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STATEMENT OF  
WILLIAM J. ANDERSON, DIRECTOR  
GENERAL GOVERNMENT DIVISION  
BEFORE THE  
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS  
COMMITTEE ON GOVERNMENTAL AFFAIRS  
UNITED STATES SENATE  
ON THE  
DEPARTMENT OF TREASURY'S IMPLEMENTATION  
OF THE BANK SECRECY ACT



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Mr. Chairman and Members of the Subcommittee:

We are pleased to be here today to discuss the results of our review of the Bank Secrecy Act. As you requested, we reviewed the Department of the Treasury's management of the Act and studied how law enforcement agencies use the Act and the financial data which it generates.

Mr. Chairman, I would like to briefly summarize our review results, and then discuss them in more detail. Most importantly, we found that:

- Treasury began taking a more active role in implementing the Act following the February 1985 conviction of the Bank of Boston for criminal violations of the Act. Since then, Treasury has taken some actions to improve compliance with and enforcement of the Act. However, opportunities exist for further improvements. In particular, Treasury headquarters needs more information about how IRS, Customs, and the financial regulatory agencies are administering the Act and how law enforcement agencies are using data generated under the Act.
- In Florida and California, the locations we visited, the Act and the financial data it generates are being used by law enforcement agencies to disrupt money laundering and drug trafficking operations.
- Recent circuit court rulings have highlighted an inconsistency between the Act and its implementing regulations regarding multiple, structured currency

transactions intended to avoid the reporting requirements of the Act. Clarification of this inconsistency is needed.

In 1970, Congress enacted the Currency and Foreign Transactions Reporting Act, commonly called the Bank Secrecy Act, to help law enforcement agencies identify the sources, volumes and movements of U.S. currency being transported into or out of the country or being deposited in financial institutions. Treasury has delegated most of the Act's day-to-day operations to the Internal Revenue Service, the U.S. Customs Service, and a number of federal financial regulatory agencies, but the Secretary of the Treasury retains overall responsibility for implementing the Act. Within Treasury headquarters, this responsibility is assigned to the Assistant Secretary for Enforcement. In July 1985, Treasury established the Office of Financial Enforcement under the Assistant Secretary to assist in overseeing implementation of the Act. This action formalized the role of staff already reporting to the Assistant Secretary. As of June 1986, two of the office's four authorized professional staff positions were filled.

During our review, we interviewed officials and reviewed records at Treasury, Customs, and IRS. We also conducted interviews and case file reviews at federal law enforcement agencies in Florida and California to determine how law enforcement agencies use the Act. Our field work was conducted from April 1985 to February 1986.

We testified before this Subcommittee in October 1985 on our evaluation of the compliance examination program. At that time, we concluded that the financial institution examination procedures used by the five depository institutions' regulatory agencies could be strengthened, and that Treasury and the federal financial regulatory agencies could better coordinate with one another. In June 1985, Treasury organized an inter-agency working group to modify and improve compliance examination procedures. As of June 1986, Treasury and the agencies had agreed on some changes to the examination procedures. Other issues are still under consideration by the working group.

Treasury has also increased the number of reviews of noncompliance with the Act and imposed more civil penalties for noncompliance. Treasury officials told us that most of the 76 civil reviews opened during 1985 resulted from voluntary admission of possible noncompliance by financial institutions. In 1986 Treasury began working with Justice to develop ways to prevent structured transactions designed to avoid the Act's reporting requirements.

Although Treasury's recent actions should help improve implementation of the Act, opportunities will still exist for improvement. Treasury headquarters is still not obtaining adequate information about the way IRS, Customs, and the financial regulatory agencies are carrying out their delegated duties. In short, the management controls over these activities need strengthening. I will now discuss some of these in more detail.

TREASURY NEEDS MORE INFORMATION  
ABOUT COMPLIANCE EXAMINATION  
EFFORTS

Treasury lacks detailed information about the number of institutions examined, the number found in violation, and the nature of the violations detected. Although the Act's implementing regulations require periodic reporting from the regulatory agencies and IRS on their efforts to assure compliance, not all agencies submit these reports to Treasury and the reports that are submitted are not timely or consistent. Because of these inconsistencies we were unable to determine the nature or extent of the violations identified by the examining agencies. We could not determine the number of institutions examined and/or how many had violations among those examined by the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the Securities and Exchange Commission. Two of these agencies do not submit periodic reports to Treasury, one did not report on calendar year 1985, and one had not, as of April 30, 1986, submitted its fourth quarter 1985 report.

CIVIL ACTIONS AGAINST FINANCIAL  
INSTITUTIONS INCREASED IN 1985

Between 1970 and 1985, Treasury assessed civil penalties of about \$800,000 against seven financial institutions. During 1985, Treasury began conducting more civil reviews and imposing more civil penalties for noncompliance. Treasury officials told us that most of the financial institutions under review came forward voluntarily to Treasury, as a result of publicity

generated after the Bank of Boston pled guilty to violations of the Bank Secrecy Act in February 1985. In 1985, Treasury opened civil reviews of noncompliance by 76 financial institutions. Eleven of the 76 institutions were assessed civil penalties amounting to \$5.1 million during 1985; one review was closed without a civil penalty being assessed. The remaining 64 civil reviews are still pending.

TREASURY DOES NOT MONITOR  
CUSTOMS' ENFORCEMENT EFFORTS

Treasury does not monitor Customs' enforcement efforts with respect to the reporting of transportation of currency or monetary instruments in excess of \$10,000 into or out of the United States. Customs does not routinely report to Treasury on its enforcement efforts, although the Act's implementing regulations require Customs to do so. As a result, Treasury does not know how often violations are identified by Customs. Although our review indicated that Customs identified numerous violations and makes extensive use of the seizure and forfeiture provisions of the Act, Treasury does not know the extent of that use, the frequency and value of seizures for violations of the Act, or the remission or mitigation decisions made by Customs concerning those seizures. Such information would enable Treasury headquarters to measure the effectiveness of Customs' enforcement efforts.

TREASURY DOES NOT OBTAIN INFORMATION  
ON THE USE OF THE ACT FOR CRIMINAL  
PROSECUTIONS

Treasury's Office of Financial Enforcement could not provide us with information about individuals or businesses which have been prosecuted for violations of the Bank Secrecy Act or as a result of investigations which used Act data. Such information would help Treasury to determine how well the Act's objectives are being achieved.

TREASURY'S EFFORTS TO COLLECT  
DATA REQUIRED UNDER THE ACT

Treasury has delegated the day-to-day operating authority for collecting Act data to IRS and Customs. The Acting Director, Office of Financial Enforcement, told us that Treasury headquarters has not actively managed and coordinated the collection process at IRS and Customs and that Treasury's involvement has been on an ad hoc basis. He added that, typically, Treasury was informed by IRS and Customs of decisions already made which affected the collection process rather than being involved in the decision making. By establishing the Office of Financial Enforcement, Treasury recognized that it should be more involved in coordinating the data collection activities of IRS and Customs. Increased involvement by Treasury headquarters should alert Treasury management earlier about management problems, such as backlogs of unprocessed reporting forms.

TREASURY DOES NOT MONITOR  
CUSTOMS' ANALYSES OF THE  
ACT'S DATA

Treasury has delegated to Customs the task of analyzing Act data for use by the law enforcement community. Treasury does not routinely receive management information from Customs and has not given Customs guidance in planning the types of studies or methodologies to be pursued. Treasury has not systematically monitored the usefulness of analytical reports, and until August 1985, Customs had no formal method of receiving feedback on the usefulness of reports. More involvement by Treasury headquarters in coordinating Customs' analytical activities is needed to assure that Customs' analyses are meeting the needs of the law enforcement community. Law enforcement personnel we interviewed in California told us that, although they considered some of the analytical reports they had received to be significant and helpful, most of the reports were of limited value and retained only as general background information.

DISSEMINATION GUIDELINES  
NEED TO BE UPDATED BY TREASURY

Treasury delegated to Customs the authority to disseminate Act data to federal, state, local, and foreign law enforcement agencies. The number of requests for data has been increasing since 1982, and this increase has accelerated since 1985. Despite increased requests, use of Act data by law enforcement agencies has been hindered by the current dissemination guidelines. FBI, DEA, and Customs officials told us that revised guidelines would facilitate access by allowing them to request



some data at the field level rather than from Customs headquarters. We recommended this revision in our 1981 report. Customs proposed revised dissemination guidelines in 1982 and again in 1986. As of May 28, 1986, the revisions were still being reviewed by Treasury.

LEGAL ISSUES RELATING  
TO INTERPRETATION OF  
REPORTING REQUIREMENTS

In addition to the matters I have already discussed relating to Treasury's implementation of the Act, our review surfaced an unresolved legal issue. Under present law, money launderers are successfully prosecuted in some courts for causing financial institutions not to file reports on multiple currency transactions totaling more than \$10,000 or for causing financial institutions to file incorrect reports. In such cases, defendants are charged with violations of 18 U.S.C. 2 (aiding and abetting or causing another to commit an offense) and 18 U.S.C. 1001 (concealing from the government a material fact by a trick, scheme, or device). For example, in United States v. Tobon-Builes, the Court of Appeals for the Eleventh Circuit upheld a conviction under 18 U.S.C. 1001 where the defendants had engaged in a money laundering scheme in which they had structured a series of currency transactions, each one less than \$10,000 but totalling more than \$10,000, to evade the reporting requirements.

In contrast, the Court of Appeals for the Ninth Circuit in a recent decision (United States v. Varbel) overturned Federal District Court convictions of suspected money launderers. The Court of Appeals stated that Treasury's regulations are not as broad as the Act itself. Treasury and the Justice Department are jointly considering solutions to this problem.

USE OF THE ACT AND ITS DATA  
BY LAW ENFORCEMENT AGENCIES

Finally, in Florida and California, the two locations we visited, the Act and its data are being used to disrupt money laundering and drug trafficking operations. In these two locations, IRS and Customs are the primary users of the Act and its data. Other agencies, such as the FBI and DEA, use the Act and its data in investigations and prosecutions for crimes other than currency violations.

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These findings have led us to recommend that the Secretary of the Treasury, through the Assistant Secretary for Enforcement, establish stronger internal management controls aimed at providing more and better information about the agencies to which Treasury has delegated authority to implement the Act. Such information would allow the Secretary to better gauge how these agencies are fulfilling their delegated responsibilities and thereby identify needed improvements.

Mr. Chairman, this concludes our prepared testimony. We would be happy to answer any questions you may have on our work.