

**STATEMENT OF R. RICHARD NEWCOMB
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**BEFORE THE
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS
UNITED STATES SENATE
HEARING ON
OVERSIGHT OF THE EXTENDED CUSTODIAL INVENTORY PROGRAM
MAY 20, 2004**

INTRODUCTION

Mr. Chairman, members of the Committee, thank you for inviting me to testify today about the Extended Custodial Inventory Program. It's a pleasure to be here again to discuss the Office of Foreign Assets Control and its relationship with the Federal Reserve Bank.

OFAC'S CORE MISSION

The primary mission of the Office of Foreign Assets Control ("OFAC") of the U.S. Department of the Treasury is to administer and enforce economic sanctions against targeted foreign countries, and groups and individuals, including terrorists and terrorist organizations and narcotic traffickers, which pose a threat to the national security, foreign policy or economy of the United States. We act under general Presidential wartime and national emergency powers, as well as specific legislation, to prohibit transactions and freeze (or "block") assets subject to U.S. jurisdiction. Economic sanctions are intended to deprive the target of the use of its assets and deny the target access to the U.S. financial system and the benefits of trade, transactions and services involving U.S. markets. These same authorities have also been used to protect

assets within U.S. jurisdiction of countries subject to foreign occupation and to further important U.S. nonproliferation goals.

OFAC currently administers and enforces 28 economic sanctions programs pursuant to Presidential and Congressional mandates. These programs are a crucial element in preserving and advancing the foreign policy and national security objectives of the United States, and are usually taken in conjunction with diplomatic, law enforcement, and occasionally military action.

The enforcement of these programs is defined by our jurisdiction, which extends to all U.S. citizens and permanent resident aliens regardless of where they are located, all persons and entities within the United States and all U.S. incorporated entities and their foreign branches. In the case of Cuba, we also have jurisdiction with regard to foreign subsidiaries owned or controlled by U.S. companies. For the purposes of our discussion here, we will call them "U.S. persons."

OFAC has always had an outstanding relationship with the Federal Reserve, especially with the Federal Reserve Bank of New York. Because of this outstanding relationship, in early July 2003, the Federal Reserve Bank of New York contacted OFAC to indicate that it had learned that U.S. dollar banknotes held by Union Bank of Switzerland – Zurich ("UBS") may have been illegally bought from or sold to sanctioned countries by UBS in violation of its Extended Custodial Inventory ("ECI") agreement with the Federal Reserve Bank. I understand that The Federal Reserve Bank of New York had not

previously been aware of the situation because officers and employees of UBS in Zurich had submitted deliberately falsified statistical reporting data.

OFAC kept in touch with the Federal Reserve Bank of New York while UBS, at the Fed's insistence, and under the oversight of Swiss banking authorities, initiated an internal investigation into the matter. UBS issued an initial report of findings, dated December 1, 2003, and a supplemental report, dated January 26, 2004. The initial report was provided to the Federal Reserve Bank with a request that it be shared with OFAC; OFAC received it electronically on January 20, 2004; the supplemental report was received electronically on January 29. OFAC immediately reviewed the material and initiated an enforcement investigation into any possible activities on the part of "U.S. persons" over whom OFAC would have jurisdiction.

The UBS/Zurich ECI contract was terminated for breach on October 28, 2003 and UBS, as you know, has paid a significant fine to the Federal Reserve Bank of New York for deception. OFAC has met with all of the key players at the Federal Reserve Bank of New York and understands that the Federal Reserve Bank, through new contracts made effective in February 2004, has taken very substantial steps to enhance controls over all remaining ECIs with respect to sanctions compliance. OFAC applauds the Federal Reserve Bank for those efforts.

I would like to thank you and the Committee for the opportunity to speak with you, Mr. Chairman, and would be happy to answer any questions.