



**ORAL STATEMENT OF WILLIAM J. FOX, DIRECTOR
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UNITED STATES DEPARTMENT OF THE TREASURY**

**BEFORE THE
UNITED STATES SENATE
COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS**

APRIL 26, 2005

Chairman Shelby, Senator Sarbanes, and distinguished members of the Committee, I appreciate the opportunity to appear before you again to discuss the money services business sector. We very much appreciate the leadership, support and guidance you have offered to us on these and other issues relating to the administration and implementation of the Bank Secrecy Act. Your commitment to understand and publicly discuss the issues facing the money services business sector is critical not only to the safety of our financial system, but also to our nation's security. I have prepared a longer written statement that I ask be included in the record. I will keep these remarks short.

Mr. Chairman, if you wouldn't mind, I would like to take a second to acknowledge my esteemed colleagues who are with me on this panel today. I am honored to be here today with Julie Williams, Kevin Brown and Diana Taylor. The importance of our good working relationship and our working relationship with other regulators who have a stake in the Bank Secrecy Act cannot be overstated. In fact, if we are to be successful in achieving the goals of the Bank Secrecy Act, we must speak with one voice on these issues. The confusion resulting from different or disparate messages has serious ramifications, which can be dramatic.

Mr. Chairman, I believe it is fair to say that the Bank Secrecy Act regulatory climate has changed significantly since I appeared before you last September. Industry compliance remains a contradiction – we continue to see significant compliance failures of the most basic type, while at the same time most financial institutions are demonstrating an extraordinary commitment of resources and effort to compliance. I have, in my written statement, outlined why we believe this change has resulted in,

among other things, the widespread termination of banking services for money services businesses, which is a significant reason why we are all here today. I would like to take a moment to explain what we are doing to address this problem.

Earlier this year, when we recognized that account termination for money services businesses was becoming a significant problem, we held a public fact-finding meeting to elicit information from money services businesses and banks why these account relationships were being terminated. The meeting confirmed that money services businesses of all types and sizes are losing their bank accounts at an alarming rate, even when those money services businesses appeared to be complying with the Bank Secrecy Act and state-based regulatory requirements. We also heard a lot of confusion from banking organizations about what is required under the regulatory regime. In essence, we heard quite clearly that we needed to act quickly to clarify the Bank Secrecy Act requirements.

On March 30, 2005, along with the Federal Banking Agencies, we took the first step toward addressing these issues by issuing a Joint Statement on Providing Banking Services to Money Services Businesses. This Statement calmed the waters and asserted clearly that we do not intend to make banking organizations the *de facto* regulators of the money services business industry.

Today, I am very pleased to announce that we have taken the next important step and are issuing, jointly with the Federal Banking Agencies, interpretive guidance that clarifies the requirements of the Bank Secrecy Act for banking organizations that bank money services businesses. The guidance confirms that banking organizations have the flexibility to provide banking services to a wide-range of money services businesses and still maintain compliance with the Bank Secrecy Act. The guidance also makes clear that not all money services businesses pose the same level of risk and banks should tailor their due diligence accordingly. This guidance outlines the due diligence needed in fairly specific detail to better assist banks in assessing and minimizing risk.

But the banks are only part of the equation. Today we are also issuing guidance to the money services businesses industry that outlines the information and documentation that money services businesses should be prepared to provide to banks when opening or maintaining an account. Significantly, this guidance stresses that failure to take such basic steps as registering with us or complying with state licensing requirements may result in not only some form of action by the government but the loss of access to a bank account as well. We remain committed to ensuring that money services businesses that comply with the law have appropriate access to banking services and look forward to continuing to work with industry leaders that make compliance a top priority.

The guidance we issue today is only the beginning. We are not so naïve as to believe that this guidance will solve all issues, or that it will repair all relationships between money services businesses and banking organizations. We are, however,

committed to continue to work with the Federal Banking Agencies, the IRS and our state partners to do everything we can as responsible and responsive regulators. We still have a long way to go and a lot of work to do, but this is a significant first step.

There are two other important developments that I would like to mention – we have recently executed an information-sharing agreement with the IRS, and we have just today signed an information sharing agreement with the State of New York Banking Department. These agreements mark important steps in our efforts at FinCEN to secure information sharing agreements with those regulators examining for Bank Secrecy Act compliance. Not only do we benefit by learning more about what their examinations are finding, but we have a better mechanism for providing support to their examination function. I want to make special mention of both Ms. Taylor and her staff, as well as the John Ryan and the Conference of State Bank Supervisors, who were instrumental in helping us and the IRS develop model agreements for sharing information with the states. Our goal is to have an information-sharing agreement with all states that examine financial institutions for Bank Secrecy Act compliance.

We understand that we must move with all possible speed we can muster and that when we move, we must get it right. September 11th has taught us that information is now central to the security of the nation. And the simple fact is that information is what the Bank Secrecy Act regulatory regime is all about.

Information sharing and cooperation among regulators is key, but without a real partnership with the financial industry in which the government shares real information, we will not succeed. The Bank Secrecy Act regulatory regime should be directed at safeguarding the financial industry from the threats posed by money laundering and illicit finance and it should be directed at providing the government with the right information; relevant, robust and actionable information that will be highly useful to law enforcement and others. The best, if not the only, way to achieve these goals is to work in a closer, more collaborative way with the financial industry. I am convinced that the vast majority of our financial industry members are committed to this partnership. Our goal is to do all we can to ensure that the government lives up to its side of the bargain.

Mr. Chairman, Senator Sarbanes, distinguished members of the Committee, the importance of your personal and direct support of these efforts cannot be overstated. Your oversight will ensure that we meet the challenges that we are facing. I know how critical it is that we do so and we hope you know how committed we are to meeting those challenges. Thank you.