ongoing, multi-agency task force investigation into abuses in the targeted industry.

El Dorado is a joint federal, state and local effort and includes some 140 agents, police officers and support personnel from 13 agencies to include Customs, IRS criminal and examination divisions, the Secret Service, NYPD and the New York State Banking Department.

In addition to the El Dorado Task Force, the success of the GTO has also resulted from the hard work of FinCEN and the IRS. Both agencies have been deeply involved in supporting this operation.

Q. What is our assessment of the efficacy of the El Dorado Task Force?

A. The El Dorado Task Force has redefined interagency cooperation as well as innovation in combating money laundering and financial crime, principally related to drug trafficking. It is a joint federal, state and local effort and includes some 140 agents, police officers and support personnel from 13 agencies.

The task force targets systems or industries that facilitate money laundering and has resources dedicated to non-bank financial institutions; banks, brokerage houses and private banking; and the bulk transportation and smuggling of cash.

Since 1992, the El Dorado Task force has seized in excess of $170,000,000 in currency, made more than 750 arrests, and captured more than 2 tons of cocaine and 120 pounds of heroin.

Q. Are there plans for future use of the GTO in New York and other areas of the country?

A. The GTO is a very flexible tool which in theory could be utilized in any number of jurisdictions to prevent evasion of the Bank Secrecy Act. Treasury is still evaluating and learning from the results of the New York experience prior to proceeding with other GTO's. In addition, any additional GTO's would have to be supported by a similar resource commitment as was and is available in New York which limits its application somewhat.

There has, however, been a number of preliminary discussions with Customs, IRS, FinCEN, and DOJ on additional initiatives for the future. Since surprise is a key element to the success of most enforcement operations, to include the GTO, it would be both unwise and premature to either disclose or speculate on the site of the next GTO.

Next week, Treasury with the Department of Justice will be holding a conference with representatives from U.S. Attorneys' Offices and federal law enforcement bureaus from around the nation to discuss creative uses of Treasury regulatory authority to support law enforcement money laundering investigations.

Q. How effective has the GTO been in terms of what Customs is seeing in its other money laundering initiatives?

A. We feel the GTO has been extremely effective by disrupting a system that has long been exploited by professional money launderers in the employ of the drug cartels. As the wire remitter systems became less vulnerable, drug proceeds were displaced and other avenues had to be utilized causing extensive disruption and confusion.

Anticipating this trend, Customs alerted its outbound enforcement operations at major airports as well as criminal investigators conducting undercover money laundering operations, resulting in the seizure of more money, driving up the costs and increasing risks for drug traffickers. There was approximately a 400% increase in seizures of currency at east coast ports.

Q. What specific evidence was looked at to arrive at the determination that "reasonable grounds" exist for concluding that additional record keeping and reporting was necessary?

A. The foundation for the GTO was laid by more than two years of painstaking investigative work by the El Dorado Task Force and the Office of the U.S. Attorney for the Eastern District of New York. Using traditional investigative methods, such as under cover informants, telephone wiretaps, and surveillance, Operation Wire Drill investigators were able to demonstrate, repeatedly, that money transmitter agents were structuring transactions to avoid the existing record-keeping requirements under the BSA. These investigations resulted in the arrest of approximately 100 people and the conviction of 87 people as well as the seizure and forfeiture of over $10 million.

Q. Have there been any legal challenges to the GTO?

A. No. FinCEN and the Treasury counsel carefully reviewed the evidentiary record supporting the GTO and crafted the Order in such a way that no successful challenge could be made.

At some point, of course, the GTO must expire; it is intended to be used on a temporary basis. But thus far, with a few exceptions, the industry in New York has actually praised the terms of the Order.

Q. How successful were the previous efforts to implement a GTO? What makes this effort different?

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A. Neither previous use of the GTO authority were nearly as successful as the New York GTO has been.

The fundamental reason for the success of the New York GTO --and the key difference between it and the previous GTOs --is the context in which it was issued: there was already in place an ongoing, multi-agency task force investigation into abuses in the targeted industry.

In addition, the level of knowledge within FinCEN and Treasury enforcement generally concerning the ways in which the cartels were abusing money transmitters had come a long way since 1991.

Q. **Why has Treasury not used the GTO more aggressively in the past? Why did it take so long for the GTO to be resurrected?**

A. The GTO is an extraordinary tool, and it should not be put to use lightly. The requirements imposed on the New York money transmitters are costly, and we would not have issued the Order had we not both believed it was justified and had resources in place to take advantage of it.

Q. **Treasury has had the authority to issue the registration proposal and the suspicious transaction proposal for some time now. Why has it taken you so long to do so?**

A. With the exception of casinos, which have long been the subject of industry-specific BSA rules, the generally applicable, "one size fits all" BSA rules are not particularly well tailored to the various types of financial service providers that are subject to the BSA, but are not "banks." Securities brokers and dealers, casinos, currency exchangers, and money transmitters, to name a few, are very different types of enterprises.

This problem is compounded by the fact that, unlike banks and with the exception of casinos and securities brokers and dealers, none of these so-called "Non-Bank Financial Institutions" are subject to either overarching federal or consistent state regulatory oversight. As a result, very little is known about the industries, and without knowledge about the industries, reasonable regulations could not be crafted.

FinCEN therefore contracted with the accountancy firm, Coopers & Lybrand, L.L.P., for a comprehensive study of the money transmitter, check casher, currency exchanger, money order and traveler's check selling industries. This study was recently completed. The Coopers study, along with the law enforcement and regulatory expertise already available at FinCEN and what we have learned from the New York GTO, forms the basis for three notices of proposed rulemaking that we are announcing today.

Q. What are the current reporting requirements for sending money transmissions outside the U.S.?

3 A. Currently, no record has to be kept for any transmission under $3,000. For transmissions of $3,000 or more, the money transmitter must keep a record of the transmission.

For transmissions of $10,000 or more, the money transmitter must fill out a Currency Transaction Report or CTR and file it with the IRS.

Q. Why the $750 Threshold ?

4 A. Our experience indicates that most legitimate money transmissions are between $250 and $500. We made the threshold $750 because we believe that this will exclude a lot of the legitimate business from the reporting requirements. Additionally, El Dorado has seen abuse above this level in its investigations.

5 **Q. Money transmitters are used primarily by people who do not have bank accounts -- the poor and immigrants. Isn't it discriminatory to have a $750 threshold for transmitters and not banks?**

A. We do not believe the proposed regulations are discriminatory. The $750 amount applies to wires purchased in cash that are sent anywhere outside of the United States. We did not focus on any particular country or region.

Also, these regulations do not prevent any person from sending any amount of money anywhere. You can pay cash to send $100,000 to Colombia tomorrow so long as you fill out a form and provide a photo i.d. The proposed rules are designed to stop the abuse of the money transmitter industry by criminals by collecting information, not to prevent legitimate transactions.

As for banks, banks are subject to extensive regulation. Today's proposed rules are intended to deal with the relatively unregulated area of the financial services industry -- the money services businesses.

Q. Could you briefly describe the proposed regulations?

1 A. There are three proposed rules. The most fundamental of these proposals is to register "money services businesses" generally, which includes money transmitters or remitters, money order issuers and sellers, travelers check issuers and sellers, retail currency exchangers, and check cashers.

The second proposed regulation would extend the suspicious activity reporting requirements -- already in place with respect to banks -- to money transmitters and issuers, sellers and redeemers of traveler's checks or money orders.

The final proposed regulation essentially makes the New York GTO apply nation-wide and on a permanent basis. Under the proposed rule, money transmitters would be required to report currency transactions of $750 or more that involve the transmission of funds to any person outside the United States. The rule also requires the remitters to verify the identity of the person sending the funds.

2 **Q. When will these proposed regulations become effective?**

A. Once the Notices of Proposed Rulemaking are published later this week, there will be a 90-day comment period. We will then review the comments and make any appropriate changes to the rules. Once that is complete, we will publish the final rule. We hope to do this by January 1, 1998.

The rules regarding suspicious activity reporting and the new $750 reporting threshold will take effect 30 days after the final rules are published. Money services businesses will have 180 days from publication of the final rules to register with FinCEN.

May 19, 1997

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FOR IMMEDIATE RELEASE
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CONTACT:
Beth Weaver (202) 622-2960

MEDIA ADVISORY

TREASURY ANNOUNCES NEW REGULATIONS TO CRACK DOWN ON MONEY LAUNDERING

Treasury Secretary Robert E. Rubin and Under Secretary for Enforcement Raymond W. Kelly will make an announcement today at 2:00 p.m. on three Notices of Proposed Rulemaking designed to prevent and detect money laundering. The press conference will take place in the large conference room of the Treasury building, 1500 Pennsylvania Avenue, N.W. Cameras may set up at 1:00 p.m.

Media without Treasury, White House, State, Defense or Congressional credentials planning to attend should contact the Office of Public Affairs at (202) 622-2960, with the following information: name, social security number and date of birth, by noon today. This information may be faxed to (202) 622-1999.

RR-1688

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Background on Treasury Anti-Money Laundering Regulations

On Wednesday, May 21, 1997, Treasury will publish three Notices of Proposed Rulemaking designed to prevent and detect money laundering in the money services businesses -- money transmitters, issuers, redeemers and sellers of money orders and traveler's checks, check cashers, and currency retail exchangers. While these regulations are the result of the lessons learned from the New York Geographic Targeting Order ("GTO"), the regulations themselves are much broader than that order.

The GTO

Beginning on August 7, 1996, certain licensed money transmitters in the New York metropolitan area and their agents have been subject to an order requiring them to report information about the senders and recipients of all cash-purchased transmissions to Colombia of $750 or more. Under Secretary of the Treasury for Enforcement Raymond W. Kelly issued the "GTO" pursuant to a provision of the Bank Secrecy Act (BSA). GTOs are intended to be temporary measures, and can be authorized for no more than 60 days at a time.

The El Dorado Task Force

The GTO's origins lie in the investigative efforts of the Treasury-led El Dorado Task Force, a joint federal, state and local effort that includes some 140 agents, police officers and support personnel from 13 agencies, including Customs, the IRS Criminal and Examination divisions, the Secret Service, the NYPD and New York State Banking Department.

El Dorado developed evidence that certain New York area money remitters and their agents were engaged in a scheme to move drug money to Colombia by breaking up large cash transactions to avoid the reporting and record keeping requirements of the BSA. Armed with this information, the U.S. Attorneys from the Southern District of New York, the Eastern District of New York, and the District of New Jersey, along with senior officials from Customs and IRS, presented Treasury's Financial Crimes Enforcement Network (FinCEN) with a compelling case that a GTO would be an appropriate step to take against these transmitters. FinCEN staff then worked closely with the primary Assistant U.S. Attorney and others from Customs, IRS and the Department of Justice to review the application and craft an appropriately tailored order, originally involving 12 licensed money transmitters and 1,600 agents.

The GTO was extended and expanded in October 1996 to include a total of 22 licensed transmitters and approximately 3,500 agents. The order was extended again in December and February, and extended again and expanded to include one more licensed money transmitter the first week of April, 1997.

Effects of the GTO

The GTO caused an immediate and dramatic reduction in the flow of narcotics proceeds to Colombia through New York City money transmitters. Treasury's analysis of data generated by the GTO is ongoing, but the targeted money transmitters' business volume to Colombia appears to have dropped approximately 30%. Business to Colombia dropped off even at the money remitters not subject to the GTO, suggesting that much of the money remitted to Colombia was controlled centrally by high-level cartel money brokers.

In the aftermath of the GTO, Customs has observed a marked increase in interdiction and seizure activity at the borders -- over $50 million in the first 6 months since the GTO went into effect, approximately four times more than in prior years.

The GTO also has had a significant impact on money laundering activity among the targeted transmitters. Several stopped sending funds to Colombia. One went out of business altogether. One money transmitter agent has pled guilty to structuring transactions to avoid the reporting requirements, and the El Dorado Task Force has made numerous additional arrests. El Dorado is continuing to pursue investigations of this type, and FinCEN will consider imposing civil penalties against violators who are not pursued criminally.

In addition to the Proposed Rules, Treasury is considering whether, and under what circumstances, to issue additional GTOs. In late May, Treasury and the Department of Justice will be convening a meeting of US Attorneys and Special Agents from high-risk money laundering areas to introduce the GTO and other tools which Treasury has at its disposal.

Proposed Rules

In response to the results achieved through the GTO, President Clinton asked Treasury to look for ways to translate into a permanent solution the benefits realized through this interim measure. The rules announced today seek to achieve this goal.

Registration of Money Services Businesses (MSBs)

The most fundamental of these proposals is to implement the Congressional mandate to register "money transmitting businesses" generally, which includes money transmitters or remitters, money order issuers and sellers, travelers check issuers and sellers, retail currency exchangers, and check cashers. Treasury has redefined this class of businesses as money services businesses ("MSBs") to avoid confusion between the terms money transmitting business and money transmitter, and has drafted the registration proposal in a way that strikes an appropriate balance between law enforcement's need for accurate information about the owners and locations of MSBs against the concern that small businesses be spared of unnecessary and intrusive regulation.

Suspicious Transaction Reporting by MSBs

The second proposed regulation would extend the suspicious activity reporting requirements -- already in place with respect to banks -- to money transmitters and issuers, sellers and redeemers of traveler's checks or money orders. Because customers of these institutions do not maintain account relationships, it is more difficult for these entities to know their customers well enough to spot suspicious transactions. To address this potential problem, the proposed rule provides guidance by listing specific indicia of suspicious transactions gleaned from money laundering investigations.

Lowered Threshold for Currency Transaction Reporting By Money Transmitters

The final proposed regulation essentially makes the New York GTO apply nation-wide and on a permanent basis. Under the proposed rule, money transmitters would be required to report currency transactions of $750 or more that involve the transmission of funds to any person outside the United States. The rule also requires the remitters to verify the identity of the person sending the funds. Treasury does not believe that this rule will unduly burden legitimate business; the vast majority of legitimate remittances are between $200 and $500.

Questions and Answers
On New Treasury Rules To Crackdown on Money Laundering

Q. Registration seems like a potentially huge undertaking. How will Treasury handle the task of registration and regulation of such a large and varied group?

A. Since the majority of MSB registrants will be principles (which are much smaller in number than their agents), we expect a total registration database of approximately 10,000. FinCEN will work closely with the Detroit Computing Center of the Internal Revenue Service -- who are accomplished experts at BSA data entry -- to implement this registration process. FinCEN will also work with the Examination Division of the Internal Revenue Service to provide outreach to this industry and to examine their compliance with this requirement.

Q. What did you learn from the GTO about the money transmitter segment of the NBFI industry?

A. We learned that the money transmitter industry's structure and operating patterns unfortunately create a significant potential for long-term abuse by drug traffickers and others seeking to send dirty money out of the United States. The results of the GTO indicate that hundreds of millions of criminal proceeds annually are being sent abroad, often unwittingly but sometimes with the collusion of, money remitters and their agents. Let me give you a few representative statistics:

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Q. **Are there plans for future use of the GTO in New York and other areas of the country?**

A. The GTO is a very flexible tool which in theory could be utilized in any number of jurisdictions to prevent evasion of the Bank Secrecy Act. Treasury is still evaluating and learning from the results of the New York experience prior to proceeding with other GTO's. In addition, any additional GTO's would have to be supported by a similar resource commitment as was and is available in New York which limits its application somewhat.

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Q. What specific evidence was looked at to arrive at the determination that "reasonable grounds" exist for concluding that additional record keeping and reporting was necessary?

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Q. Have there been any legal challenges to the GTO?

A. No. FinCEN and the Treasury counsel carefully reviewed the evidentiary record supporting the GTO and crafted the Order in such a way that no successful challenge could be made.

At some point, of course, the GTO must expire; it is intended to be used on a temporary basis. But thus far, with a few exceptions, the industry in New York has actually praised the terms of the Order.

Q. How successful were the previous efforts to implement a GTO? What makes this effort different?

A. Neither previous use of the GTO authority were nearly as successful as the New York GTO has been.

The fundamental reason for the success of the New York GTO --and the key difference between it and the previous GTOs --is the context in which it was issued: there was already in place an ongoing, multi-agency task force investigation into abuses in the targeted industry.

In addition, the level of knowledge within FinCEN and Treasury enforcement generally concerning the ways in which the cartels were abusing money transmitters had come a long way since 1991.

Q. Why has Treasury not used the GTO more aggressively in the past? Why did it take so long for the GTO to be resurrected?

A. The GTO is an extraordinary tool, and it should not be put to use lightly. The requirements imposed on the New York money transmitters are costly, and we would not have issued the Order had we not both believed it was justified and had resources in place to take advantage of it.

Q. Treasury has had the authority to issue the registration proposal and the suspicious transaction proposal for some time now. Why has it taken you so long to do so?

A. With the exception of casinos, which have long been the subject of industry-specific BSA rules, the generally applicable, "one size fits all" BSA rules are not particularly well tailored to the various types of financial service providers that are subject to the BSA, but are not "banks." Securities brokers and dealers, casinos, currency exchangers, and money transmitters, to name a few, are very different types of enterprises.

This problem is compounded by the fact that, unlike banks and with the exception of casinos and securities brokers and dealers, none of these so-called "Non-Bank Financial Institutions" are subject to either overarching federal or consistent state regulatory oversight. As a result, very little is known about the industries, and without knowledge about the industries, reasonable regulations could not be crafted.

FinCEN therefore contracted with the accountancy firm, Coopers & Lybrand, L.L.P., for a comprehensive study of the money transmitter, check casher, currency exchanger, money order and traveler's check selling industries. This study was recently completed. The Coopers study, along with the law enforcement and regulatory expertise already available at FinCEN and what we have learned from the New York GTO, forms the basis for three notices of proposed rulemaking that we are announcing today.

Q. What are the current reporting requirements for sending money transmissions outside the U.S.?

A. Currently, no record has to be kept for any transmission under $3,000. For transmissions of $3,000 or more, the money transmitter must keep a record of the transmission.

For transmissions of $10,000 or more, the money transmitter must fill out a Currency Transaction Report or CTR and file it with the IRS.

Q. Why the $750 Threshold ?

A. Our experience indicates that most legitimate money transmissions are between $250 and $500. We made the threshold $750 because we believe that this will exclude a lot of the legitimate business from the reporting requirements. Additionally, El Dorado has seen abuse above this level in its investigations.

Q. Money transmitters are used primarily by people who do not have bank accounts -- the poor and immigrants. Isn't it discriminatory to have a $750 threshold for transmitters and not banks?

A. We do not believe the proposed regulations are discriminatory. The $750 amount applies to wires purchased in cash that are sent anywhere outside of the United States. We did not focus on any particular country or region.

Also, these regulations do not prevent any person from sending any amount of money anywhere. You can pay cash to send $100,000 to Colombia tomorrow so long as you fill out a form and provide a photo i.d. The proposed rules are designed to stop the abuse of the money transmitter industry by criminals by collecting information, not to prevent legitimate transactions.

As for banks, banks are subject to extensive regulation. Today's proposed rules are intended to deal with the relatively unregulated area of the financial services industry -- the money services businesses.

Q. Could you briefly describe the proposed regulations?

A. There are three proposed rules. The most fundamental of these proposals is to register "money services businesses" generally, which includes money transmitters or remitters, money order issuers and sellers, travelers check issuers and sellers, retail currency exchangers, and check cashers.

The second proposed regulation would extend the suspicious activity reporting requirements -- already in place with respect to banks -- to money transmitters and issuers, sellers and redeemers of traveler's checks or money orders.

The final proposed regulation essentially makes the New York GTO apply nation-wide and on a permanent basis. Under the proposed rule, money transmitters would be required to report currency transactions of $750 or more that involve the transmission of funds to any person outside the United States. The rule also requires the remitters to verify the identity of the person sending the funds.

Q. When will these proposed regulations become effective?

A. Once the Notices of Proposed Rulemaking are published later this week, there will be a 90-day comment period. We will then review the comments and make any appropriate changes to the rules. Once that is complete, we will publish the final rule. We hope to do this by January 1, 1998.

The rules regarding suspicious activity reporting and the new $750 reporting threshold will take effect 30 days after the final rules are published. Money services businesses will have 180 days from publication of the final rules to register with FinCEN.

May 19, 1997

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

UNDER SECRETARY

April 7, 1997

MEMORANDUM FOR SYLVIA MATHEWS

THROUGH: Michael B.G. Froman
Chief of Staff

FROM: Raymond W. Kelly
Under Secretary (Enforcement)

SUBJECT: Geographic Targeting Order

Background

Beginning on August 7, 1997, 22 licensed money transmitters in the New York metropolitan area and their approximately 3,200 agents have been subject to an order requiring them to report identifying information on all cash-purchased transmissions to Colombia in excess of $750. I issued the so-called Geographic Targeting Order, or "GTO," pursuant to a provision of the Bank Secrecy Act (BSA) which allows the Treasury to require financial institutions in a geographic area to comply with special reporting or record keeping obligations. The GTO is a temporary measure to be invoked when necessary to ensure compliance with the BSA. (Detailed background information on the GTO is attached hereto as Tab 1).

The GTO's origins lie in the investigative efforts of the El Dorado Task Force, a joint federal, state and local effort that includes some 140 agents, police officers and support personnel from 13 agencies. El Dorado developed evidence that New York area money remitters and their agents were moving drug money to Colombia by breaking up large cash transactions to avoid BSA reporting requirements.

Since its inception, the GTO has caused dramatic reduction in the flow of narcotics proceeds. The targeted money transmitters' business volume to Colombia has dropped approximately 30%. Several of the targeted money remitters have stopped sending funds to Colombia altogether. In addition, Customs has seized over $ 50 million in cash at the border -- a four-fold increase over the previous years' totals -- as traffickers have been forced to resort to other methods to move their money.

Upcoming Action

The GTO has been applauded in recent New York Times and Washington Post articles (copies of which are attached hereto as Tab 2) as well as in hearings before the House Banking Subcommittee on Investigations. The measure maximizes the disruptive impact on the drug trafficking cartels by denying them access to their profits. It does so, moreover, in an extremely efficient and intelligent manner. Utilizing Treasury's unique preventative authority, the GTO achieves greater deterrence of money laundering on the front end. At the same time, it generates the kind of information and intelligence that permits more effective detection of money laundering activity on the back end. Further, the GTO illustrates the benefits that can be achieved when federal, state and local law enforcement bring their resources and expertise to bear on a common problem.

In the coming weeks, Treasury will be releasing for public comment a Notice of Proposed Rulemaking (NPR) which will require money remitters to obtain identifying information on wire transfers in excess of $750. **The proposed rule will make this particular GTO permanent and apply it nationwide for the first time**. In addition, Treasury will be issuing for public comment NPRs requiring money remitters to report suspicious transactions, and obliging money remitters and other "money services businesses" (such as check cashers and retail currency exchanges) to register with FinCEN.

The release of these draft regulations could provide the backdrop for an event highlighting the success of initiatives, like the GTO, which combine federal, state and local resources to enhance prevention and detection of drug money laundering.

cc: Rahm Emanuel
Bruce Reed
Kitty Higgins

Background on the Geographic Targeting Order

The GTO

Beginning on August 7, 1997, 22 licensed money transmitters in the New York metropolitan area and their approximately 3,200 agents have been subject to an order requiring them to report information about the senders and recipients of all cash-purchased transmissions to Colombia of $750 or more. Under Secretary of the Treasury for Enforcement Raymond W. Kelly issued the so-called Geographic Targeting Order, or "GTO," pursuant to a provision of the Bank Secrecy Act (BSA) which allows the Treasury, on its own initiative or upon a request from an appropriate law enforcement authority, to require a financial institution or a group of financial institutions in a geographic area to comply with special reporting or record keeping obligations. These special obligations may be imposed when there is reason to believe that they are necessary to ensure compliance with, or prevent evasions of, the BSA. GTOs are intended to be temporary measures, and can be authorized for no more than 60 days at a time.

The El Dorado Task Force

The GTO's origins lie in the investigative efforts of the Treasury-led El Dorado Task Force, a joint federal, state and local effort that includes some 140 agents, police officers and support personnel from 13 agencies, including Customs, the IRS Criminal and Examination divisions, the Secret Service, the NYPD and New York State Banking Department. The task force targets money laundering though non-bank financial institutions, banks, brokerage houses, private banking, and bulk smuggling. Since its inception in 1992, El Dorado has enjoyed a legacy of success unmatched in federal law enforcement. The task force has seized in excess of $150 million in currency, made 700 arrests, and captured more than 2 tons of cocaine and 120 pounds of heroin.

El Dorado developed evidence that certain New York area money remitters and their agents were engaged in a scheme to move drug money to Colombia by breaking up large cash transactions to avoid the reporting and record keeping requirements of the BSA. Armed with this information, the U.S. Attorneys from the Southern District of New York, the Eastern District of New York, and the District of New Jersey, along with senior officials from Customs and IRS, presented Treasury's Financial Crimes Enforcement Network (FinCEN) with a compelling case that a GTO would be an appropriate step to take against these transmitters.

FinCEN staff worked closely with the primary Assistant U.S. Attorney and others from Customs, IRS and the Department of Justice to review the application and craft an appropriately tailored order. 12 licensed transmitters and their 1,600 agents were identified as particularly vulnerable to abuse. A number of factors were considered in addition to the evidence generated by the El Dorado investigations. Perhaps most strikingly, the business volume of the 12 money transmitters simply did not accord with the size of the Colombian community in the New York area. New York State Banking Department figures indicated that the 12 originally targeted transmitters, which served a community of approximately 25,500 households, were sending approximately $1.3 billion annually to South America. About two thirds of this amount, or $800 million, was going to Colombia. To account for this figure, each Colombian household would have had to wire approximately $30,000 per year through money transmitters -- a figure substantially exceeding the $ 27,000 average annual income for members of this community.

Extension and Expansion

The GTO was extended and expanded in October 1996 to include a total of 22 licensed transmitters and approximately 3,500 agents. The order was extended again in December, February, and the first week of April, 1997.

Effects of the GTO

The GTO caused an immediate and dramatic reduction in the flow of narcotics proceeds to Colombia through New York City money transmitters. Treasury's analysis of data generated by the GTO is ongoing, but the targeted money transmitters' business volume to Colombia appears to have dropped approximately 30%. Curiously, business to Colombia dropped off even at the money remitters not subject to the GTO, suggesting that much of the money remitted to Colombia was controlled centrally by high-level cartel money brokers.

Treasury believes that most of this money has been physically removed from the New York area, either for transfer through money transmitters operating in other cities along the east coast, or for bulk smuggling out of the US. Customs has observed a marked increase in interdiction and seizure activity at the borders -- over $50 million since the GTO went into effect. This figure is approximately four times higher than it has been in prior years. Customs also has gleaned a substantial amount of intelligence in furtherance of its undercover operations.

The GTO also has had a significant impact on money laundering activity among the targeted remitters. Several stopped sending funds to Colombia. One went out of business altogether. One money transmitter agent pled guilty to structuring transactions to avoid the reporting requirements, and the El Dorado Task Force has made numerous additional arrests. El Dorado is continuing to pursue investigations of this type, and FinCEN will consider imposing civil penalties against violators who are not pursued criminally.

Also of interest, since the GTO was put in place, is the fact that several money transmitter agents have lowered their fee for transfers to Colombia from 7% to 5% of the value of the transfer. This appears to be a logical business response to a reduction in the demand for services. It is particularly noteworthy because it represents a benefit of the GTO to legitimate customers of money transmitters.

The GTO has been applauded in recent New York Times and Washington Post articles, as well as in hearings before the House Banking Subcommittee on Investigations. The measure maximizes the disruptive impact on the drug trafficking cartels because by denying them access to their profits. It does so, moreover, in an extremely efficient and intelligent manner. Utilizing Treasury's unique preventative authority, the GTO achieves greater deterrence of money laundering on the front end. At the same time, it generates the kind of information and intelligence that permits more effective detection of money laundering activity on the back end. Further, the GTO illustrates the benefits that can be achieved when federal, state and local law enforcement bring their resources and expertise to bear on a common problem.

Next Steps

Treasury is considering whether, and under what circumstances, to issue additional GTOs. In May, Treasury and Justice will be convening a meeting of US Attorneys and Special Agents from high-risk money laundering areas to introduce the GTO and other tools which Treasury has at its disposal. The meeting is intended to be a brainstorming session in which law enforcement officials from around the country can discuss how to best utilize these measures to assist in money laundering investigations.

In addition, FinCEN soon will be releasing for public comment a Notice of Proposed Rulemaking which will require money remitters to obtain and retain identifying information on wire transfers in excess of $750. The proposed rule is designed to translate into a permanent solution the benefits realized through the application of the GTO -- namely, deterring would-be money launderers, and generating information to promote detection of money laundering schemes. In addition, Treasury will be issuing for public comment NPRs requiring money remitters to report suspicious transactions, and obliging money remitters and other "money services businesses" (such as check cashers and retail currency exchanges) to register with FinCEN. Taking into account the administrative process, which requires a 90 day notice and comment period, and subsequent 60 day period after publication of final rules before they can become effective, Treasury hopes to have the final rules in place by the end of the year.

March 7, 1997

N.Y. Firms Funnel Cash to Cartels

$1.2 Billion Wired Annually to South America, U.S. Officials Say

By Pierre Thomas
Washington Post Staff Writer

Three or four times a day, some of Charlie Patel's best customers would wander into his cramped convenience store at 84-21 37th Ave. in the borough of Queens in New York City and methodically fill out the wire-transfer forms Western Union requires for shipping money overseas.

"They keep coming back. they keep coming back all day long," Patel said. He long suspected the men were working for drug cartels.

He was right.

Federal authorities have identified 12 businesses in the New York area that were used to wire more than $1.2 billion a year to South America. including hundreds of millions of dollars in illegal drug proceeds destined for Colombian cartels. The companies are affiliated with businesses ranging from beeper sales outlets to travel agencies to mom-and-pop convenience stores like Patel's, officials said.

The discovery has provided another startling indicator of the mammoth scale of the nation's illicit drug market and revealed how the largely unregulated money-transfer industry has emerged as a new and important conduit for funneling cash to international drug cartels, law enforcement officials say.

"This was a primary means of the Cali cartel getting their money out of New York," said Raymond Kelly, undersecretary for enforcement at the Treasury Department. "It's mind-boggling, the number of people who are involved."

Federal investigators determined that the 12 wire-transfer companies employed 1,600 agents who in one year alone transferred an estimated $800 million to Colombia, about $300 million of which is suspected to be drug money.

Treasury Department officials have since imposed emergency restrictions on the 12 wire-transfer companies, requiring them to document certain transactions bound for Colombia.

"We have identified a significant gap in our nation's money-laundering regulatory system," said Stan Morris, director of the Treasury Department's Financial Crimes Enforcement Network (FinCen).

Wire transfer companies provide a valuable service in lower-income and immigrant communities, which often do not have access to banks or more traditional financial institutions, Morris said. But as authorities have stepped up efforts to combat money laundering through banks, drug cartels have increasingly turned to less regulated services like the transfer companies to avoid detection, he said.

Concerned about the implications of the investigation's findings, congressional leaders have scheduled a hearing Tuesday to discuss its ramifications and determine whether new guidelines are needed to better regulate the wire-transfer industry.

"Operating unchecked, non-bank financial institutions such as money [transfer outlets] continue to be a serious money laundering threat," said Rep. Spencer Bachus (R-Ala.), who chairs the House Banking and Financial Services subcommittee on general oversight and investigations.

The 12 targeted companies, which have not been publicly identified, serviced the roughly 25,500

As authorities have stepped up efforts to combat money laundering through banks, drug cartels have turned to less regulated services like the transfer companies.

March 7, 1997

Colombian immigrant households in the New York City area, officials said. Prosecutors and investigators have dubbed Roosevelt Avenue in the Jackson Heights section of Queens "ground zero" for such transactions to Colombia, with literally hundreds of stores offering such services. Some of the companies were unwitting participants in the drug trade, while others were directly involved, the officials said.

Rogue transfer agents have been convicted of transmitting hundreds of thousands of illegal proceeds to the cities of Cali, Medellin and Bogota, said Bonnie Klapper, an assistant U.S. attorney for the Eastern District of New York. In many instances, transfers of $6,000 to $7,000 were filed in succession, within minutes of each other, at the same business. The cash was delivered to storefronts by drug-money "mules," whose job was simply to wire the currency.

It soon became clear that the amounts of money transferred were far more than the Colombian community, whose median income is about $27,000, could support, Klapper said. "To account for such a large sum, each Colombian household would have to send, on average, $30,000 to Colombia per year," according to a Treasury Department memorandum.

The findings grew out of the work of a federal, state and local task force dubbed "The El Dorado," which was set up in 1992 to combat money laundering in the New York City area. The task force, with 140 agents, police and support personnel from the U.S. Customs Service, the Internal Revenue Service, the Secret Service, the city police and the state Banking Department, soon discovered an illicit cash flow.

Based on evidence developed by the El Dorado task force and FinCen, Kelly last August issued what is known as a Geographic Targeting Order against the 12 money transfer companies. The order, issued under the federal Bank Secrecy Act, required the companies to report all transfers to Colombia of $750 or more in currency. Before the order, only transactions of more than $10,000 had to be reported under federal law.

After the new federal guidelines were imposed, federal authorities noticed some immediate changes. Three of the unidentified remittance companies stopped sending funds to Colombia, and the other nine saw dramatic reductions in the amount of funds transferred.

In addition, currency seizures along the Eastern Seaboard began to increase dramatically. From August through Nov. 1 of last year, law enforcement officials seized $25 million in the region, compared with $7 million during the same time frame the previous year. Total seizures since the order was placed in effect are now up to $50 million.

Special correspondent Nancy Reckler in New York contributed to this report.

Limits on Cash Transactions Cut Drug-Money Laundering

By ROBERT D. McFADDEN

For years, drug cartel money-launderers in New York have been sending up to $1.3 billion a year back to Colombia through storefront shops, many of them in Queens, that immigrants use to wire cash home. The major restraint on this electronic smuggling has been a Federal requirement that transactions of more than $10,000 be reported to the Government.

But since last summer, drug busters will tell Congress today, a Treasury Department order quietly imposing a $750-per-transaction limit on 1,600 remittance shops suspected of wiring most of the illicit money has won a small victory in the war on drugs, sharply cutting the electronic transfers to Colombia and forcing the cartels to return to crude old methods of smuggling money in bulk.

Faced with the alternative of wiring fortunes in penny-ante increments or submitting picture-identity cards with their transactions, cartel operatives have gone back to stashing cash in coffins, bowling balls and other hiding places, investigators said yesterday.

But the drug sleuths have been waiting for them. At airports and seaports along the East Coast, agents seized $29 million in smuggled money during the first three months the order was in effect, compared with $7 million in the same period a year earlier, investigators said. And the cartels' wire transfers to Colombia have have all but dried up.

"The order has in effect shut down the money remitters as an avenue for narcotics proceeds, forcing launderers to resort to bulk currency shipments," Andre Flores, the chief agent of the United States Customs Service on Long Island, said in an interview yesterday. "The $750 limit is a major hurdle when you have to move $500,000."

In an effort to persuade Congress to tighten currency restrictions and make the Treasury limit permanent, or at least to enlarge its scope, a group of Federal and New York law-enforcement officials are expected to testify in Washington today before the investigations subcommittee of the House Banking Committee.

The group includes Barry McCaffrey, director of the Office of National Drug Control Policy; Raymond Kelly, the Undersecretary of the Treasury in charge of enforcement and a former New York Police Commissioner; Deputy Attorney General Robert Litt of the Justice Department's Criminal Division, and Martin O'Boyle, chief of the New York Police Organized Crime Control Bureau. Mr. O'Boyle will appear for Police Commissioner Howard Safir, who had heart surgery last week.

They were expected to get a sympathetic hearing from Representative Spencer Bachus, an Alabama Republican who heads the subcommittee. "When operating unchecked, nonbank financial institutions such as money remitters continue to be a serious money-laundering threat," he said in calling the hearings. He asked the General Accounting Office, the investigating arm of Congress, to look into the remittance business for signs of money-laundering.

For years, as Colombia's Cali and Medellín drug cartels reaped vast profits from heroin and cocaine, New York became a crossroads where drugs were smuggled in and cash was moved out. Money-laundering techniques grew more sophisticated, but new laws, computerization and growing vigilance over cash transactions made it harder for traffickers to move their money.

Under the Federal Banking Secrecy Act, financial transactions larger than $10,000 — a money wire, a withdrawal, a deposit, even a trip out of the country with that amount — had to be reported to the Government. That made it inconvenient, but hardly impossible, to move cash.

A favored laundering method grew up around the hundreds of small businesses licensed to send money abroad — storefront check cashing places, phone centers, telegram offices, even travel agencies, many in Jackson Heights, Elmhurst and Flushing in Queens — where those without bank accounts, mostly immigrants, pay a fee to send cash to relatives abroad.

Money launderers, often working with crooked remitters, would break their loot into increments under $10,000. To make transactions seem authentic, names and addresses would be taken from the Queens telephone book and listed as senders, while names from phone books in Colombia would be used as recipients. Cartel operatives carrying phony identification would then show up at the wire offices in Colombia.

While a typical legitimate transaction was $200 to $500, officials of a joint Federal, state and local task force on money-laundering, known as El Dorado, found in 1995 that $1.3 billion was being sent to Colombia every year through 1,600 of these small businesses. Since there were 25,500 Colombian families in New York, each household would have to be sending $50,000 a year to account for the vast flow, though median household income was only $27,000.

To disrupt the flow without affecting those legitimately sending money, Mr. Kelly signed a "Geographical Targeting Order" Aug. 7. The measure imposes stricter reporting and record-keeping requirements for a limited time on specific financial service providers in a defined geographic area. Such an order had been issued only twice before, in Phoenix in 1989 and in Houston in 1991.

In this case, 12 companies with 1,600 outlets had to report transactions over $750 and to submit copies of picture identity cards of those involved. The restriction was not announced, but word quickly spread, and the results were a precipitous drop in money wires to Colombia and a sharp increase in seizures of cash being smuggled to Colombia, investigators said.

Since August, many of the storefront remitters have stopped sending funds to Colombia, while others report drastic declines in the amounts being sent, the investigators said. But not all the money-launderers turned back to smuggling.

Mr. Flores said that Luz Stella Lopez, 39, of 66-17 Austin Street, Rego Park, a native of Cali who holds United States and Colombian citizenship, was charged in October with using her two travel agencies in Flushing to launder drug money in transfers under the $750 limit. She pleaded guilty in January and at sentencing next Friday faces up to five years in prison and a $250,000 fine.

DRAFT--5/6/97

MONEY SERVICES BUSINESSES REGULATIONS

Notices of Proposed Rulemaking Under the Bank Secrecy Act

The Problem: Banks have established strong compliance programs to prevent and detect money laundering by complying with rules which require reporting and record-keeping for large currency transactions. With this widespread compliance by banks, money launderers have increasingly turned to the relatively unsupervised financial services provided by money transmitters, check cashers, retail currency exchangers, and issuers and sellers of money orders and traveler's checks. Treasury has struggled to accurately define, and then to craft appropriate anti-money laundering rules for, this important but diverse and little understood segment of the U.S. financial services industry.

Money Services Businesses: The term "money services businesses" has been coined by the Treasury's Financial Crimes Enforcement Network (FinCEN) to describe those businesses and their authorized agents who provide the distinct but often complementary services of money transmission, check cashing, currency exchange, and the issuance, sale and redemption of money orders and traveler's checks. In the notices of proposed rulemaking described below and published on [insert date], FinCEN excluded from the definition any business -- such as a hotel or a grocery store -- that provides such services merely as an accommodation to its customers and when the transactions do not exceed $500 per person per day. Even with this exclusion, FinCEN estimates that, overall, money services businesses handle transactions valuing approximately $200 billion per year through approximately 140,000 locations nationwide.

The New Regulations

Registration: In response to a statutory requirement, FinCEN proposes to register all qualifying money services businesses in a centralized database. This registry will be available to law enforcement and appropriate federal and state regulatory agencies. Registered money services businesses will be required to maintain and make available updated lists of their authorized agents, and certain large agents will be required to register independently. It is a federal crime to operate a money services business without complying with applicable federal or state licensing or registration requirements. The proposed registration rule includes within the definition of "money services business" issuers, sellers, and redeemers (for funds) of stored value, commonly called electronic money or e-money.

Suspicious Activity Reporting: FinCEN also proposes to extend the suspicious activity reporting requirement -- already in place with respect to banks -- to money transmitters and issuers and sellers of money orders and traveler's checks. Because customers of this subset of money services businesses do not maintain account relationships comparable to banks, it is often difficult for these businesses to know their customers well enough to identify suspicious activity. In recognition of this, the proposed rule lists a number of specific indicia of suspicion culled from historical money laundering investigations as guidance to the industry.

Special Cash Transaction Reporting by Money Transmitters: Finally, FinCEN proposes to significantly reduce -- from $10,000 to $750 -- the threshold for money transmitters to report remittances purchased in cash and going to any place outside the United States. This change is based largely on the experience of the New York GTO, which has confirmed that the money transmitting industry is particularly subject to abuse by organized money launderers. Although this proposal may generate some controversy within the industry, the vast majority of legitimate money remittances are between $200 and $500, and the Treasury thus does not believe the rule would have an undue impact on legitimate commerce.

FACSIMILE COVER SHEET
DEPARTMENT OF THE TREASURY
OFFICE OF THE UNDER SECRETARY FOR ENFORCEMENT
CHIEF OF STAFF

Phone: (202)622-1354
Fax: (202) 622-7301 OR (202) 622-5040

Date: 5-19-97

Page 1 of ____

TO: Jose Cerda

FAX: 456-7028

FROM: PAUL J. BROWNE

SUBJECT: FYI

MESSAGE: This is the letter Secretary Rubin will distribute at a 2:00 p.m. press ~~conf~~ briefing today

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.
May 19, 1997

SECRETARY OF THE TREASURY

President William J. Clinton
The White House
Washington, D.C. 20500

Dear Mr. President:

Last year, the Treasury-led El Dorado Task Force developed evidence that certain New York-area money transmitters and their agents were engaged in a scheme to move drug money to Colombia by breaking up large cash transactions to avoid the reporting and record-keeping requirements of the Bank Secrecy Act. The evidence demonstrated that, in total, the transmitters had sent approximately $800 million to Colombia.

In response to this information, Under Secretary of the Treasury for Enforcement Raymond W. Kelly issued a "Geographic Targeting Order" or "GTO" pursuant to a provision of the Bank Secrecy Act that allows the Treasury to require financial institutions in a geographic area to comply with special reporting and record-keeping obligations. The GTO in question required the designated money transmitters and their agents to report information about the senders and recipients of all cash-purchased transmissions to Colombia of $750 or more.

The GTO was extremely successful, causing an immediate and dramatic reduction in the flow of suspected narcotics proceeds to Colombia through New York City money transmitters. The volume of cash transmissions to Colombia among the targeted transmitters dropped by approximately 30 percent. Several stopped transmitting funds to Colombia entirely. In addition, the U.S. Customs Service seized over $50 million as money launderers were forced to resort to risky cash smuggling through airports and other means.

Given this success, and the priority you have assigned to combating drug trafficking and related crimes, I decided to extend the special reporting and record-keeping requirements of the GTO so that they would apply nationally and on a permanent basis. To this end, and in order to take the necessary complementary steps to apply the Bank Secrecy Act more effectively in this area, I am transmitting to you three Notices of Proposed Rulemaking which will be published later this week in *The Federal Register*. The three proposed rules will change the treatment of money transmitters and other so-called "money services businesses" (such as check cashers, retail currency exchanges and those engaged in the money order and traveler's check business) under the Bank Secrecy Act. In so doing, these rules put into place the lessons we learned from the work of El Dorado and the success of the GTO.

The first of the new regulations requires approximately 25,000 qualifying money services businesses to register with the Treasury Department's Financial Crimes Enforcement Network (FinCEN) as mandated by the Money Laundering Suppression Act of 1994. Although there are a large number of money services businesses, the rules contain terms intended to minimize the impact of registration on small businesses that serve as agents for larger businesses, e.g. Western Union.

A second regulation will extend the suspicious activity reporting requirements -- already in place with respect to banks -- to money transmitters, and issuers, sellers and redeemers of traveler's checks or money orders. Because customers of these institutions do not maintain account relationships, it is more difficult for the institutions to "know their customers" well enough to spot suspicious transactions. To address this potential problem, the proposed rule provides guidance by listing specific indicia of suspicious transactions.

The final regulation makes the $750 reporting requirement of the New York GTO applicable to money transmitters nationwide, and on a permanent basis. Under the proposed rule, money transmitters must report currency transactions of $750 or more that involve the transmission of funds to any person outside the United States. Previously, only transactions of $10,000 or more had to be reported. The new rule also requires the transmitters to verify the identity of the person sending the funds. We do not believe that this rule will unduly burden legitimate business; the vast majority of legitimate remittances are between $200 and $500.

The overwhelming majority of the businesses affected by these new rules are engaged in legitimate and valuable commercial activity. Indeed, the industry has been extremely supportive of our work. The rules are intended only to make life difficult for the money launderers and their accomplices, and to prevent the manipulation of honest businesses by criminal enterprises.

Sincerely,

Robert E. Rubin

THE WHITE HOUSE
WASHINGTON

(1) How to define - by function, ~~by~~ business.
↳ generally prefer by industry & exempt those already regulated.
relation to Internet Commerce

(2) Don't understand stored value

(3) Thresholds - exclude under $500 per person, per day.
↳ and 50,000 monthly volume for large ~~[illegible]~~ agents

(3) Reg. Burden - some argue more than $100 million &, thus, trigger more cost benefit analysis

Uncle 2

THE WHITE HOUSE
WASHINGTON

(4) should threshold be at \$500 as outlined
↳ at \$5000, what's currently expected of depository inst.
↳ and what should threshold, if any, be of back office facilities.

(5) Jewelry liability?

Issue #3

- transactions of \$750 or more must be reported
- (normal threshold is \$10,000) for all intersection destinations
- not enough cause to show underwrite need. → Also, \$1000 to \$3000

FINANCIAL CRIMES
ENFORCEMENT NETWORK
2070 Chain Bridge Road, Suite 200, Vienna, VA 22182, Telephone (703) 905-3520

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Predecisional Document;
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DRAFT

Background Paper:
Proposed Money Services Business Rules

Introduction

In early 1997, the Office of Enforcement asked the Financial Crimes Enforcement Network ("FinCEN") to prepare three proposed rules relating to the treatment of a group of non-bank financial businesses under the Bank Secrecy Act (the "BSA"). One of the three rules responded to a 1994 statutory mandate, but the urgency and much of the content of the rules was dictated by the need to respond to extensive money laundering by Colombian money remitters in the New York Metropolitan Area.

Money Services Businesses

The classes of businesses affected by the rules are money transmitters, the money order industry, the traveler's check industry, check cashers, and retail currency exchangers. These businesses have been grouped together, for regulatory purposes, under the heading "money services businesses" (or "MSBs").[1]

The businesses involved form an important part of the national payment and financial system, especially for low income and immigrant communities. But they are subject to no national, and to only limited and inconsistent state, regulation, and they often operate outside normal commercial information channels. The businesses range in size from large "brand-name" firms, such as American Express and Western Union, that dominate the national markets with networks of thousands of sales outlets and agents, to smaller ethnically based networks and individual small businesses. The knowledge base of federal and state governments about the operation of these businesses is limited. Moreover, FinCEN's work with the proposed rules indicates that even the industry itself has only imperfect data to offer for policy discussions.

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[1] A study of this group of businesses, based on available industry data, was performed for FinCEN by Coopers and Lybrand as a partial basis for the rulemaking process.

The Proposed Rules

FinCEN proposed three rules, requiring:

- registration of these classes of businesses with the Department of the Treasury as mandated by 31 U.S.C. 5330, on the basis of updated definitions reflecting the terms of that section;
- reporting by money transmitters, and businesses in the money order and traveler's check industries, of suspicious transactions; and
- reporting by money transmitters of all money transmissions of at least $750 sent to beneficiaries outside the United States and paid for with currency.

The MSB Rules have attracted significant attention and controversy and generated enormous effort, both by FinCEN and by representatives of the affected industries. Five public meetings to discuss aspects of the rules were held over the summer at various places around the nation, and 82 comments on the Rules are under review; approximately 30 of the comments are detailed ones, some running to more than 50 pages of text.

The comment period for the rules originally closed in mid-August and was extended until September 30, 1997. The comments raise a number of important policy questions. Some of those questions relate to the administration of the BSA. Others involve the relationship between the BSA and other Treasury policies, both inside and outside the enforcement arena.

The most important comments, and a summary of FinCEN's views on those comments, are outlined below, for each of the three rules.

Registration

The first rule updates the BSA definitions of the relevant businesses and implements the provisions of 31 U.S.C. 5330 by requiring businesses offering money services products to register with the Treasury and keep lists of their agents or sales outlets. (The definitional changes also have relevance for the application of other BSA requirements, including those proposed in the other two MSB Rules. [2])

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[2] Whether the redefinitions are in fact a separate, unrelated, rulemaking is one of the issues pressed by the comments of the Non-Bank Funds Transmitters Group, the major industry lobbying organization. The

1. Treatment of Regulated Industries. Although the proposed Rules generally exclude banks and to some extent broker-dealers from their operation, the proposed definitions themselves adopt a "functional approach." That means that a business is a money services business because of the kinds of services it provides - for example money transfer or check cashing services - whether or not the business is otherwise a financial business (for example a grocery store that sells money orders or cashes checks) or is otherwise regulated (for example as a broker-dealer in securities). Commenters have argued that the definitions themselves should not be functional but should fix on certain, specified, businesses and should explicitly exclude from coverage businesses that are not predominantly financial services providers as well as businesses such as securities brokers and dealers, futures commissions merchants ("FCMs") and bank holding companies and their non-bank subsidiaries.

We believe that financial services firms regulated by federal agencies as banks or broker-dealers, should generally be excluded from the definitions (as well as from particular rules) to the extent that their activities are subject to such regulation. Thus, for example, a broker or dealer in securities would not also be a money transmitter, to the extent its activities are regulated by the Securities and Exchange Commission (or, if it is also an FCM, by the Commodities Futures Trading Commission). We would continue to include in the definitions non-depository institution subsidiaries or affiliates of depository institutions or bank holding companies.[3]

2. Definitional and Registration Thresholds. The definitions of all money services businesses except money transmitters exclude businesses that do not perform services of a value of more

membership of the Group includes Western Union Financial Services, Integrated Payment Systems, MoneyGram Payment Systems, Travelers Express Co., Comdata Network, Thomas Cook, Citicorp Services, and American Express Travel Related Services.

[3] The treatment of bank holding company subsidiaries raises a complicated technical issue. The federal financial supervisors apply their suspicious activity reporting rules not only to each depository institution but also to the depository institution's holding company and that company's other - non-depository institution - subsidiaries. But the BSA has historically been applied, in the case of depository institutions, only to the depository institutions themselves. The result is that a company such as Thomas Cook, a money services business whose ultimate owner is a German bank that itself does business in the United States, is already required to report suspicious activities by the Federal Reserve Board (under rules similar to those contained in 31 CFR 103.21), but not under the BSA.

than $500 per person per day. The rule also proposed a $50,000 monthly volume threshold for registration of "large agents." Both thresholds reflect discussions with law enforcement officials at the time the MSB Rules were proposed and were designed to eliminate businesses whose overall volume was not sufficiently large to warrant imposition of compliance costs. Commenters have argued that the thresholds are too low, and we believe that the thresholds could be raised somewhat, depending upon the determinations as to the proper thresholds for suspicious activity and special currency transaction reporting, discussed below.

3. Stored Value. The proposed definitions would include "stored value" as one of the products whose sale is subject to registration and would treat non-bank advanced electronic payment system companies as "money transmitters." Comments have, for the most part, opposed this proposal (although the American Bankers Association and several other commenters have supported the proposal as a matter of competitive equity); the commenters have argued that any treatment of stored value at this time will have a "chilling effect" on industry development, is premature, and is inconsistent with Administration policy on Internet commerce generally.

We would recommend a compromise. For example, the final rule might require registration only of issuers of stored value and operators of cyber-money transmitting services (and not their sales outlets) and defer any extension of registration to other businesses in the stored value distribution chain for at least 24 months.

4. Regulatory Burden. Comments have argued that the cost estimates that accompany the three rules are far too low. Some formulations could, if accepted by the Office of Management and Budget or the Congress, turn the rules, if viewed as a single package, into a rulemaking with a greater than $100 million effect on the economy, triggering expanded cost-benefit analysis and approval requirements.

The state of accurate information about money services businesses is sparse at best. We believe that the economic impact of the rules should be reconsidered once questions about coverage of the rules have been resolved.

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Suspicious Activity Reporting

The second rule would require reporting by money transmitters, and businesses in the money order and traveler's check industries, of suspicious transactions of $500 or more.

1. Reporting Thresholds. The proposed suspicious transaction reporting rule set a threshold of $500 for reporting. Commenters have argued that that threshold is far too low, and that a threshold anywhere from $1,000 to $5,000 should be adopted. ($5,000 is the transactional threshold for suspicious transaction reporting by depository institutions.) They have also argued that no threshold should be imposed for reporting by "back-office facilities."

We would recommend that the threshold be raised for transactions at sales outlets so that it is the same as the threshold ultimately adopted for the special currency transaction reporting rule (assuming that rule is retained). We believe that the threshold should fall somewhere between $1,000 and $2,000. Whether there should be a separate back-office threshold remains an open question.

2. Derivative Liability. The allocation of liability between companies offering money services products and other companies that serve as "sales outlets" or "agents" for those products is the most difficult legal issue raised in the rules. We believe that some degree of derivative liability, on a "duty to supervise and audit" basis, is appropriate and is indeed required if the rules are to be effective. Accordingly, businesses offering money services products should be subject to specific requirements to oversee compliance of sales outlets with the new rules.

Special $750 Currency Transaction Reporting

The third rule would require reporting by money transmitters of all money transmissions sent to beneficiaries outside the United States and paid for with currency of at least $750. (The normal threshold is $10,000.) This rule would essentially extend throughout the nation - for all international destinations - the reporting level imposed by the New York geographic targeting orders ("GTOs"). The GTOs are administrative orders, issued under the BSA, and used in this case to set special reporting requirements on certain transmitters of money to

Colombia in the New York Metropolitan Area, and then on transmitters of money to the Dominican Republic in both the New York Metropolitan Area and Puerto Rico.[4]

1. Legal Basis for Special Currency Transaction Reporting Threshold. Commenters, especially the Non-Bank Funds Transmitters Group and Western Union, in its own comments, argue strenuously that no law enforcement need for a nationwide rule has been shown, that the rule is unsupported by the administrative record (another way of making the same point), and that a rule distinguishing between money services and other businesses is not lawful.

We believe that different currency reporting thresholds for different businesses are permitted by relevant provisions of the BSA. More important, we continue to believe that a special currency transaction reporting rule can represent a significant positive step in the national anti-money laundering effort, if the Department of the Treasury and the Department of Justice are truly committed to defending and using such a rule.

Treasury officials have often pointed out that the success of the New York GTOs was based on the matching of targeted information collection rules with a highly energized and trained task force of agents and analysts poised to take and work with the data as it arrived. Unless similar efforts are put in place around the nation - to show quick and extensive use of special currency reporting data, and also of suspicious activity reporting and registration data - any rules that are pushed through will fall flat and simply provide an occasion for criticism of the Treasury and its administration of the BSA.

2. Reporting Threshold. Commenters have also argued that the $750 threshold is far too low, suggesting that $3,000 would be a permissible level for reporting, with perhaps a $1,000 level for a customer identification requirement as a recordkeeping matter.

[4] Of the targets of the GTOs, one, Vigo Remittance Corporation, plead guilty to money laundering days before the GTO was imposed; a second, South American Exchange, Ltd., has since plead guilty to money laundering and surrendered its license to act as a money transmitter in New York State; a third, Remesas America Oriental, Inc., has plead guilty to money laundering and has had its license as a money transmitter in New York State revoked by the State's Superintendent of Banks. Several other targeted remitters have withdrawn from business in New York State.

We believe that the threshold could be raised somewhat, perhaps to $1,000 or $2,000. But the appropriate level for reporting depends in part upon the views of field enforcement officials around the nation, not only because the rule is designed to assist "real time" enforcement operations, but because it is the opinion of those officials that will be determinative if it is necessary to defend the rule in court.

As indicated above, we would correlate all of the reporting and definitional thresholds in the three rules once a determination is made about the special currency reporting threshold. Changes in the thresholds may also reduce the importance of comments arguing that the rulemaking has a greater than $100 million effect on the economy.

Timing of Rules

1. Extension of Effective Dates. Many comments on the MSB Rules assert that at least 18-24 months is required for a phase-in of the rules, whatever their final terms, because of the need for computer reprogramming and training required to make any rules effective. (The proposed rules contain a six month registration period and earlier effective dates for suspicious transaction and the special $750 currency transaction reporting rules.) Resolution of timing questions depends upon resolution of the substantive issues noted above but also upon the identification of funding for program implementation.

General Policy Considerations

The issues raised by the proposed rules are not limited to the particular criticisms voiced by the comments. Those issues also include, importantly, the framing and enforcement of the rules in the context of Treasury's general counter-money laundering policy and its administration of the BSA. In this context, the three rules raise somewhat different sets of issues.

Registration of the businesses classed as "money services businesses" is required by statute (and Treasury is overdue in meeting that obligation). The registration rules follow the structure set out by the 31 U.S.C. 5330, and, indeed, dealing with some of the technical criticisms made by the comments would involve granting exemptions from statutory requirements.

Similarly, suspicious transaction reporting, for all classes of financial institutions covered by the BSA, is a primary component of Treasury policy. Such reporting, by non-banks as well as banks, is essential if the United States is to comply with the 40 Recommendations of the Financial Action Task Force.[5]

With respect especially to the special $750 currency transaction reporting rule, however, a crucial question is whether the Department of the Treasury and the Department of Justice are truly committed, where it counts, to the sorts of initiatives required by the proposals. To proceed at all in the absence of that commitment risks the credibility of the BSA.

[5] See Recommendations 15 (mandatory suspicious transaction reporting) and 8 (Anti-money laundering laws and regulations should apply to non-banks as well as banks.). The 1996 FATF Mutual Evaluation of the United States criticized U.S. efforts to date on this score: "There is also a need to push forward with the necessary reforms [e.g., registration and suspicious transaction reporting] as expeditiously as possible. Those reforms must ensure that the 'core' anti-money laundering requirements are extended to the full range of [non-bank financial institutions]." Financial Action Task Force on Money Laundering, Second Mutual Evaluation of the United States (March 21, 1997)(Confidential Document), at paragraph 128, page 34.