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## New and Continuing Challenges in the Fight Against Money Laundering

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# New and Continuing Challenges in the Fight Against Money Laundering

Henry B. Gonzalez

## **Abstract**

From a public policy standpoint, our overriding question becomes, where do we draw the regulatory line? In this Essay, I will address some of the legislative challenges we face as organized crime and international drug cartels continue to gain a foothold on our financial system.

# NEW AND CONTINUING CHALLENGES IN THE FIGHT AGAINST MONEY LAUNDERING

*Rep. Henry B. Gonzalez\**

## INTRODUCTION

Of the many public policy challenges facing the lawmaking and the law enforcement communities today, none represents as significant a threat to the stability of our financial system as money laundering does. The wholesale “cleansing” of dirty profits derived from criminal activities reaches staggering proportions — by some estimates, between US\$100 and US\$300 billion in the United States,<sup>1</sup> and nearly US\$500 billion worldwide.<sup>2</sup> As a representative of the Congressional district encompassing San Antonio, Texas, near the Southwest border’s drug trafficking corridor, and as former Chairman of the House Banking Committee, the Congressional panel with jurisdiction over laws governing money laundering, I have devoted much time and effort to tackling the pernicious problem of financial crimes. Whether through amending existing statutes or enacting new ones, Congress has, over time, empowered regulators and the law enforcement community with powerful legal tools, and has required financial institutions to police themselves and their customers. The ever-burgeoning illegal profits reaped by organized crime groups, however, provide their launderers with a powerful incentive to find new, creative ways of evading money laundering laws. Very often the launderers succeed.

As legislators we face the responsibility of updating and enacting effective laws to catch up to a class of fast-moving, resourceful, and adaptable money launderers. Our efforts entail a tricky balancing act between the preservation of unrestrained legitimate trade and the often intrusive, if necessary, needs of fi-

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1. U.S. General Accounting Office, *Money Laundering: A Framework for Understanding U.S. Efforts Overseas*, GAO/GGD-96-105, May 24, 1996.

2. *Hearings Before the Comm. On Banking and Financial Services*, 105 Cong., 2d Sess. 112 (1996) (statement of Edward W. Kelley, Jr., Member, Bd. of Govs. of the Federal Reserve).

nancial regulators and law enforcement. From a public policy standpoint, our overriding question becomes, where do we draw the regulatory line? In this Essay, I will address some of the legislative challenges we face as organized crime and international drug cartels continue to gain a foothold on our financial system.

### I. *MONEY LAUNDERING: THE DRUG CONNECTION*

Estimates of the money laundered through the Western banking system by drug traffickers operating in the United States and Europe range between US\$100 and US\$300 billion annually.<sup>3</sup> In Mexico alone, the drug trade is valued at US\$30 billion per year, nearly five times the amount attributed to the Cali cartel at its height.<sup>4</sup> Much of this trade occurs along the U.S.-Mexican border, where four powerful drug cartels smuggle over seventy percent of the narcotics entering the United States.<sup>5</sup> There are indications that the cartels launder much of these drug profits through legitimate banking institutions and a variety of money services businesses, such as check-cashing outlets, money remitters, and currency exchangers, along the U.S.-Mexican border; indeed, the use of these types of non-banking "laundries" appears widespread.<sup>6</sup>

While criminals of all stripes need to conceal the sources of their illicit money, the massive scale of the drug trade and the threat it poses to our financial system, elevates drug traffickers to a class of their own in the universe of criminals. Organized drug cartels employ sophisticated laundering techniques developed, in some cases, by Ivy League-educated financial wizards. While the cost of doing business for drug traffickers is high by the stan-

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3. *Id.* In comparison, the nearly 8000 insured commercial banks in the United States have a combined capital base of US\$350 billion. *Id.* at 111.

4. CONGRESSIONAL RESEARCH SERVICE, *NAFTA: IMPLICATIONS FOR ILLICIT DRUG SUPPLY TO THE UNITED STATES* 2 (1993).

5. *U.S. Law Enforcement Response to Money Laundering Activities in Mexico: Hearings Before the Subcomm. On General Oversight and Investigations of the Committee on Banking and Financial Services*, 102nd Cong., 2d Sess. 2-3 (1996) (statement of Donnie Marshall, Chief of Domestic Operations for the DEA).

6. Money service businesses are included in the statutory definition of non-bank "financial institutions" that appears in 31 U.S.C. § 5312. 31 U.S.C. § 5312 (1982). The term also applies, however, to insurance companies, broker-dealers, gaming businesses, and other financial services providers. Throughout this Essay, I will use the more conventional term "money services businesses," instead of the broader statutory term "non-bank financial institutions," to refer to check cashers, currency exchangers, and money transmitters.

dards of a legitimate business, estimates range between twenty to thirty-five percent of total profits, the sheer volume and vast profitability of their illegal enterprise ultimately dwarfs the impact of that cost on their bottom line. For instance, a thirty-five percent loss through seizures, production costs, bribes, and transportation on US\$200 billion worth of drug business still leaves drug traffickers with US\$130 billion in profits. I often wonder how traffickers manage to launder such enormous amounts of cash. A sobering reminder, however, is the tale of the US\$40 million in cash belonging to a Colombian drug kingpin that rotted in a California basement because his launderers could not fit it in their overloaded laundry machines.<sup>7</sup> Clearly, for drug trafficking organizations that successfully launder billions of dollars even a US\$40 million loss is well within acceptable bounds. What other business in the world could absorb such losses?

## II. MONEY LAUNDERING LAWS AND THEIR IMPACT

In the face of daunting challenges, Congress has enacted money laundering legislation to make it more difficult for drug traffickers and other criminals to abuse our financial institutions. In general, U.S. money laundering laws are grounded on the theory that most crime is profit-driven and that "following the money" ultimately leads to the predicate offense from which illegal profits are derived. As such, our laws mandate several reporting and recordkeeping requirements for routine currency transactions over US\$10,000, suspicious transactions over US\$5,000, and for other transactions covering a range of monetary instruments in order to create a paper trail that may be useful for law enforcement purposes.

Thus, while the Bank Secrecy Act of 1970<sup>8</sup> ("BSA"), as amended, sets out these reporting requirements and the criminal and civil penalties for failure to comply, the Anti-Drug Abuse Act of 1986<sup>9</sup> makes it a crime to launder money as part of an

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7. JEFFERY ROBINSON, *THE LAUNDRYMEN: INSIDE MONEY LAUNDERING, THE WORLD'S THIRD-LARGEST BUSINESS* 218 (1996).

8. Bank Secrecy Act, Pub. L. 91-508, 84 Stat. 1114, 1118 (1970) (codified as 12 U.S.C. § 1829b, 12 U.S.C. §§ 1951-1959, and 31 U.S.C. §§ 5311 *et seq.* (1994)). Regulations implementing Title II of the Bank Secrecy Act (i.e., 31 U.S.C. §§ 5311 *et seq.*) appear at 31 CFR § 103.

9. Anti-Drug Abuse Act, Pub. L. 99-570, 100 Stat. 3207 (1986).

other criminal act<sup>10</sup> or by structuring transactions to evade reporting requirements.<sup>11</sup> The Annunzio-Wylie Anti-Money Laundering Act of 1992<sup>12</sup> strengthened regulators' powers to revoke charters of federally insured depository institutions convicted of money laundering or cash transaction reporting offenses, and also imposed tighter controls over the activities of money services businesses, a less regulated and more attractive vehicle for money launderers.

In crafting anti-money laundering legislation, I have sought to balance regulatory prudence with unencumbered trade, keeping in mind the overwhelming need to erect as many obstacles as possible against money launderers. With these objectives in mind, the 1994 Money Laundering Suppression Act<sup>13</sup> (the "1994 Act") represents Congress' latest effort to combat money laundering. The 1994 Act resulted from a Banking Committee investigation I began as far back as 1989, which continues to this day. My investigation revealed that Federal anti-money laundering activities were geared towards simply detecting, but not necessarily prosecuting, money laundering. For example, under the BSA, financial institutions are required to file with the Internal Revenue Service ("IRS") currency transaction reports ("CTRs") for each deposit, withdrawal, exchange of currency, or other payment or transfer of more than US\$10,000.<sup>14</sup> By late-1993, financial institutions had filed over fifty million CTRs at significant expense to them as well as to the Federal Government. By 1997, CTR filings had doubled. In testimony before the Banking Committee, law enforcement and the banking community questioned the usefulness of so many CTRs. They argued that the emphasis on compliance with costly and cumbersome reporting requirements worked against the effective enforcement of money laundering laws. Vast numbers of reports were filed on clearly legitimate transactions but law enforcement agencies could not process them, much less target investigations. We concluded that a streamlined, more targeted reporting system would

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10. 18 U.S.C. §§ 1956-1957 (1994). Violations are punishable by a maximum of 20 years in prison and/or US\$500,000 in fines, plus forfeiture. *Id.*

11. 31 U.S.C. § 5324 (1994).

12. Annunzio-Wylie Anti-Money Laundering Act of 1992, Pub. L. 102-550, 106 Stat. 4044.

13. Money Laundering Suppression Act of 1994, Pub. L. 103-325, 108 Stat. 2243.

14. 31 U.S.C. §5326(a) (1994); 31 C.F.R. 103.26 (1989).

be more cost-effective and would better serve the BSA's intent of documenting transactions that have a "high degree of usefulness in criminal, tax, or regulatory investigations or proceedings."<sup>15</sup>

The 1994 Act represented Congress' effort to redress some of these shortcomings. The 1994 Act streamlined the currency transaction reporting process by creating a two-tiered reporting system: (1) a mandatory exemption from reporting requirements for transactions by banks with other banks, and state and federal entities;<sup>16</sup> and (2) a discretionary provision allowing banks to exempt their best known customers on the basis of criteria set by the Department of the Treasury.<sup>17</sup> Allowing depository institutions to exempt certain customers from reporting requirements made it even more critical for banks to know their customers and to report suspicious transactions to law enforcement officials. To simplify and encourage compliance, the 1994 Act consolidated suspicious activity reporting to one single form filed with the IRS, as opposed to several law enforcement agencies, as previously required.<sup>18</sup> The 1994 Act also closed a loophole in existing law to make foreign bank drafts a reportable monetary instrument.<sup>19</sup> Law enforcement agencies estimate that over US\$10 billion was laundered annually through bank drafts purchased in Mexico and subsequently cashed in U.S. banks.

The Department of the Treasury's Financial Crimes Enforcement Network ("FinCEN"), the regulatory agency responsible for administering the BSA, has made some progress in finalizing regulations to fully implement the 1994 Act. So far, FinCEN has issued final rules on suspicious transaction reporting requirements for banks, a single designee for reporting of suspicious transactions, and a redesigned CTR form. In the spring of 1996, FinCEN issued interim rules which become effective upon issuance, but still require a ninety-day public comment

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15. 31 U.S.C. §5311 (1992); 31 C.F.R. 103.20.

16. §402, 108 Stat. at 2243.

17. *Id.*

18. *See* 31 U.S.C. §5313(a) (1994).

19. A bank draft is a monetary instrument in nonbearer form drawn by a bank operating outside the United States on the bank's account at a financial institution in the United States. The 1994 Act expanded the definition of a monetary instrument to include bank drafts, which must be reported to U.S. Customs by persons transporting more than US\$10,000 in or out of the United States. Upon approval through the rulemaking process, the new definition of "monetary instrument" will appear in 31 C.F.R. 103.11(u) (1996).

period. The rules went beyond the congressional mandate for CTR exemptions and exempted routine transactions by public companies listed on the New York and American Stock Exchanges and in the NASDAQ National Market.<sup>20</sup> These rules are now final.

Other proposed rules, such as those for foreign bank drafts, have gone through an extensive public comment period and are expected to be finalized by the end of 1997, provided that several technical issues raised by the industries affected are resolved. Other rules that apply to money services businesses, however, such as the one requiring national registration of money transmitting businesses, which was to be issued no later than 180 days after the enactment of the 1994 Act, were issued for public comment only recently. In response to recent abuses in the industry, FinCEN also proposed a rule requiring money transmitters, and issuers and sellers of money orders and traveler's checks to report any and all suspicious transactions above US\$500. A third rule would lower the reporting requirement threshold from US\$10,000 to US\$750 for all cash remittances by money transmitters to or from any place outside of the United States. All three proposed rules are expected to become final at the end of 1997.

While changes to U.S. laws were intended to move us closer to prosecuting money laundering, a recent federal civil trial in Houston raised many questions about efforts to enforce them.<sup>21</sup> The trial involved the Federal Government's claim that US\$9 million confiscated from a Houston bank account belonging to the former Deputy Attorney General of Mexico, Mario Ruiz Massieu, came from illegal narcotics proceeds.<sup>22</sup> While the jury ruled that the U.S. Government can retain US\$7.9 of the US\$9 million, we learned from the trial that an aide to Mr. Ruiz Massieu made a series of twenty-four cash deposits, mostly in twenty-dollar bills, for more than US\$200,000 each.<sup>23</sup> While Texas

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20. 31 U.S.C. 5313(d), (f), (g); 31 C.F.R. 103.22(h) (1996).

21. *See* *Massieu v. Reno*, 915 F. Supp. 681, 687 (D.N.J. 1996) (citing *United States v. Nine Million Forty One Thousand, Five Hundred Ninety Eight Dollars and Sixty Eight Cents*, No. H-95-3182).

22. *See id.* at 687-88 (referring to Government's charges against Mr. Massieu concerning US\$9 million, allegedly obtained illegally).

23. *See id.* at 687 (citing *United States v. Nine Million Forty One Thousand, Five Hundred Ninety Eight Dollars and Sixty Eight Cents*, No. H-95-3182).



Commerce Bank filed all the required forms and even marked ten of the deposits as suspicious, and Mr. Massieu's aide also filed required Customs forms when crossing the border, it appears that none of the federal law enforcement agencies acted on the bank's tips. We are left wondering whether this significant oversight represents the flaws of the old, cumbersome reporting system, lax vigilance by the banks of its customers,<sup>24</sup> or plain incompetence on the part of law enforcement.

### III. THE MONEY LAUNDERING MILIEU

Despite the 1994 Act's success in reducing burdensome paperwork requirements and in targeting Federal efforts toward prosecution and not just detection of money laundering, the next generation of laws will have to tackle a whole new set of challenges. Based on my investigation, I see two major areas of concern: (1) bulk currency movements from Mexican or other foreign banks to U.S. banks; and (2) the use of money services businesses as money laundering vehicles.

#### A. *Bulk Currency Movements and Federal Reserve Banks' Cash Surpluses: Money Laundering Red Flags?*

We know from testimony by bank regulators and law enforcement officials that Mexico returns more surplus currency to the United States than any other country in the world.<sup>25</sup> For the last several years, the San Antonio Branch of the Federal Reserve Bank of Dallas has consistently reported an annual currency surplus in the US\$3 billion range.<sup>26</sup> Similarly, the Los Angeles Federal Reserve reported a US\$13 billion surplus of currency for 1995, which was a US\$5 billion increase from 1994.<sup>27</sup> Traditionally, Miami has posted cash surpluses in the US\$7 billion range.<sup>28</sup> Many in the law enforcement community believe that

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24. Mr. Massieu opened the account with an expired diplomatic passport.

25. *Remarks Before the House Banking and Financial Services Committee*, 102nd Cong., sess. 3 (1996) (statement of Harold D. Wankel, Chief Executive Officer, Drug Enforcement Agency).

26. A Federal Reserve branch has a surplus when currency deposits from its member depository institutions exceed the Federal Reserve's currency shipments to these same depository institutions.

27. See Net Currency Receipt Data from the Federal Reserve Board of Governors (1996) (on file with the *Fordham International Law Journal*).

28. *Id.* at 3.

these surpluses point to drug money being laundered through financial institutions that deposit currency with the Federal Reserve. Others think that cash surpluses represent the repatriation of money from Mexico and South America resulting from the settling of accounts for transactions between U.S. banks and corresponding financial institutions in those countries. If the latter is true, however, why are the surpluses only in areas associated with drug trafficking corridors?

Since 1989, when I became Chairman of the Banking Committee, I have raised many questions about the origins and explanations of these surpluses. Do they represent repatriated cash from Mexico, or unusual movements of currency worthy of law enforcement attention? Are they a product of legitimate business and personal transactions? Given the prominence of the drug trade along the U.S.-Mexican border, are the surpluses an indication of cash laundered through financial institutions in the area? If they represent indications of money laundering not revealed by our existing reporting framework, does Congress need to take legislative action? What can our law enforcement agencies do with their existing authority? Full answers to these questions, whether from bankers, law enforcement, or regulators, have been hard to come by.

In an effort to determine whether we needed to take legislative action, I asked Federal agencies with anti-money laundering jurisdiction to trace the origins of the Federal Reserve cash surpluses. FinCEN provided insightful data showing that a handful of depository institutions in the San Antonio area posted substantial cash surpluses with the Federal Reserve, a partial explanation for the Federal Reserve's own cash surplus. FinCEN claimed, however, that local specialized law enforcement units in the area, particularly the IRS's Criminal Investigation Division had more intimate knowledge of the local banking environment and were better equipped to trace the nature of each depository institution's cash transactions.

Subsequently, I requested the IRS's assistance. Could the surpluses result from presumed legitimate unreported bank-to-bank or preferred customer transactions? Were they, on the other hand, a sign of other, questionable activity? The IRS claimed not to have the legal authority to access the bank records that would answer these questions. In fact, rather than conducting a reasoned analysis of the available cash transaction

data, the IRS relied on anecdotal speculations and unsubstantiated opinions of bank officials. For instance, the IRS claimed, without documented proof, that surpluses result from the cash-intensive nature of the local economy, problems with the Federal Reserve's accounting system, and mergers and acquisitions of local banking institutions in San Antonio, Texas. Assuming that some of these answers intuitively make sense, even though they are meaningless without hard evidence to support them, I asked Federal Reserve Chairman Alan Greenspan for his agency's views. The Federal Reserve refuted virtually every IRS assertion, arguing that accounting problems have nothing to do with Federal Reserve cash surpluses, and that mergers and acquisitions have had no appreciable impact on surpluses.

In the wake of these inconclusive responses, FinCEN investigated the matter further. FinCEN's analysis, which has been diligent and thorough, has revealed that Federal Reserve surpluses are only the tip of the iceberg of a more complex, but revealing, puzzle of cash transactions. For the top banks showing the largest daily cash flows, it appears that nearly half of the currency entering their vaults, representing tens of billions of dollars, has origins in Mexican financial institutions. Thus, while the Federal Reserve's cash surpluses may only be an indicator of mass currency movements in a particular area, what is at issue are the transactions underlying individual banks' cash surpluses.<sup>29</sup>

While FinCEN's analysis showed that compliance with the reporting system is high, (CTRs are routinely filed), the flow of cash from Mexico raises some very serious public policy questions. How confident are we of the legitimacy of bulk cash shipments coming to U.S. financial institutions from other countries? How do we determine whether those bulk cash shipments to U.S. banks, particularly from Mexican banks, are the final point in the laundering cycle? What are the implications of mass currency movements from Mexico for Treasury's enforcement of financial crimes, regardless of whether they occur in an area where the Federal Reserve registers a cash surplus? If indeed wholesale money laundering occurs through this method, what legislative remedies are available to address the problem?

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29. *Review of a Treasury Department Study of Cash Surpluses at the San Antonio Branch of the Dallas Federal Reserve Bank: Hearings Before the Comm. on Banking and Financial Services, 105th Cong., 1st Sess. 105-16 (1997).*

Some of these questions can only be answered from information available to other countries' banking authorities. For example, as part of its general strategy to fight drug trafficking and money laundering, the Mexican government recently reformed its penal code to criminalize money laundering.<sup>30</sup> This change mandates the development of a currency transaction reporting system similar to the one in place in the United States. It will also require financial institutions to routinely report currency transactions above US\$10,000, as well as suspicious transactions.<sup>31</sup> To the extent that our respective law enforcement communities agree to share information in joint anti-money laundering operations, we will make great strides in addressing the problem. I am hopeful that Mexico's new undertaking, coupled with the strengthening of U.S. laws, will help us answer some of the outstanding questions about mass cash movements between Mexican and U.S. financial institutions. Our cooperation on this front is crucial in light of the State Department's recent characterization of Mexico as "a major money laundering center and the preferred international placement point for U.S. dollars."<sup>32</sup>

#### B. *The Vulnerability of Money Services Businesses to Money Laundering*

Niccolo Machiavelli once wrote, "men are so simple and so ready to obey present necessities, that one who deceives will always find those who allow themselves to be deceived."<sup>33</sup> Although characterizing modern drug kingpins as Machiavelian truly underestimates their power and ruthlessness, their enormous capacity for deception is what makes them such effective money launderers. Many money services businesses, in their readiness to obey present necessities, have become unwitting victims, and often willing participants, in money laundering schemes.

We know that U.S. banks today are much less vulnerable to

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30. U.S. Dept. Of State, Bur. For Int'l Narcotics and Law Enforcement Affairs, International Narcotics Control Strategy Report, Mar. 1997, at 570 [hereinafter Strategy Report].

31. Leslie Crawford, *Mexico Acts on Cash Laundering*, FIN. TIMES, Mar. 10 1997, at 18.

32. Strategy Report, *supra* note 30, at 140.

33. NICCOLO MACHIAVELLI, THE PRINCE 122 (1948).

money laundering abuses. We owe this to a more effective bank examination process (an outgrowth of the savings-and-loan crisis of the 1980s), better targeted money laundering laws, and a good-faith effort on the part of banks to police themselves and their customers. This is not so for many non-bank financial institutions. Money remitters, businesses that provide cash transmitting services for a fee, primarily to recipients overseas, for instance, operate with minimal Federal and State regulation. This is also the case for currency exchange houses.

Consider the case of money remitters in Queens, New York. A Treasury-led, multiagency law enforcement task force dubbed "El Dorado" recently issued an emergency geographic targeting order<sup>34</sup> ("GTO") under the BSA aimed at twelve, later expanded to twenty-two, licensed money remitting corporations in New York suspected of drug cartel abuse because they funnelled nearly US\$1.3 billion to Colombia.<sup>35</sup> The GTO imposes reporting requirements for all transactions exceeding US\$750, instead of the usual US\$10,000.<sup>36</sup> As such, the order protects the average legitimate remittance of between US\$200 and US\$500 but imposes a significant reporting burden on launderers that attempt to structure their transactions above the temporary US\$750 threshold.

The effects of the order have been dramatic.<sup>37</sup> Overall business volume by money remitters sending funds to Colombia dropped more than thirty-five percent. Drug cartels immediately shifted to alternative laundering methods, mainly bulk cash smuggling at ports of entry. From August 1996, the time the GTO was issued, to March 1997, law enforcement seized US\$50 million in various points along the eastern seaboard (mostly at

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34. Pursuant to 31 U.S.C. §5326 (a) and 31 C.F.R. 103.26 (1989), the Secretary of the Treasury is authorized, if reasonable grounds exist, to issue a 60-day order (renewable, if needed) imposing additional reporting and recordkeeping requirements on one or more domestic financial institutions in a specified geographic area. The geographic targeting order ("GTO") is administered by FinCEN and is temporary to prevent interference with legitimate trade.

35. Robert D. McFadden, *Limits on Cash Transactions Cut Drug-Money Laundering*, N.Y. TIMES, Mar. 11, 1997, at A1.

36. *Id.* at A1.

37. Unless authorized by the Treasury Secretary, disclosure of the order is prohibited to prevent interference with law enforcement operations as well as court challenges, as occurred with the second order issued in Houston, Texas. See 31 U.S.C. §5326 as amended by Annunzio-Wiley Anti-Money Laundering Act of 1992, Pub. L. No. 102-550, § 1514, 106 Stat. 4044 (1992).

the LaGuardia, JFK, and Miami airports); four times the amount seized during the same period in 1995.<sup>38</sup> At the same time, of the twelve original targeted remitters, three have stopped remitting funds to Colombia. The remaining nine are sending amounts significantly lower than those sent prior to the GTO. The order also led to several high profile Federal prosecutions under money laundering statutes.

In my home state of Texas, many *casas de cambio*, or currency exchangers, and *casas de giros*, or money wire remitters, long suspected of money laundering, have shut down over the years because of stepped up Federal and State efforts to monitor their activities. The Banking Committee hearings I chaired in 1989 and 1993 brought attention to the operations of these money services businesses unique to the economy of the Southwest. We learned that the virtual unregulated operation of giro houses allowed drug traffickers to wire billions of illicit drug profits to Colombia. The Treasury Department imposed a GTO for the Houston, Texas area in 1991 and its effects were the same as those repeated in the Queens, New York area in 1996-97. Remittances to Colombia diminished significantly as did the number of businesses offering money transmitting and currency exchange services. At the same time, the Texas Legislature enacted several laws whose licensing and reporting requirements continued to drive the illegal operations out of the market.

These recent law enforcement successes make clear that a large segment of the non-bank financial industry is vulnerable to money laundering. So far, twenty-three States have adopted a variety of licensing and registration requirements applicable to their money services businesses, but the remaining States have yet to adopt strong money laundering statutes. I continue to monitor the 1994 Act's mandate on the Treasury Department to register money services businesses nationally, as well as progress in developing a uniform model statute for all States to license and regulate money transmitting businesses. If the Texas experience teaches us a lesson, it is that strong State oversight of a vulnerable financial segment can go a long way in interrupting and shutting down a money laundering pipeline. Continued vig-

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38. *The New York Money Transmitter Geographic Targeting Order: Hearings Before the Subcomm. On General Oversight and Investigations*, 102nd Cong., 2d Sess., 6 (1997) (statement by Raymond W. Kelly, Under Secretary, U.S. Department of the Treasury).

ilance is warranted in light of the thriving drug trade along the Southwest border and mounting evidence that currency smuggling is alive and well.

### C. *Our Future Challenges*

According to the Director of FinCEN, Stanley Morris, the world's currency markets trade about US\$1.25 trillion daily, a six-fold increase from 1986, and 100 times the volume of world trade.<sup>39</sup> In such a vast money market, the opportunities for money launderers are endless. Given its limited financial and legal resources, law enforcement's ability to stay afloat in this bottomless sea of cash transactions is also limited. But this challenge cannot stop us from using the power to enact effective laws to stop money launderers.

As we learn more about the flow of currency across international boundaries we must tailor our laws and encourage other countries to do so, as well to address the many loopholes exploited by money launderers. In its global assessment of international money laundering, the State Department's March 1997 *International Narcotics Control Report* repeats a number of long-standing problems that complicate our ability to accomplish this including the increased infiltration of financial systems around the world by organized crime and the increased use of cash smuggling routes through countries with few or no money laundering laws.<sup>40</sup> We have achieved a great deal of cooperation among the twenty-six nations that are members of the Financial Action Task Force, but we have yet to exploit that cooperation to bring on board those nations whose financial systems are easily manipulated by organized crime groups. In the end, the success of our fight can only be measured by the extent to which we dismantle the powerful criminal organizations that threaten our financial system.

We have seen some positive results from the effective, domestic enforcement of our laws. Both the New York and Southwest border experiences have raised our awareness of the dangers of allowing a vulnerable money services industry to go unregulated, as well as the benefits of a coordinated anti-money

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39. *Hearing Before Comm. On Banking and Financial Services*, 102nd Cong., 2d Sess. 3 (1996) (statement of Stanley E. Morris, Dir., FinCEN).

40. Strategy Report, *supra* note 30, at 571.

laundering strategy through strong State and Federal regulation. The uncoordinated effort of many agencies in the fight against money laundering, however, has slowed the Federal Government's ability to enforce our laws. A recent report I commissioned by the General Accounting Office, the investigative arm of Congress, found that the plethora of agencies involved in money laundering activities makes it difficult for foreign authorities to coordinate with U.S. law enforcement.<sup>41</sup> I am considering introducing legislation to create a "money laundering czar" by giving the Director of the Office of National Drug Control Policy, the "drug czar," additional statutory authority to carry out this duty. I am hopeful that the Banking Committee in the 105th Congress will give adequate consideration to this and other legislative fixes to address the most pernicious problem of financial crimes, of which money laundering is a significant part.

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41. *Money Laundering: A Framework for Understanding U.S. Efforts Overseas*, *supra* note 1, at 3.