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**The Financial Services Roundtable**

Good Afternoon. I am very pleased to have this opportunity to participate in the discussion today relating to the USA PATRIOT Act. I'd like to thank your Executive Director Richard Whiting for inviting me. Your organization and its members are an important and valued part of the FinCEN network, which spans the law enforcement, regulatory and financial communities. Without our on-going dialogue with the financial services industry and particularly groups like this, FinCEN could not have fulfilled the responsibilities imposed by the various provisions of Title III of the USA PATRIOT Act.

As you may also know, I was appointed Director of FinCEN on December 1<sup>st</sup> of last year. I cannot tell you how personally thrilled I am with this opportunity. FinCEN is an agency filled with very dedicated professionals and it has a critically important mission -- to safeguard our nation's financial system from abuse by criminals and terrorists. FinCEN's job begins by administering the regulatory regime required under the Bank Secrecy Act. The regulatory regime ensures not only that financial institutions have appropriate controls in place to protect themselves from those seeking to abuse financial services, but also that appropriate financial information and suspicious activities are reported to us. We are responsible for collecting and maintaining that information, which we then make available to law enforcement. The third component of our work is analysis -- our task is to better utilize the information collected to both provide links and case referrals to law enforcement as well as to provide feedback to you, the financial community. Our success in achieving these goals depends on our ability to listen to the many voices throughout the FinCEN network and then blend common themes and innovative ideas into products and services that are measurably beneficial to all concerned.

But these are things you already know. I am here today to both listen and exchange ideas. This morning you have been analyzing and discussing many of the regulations that FinCEN has put forth under the PATRIOT Act -- an exercise that benefits all of us. FinCEN and Treasury have worked hard during the past two years to meet the many short deadlines of that Act. To date, we have issued 22 proposed or final regulations-- an accomplishment anyone familiar with the administrative rulemaking process can appreciate. But this is precisely why it is time now to step back a bit and do exactly what you have been doing this morning--objectively assess the work of the past two years.

Before we go further, let me unequivocally qualify this by saying that we will, of course, continue to complete the work called for by the PATRIOT Act. There is still important work to be accomplished. In fact, in my view there will always be more to do. Regulations, to be effective, should never be static. As circumstances change and

experiences in implementing them build, revisions and refinements are sometimes necessary. As Director of FinCEN, I intend to foster an environment that stimulates the energetic and open exchange of information and ideas needed to maintain a dynamic regulatory agenda. I hope to engage all of you today in that type of candid discussion. To that end, I will first recap where we are in terms of our regulatory program and then touch on our priorities going forward.

In brief, Title III of the Act sought to accomplish the following: first, to enhance our ability to share information; second, to protect the international gateways to the U.S. financial system, the correspondent account; third, to prescribe uniform customer identification verification procedures for all financial institutions opening accounts; and fourth, to expand our anti-money laundering regime to all categories of financial institutions whose services may be abused by money launderers or terrorists.

In implementing these provisions, our efforts have and continue to be guided by certain overarching principles that FinCEN and Treasury and our regulated partners have articulated and you will hear repeated many times. Your understanding of the foundation on which our country's anti-money laundering structure is built is critical, in my view, to your understanding of what we are trying to achieve. The basic building blocks are:

- Enhancing the flow of critical financial information;
- Focusing financial institutions' reporting on information that is useful to law enforcement and minimizes the regulatory burden imposed;
- Fairly and consistently administering the regulatory regime across industry lines to prevent regulatory arbitrage;
- Protecting important privacy and confidentiality interests; and
- Ensuring that vulnerabilities in the financial system are addressed effectively and appropriately.

Our approach to this regulatory regime is "risk based" not rule based. We believe strongly that compliance must be risk-based in order to fairly and effectively regulate the panorama of industries represented under the BSA umbrella. A risk-based system is a challenge for both the regulated industry and the regulator. For the regulated industry, this "risk-based" system demands that financial institutions evaluate their business, including their products, distribution channels, customer base, etc., and assess their vulnerabilities to money laundering. These businesses must, then, take appropriate steps to focus compliance resources on minimizing the greatest risks. Compliance is not a "check-the-box" exercise, but rather requires financial institutions to exercise their judgment, as informed by our guidance and assistance.

This approach requires financial institutions to make a sincere commitment to comply from the top down. The message that you, as senior managers send throughout

the institution about compliance sets the tone for the whole of the anti-money laundering program your institution puts in place.

The regulator also has significant responsibilities in a risk-based system. We must ensure that we have made every effort to fully explain our regulations and provide well thought-out guidance and expert assistance. This guidance should be both formal and informal and should be delivered through a myriad of technologies.

Maybe most importantly, the regulator under a risk-based system must find an appropriate way to provide the regulated industry with information necessary to permit the industry to assess the risk. I am not naive. This is not easy. For example, if terrorism is our greatest threat, how does FinCEN appropriately and effectively communicate information that may be relevant, but is classified? Law Enforcement is correctly reticent about sharing information outside its investigative circles. How do we get relevant information from those investigations to our industries so they can assess their risks? As difficult as this may be, FinCEN must find a way to provide the industries we regulate with information relevant to their assessment of the risk.

I also intend to aggressively find ways to enhance the information flow you receive. Improved analyses on trends and patterns in financial crime and terrorist financing will be front and center in this effort. This takes me to a discussion of what I am going to concentrate FinCEN's energies on going forward.

A top priority for FinCEN, of course, is completing our implementation of Title III of the PATRIOT Act. For example, working with the financial regulators, we will complete final regulations requiring due diligence and, in some cases, enhanced due diligence, for correspondent accounts maintained for foreign financial institutions as well as private banking accounts. This is the final element of the comprehensive set of regulations designed to protect the international gateways to the U.S. financial system. We must also issue final anti-money laundering program regulations for key non-bank sectors, such as the insurance industry and dealers in precious stones, metals, and jewels, as well as complete proposed regulations for such industries as loan or finance companies and persons involved in real estate closing and settlements. We are completing work on a final regulation requiring mutual funds and certain insurance companies to file Suspicious Activity Reports. Finally, we will issue additional customer identification regulations – which mirror the regulations issued for banks – for other financial institutions offering accounts.

Since passage of the USA PATRIOT Act, we have enjoyed an unprecedented level of cooperation and assistance from the financial services sector. Promoting cooperation has been and will continue to be a hallmark of the FinCEN network. Constant dialogue between law enforcement, regulators and industry helps to produce regulations that strike a better balance between meeting our enforcement goals and minimizing unnecessary burdens placed on industry.

The Bank Secrecy Act Advisory Group or BSAAG is a forum that brings together all of these communities. Although it is only one of many ways in which we reach out to industry, it is a unique one. I want to ensure that the breadth of expertise and talent that resides in the BSAAG is fully appreciated and effectively channeled.

In fact, one of FinCEN's toughest challenges, streamlining the Currency Transaction Reporting or CTR system, has been and continues to be a priority topic on the BSAAG's agenda. CTRs are an important data point for law enforcement but we need to make sure that we weed out unnecessary filings that load up the system with useless information. I mentioned earlier that a regulatory regime should never remain static. CTRs are a perfect example of that and I am committed to doing all I can to help find a workable solution to the problem. The Congress has asked us twice. I think its time we answer.

As I mentioned earlier, information-sharing with the financial community is critical and, perhaps our greatest challenge. That is why I think a very important task given to FinCEN under the PATRIOT Act is to enhance the flow of information as mandated by Section 314. Section 314 encourages development of new ways to share information about terrorists or money laundering suspects rapidly between law enforcement and financial institutions, and to enable financial institutions to share information among themselves. This communication system between law enforcement and financial institutions that can transmit names of suspects to several thousands of financial institutions and receive reports back of matches, all within a matter of days. This pointer system enables law enforcement to locate accounts and transactions of suspects so that law enforcement may then follow up with the financial institution directly to obtain the information. As of mid-January, through the section 314 process, financial institutions have helped law enforcement obtain 472 grand jury subpoenas, 11 search warrants, and three indictments since last February. That's a pretty impressive success story, especially in light of the difficulties encountered when FinCEN initially started up the system.

Another PATRIOT Act mandate aimed at improving the mechanisms for sharing information was a tasking to develop a network to allow financial institutions to e-file certain BSA forms via a secure internet-based system. FinCEN built the PATRIOT Act Communication System or PACS to permit such on-line, electronic filing. PACS is one more example of how FinCEN met a difficult requirement by partnering with industry. The system has moved from a pilot phase of a couple of dozen financial sector participants to an operational system with dozens of filers taking advantage of the multiple benefits of e-filing. We have just reached a milestone with "PACS." We have just reached one million filings. While this is an achievement, it only represents 4% of our BSA filings. We hope to do better and we need your help. I'm a believer in the field of dreams – if you build it, they will come. If we are only getting 4% of the filings, it tells me we need to improve the system. Tell us, please, how we can make this system better.

Information sharing with our international partners is likewise a critical element in our domestic regulatory regime. It is often said that borders disappear when it comes to financial crime. Without a strong cooperative network on the international front, law enforcement's efforts to follow a domestic money trail would be seriously hampered. FinCEN is very active in the international arena through a partnership of more than 80 similar financial intelligence units or FIUs around the globe known as Egmont. Through a secure, web-based system designed by FinCEN, law enforcement authorities can quickly communicate and exchange information with their counterparts worldwide. We will continue to actively promote participation in Egmont and will be hosting the group's annual Plenary in Washington in June of 2005.

As you can see we have a full agenda. I have stressed the importance of partnerships, information sharing and communication. My overriding priority in the coming months and years is to ensure that these are not empty words. I will look to groups such as yours to help broaden our perspectives and knowledge about your industry and explore innovative ways to combine our collective expertise to further fortify our nation's defenses against those who would abuse our financial system. To that end, I will open up the discussion now and answer any questions you may have. And again, I would like to sincerely thank Richard and all of you for listening.