

**Testimony of  
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“Money Laundering and Terrorist Financing Issues  
in the Middle East”**

Good morning Chairman Shelby and distinguished members of the Committee. Thank you for affording me the opportunity to participate in this forum. I applaud the time, attention and consideration you have committed to the extremely complex issue of terrorist financing. In my previous position as Chief, Terrorist Financing Operations Section (TFOS), Counterterrorism Division (CTD), Federal Bureau of Investigation (FBI), I testified and/or participated in numerous Congressional hearings and briefings. In addition, in many instances, I was responsible for preparing the written statements of other FBI Executives in hearings which focused on terrorist financing. This is a subject which is extremely important to me because I have witnessed first hand investigative successes which have disrupted or deterred funding intended to support terrorist activities. I am an ardent believer that terrorist financing is a critical component of the war on terrorism.

Terrorist financing is every bit as challenging today as it was in the immediate aftermath of September 11, 2001 (9/11) and as it was one year ago. Law enforcement, regulators and intelligence agencies here, in the United States (U.S.), and abroad, have achieved noteworthy and meaningful accomplishments. New proactive and progressive methodologies have been developed and implemented in furtherance of such efforts. However, lingering concerns and the resiliency of terrorists to adapt to change, coupled with the ease of exploitation of systemic vulnerabilities in the financial sector will perpetuate the challenge of addressing the issues presented by terrorist financing.

By way of background, immediately after 9/11, I was responsible for the formation and oversight of the FBI led, multi-agency, Financial Review Group, which evolved into the TFOS. In that capacity, my perspective was government and investigative driven. In my current position, as Senior Vice President, Anti-Money Laundering (AML), Corporate Risk International, I continue to address AML and terrorist financing issues. My perspective has shifted to one that is industry and compliance driven. This provides me with a unique understanding of the responsibilities, sensitivities, challenges and frustrations experienced by the government and financial sectors in dealing with AML and terrorist financing considerations.

One fact is quite evident; those responsible for addressing terrorist financing in government and in industry share the desire and resolve to deny terrorists funding mechanisms. The level of cooperation between the government and the financial sector has been consistently outstanding since 9/11. Overall, financial firms have been vigilant

with respect to AML and terrorist financing compliance consideration. However, an area of concern, which warrants this Committee's continued scrutiny, pertains to the issues involving the benefits and burdens of Bank Secrecy Act (BSA) reporting requirements. Such issues include adequacy of suspicious activity reporting, lack of guidance by regulators, consistency of regulatory examinations and feedback from the government to the financial sector concerning results of suspicious activity reporting. Interested parties on both sides of this issue need to do more to establish a middle ground in terms of better understanding their respective sensitivities and balancing the benefits and burdens of BSA reporting requirements. The Financial Crimes Enforcement Network (FinCEN) and the American Bankers Association (ABA) have taken a leadership role in addressing and resolving these issues through the Bank Secrecy Act Advisory Group. Bill Fox, Director, FinCEN and John Byrne, Director, Center for Regulatory Compliance, ABA, deserve recognition for visibly leading this effort in a responsible manner. As a result of the regulators and industry constructively addressing the issue of inconsistent regulatory examinations, the Bank Secrecy Act/Anti-Money Laundering Examination Manual was released on June 30, 2005. This was an important step forward in ensuring consistent future bank examinations are conducted and in emphasizing the responsibility of banking organizations concerning AML and terrorist financing BSA compliance.

Although financial activity that supports terrorism is often simplistic, terrorist financing presents a myriad of complex challenges. By its nature, in most applications, the movement of funds to support terrorism is through legal and undetectable means. We should be mindful that terrorist financing encompasses a wide variety of activities. There are fundraising mechanisms, operational and administrative support mechanisms, and other considerations, which require use of the formal and informal financial systems. This variance is exacerbated by the range of positions and responsibilities individual terrorists and terrorist supporters assume to include leaders, fundraisers, financiers, facilitators, operatives and suicide bombers. Financial requirements and funding flows for the full gamut of terrorists and terrorist supporters vary according to factors to include their role, location, culture and affiliations. This is particularly true with respect to the Middle East.

Terrorist and terrorist financing warning signs are constantly evolving due to changing dynamics in world events, such as the global response to terrorism and the ability of terrorists to adapt to changing dynamics. Like characteristic indicators, warning signs are non-static. For example, in response to the 9/11 terrorist attacks, the U.S. and international community took decisive steps to disrupt and dismantle terrorist groups and their financing. In return, terrorists adapted new methodologies to exploit systemic vulnerabilities. The same cycle was repeated following other significant terrorist activities, such as in the aftermath of the Madrid bombings of March 11, 2004. As the investigation into the London bombings of July 7, 2005, unfolds, it will be important to assess the methodologies employed by the terrorist group responsible for the attack, to include the operation, logistical support, communications and financing.

One of the true challenges in dealing with terrorist financing is the recognition of the dynamics of change and understanding that terrorist and terrorist financing

methodologies will constantly change to avoid detection. As this Committee continues hearings addressing terrorist financing, it is recommended you assess mechanisms developed by government agencies and the private sector to identify emerging trends adapted by terrorist and criminal elements. In view of the international response to the London bombings, terrorist groups will likely be challenged to again adapt to changing dynamics.

Lessons learned since 9/11 should play a significant role in formulating future detective and preventive measures. First, we must understand vulnerabilities in terms of systemic societal vulnerabilities and areas of vulnerability to terrorist interests. Systemic vulnerabilities represent systemic weaknesses that terrorists and criminal elements, especially fraudsters, exploit in furtherance of their activities. It's incumbent that individuals and entities responsible for controls recognize such weaknesses and implement mechanisms to minimize such exploitation.

The unfortunate reality is that terrorists will always have access to financing. We cannot be discouraged by this fact and must use every tool in our arsenal to disrupt and minimize funding flows to terrorists. The greater the level of disruption the more difficult it is for terrorists to raise funds and carry out terrorist operations. On September 25, 2003, former Treasury General Counsel David Aufhauser stated before this Committee "Money is the fuel for the enterprise of terror. It may also be its Achilles' heel. It can leave a signature, an audit trail, which, once discovered, might well prove the best single means of identification and capture of terrorists and pinpointing their donors. Financial records are literally the diaries of terror. Stopping the flow of money to terrorists may be one of the very best ways we have of stopping terror altogether. That is a dramatic statement, but it is not possible to overstate the importance of the campaign against terrorist financing. If you follow and stop the money, you have gone a long way to diminish the killing and destruction."

Like terrorism itself, terrorist financing is not limited to the homeland but is global in scope. In dealing with terrorist financing, all solutions must be considered. Outreach initiatives between government and private sectors within the U.S. and internationally is important in establishing frameworks for cooperation and information sharing.

In view of the combination of law enforcement, regulatory and diplomatic actions taken in the U.S. and internationally, certain of the lucrative funding sources, such as charity and wealthy donors, have significantly diminished. Anecdotal information points to the difficulty terrorists have in raising, moving and storing money. This has been particularly true in the Middle East where cases such as Holy Land Foundation, Al-Haramain Islamic Foundation and the Islamic American Relief Agency have achieved significant deterrence value. As a result, there has been a greater reliance on criminal activities as a terrorist funding mechanism. This is noteworthy because it exposes terrorists to greater risk of detection.

Since 9/11, terrorist financing methodologies have been changing. Terrorists rely on two tracks of funding, the formal and informal financial systems. To operate in western

society, terrorists must rely more on formal mechanisms. To operate in less advanced financial venues, such as Afghanistan, more informal mechanisms are used. Following 9/11, Al-Qaeda took steps to exploit informal financial structures in the Middle East and other venues, and to use formal facilities on a more limited basis because of the investigative scrutiny and international pressure placed on the formal banking system. As just illustrated, the degree one system is used in preference over the other depends on a number of factors to include culture, sophistication of the banking system in various parts of the world, accessibility, timing, situational considerations, the level of investigative scrutiny and other factors. Whichever system is used, terrorists move funds with the intent to avoid attention and detection.

The specific regulatory and investigative focus on terrorist financing surfaced following 9/11. Prior to that, there were no consistent and continuous mechanisms to prevent or deter terrorists from raising and moving funds. Anti-terrorist financing efforts, both domestically and internationally, have consistently improved and evolved with growth and maturation in an incremental fashion. It should be noted that mechanisms developed and implemented in the U.S. have been in the forefront worldwide. For example, the template established by the FBI's TFOS, has been mirrored by numerous countries. Even with being further advanced, it is incumbent that U.S. agencies continue to enhance their capabilities on a steady incremental basis with a focus on emerging trends.

Agencies should gauge, assess and utilize financial information in three dimensions, strategic, tactical and historic. Accomplishments should also be measured in accordance with these dimensions. Strategic financial information is intelligence oriented and should be used for trend analysis. This is an area that is emerging and whose law enforcement and intelligence functionality has not reached its potential. Stuart Levey, Under Secretary Terrorism and Financial Intelligence, U.S. Department of the Treasury, is in the process of developing a strategic intelligence capability, collateral to his primary responsibility of cutting off the flow of support to international terrorist groups. It is important that Under Secretary Levey strive to articulate to the government community the strategic mission and value of his recently formed entity in order to establish a sense of credibility and fraternity.

After we established the TFOS at the FBI, the importance of strategic intelligence was a primary consideration. We established a Financial Intelligence Unit, to produce actionable financial intelligence. A component of this unit was the Proactive Exploits Group. This group has evolved into a new Unit, that has developed and implemented advanced technological and data mining capabilities. Its ability to access and analyze BSA information, in conjunction with FinCEN, and other data sources, has come to fruition and is generating significant intelligence information that is actionable intelligence and can be utilized to initiate new investigations or supplement ongoing investigations. The value of this intelligence cannot be understated. Often times it is a traditional financial crime that enables the FBI to execute search warrants, make arrests, and in certain instances gain the cooperation of terrorist subjects. The robust data mining search capabilities of the Proactive Exploits Group have enabled the FBI to identify and link pertinent data from multiple data sources in a time sensitive, effective and efficient

manner. I encourage the Committee request a briefing about the emerging capabilities of the Proactive Exploits Unit at the TFOS, FBI.

FinCEN is acutely aware of the differences between money laundering and terrorist financing. In its quest to effectively differentiate between the two, yet be able to collect and assess data to detect both money laundering and terrorist financing, FinCEN developed BSA Direct. The system, which is in the design and implementation phases, will assist investigators at identifying anomalies, trends and patterns. BSA Direct will assist in the process of connecting the dots and ferreting out money laundering and terrorist financing. It relies on data mining and analytical applications with improved access for law enforcement and regulators. It is anticipated that the BSA Direct initiative will be the cornerstone of FinCENs technology architectures.

FinCEN Director Bill Fox considers his agency to be a “collector” of information. He believes it to be critically important to collect the best quality of information and to share it with all constituencies in furtherance of efforts to diminish money laundering and terrorist financing. This underscores the critical importance of Suspicious Activity Reports (SARs). Individuals responsible for completing and submitting SARs should ensure they are thoroughly completed.

This is one area where the government and the financial sector need to do a better job. The financial sector must move away from filing defensive SARs and ensure SARs contain thorough descriptive information. The government, especially FinCEN and the FBI, has developed more robust data mining capabilities, which can better link descriptive data to terrorism investigations. In turn, the government must do a better job of delineating new and emerging capabilities to industry. In addition, the government should more consistently provide financial firms feedback concerning the investigative benefits derived from information reported in SARs.

The area that has generated the most significant level of success has been the tactical investigative application of financial information. In this context, financial information is used in a tactical operational capacity. For instance, during my tenure at the TFOS, FBI, we had a mechanism to track financial transactional information which assisted a foreign intelligence service in preventing six potential terrorist attacks in their country. The tracking and tracing of financial information is an incredibly powerful financial investigative tool. The tactical dimension is best suited to proactive investigative techniques.

The historic approach is the most challenging because it is reactive and relies on historic tracing of funds. As money is moved from point of origination to point of receipt, the ability to trace funds into the hands of terrorists becomes increasingly remote. This is especially true when attempting to trace funds through conduits such as charities and banks in the Middle East to groups such as Hamas and Hezbollah, who are adept at disguising the end beneficiary of funds.

There is a school of thought which subscribes to the theory that terrorist financing is not a significant component of the war on terrorism and has limited impact. In part, that may be true when looking at the historic dimension of terrorist financing. However, when taken in context with the strategic and tactical dimensions, terrorist financing plays a critically important role in the war on terrorism.

One of the most significant lessons learned in the post 9/11 environment is the importance of developing and implementing time sensitive investigative techniques, particularly time sensitive financial investigative techniques. The immediacy and severity of terrorist threats require investigative strategies that present a sense of urgency. More often than not, circumstances cause investigative strategies to the threats at hand to be reactive and not proactive. More focus must be dedicated to developing proactive investigative techniques. One area where proactive investigative strategies can be implemented is in terrorist financing. From a tactical standpoint, strategies have been implemented which allow the near real time tracking of financial transactions. To reiterate, this is a truly powerful technique. It requires close coordination and cooperation between law enforcement and the financial community. As mentioned above, this methodology was used to assist another country to prevent potential terrorist acts.

With specific focus on the Middle East, U.S. government agencies have made a consistent, for the most part coordinated, and concerted effort to establish and maintain viable working relationships with countries in that region. With respect to Al Qaeda, and the threat to the region caused by Al Qaeda, most countries have been more willing to openly cooperate with the U.S. A prime example of this is Saudi Arabia. In the aftermath of the May 12, 2003, bombings in Riyadh, the Saudis became consistently engaged in the war on terrorism, whereas before that, they were less consistent and more selectively engaged. Countries such as Kuwait and Qatar have been formidable partners. The recent threats posed by Al Qaeda in those venues have appeared to strengthen their spirit of cooperation. In my experience, Jordan, Israel and Oman have been strong allies in combating terrorism. With respect to the broader terrorist financing issues, the United Arab Emirates (UAE) and Bahrain have been outstanding to deal with. Being two of the principal financial centers in the region, their level of cooperation has been critically important to the U.S. As an example, shortly after 9/11, the UAE passed strong AML provisions. In addition, they openly accepted training enabling them to better implement and enforce AML and anti-terrorism regimes. In conjunction with the U.S. State Department's Coalition Building initiative, the Internal Revenue Service (IRS) and the FBI's TFOS provided a series of two week training courses in the UAE focused on financial investigative techniques to include money laundering and terrorist financing. The resulting goodwill led to development of a close working relationship with the Central Bank in the UAE. This enabled the FBI's TFOS to gain direct access to important banking records.

As was the case in the U.S., countries in the Middle East and throughout the world have improved their ability to address terrorist financing in an incremental fashion. The Financial Action Task Force (FATF) is the most important vehicle in the world for

promoting uniform standards for governmental action against money laundering. In November 2004, countries in the Middle East and North African (MENA) region established the MENAFATF. The FATF, World Bank International Monetary Fund and other groups have endorsed the formation of the MENAFATF. The purpose of its establishment was to create a platform for member states to better join forces with the international community in the global fight against money laundering and terrorist financing. One of the initial areas of focus for the MENAFATF has been on the unregulated informal value transfer system (frequently referred to as hawala or hundi). This system is one of the most vulnerable areas for exploitation by criminals and terrorists. The informal value transfer system is especially prevalent throughout the MENA region and has grown throughout the world. The 14 founding members of MENAFATF are Algeria, Bahrain, Egypt, Jordan, Kuwait, Lebanon, Morocco, Oman, Qatar, Saudi Arabia, Syria, Tunisia, the UAE, and Yeman. Lebanon currently holds the MENAFATF presidency and is leading it commendably. Lebanon has progressed as a country in building anti-money laundering and counter-terrorist financing mechanisms. Qatar will be receiving training through a private security consulting firm, which will include anti-money laundering and terrorist financing components. Kuwait, the UAE, Bahrain and Egypt have taken active leadership roles in the MENAFATF.

Issues and concerns involving most countries in the Middle East in their relations with the U.S. is not one of will or desire. Their resolve for dealing with money laundering and terrorist financing is generally strong. The issue is rather one of capacity in terms of limited resources and capability. This is where a sustained training initiative is critical to the incremental capacity building necessary for these countries to progress. This specialized training places a strain on the U.S. government agencies involved, particularly State, the IRS and the FBI.

Concerning organizations such as Hezbollah, Hamas and Palestinian Islamic Jihad (PIJ), which have active fundraising mechanisms in the U.S., international consensus is lacking as to whether they are terrorist organizations. Clearly, the U.S. has designated them as such. The lack of consensus makes it more challenging to receive information in certain instances. This is an area that the U.S. government must continue to push vigorously and regularly in an effort to gain international consensus recognizing these groups as terrorist organizations. This will become increasingly more difficult as Hamas and Hezbollah, in particular, become more engaged in political processes. With respect to Hezbollah, Hamas and PIJ, the U.S. has a very close working relationship with the Israelis. This is especially true in matters concerning terrorist financing.

Saudi Arabia is one of the U.S. government's most important, yet heavily criticized, allies in the war on terrorism. Since the May 12, 2003, Al Qaeda attacks in Riyadh, the Saudis have been aggressively involved in fighting Al Qaeda. Saudi Arabia has been one of the most significant funding mechanisms for terrorist organizations, especially Al Qaeda. The Saudis have enacted strong legislation concerning money laundering and charitable giving in order to attempt to stem the flow of funding to terrorists. They formed a Charities Commission to regulate the giving and distribution of money for charitable purposes. The Saudis have taken actions against charities to diminish the flow

of funds to terrorists. This was best illustrated by the closure of Al-Haramain Islamic Foundation, the largest Saudi Charity. The Saudis have received FATF acknowledgement for steps they have taken. However, the Saudis are by their nature a closed society and as such lack transparency. This is a matter of culture rather than intent. In any case, the lack of transparency is a source of ongoing concern for the U.S. The State Department and National Security Counsel (NSC) have worked very closely with the Saudis to ensure they do more than merely enact laws and make statements about establishing certain mechanisms, such as creation of a Financial Intelligence Unit (FIU). Their lack of transparency makes this a daunting challenge. Recently, Representative Sue Kelly (R-NY), took the Saudis to task in a hearing she chaired in the House Financial Services Committee, Subcommittee on Oversight and Investigations, and through a follow up letter and subsequent visit to Saudi Arabia for failure to take substantive actions such as establishment of a FIU. The Saudis, to their credit, responded by providing their view and inviting Representative Kelly to Saudi Arabia for further discussion. The Saudis have since identified officers trained in financial crimes by the FBI through the Joint Terrorism Financing Task Force (JTFTF) who have been designated for assignment to the FIU. However, the FIU does not appear to be functional at this juncture. A measure of the Saudis resolve concerning formation of an FIU will be for them to join the Egmont Group, which members consist of FIUs from 101 countries, who share information and support for their respective AML programs. MENAFATF countries who are members of the Egmont group include the UAE, Bahrain, Egypt, Lebanon and Qatar.

In May 2003, Saudi Arabia and the U.S. agreed to establish the JTFTF, mentioned above. The purpose of the JTFTF was to establish a mechanism for the consistent, continuous and timely exchange of financial information of mutual benefit. The JTFTF is located in Riyadh. FBI and IRS personnel are assigned in a capacity to facilitate the exchange of information in a timely manner. The functionality of the JTFTF is not a best case scenario situation but one that is a good case scenario. The FBI and the Saudis are satisfied with the information exchange and spirit of cooperation. An early sign of the Saudis desire to succeed in this initiative was the Saudis willingness to accept comprehensive financial training from the FBI and IRS. This training was considered a foundation building step. Since then, the flow of information has improved over time and benefited counterterrorism investigations.

As numerous FBI and DOJ representatives have recently testified, to include Director Mueller and Attorney General Gonzalez, at various House and Senate hearings, the USA PATRIOT Act has served as an invaluable tool and has contributed to significant investigative results. It is incumbent that Congress renew those provisions due to "sunset" at the end of the year. This will ensure that investigative, intelligence and regulatory agencies maintain the level of ability to proactively prevent or deter terrorist activities.

Terrorist financing investigations must consistently be conducted in a time sensitive, time urgent manner. Two areas where this Committee can be of assistance in that regard include supporting Congressional approval for the FBI to issue administrative subpoenas

in terrorism cases and encouraging financial institutions to provide law enforcement with the production of financial records in electronic format.

The FBI has administrative subpoena authority for investigations of crimes to include drug trafficking, health care fraud and child exploitation. Such authority is lacking for terrorism cases. Approval of administrative subpoenas for terrorism investigations would enhance the FBI's ability to conduct time sensitive, time urgent investigations. The Bureau has a proven record of issuing administrative subpoenas in an appropriate manner. The FBI, as Director Mueller has consistently stated, is mindful of and dedicated to protecting the civil rights of the American people.

Testimony I was responsible for preparing for current FBI Deputy Director John Pistole for a hearing before this Committee on September 25, 2003, discussed the importance of production of financial records in electronic format. Again, in this era of time sensitivity, time urgency, the ability to work with electronic documents instead of paper documents is critical. Comments extracted from Mr. Pistole's statement continue to be relevant today:

“One of the biggest challenges facing law enforcement when it comes to financial records analysis is the unavailability of financial records in electronic format.....Future law enforcement investigations would be significantly enhanced if financial institutions were to develop and adopt standards of best practices for the storage and production of financial records in electronic format. Countless hours and resources on the part of private industry and the government could be saved if these records were stored and produced in a format that eliminated the need for investigators to re-input or type the information back into financial analysis programs.....However, as long as relevant records remain in paper form whether held by the financial institution or the government, investigators are impeded in their timely dissemination and analysis. This can have an impact on our preventative efforts.”

I encourage the Committee to address this issue in greater depth with investigative agencies and the financial sector. This is one of those areas where a middle ground needs to be better identified that best addresses the interests and concerns of the two sides.

Timely and actionable information sharing initiatives are critically important keys to succeeding in preventing terrorist attacks and diminishing their ability to raise and move funds. There must be continued consistent communications, cooperation and coordination in the interagency and business communities across all lines domestically, as well as internationally. All sectors must develop and maintain strong working relationships. In certain instances, this will require establishment of a middle ground to address impediments. Through risk and vulnerability assessments, as well as through other mechanisms, we must continue to identify emerging trends and systemic vulnerabilities. Agencies and institutions must adapt and implement methodologies to counter such trends and vulnerabilities. A final thought is that regular candid operational assessments should be performed in order to sustain the level of scrutiny necessary to

disrupt and prevent terrorist activities, and to ensure the most forward thinking deterrent methodologies are developed and effectively employed.

