

GAO

Testimony

Before the Committee on Banking and Financial Services,
House of Representatives

For Release on Delivery
Expected at
10:00 a.m., EST
Wednesday,
February 28, 1996

MONEY LAUNDERING

U.S. Efforts to Combat
Money Laundering Overseas

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International Relations and Trade Issues



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Money Laundering: U.S. Efforts to Combat Money Laundering Overseas

SUMMARY OF STATEMENT BY JAYETTA Z. HECKER, ASSOCIATE DIRECTOR, INTERNATIONAL RELATIONS AND TRADE ISSUES

Money laundering is a global problem requiring collective international efforts to combat. GAO's testimony describes U.S. efforts to deter this activity, including: (1) U.S. and seven European countries' regulation of financial institutions in regard to money laundering, (2) U.S. bank regulators' oversight of money-laundering controls at overseas branches of U.S. banks, (3) U.S. law enforcement agencies' efforts to coordinate their overseas anti-money-laundering activities with host countries' law enforcement agencies, and (4) U.S. participation in international anti-money-laundering arrangements.

U.S. banking regulators' previous domestic anti-money-laundering efforts relied mainly on reporting regulations that require financial institutions to report currency transactions above certain thresholds. Current approaches include an increased reliance upon reporting suspicious transactions. Also, most U.S. banks have adopted "know your customer" policies to help identify suspicious transactions, according to the American Bankers Association. European countries GAO visited have relied on suspicious transaction reports as well as on know your customer policies to combat money laundering through financial institutions.

U.S. bank regulators may face impediments in overseeing money-laundering controls at branches of U.S. banks abroad. These branches are subject to host countries' anti-money-laundering laws rather than U.S. anti-money-laundering laws. As a result, U.S. regulators' examinations of these branches are more narrowly scoped than comparable examinations of branches in the United States. In addition, host country bank privacy and data protection laws may serve to prevent U.S. regulators from performing on-site examinations of U.S. branches in certain countries. However, regulators can rely on other means to counteract or prevent money-laundering activities at these overseas branches.

Several U.S. law enforcement agencies are responsible for investigating crimes involving money laundering. Law enforcement officials from two European countries expressed concern to GAO about the difficulties of dealing with multiple U.S. agencies. U.S. law enforcement agency officials, however, prefer not to designate a single agency as a focal point on overseas money-laundering inquiries because of jurisdictional problems.

Instead, a number of U.S. agencies have adopted a July 1994 Memorandum of Understanding that aims to improve overseas coordination.

Also, the United States is working with other countries through treaties and arrangements to establish global anti-money-laundering policies, mainly through the Financial Action Task Force.

Mr. Chairman and Members of the Committee:

I am pleased to be here today to discuss money laundering, a global problem that needs to be fought collectively by the international community. Increased attention to U.S. efforts to combat money laundering abroad is important, particularly as U.S. efforts have made it more difficult for individuals to launder money domestically.

My testimony today will discuss (1) U.S. and selected European countries' approaches to combating money laundering through regulation of financial institutions,¹ (2) U.S. bank regulators' oversight of money-laundering controls at overseas branches of U.S. banks, (3) U.S. law enforcement agencies' efforts to coordinate their overseas anti-money-laundering activities with host countries' law enforcement agencies, and (4) U.S. participation in international arrangements to combat money laundering abroad. Our work was designed to provide a framework for understanding U.S. international efforts to combat money laundering rather than an assessment of U.S. activities in this area.

My remarks today are based on the work that we performed for Ranking Minority Member Henry B. Gonzalez over the past year and a half on U.S. efforts to combat overseas money laundering. Most of our work will be more comprehensively summarized in a report we plan to release shortly. In doing our work, we obtained views and material from (1) U.S. bank regulatory officials, including the Department of the Treasury's Office of the Comptroller of the Currency (OCC) and the Federal Reserve Board (FRB); (2) U.S. law enforcement officials in the United States and abroad, including the Department of the Treasury's Customs Service, and Internal Revenue Service (IRS), and the Department of Justice's Criminal Division, Federal Bureau of Investigation (FBI), and Drug Enforcement Administration (DEA); (3) Treasury's Financial Crimes Enforcement Network (FinCEN) and the Department of State; (4) law enforcement, bank regulatory, and financial institution officials we visited in England, France, Italy, Germany, Hungary, Poland, and Switzerland; (5) Interpol (the international criminal police organization); and (6) the Secretary of the multilateral Financial Action Task Force (FATF).

¹Treasury regulations implementing the Bank Secrecy Act (Public Law 91-508, Oct. 26, 1970) define the term "financial institution" to include banks, federally regulated security brokers, currency exchange houses, funds transmitters, check-cashing businesses, and persons subject to supervision by state or federal bank supervisory authorities.

Background

Money laundering, which is the disguising or concealing of illicit income in order to make it appear legitimate, is a problem of international proportions. Federal law enforcement officials estimate that between \$100 billion and \$300 billion in U.S. currency is laundered each year.

Numerous U.S. agencies play a role in combating money laundering. Law enforcement agencies within the Departments of Justice and the Treasury have the greatest involvement in domestic and international money-laundering investigations. FRB and OCC have the primary responsibility for examining and supervising the overseas branches of U.S. banks to ascertain the adequacy of the branches' anti-money-laundering controls. FinCEN provides governmentwide intelligence and analysis that federal, state, local, and foreign law enforcement agencies can use to aid in the detection, investigation, and prosecution of domestic and international money laundering and other financial crimes. In addition, other U.S. agencies play a role, including the State Department, which provides information on international money laundering through its annual assessment of narcotics and money-laundering problems worldwide.²

U.S. and European Approaches to Combating Money Laundering Through Financial Institutions

Until recently, U.S. banking regulators' anti-money-laundering efforts relied heavily on regulations requiring financial institutions to routinely report currency transactions that exceed \$10,000, primarily through filing currency transaction reports (CTR) with the IRS. U.S. banking regulators have also relied on approaches in which financial institutions report financial transactions involving known or suspected money laundering.³ According to a senior Treasury official, U.S. regulators' anti-money-laundering efforts in coming years are expected to rely more on the reporting of financial transactions involving known or suspected money laundering. U.S. regulators will also be expected to continue relying on CTRs, but to a lesser extent.

Most U.S. banks have adopted so-called "know your customer" policies over the past few years to help them improve their identification of financial transactions involving known or suspected money laundering, according to the American Bankers Association. Under these know your

²See International Narcotics Control Strategy Report, U.S. Department of State, Bureau for International Narcotics and Law Enforcement Affairs (Washington, D.C.: Department of State, Apr. 1995).

³On February 5, 1996, the Treasury and banking regulators finalized rules to require, in general, that banks and other depository institutions file a single report, known as the suspicious activity report, to FinCEN for suspicious transactions at or above \$5,000.

customer policies, which are currently voluntary but which the Treasury plans to make mandatory in 1996, financial institutions are to verify the business of a new account holder and report any activity that is inconsistent with that type of business. According to the American Bankers Association, these policies are among the most effective means of combating money laundering, and the majority of banks have already adopted such policies.

The seven European countries we visited have tended to model their anti-money-laundering measures after a 1991 European Union (EU)⁴ Directive⁵ that established requirements for financial institutions similar to those that financial institutions conducting business in the United States must follow. However, instead of relying on the routine reports of currency transactions that the United States has traditionally emphasized, European countries have tended to rely more on suspicious transaction reports and on know your customer policies. These know your customer policies are somewhat more comprehensive than comparable U.S. ones, according to European bank and regulatory officials.

While Hungary and Poland have adopted anti-money-laundering measures following the EU Directive, banking and government officials in these two countries told us that the implementation and enforcement of their anti-money-laundering measures have been hindered. They attributed problems to such factors as resource shortages, inexperience in detection and prevention, and in Poland, conflicts between bank secrecy laws and recently adopted anti-money-laundering statutes.

FinCEN and INTERPOL have recently initiated Project Eastwash, to attempt to assess money laundering in 20 to 30 countries throughout East and Central Europe and the former Soviet Union. According to FinCEN officials, as of late 1995 on-site visits had been made to five countries to assess the law enforcement, regulatory, legislative, and financial industry environment in each nation. Information from these visits is to be used for policy guidance and resource planning purposes for both the countries assessed and U.S. and international anti-money-laundering organizations, according to these officials.

⁴EU includes 15 member nations: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, and the United Kingdom (U.K.).

⁵Council Directive of 10 June 1991 on the Prevention of the Use of the Financial System for the Purpose of Money Laundering (91/308/EEC).

U.S. Bank Regulators' Oversight of Money-Laundering Controls at Overseas Branches of U.S. Banks

U.S. banks had over 380 overseas branches located in 68 countries as of August 1995. These branches, which are a direct extension of U.S. banks, are subject to host countries' anti-money-laundering laws rather than U.S. anti-money-laundering laws, according to OCC and FRB officials. In some cases, U.S. banking regulators have not been allowed to perform on-site reviews of these branches' anti-money-laundering controls.

U.S. Review of Some Overseas Bank Branches Faces Obstacles

According to U.S. banking regulators, bank privacy and data protection laws in some countries serve to prevent U.S. regulators from examining U.S. bank branches located within their borders. Of the seven European countries we visited, U.S. regulators were not allowed to enter Switzerland and France to examine branches of U.S. banks because of these countries' strict bank secrecy and data protection laws. U.S. regulators, however, have other means besides on-site examinations for obtaining information on U.S. overseas branches' anti-money-laundering controls, according to FRB and OCC officials. For example, U.S. regulators can and do exchange information—excluding information requested for law enforcement purposes—with foreign banking regulators on their respective examinations of one another's foreign-based branches. In addition, FRB can deny a bank's application to open a branch in a country with strict bank secrecy laws if it does not receive assurance that the branch will have sufficient anti-money-laundering controls in place, according to FRB officials.

Examinations of Overseas Branches Tend to Be Narrowly Scoped

OCC and FRB officials said that in countries that allow them to examine anti-money-laundering controls at overseas branches of U.S. banks, such examinations are of a much narrower scope than those of branches located in the United States. One reason is that host country anti-money laundering measures may not be as stringent as U.S. anti-money-laundering requirements and, thus, may not provide the necessary information for U.S. examiners. OCC and FRB officials also said that the expense of sending examiners overseas limits the amount of time examiners can spend reviewing the anti-money-laundering controls of the bank. However, according to these officials less time is needed to conduct an anti-money-laundering examination at some overseas branches because of the small volume of currency transactions. FRB officials told us that they have recently developed money-laundering examination procedures to be used by its examiners to address the uniqueness of overseas

branches' operations and to fit within the short time frames of these examinations. Although these procedures have been tested, they have not been implemented and, thus, we have not had the chance to review them.

U.S. Law Enforcement Agencies' Overseas Efforts

Responsibilities for investigating both domestic and international crimes involving money-laundering are assigned to numerous U.S. law enforcement agencies, including DEA, FBI, IRS, and the Customs Service. While European law enforcement officials acknowledged the important role U.S. law enforcement agencies play in criminal investigations involving money laundering, some commented about the difficulties of dealing with multiple agencies.

Some British and Swiss law enforcement officials we spoke with said that too many U.S. agencies are involved in money-laundering inquiries. This overlap makes it difficult, in some money-laundering inquiries, to determine which U.S. agency they should coordinate with. These European officials indicated that designating a single U.S. office to serve as a liaison on these money-laundering cases would improve coordination.

According to U.S. law enforcement agency officials, however, designating a single U.S. law enforcement agency as a focal point on overseas money-laundering cases could pose a jurisdictional problem because money-laundering cases are usually part of an overall investigation of another crime, such as drug trafficking or financial fraud. Nevertheless, U.S. law enforcement agencies have taken recent steps to address overseas money-laundering coordination. In particular, a number of U.S. agencies adopted a Memorandum of Understanding (MOU) in July 1994 on how to assign responsibility for international drug money-laundering investigations. Law enforcement officials were optimistic that the MOU, which was signed by representatives of the Secretary of the Treasury, the Attorney General, and the Postmaster General, would improve overseas anti-money-laundering coordination. Although law enforcement is optimistic about improvements in coordination, we have not assessed how well U.S. international investigations are being coordinated.

International Arrangements to Combat Overseas Money Laundering

The United States works with other countries through multilateral and bilateral treaties and arrangements to establish global anti-money-laundering policies, enhance cooperation, and facilitate the exchange of information on money-laundering investigations.

Multilateral Efforts to Establish Global Anti-Money-Laundering Policies

The United States' multilateral efforts to establish global anti-money-laundering policies occur mainly through FATF,⁶ an organization established at the 1989 economic summit meeting in Paris of major industrialized countries. The United States, through the Treasury Under Secretary for Enforcement, assumed the presidency of FATF in July 1995 for a one-year term. FATF has worked to persuade both member and nonmember countries to institute effective anti-money-laundering measures and controls. In 1990, FATF developed 40 recommendations that describe measures that countries should adopt to control money laundering through financial institutions and improve international cooperation in money-laundering investigations.

During 1995, FATF completed its first round of mutual evaluations of its members' progress on implementing the 40 recommendations. FATF found that most member countries have made satisfactory progress in carrying out the recommendations, especially in the area of establishing money-laundering controls at financial institutions. FATF has also continued to identify global money-laundering trends and techniques, including conducting surveys of Russia's organized crime and Central and East European countries' anti-money-laundering efforts. In addition, FATF has expanded its outreach efforts by cooperating with other international organizations, such as the International Monetary Fund, and by attempting to involve nonmember countries in Asia, South America, Russia, and other parts of the world.

A more recent multilateral effort involved the United States and other countries in the Western Hemisphere. On December 9-11, 1994, the 34 democratically elected leaders of the Western Hemisphere met at the Summit of the Americas in Miami, Florida. At the summit, the leaders signed a Declaration of Principles that included a commitment to fight drug trafficking and money laundering. The summit documents also included a detailed plan of action to which the leaders affirmed their commitment. One action item called for a working-level conference on money laundering, to be followed by a ministerial conference, to study and agree on a coordinated hemispheric response to combat money laundering.

⁶FATF consists of the following members: Australia, Austria, Belgium, Canada, Denmark, the European Commission (representing the EU), Finland, France, Germany, Greece, the Gulf Cooperation Council, Hong Kong, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Singapore, Spain, Sweden, Switzerland, Turkey, the U.K., and the United States.

The ministerial conference, held on December 1-2, 1995, at Buenos Aires, Argentina, represented the beginning of a series of actions each country committed to undertake in the legal, regulatory, and law enforcement areas. U.S. Department of Justice officials told us that these actions are designed to establish an effective anti-money-laundering program to combat money laundering on a hemispheric basis. Further, the officials told us that the conference created an awareness that money laundering is not only a law enforcement issue, but also a financial and economic issue, requiring a coordinated interagency approach.

As part of another multilateral effort, FinCEN is working with other countries to develop and implement Financial Information Units (FIU) modeled, in large part, on FinCEN operations, according to FinCEN officials. FinCEN has also met with officials from other countries' FIUs to discuss issues common to FIUs worldwide. The most recent meeting was held in Paris in November 1995, during which issue-specific working groups were created to address common concerns such as use of technology and legal matters on exchanging intelligence information.

Bilateral Agreements to Improve Cooperation in International Money-Laundering Cases

U.S. Treasury officials said that in recent years, the United States has relied on bilateral agreements to improve cooperation in international investigations, prosecutions, and forfeiture actions involving money laundering. These bilateral agreements, consisting of mutual legal assistance treaties, financial information exchange agreements, and customs mutual assistance agreements with individual countries, also help to facilitate information exchanges on criminal investigations that may involve money laundering. However, the State Department's 1995 annual report on global narcotics crime concluded that many countries still refuse to share with other governments information about financial transactions that could facilitate global money-laundering investigations.

Mr. Chairman, this concludes my prepared statement. I would be pleased to try to answer any questions you or the Committee may have.

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