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Money Laundering: New Legislation and New Regulations, But Is It Enough?

I. INTRODUCTION

Legislators and regulatory agencies have recently proposed a flurry of rules and regulations to curtail the practice of money laundering.¹ Recent reports issued by the Government Accounting Office (GAO) underscoring the deficiencies in obtaining necessary documentation of accounts held by entities in offshore banking jurisdictions² and congressional hearings recounting the intricacies of organized crime and its involvement in money laundering have helped to galvanize lawmakers.³ However, an inability to come to an agreement on how best to address these outstanding issues has left a soft-spot in the armor of the battle against money laundering.⁴ Moreover, the lack of agreement over the inherent issues in creating strong and effective money laundering laws is enabling the crime to flourish.⁵ Also, the intrusions into civil liberties and privacy, which some suggest is unavoidable for the creation of efficacious laws, have sparked much concern and controversy.⁶ Nonetheless, in order for the war on money laundering to be meaningful, the problems presented by offshore banking and its inadequate reporting requirements must be sufficiently addressed, which requires a balance between privacy issues and somewhat intrusive laws.

As lawmakers attempt to curtail money laundering, they will be calling upon banks to play an integral role in the laws' implementation. Therefore, it is essential for members of the financial industry to stay abreast of the current landscape of money laundering laws.⁷ It will undoubtedly be necessary as a means of alerting banks

¹. See infra notes 75-202 and accompanying text.
². See infra notes 63-74 and accompanying text.
³. See infra notes 54-62 and accompanying text.
⁴. See infra notes 100-85 and accompanying text.
⁵. See infra notes 63-74 and accompanying text.
⁶. See infra notes 158-85 and accompanying text.
⁷. For advice to banks from the Office of the Comptroller of the Currency (OCC) on
of the new procedures they will be required to follow. More importantly, it will afford banks the opportunity to be active participants in the creation of laws that will be instrumental in the war on money laundering while also allowing them the ability to preserve the interest of banks and their customers.

This article provides the reader with general background information regarding money laundering and explains why the problem merits serious attention in Part II. Part III of this article reviews current laws that have been enacted to address the problems associated with money laundering. Part IV of this article discusses Operation Casablanca, a major federal law enforcement sting project and outlines the findings of the United States General Accounting Office's study of offshore banking. Part V considers recent legislation addressing money laundering and outlines relevant proposals and their merits. Part V also examines recent steps taken by federal agencies to address the problems of organized crime and money laundering. Finally, Part VI concludes that although laudable steps have been taken to prevent money laundering, the issue continues to present difficult challenges and lawmakers must continue to delicately balance the need to craft effective legislation against the need to respect individual privacy and the laws of foreign jurisdictions.

II. BACKGROUND

In order to fully understand the problems that money laundering presents and appreciate the efforts made to curtail this illegal practice, the term first must be defined. Money laundering is a process by which the existence, illegal source, or illegal application of income is concealed and then disguised to give the income the

how to avoid problems associated with money laundering, see <http://www.occ.treas.gov/launder/orig1.htm>.

8. See infra notes 14-38 and accompanying text.
10. See infra notes 54-74 and accompanying text.
11. See infra notes 75-135 and accompanying text.
12. See infra notes 136-202 and accompanying text.
13. See infra notes 203-13 and accompanying text.
appearance of legitimacy.\textsuperscript{14} It can occur when a corporation receives payments in cash from a fictitious foreign corporation and funnels the payments to foreign banks to avoid reporting and paying federal income tax.\textsuperscript{15} Money laundering also occurs in the form of investments of criminals funneled through fraudulent corporations or imaginary persons, a scheme often used to disguise the undesirables' participation in certain enterprises.\textsuperscript{16} The most common method of money laundering, however, occurs when criminals, frequently drug dealers, convert the profits of their illegal activities into capital for legitimate investment, without paying taxes.\textsuperscript{17} Money laundering commonly involves the depositing of cash into bank accounts, followed by a number of transfers among accounts through a succession of corporate entities that are ordinarily shams.\textsuperscript{18} Ultimately, the funds are transferred out of the United States to a foreign jurisdiction that has laws to protect bank records from unauthorized intrusion or disclosure.\textsuperscript{19}

Money laundering affords drug dealers, terrorists, arms dealers, and other criminals the opportunity to erode the integrity of our financial institutions.\textsuperscript{20} This opportunity ultimately leads to a situation where criminals destabilize and undermine our political system while constantly threatening international commerce and free enterprise.\textsuperscript{21} Most unsettling is the fact that organized crime, by

\begin{itemize}
\item \textsuperscript{15} See id. at 1.
\item \textsuperscript{16} See id.
\item \textsuperscript{17} See id.
\item \textsuperscript{18} See id. at 2.
\item \textsuperscript{19} See id. Money laundering can also involve institutions other than banks, as it may take the form of buying assets for cash obtained through some illegal activity. See id.
\item \textsuperscript{21} See id. “Money laundering by international criminal enterprises challenges the legitimate authority of national governments, corrupts government institutions, endangers the financial and economic stability of nations, and routinely violates legal norms, property rights, and human rights. In some countries, such as Columbia, Mexico, and Russia, the wealth and power of organized criminal enterprises rivals their own government’s.” H.R. REP. No. 105-611, pt. 1, at 2 (1998).
\end{itemize}
transforming monetary proceeds from illegal activities into funds that appear to be from a legal source, challenges our free markets. Through money laundering, criminals are able to hide profits from narcotics sales, tax fraud, terrorism, and arms smuggling. Money laundering enables them to increase their power and influence and fund their underworld empire.

Money laundering not only provides a catalyst for drug dealers, terrorists, arms dealers, and other criminals to function, but it also provides them an opportunity to broaden their criminal activities. It has become an indispensable element of the Mob’s activities as organized crime has expanded its economic influence both domestically and internationally. Money laundering provides criminals with the ability to “cleanse” monetary proceeds obtained through illegal activities into funds with a seemingly legal source. It is the means through which criminals are able to disguise assets and use them without detection of the illegal activity that produced them. Drug profits alone have injected an estimated $100 billion into the financial system of the United States. Additionally, money laundering is a way for criminals to manipulate the financial systems of the global market in an effort to help continue their illicit activities. If “[l]eft unchecked, money laundering [will continue to] erode the integrity of our nation’s and the world’s financial institutions.”

Due to the foregoing problems that money laundering presents, it is an issue of great concern for the United States government.

22. See generally Mark Schapiro, Doing the Wash, HARPER’S MAGAZINE, Feb. 1997, at 56 (detailing Franklin Jurado’s elaborate five-phase process in which he planned to launder $36 million in profits from U.S. cocaine sales for Jose Santacruz-Londono, one of the top figures in the Cali cartel).
24. See id.
25. See id.
26. See id.
29. See Global Fight, supra note 20.
30. See id.
31. See id.
32. Id.
33. See generally H.R. 4005-Money Laundering Deterrence Act of 1998 & H.R. 1756-
Over the years, the government has addressed this issue in such varied forms as the enactment of laws aimed at casting more light on large money transactions and undercover sting operations. The President, Congress, and various agencies have reduced the influence and existence of criminal activities by making it harder to launder the proceeds received from their activities. Recently, there have been a number of legislative and regulatory proposals related to the problems of money laundering, and this trend will likely continue. For as long as criminals are making large amounts of cash, the problems of money laundering will always loom.


35. See id. See also infra notes 54-62 and accompanying text (discussing the United States Customs Service undercover sting project Operation Casablanca).

36. See OCC, FDIC and OTS Join Federal Reserve in Agreeing to KYC Rules, MONEY LAUNDERING ALERT, Dec. 1998, at 1, available in LEXIS, Bankng Library, MLA File [hereinafter Agreeing to KYC Rules]. Estimates of how much money is cycled through the United States financial system on an annual basis range between $300 billion and $500 billion. See H.R. REP. No. 105-608, pt. 1, at 29 (1998). Congress, the President, and various administrative agencies have joined forces in a multilateral effort to confront the problems of money laundering. On October 22, 1995, before the United Nations General Assembly, President Clinton called for international cooperation to address the threats posed by money laundering, narcotics trafficking and terrorism, noting that the forces of international crime jeopardize the global trend toward peace and freedom, undermine fragile democracies, sap the strength from developing countries, [and] threaten our efforts to build a safer, more prosperous world.

Hearings, supra note 33, at 136 (statement of Deputy Assistant Secretary for the Bureau for International Narcotics and Law Enforcement Affairs, Jonathan Winer). During the 105th Congress, members introduced legislation that addresses various issues of money laundering. See Money Laundering Field in Upheaval as KYC Rules, New Law Emerge, MONEY LAUNDERING ALERT, Nov. 1998, at 1, available in LEXIS, Bankng Library, MLA File [hereinafter Money Laundering Field in Upheaval]. The Board of Governors of the Federal Reserve System and the Department of Treasury also continue their efforts to eradicate this problem. See Agreeing to KYC Rules, supra, at 1.

37. See Money Laundering Field in Upheaval, supra note 36, at 1; Hyde Uses Muscle to Kill Laundering Bill, Cites Forfeiture Concerns, MONEY LAUNDERING ALERT, Dec. 1998 at 8, available in LEXIS, Bankng Library, MLA file.

III. STEPS TAKEN PREVIOUSLY

Several laws currently exist to address the problems of money laundering. The Bank Secrecy Act of 1970 (BSA) "imposes recordkeeping and reporting requirements on financial institutions in order to supply law enforcement with evidence of financial transactions." The Money Laundering Control Act of 1986 precludes circumvention of the BSA requirements by creating criminal liability for individuals who conduct monetary transactions knowing, or with reason to know, that the proceeds involved were obtained from unlawful activity. The Money Laundering Suppression Act of 1994 (MLSA), which amended the BSA, mandates a liberalization of the "rules for exemption of transactions from the currency transaction reporting requirement, in an effort to reduce the number of Currency Transaction Report (CTR) forms filed by at least 30%." Additionally, the MLSA allows the Department of Treasury to


determine which agency will be the sole entity to receive reports of suspicious transactions from financial institutions. And finally, the MLSA requires "all money transmitting businesses" to register with the Treasury.

As crime has increased in size and sophistication, these laws have not been able to address the evolving and complex problems that money laundering presents. Organized crime has devised new and innovative methods to launder money obtained from illegal activities in an effort to undermine the existing transaction reporting requirements. Moreover, organized crime has an extremely sophisticated financial management and organizational infrastructure that, when you consider the globalization of the financial service industry, is hard to comprehend. The persisting problems presented by money laundering have not gone unnoticed. As recent reports and congressional testimony have indicated, the new and ever evolving problems associated with money laundering have created a need for new legislation.

IV. REASON TO REEXAMINE CURRENT MONEY LAUNDERING LAWS

A. Operation Casablanca

United States law enforcement officials have experienced significant and noteworthy success in their war on drug trafficking and

47. See id.
48. See id.
50. See id. Such methods have included the "use [of] financial service providers which are not depository institutions, such as money transmitters and check cashing services," the interchange of foreign currency on the black market and the buying and reselling of durable goods. Id. Moreover, the complex, diverse, and fragmented structure of international crime organizations engaged in money laundering makes them quite resistant to conventional law enforcement measures. See id. at 2.
51. See id.
52. See generally GAO REP., MONEY LAUNDERING: REGULATORY OVERSIGHT OF OFFSHORE PRIVATE BANKING ACTIVITIES, GAO/GGD-98-154 (June 1998) [hereinafter GAO REP. No. 98-154] (discussing problems associated with private offshore banking); Hearings, supra note 33 (discussing proposed legislation to address remaining problems associated with money laundering).
53. See Hearings, supra note 33, at 5.
money laundering. Notably, they revealed the channels and methodologies used by narco-trafficking organizations to launder the proceeds of their U.S. operations. During a recent hearing before Congress, testimony was offered recounting a sting operation called Operation Casablanca conducted by the United States Customs Service. This operation was the largest drug money laundering investigation in United States history and has been instrumental in bringing more attention to the problems of money laundering.

Operation Casablanca began in late 1994, when agents in the Los Angeles Office of Customs received information that drug cartel members were laundering narcotics proceeds through branches of Mexican banks. In November 1995, after undercover agents participated in a money laundering transaction involving high-level money launderers for the Cali and Juarez cartels, Operation Casablanca began to pick up in intensity. The operation targeted both the financial infrastructure of drug cartels and the financial systems used by these cartels to launder their United States drug proceeds. The U.S. Customs' agents, posing as money launderers for the cartels, met with Mexican and Venezuelan bankers willing to launder the cartels' dirty money. Because of the operation, indictments were levied against seven major Mexican and Venezuelan banks and over 150 individuals.

B. GAO Report

Adding to the attention that Operation Casablanca brought to the corruption involved in money laundering, on June 29, 1998, the Government Accounting Office (GAO) issued a report detailing U.S.

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55. See id.
56. See id. at 87-96 (testimony of Treasury Under Secretary (Enforcement) Raymond W. Kelly).
57. See id. at 87.
58. See id. at 87-88.
59. See id.
60. See id.
61. See id.
regulatory oversight of private banking activities involving offshore jurisdictions. The report stressed that the use of offshore financial centers presents problems for those wishing to curb the ills of money laundering. Upon review of a number of bank reports, the GAO concluded that the “most common deficiency relating to offshore private banking [is] a lack of documentation on the beneficial owners of . . . other offshore entities that maintain U.S. accounts.” Moreover, the report charged that such shortcomings directly impact the way banks operate their anti-money laundering programs. Offshore banks’ anti-money laundering efforts are impeded by the “inadequate client profiles and weak management information systems [that] make it difficult for banks to monitor client activity for unusual or suspicious activity.” The report concluded that the “[s]ecrecy laws that restrict access to banking information or that prohibit on-site examinations of U.S. bank branches in offshore jurisdictions represent

63. Private banking is “financial and related services provided to wealthy clients.” GAO REP. No. 98-154, supra note 52, at 2. The GAO report defined private banking as:
(1) private banking activities carried out by domestic and foreign banks operating in the United States that involve financial secrecy jurisdictions, including the establishment of accounts for offshore entities, such as private investment companies and offshore trusts; and
(2) private banking activities conducted by foreign branches of U.S. banks located in these jurisdictions. Offshore entities that maintain private banking accounts provide customers with a high degree of confidentiality and anonymity while offering such other benefits as tax advantages, limited legal liability, and ease of transfer.

Id. at 2.

64. See id.

65. See id. This report emphasizes the need for effective “Know Your Customer” regulations as a mechanism for addressing the problem of insufficient documentation of beneficial owners. Memorandum from the Division of Banking Supervision and Regulation to the Board of Governors (Sept. 28, 1998) (on file with the University of North Carolina School of Law Banking Institute). See also infra notes 136-85 (discussing of existing and proposed “Know Your Customer” regulations).

66. The beneficial owner is the individual or group that controls the account. See GAO REP. No. 98-154, supra note 52, at 2.

67. Id. at 4. This report was conducted at the behest of the Honorable Spencer Bachus, member of the United States House of Representatives, who requested that the GAO review U.S. regulatory oversight of private banking activities involving offshore jurisdictions. See id. at 1. It was Representative Bachus’s belief that high profile money laundering cases have generally involved the use of offshore accounts to facilitate the passage of illegal funds through the banking system. See id. This report was to assist in deliberations on the issue of money laundering and the potential for a “soft spot” in offshore private banking activities. See id.

68. See id.

69. Id.
The conclusions contained in the GAO report were echoed during recent congressional testimony before the House Banking and Financial Services Committee. Testimony before the Committee revealed a marked increase in the use of offshore banking within the past few years as a device to make it more difficult for criminal and civil justice systems to get at the laundered money. It is estimated that over one million anonymous corporations and more than $5 billion in assets are presently held in the name of offshore entities; much of which represents laundered drug money—proceeds of the international criminal community. Additionally, because many of the offshore financial entities either do not prepare a formal report of their activities or refuse to disclose this information, data on money laundering in offshore banks is inadequate.

V. ADDRESSING THE PROBLEM: CONGRESS AND RECENT LEGISLATIVE PROPOSALS

The outcome of the U.S. Customs’ sting operation, the recent findings of the GAO report and a widespread belief that current money laundering laws are antiquated sparked a recent wave of legislative proposals addressing the issue of money laundering. At the

70. Id. at 5. The GAO also concluded that the Financial Crimes Enforcement Network (FinCEN) takes too long to process bank secrecy cases referred to them by bank regulators. See Anti-Money Laundering Bills Approved, supra note 62, at 2. Consequently, BSA violators are less intimidated by the threat of criminal prosecution while the public has lost confidence in the government’s ability to prosecute financial crimes. See id.

71. See generally Hearings, supra note 33, at 277 (testimony of Jack A. Blum) (discussing efforts to combat money laundering).

72. See id. at 279.

73. See id. at 278.

74. See id.

75. Congressman Bill McCollum (R-FL), Chairman of the Subcommittee on Crime of the Judiciary Committee, recently stated that

criminals who commit crimes abroad are using the United States and its financial institutions as havens for laundered funds, at the same time that criminalizing offenses in the United States are using foreign banks and bank secrecy jurisdictions to conceal the proceeds of their offenses. In short, today's sophisticated and well-financed criminals respect no international borders. Meanwhile, our money laundering statutes, passed in 1986, have been frozen in time: Tools forged years ago when the problem was smaller and less complex.
conclusion of the 105th Congress, however, only one bill addressing money laundering successfully cleared both houses of Congress.  

A. Approved Legislation: The Money Laundering and Financial Crimes Strategy Act

Of the recent legislative proposals, the only one garnering enough support to be approved by Congress was the Money Laundering and Financial Crimes Strategy Act (Strategy Act). The Strategy Act, which became part of the Bank Secrecy Act, was a fairly non-controversial piece of legislation—it passed both houses of Congress by voice vote. The Act was proposed by Representative Nydia M. Velazquez, (D-NY, 12th District) in response to concerns within her community that the streets were being overrun by drug dealers using the local wire services to launder money.

Poor communities, like some in Representative Velazquez’s district, are havens for money launderers because local businesses are

The Money Laundering Act of 1998: Mark-up of H.R. 3745 before the Subcomm. on Crime of the House Comm. On the Judiciary, 105th Cong. (June 5, 1998) (statement of Bill McCollum) (on file with the University of North Carolina School of Law Banking Institute). Moreover, the findings contained in the GAO report made it painstakingly clear that previous legislative efforts to curb money-laundering activities have not had the type of success that lawmakers had hoped. The shortcomings cited in the GAO report have been well documented in congressional hearings. See generally Hearings, supra note 33 (discussing money laundering issues that need to be addressed). It was not until law enforcement officials actually experienced some success in combating money laundering, however, as in Operation Casablanca, that the inadequacies of present legislation became the focal point of political concern. See id. at 87-88 (testimony of Treasury Under Secretary (Enforcement) Raymond W. Kelly, discussing Operation Casablanca).

76. See Year in Review: 1998 Marked by Historic Developments on all Fronts, MONEY LAUNDERING ALERT, Dec. 1998, at 10, available in LEXIS, Banking Library, MLA File [hereinafter Year in Review]. The Money Laundering and Financial Crimes Strategy Act was the only money laundering related legislation to be passed in fours years. See id.


80. See Telephone Interview with staff member, Office of Representative Nydia M. Velazquez (Oct. 21, 1998) [hereinafter Telephone Interview: Velazquez staffer].
easily used as money remitter services to launder money abroad.\textsuperscript{81} These neighborhoods, where legitimate businesses struggle to provide services to residents and where access to financial institutions is not readily available, are having their businesses infiltrated by criminals who bring fear, drugs and violence to the community.\textsuperscript{82} In response to her constituents' concerns, Representative Velazquez joined forces with the local district attorney and formed a working group to put an end to criminal activities.\textsuperscript{83} They decided that the best way to combat these criminals is to attack them where they were most vulnerable—their wallets.\textsuperscript{84} With this in mind, Velazquez developed her proposal. The idea was simply to bring together all of the entities involved in the war on drugs in an effort to better coordinate their efforts.\textsuperscript{85}

The Strategy Act requires the Department of Treasury and the Department of Justice to develop a national strategy to combat money laundering and related financial crimes, by coordinating the efforts of all federal, state, and local law enforcement authorities.\textsuperscript{86} In addition, it requires the Secretary of the Treasury to designate certain areas as high-risk areas for money laundering and related financial crimes and to establish a Financial Crime-Free Communities Support Program.\textsuperscript{87} The purpose of demarcating areas as high risk is to designate the communities that experience severe problems with money laundering who need more help.\textsuperscript{88} The Strategy Act also authorizes federal funding of efforts by state and local law enforcement officials to investigate money-laundering activities.\textsuperscript{89}

The Strategy Act undoubtedly will be more instrumental in

\textsuperscript{81} See Hearings, supra note 33, at 85 (statement of Congresswoman Nydia M. Velazquez).
\textsuperscript{82} See id.
\textsuperscript{84} See 112 Stat. at 2941. See generally Hearings, supra note 33 (suggesting that the prevention of money laundering is an effective mechanism for fighting organized crime).
\textsuperscript{85} See Telephone Interview: Velazquez staffer, supra note 80.
\textsuperscript{86} See 112 Stat. at 2941. See also Hearings, supra note 33, at 267-276 (statement of Robert B. Serino, Deputy Chief Counsel, Comptroller of the Currency).
\textsuperscript{87} See 112 Stat. at 2941; Hearings, supra note 33, at 267-276 (statement of Robert B. Serino, Deputy Chief Counsel Comptroller of the Currency).
\textsuperscript{88} See § 5342, 112 Stat. at 2944; Telephone Interview: Velazquez staffer, supra note 80.
\textsuperscript{89} See §§ 5351, 5352, 112 Stat. at 2946-47.
providing a concerted and comprehensive attack on money laundering than prior legislative efforts. The goal of the legislation is both to increase teamwork and coordination between the various entities involved and to efficiently distribute resources in the war on drugs. In practice, this legislation should help thwart the growing trend of money laundering not only in the United States but also worldwide. For instance, the use of local law enforcement will provide greater insight into some problems that federal entities are less equipped to ascertain due to their lack of familiarity with local state of affairs.

Although the Strategy Act will prove to be propitious in the fight against organized crime and is a laudable step, the deficiencies in the legislation leave the door open for additional congressional debate and action in the near future. Of greatest concern are the problems expressed in the GAO report of private offshore banking and inadequate reporting requirements that are not effectively addressed by the legislation. For example, the law does not provide mechanisms to determine the legitimacy of offshore bank customer transactions. Moreover, to effectively address the issues raised in the GAO report, regulators and legislators must solve the problems of applying U.S. law extraterritorially, a problem the Strategy Act left unresolved.

While the Strategy Act received majority approval by both the Congress and the President, banks quite possibly could find themselves wishing the legislative process had not been so favorable to the legislation. The Strategy Act calls for greater coordination between the public and private sectors in the effort to combat money laundering. Compliance with the Strategy Act could thrust banks

90. See § 5341, 112 Stat. at 2942-44; Telephone Interview: Velazquez staffer, supra note 80.
91. See Telephone Interview: Velazquez staffer, supra note 80. The fact that the legislation has the potential to effect change outside of the United States is noteworthy because much of the money being laundered today in the United States is directed to foreign countries. See id.
92. See id.
93. See GAO REP. No. 98-154, supra note 52, at 4-5.
94. See 112 Stat. at 2941.
95. See Telephone Interview with staff member, Office of Representative James Leach (Jan. 21, 1999) [hereinafter Telephone Interview: Leach staffer].
96. See Anti-Money Laundering Bill Passes Congress, supra note 79.
97. See § 5341(5)(a), (b), 112 Stat. at 2942-43; Anti-Money Laundering Bill Passes Congress, supra note 79.
into the business of law enforcement, a position that most banks resist. Given the banks' position, it is quite possible that they may begin to voice concern over the requirements of the Strategy Act.

B. Failed Legislation

Although the Strategy Act was the only proposal to be approved by Congress before the conclusion of the 105th Congress, there were a number of other initiatives considered. One such proposal was H.R. 4005, the Money Laundering Deterrence Act of 1998. This bill was designed to afford accountants with the same statutory "safe harbor" from civil liability that banks and individuals receive when they report potential crimes. H.R. 4005 also proposed the creation of a new "safe harbor" from civil liability for banks and individuals that share information in the context of employment references regarding a prospective employee's suspected involvement in a suspicious transaction or violation of law. The bill also contained provisions to facilitate the exchange of information between law enforcement and regulatory agencies of the government. Finally, the legislation called for an increase in the penalties for certain violations of law and required the filing of reports relating to coins and currency received in nonfinancial trade or business. H.R. 4005 was not agreed to before sine die.

98. See Anti-Money Laundering Bill Passes Congress, supra note 79.
99. See id.
100. See Year in Review, supra note 76, at 10.
101. H.R. 4005, 105th Cong. (1998). This bill was sponsored by James A. Leach (R-IA), the House Banking Committee Chairman, and was approved by the House but died in Committee in the United States Senate. Telephone Interview: Velazquez staffer, supra note 80.
102. See H.R. 4005, 105th Cong. § 3 (1998); Hearings, supra note 33, at 274-275 (statement of Robert B. Serino, Deputy Chief Counsel Comptroller of the Currency).
103. See H.R. 4005, 105th Cong. § 3 (1998); Hearings, supra note 33, at 274-275 (statement of Robert B. Serino, Deputy Chief Counsel Comptroller of the Currency).
104. See H.R. 4005, 105th Cong. § 3(d) (1998); Hearings, supra note 33, at 274-275 (statement of Robert B. Serino, Deputy Chief Counsel Comptroller of the Currency).
105. See H.R. 4005, 105th Cong. §§ 5, 8 (1998); Hearings, supra note 33, at 274-275 (statement of Robert B. Serino, Deputy Chief Counsel Comptroller of the Currency).
106. An amendment to H.R. 4005, sponsored by Rep. Bob Barr (R-GA), proposed to expand the definition of a "financial institution" to include a "foreign bank." See Memorandum from Paul S. Pilecki, Chairman of the Subcommittee on International Banking, to Institute of International Bankers (June 17, 1998) [hereinafter Pilecki Memorial].
Congress also considered more controversial pieces of legislation such as the International Crime Control Act of 1998\textsuperscript{107} and the Money Laundering Act of 1998.\textsuperscript{108} These bills contained provisions that expanded the current definition of “financial institutions” to include any “foreign bank”\textsuperscript{109} for the purposes of prosecuting violations under The Money Laundering Control Act of 1986.\textsuperscript{110} The proposed legislation also contained language that would enable federal prosecutors to access bank records of litigants involved in U.S. forfeiture proceedings in bank secrecy jurisdictions.\textsuperscript{111} Moreover, the bills proposed to expand the number of designated activities that provide grounds for money laundering prosecutions to encompass “bribery of a public official” and “fraud, or any scheme to defraud, committed against a foreign government or foreign government entity.”\textsuperscript{112} The bills,\textsuperscript{113} also, would have extended the

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\textsuperscript{107} S. 2303, 105th Cong. (1998). The International Crime Control Act of 1998 (ICCA), a proposal sent to Congress by the Administration, was aimed at substantially increasing U.S. law enforcement agencies’ ability to prosecute international criminals and, in particular, to seize and forfeit their assets. \textit{See id. at §§ 4001-4017. See also Hearings, supra note 33, at 114 (statement of Mary Lee Warren, Deputy Assistant Attorney General Criminal Division).}

\textsuperscript{108} H.R. 3745, 105th Cong. (1998). Bill McCollum (R-FL) sponsored this legislation. \textit{See id. The legislation failed to be reported out of either the House or the Senate. See Thomas: Legislative Information on the Internet, (visited Feb 17, 1999) <http://www.thomas.loc.gov> .}

\textsuperscript{109} “Foreign bank” is currently defined by the International Banking Act of 1978 as “any company organized under the laws of a foreign country . . . which engages in the business of banking, or any subsidiary or affiliate, organized under such laws, of any such company.” 12 U.S.C. § 3101(7) (1994). Expanding the definition of “financial institutions” to include foreign banks “would extend the reach of the U.S. money laundering laws not only to international banks themselves, but also their non-U.S. subsidiaries and affiliates.” Pilecki Memorandum, \textit{supra} note 106.


\textsuperscript{111} \textit{See H.R. 3745, 105th Cong. § 5 (1998); S. 2303, 105th Cong. Title IV § 4007 (1998); Pilecki Memorandum, \textit{supra} note 106.}


\textsuperscript{113} Specifically. Rep. Henry Hyde (R-IL) opposed the Money Laundering Act of
statutory language governing subpoenas of bank records to include forfeiture proceedings against laundered funds.114

Among those opposing such legislation are international banks.115 International banks have expressed concern at the prospect of having United States money laundering laws extending extraterritorially to non-U.S. offices of international banks.116 It is their belief that the proposed "legislation in its totality indicates an increased willingness by the United States to prosecute international banks under its money laundering law for actions outside the United States that do not involve their U.S. offices and only have limited connection to the United States."117

In addition to concerns raised over the international applicability of the proposed bills, of concern to many was a provision involving automatic forfeiture. It required that a claimant located in the U.S. risk automatic forfeiture action if the claimant refused to make available to federal prosecutors records that are in bank secrecy jurisdictions.118 In certain circumstances, a bank could itself become the claimant and, thereby, be subject to the risk of losing its claim or property for failure to produce financial records material to its claim located outside the United States.119 This could occur when the U.S. government seeks to forfeit funds that the launderer uses to repay a bank loan and that actually belong to the bank, or customer property in which the bank has a security interest.120 Although a bank could come

115. See Pilecki Memorandum, supra note 106.
116. See id. For a brief look at how the United States State Department views money laundering in various overseas countries, see How the U.S. State Department Views Money Laundering In Select Countries, MONEY LAUNDERING ALERT, April, 1998, at 11, available in LEXIS, Banking Library, MLA File.
117. Memorandum from Lawrence R. Uhlick to General Managers of Institute of International Bankers (July 9, 1998) (on file with the University of North Carolina School of Law Banking Institute). An example of this would be "effecting a covering transaction through a U.S. correspondent account at an unaffiliated bank in connection with making U.S. dollar payments from outside the United States." Id.
118. See id.
119. See id.
120. See id.
forward and produce the necessary documents, such a situation is nonetheless problematic for many banks.\textsuperscript{121} Another proposal that failed to make it through the last session of Congress was an amendment to the Money Laundering Deterrence Act of 1998\textsuperscript{122} (Barr Amendment), proposed by Rep. Bob Barr, that would have subjected “any foreign bank doing business in the United States to the full range of record keeping requirements currently imposed under the Bank Secrecy Act, Federal Deposit Insurance Act, and Title I of Public Law 508, with respect to its transactions in U.S. dollars.”\textsuperscript{123} The Department of the Treasury expressed concern with this proposal on a number of fronts.\textsuperscript{124} First, an expansive reading of the phrase “doing business in the United States” could be interpreted as meaning engaging in interstate commerce in the United States.\textsuperscript{125} If accepted, this could mean that foreign banks merely communicating by phone or mail with persons in the United States would be subject to the law.\textsuperscript{126} Such an application of a statute “could result in an unacceptable extraterritorial reach of U.S. law that could pose significant enforcement challenges and invite retaliatory action by other countries.”\textsuperscript{127} Furthermore, the Treasury expressed concern that the provision could be construed as discriminatory “against foreign banks doing business in the United States.”\textsuperscript{128}

\textsuperscript{121} See \textit{id}.

\textsuperscript{122} Amendment to H.R. 4005, 105th Cong. (1998) (offered by Rep. Bob Barr) [hereinafter Barr Amendment] (on file with the \textit{University of North Carolina School of Law Banking Institute}). The Money Laundering Deterrence Act of 1998 also failed to be successfully passed by Congress. See supra notes 101-106 and accompanying text.

\textsuperscript{123} Letter from Linda L. Robertson, Assistant Secretary of Legislative Affairs and Public Liaison of the Department of the Treasury, to Congressman James A. Leach (Sept. 17, 1998) [hereinafter Robertson Letter] (on file with the \textit{University of North Carolina School of Law Banking Institute}). See also Barr Amendment, supra note 122.

\textsuperscript{124} See Robertson Letter, supra note 123.

\textsuperscript{125} Id.

\textsuperscript{126} Id.

\textsuperscript{127} Id.

\textsuperscript{128} Id. Additional concerns have been expressed regarding the possible treatment of foreign banks. Linda L. Robertson, Assistant Secretary of Legislative Affairs and Public Liaison of the Department of the Treasury, stated that:

Branches and agencies of foreign banks in the United States are subject to the same record-keeping and reporting requirements imposed under our anti-money laundering laws as are U.S. banks. If [this legislation] were enacted, foreign banks that have branches and agencies here would also have to report all foreign transactions that involve U.S. dollars. They would thereby become subject to a vastly broader
Although the foregoing legislative proposals did not receive the full support of Congress and engendered significant criticism from entities off Capitol Hill, the bills did contain provisions that addressed the concerns raised by the GAO report. Specifically, the Barr Amendment proposed to extend record keeping requirements to foreign banks that have any nexus to the United States, while the Money Laundering Act of 1998 and the International Crime Control Act of 1998 suggested extending U.S. money laundering laws extraterritorially. Unfortunately, such reforms were, at least in part, the reason the bills were opposed. Nonetheless, given the release and findings of the GAO report, it is unreasonable to anticipate that some semblance of this legislation will be reintroduced during the next legislative session.

C. Federal Agencies and Know Your Customer Regulations

In addition to the initiatives proposed in Congress, other ideas on how to combat money laundering have recently arisen in a number of federal agencies. The Federal Deposit Insurance Corporation (FDIC), Office of Thrift Supervision (OTS), Office of the record-keeping requirement than U.S. banks, which are not required to keep records of their dollar transactions that occur entirely outside the United States. The [legislation] would likely increase significantly the cost of doing business in the United States for foreign banks. Such arguably discriminatory treatment could subject the United States to charges that it was violating its national treatment commitments under various international agreements . . . .

Id. This proposed amendment was not included in the language of H.R. 4005 (the Money Laundering Deterrence Act of 1998) and, thus, never received consideration by the full House of Representatives. See H.R. 4005, 105th Cong. (1998).

129. See generally Year in Review, supra note 76.
130. See Robertson Letter, supra note 123.
131. See generally GAO REP. No. 98-154, supra note 52 (concluding that offshore jurisdiction secrecy laws represent barriers to U.S. oversight of offshore private banking activities).
132. See Barr Amendment, supra note 122.
134. See Telephone Interview: Leach staffer, supra note 95.
135. The amount of actual legislation that will be considered and acted upon by Congress in the 106th session will be greatly influenced by the hubbub surrounding the 2000 elections.
136. See infra notes 137-40 and accompanying text.
137. See Minimum Security Devices and Procedures and Bank Secrecy Act
Comptroller of the Currency (OCC) and Federal Reserve Board (FRB) proposed rule regulations known as the Know Your Customer regulations (KYC regulations). If approved, the regulations will effect virtually every bank, thrift institution, and credit union in the United States. The proposed regulations may be the most significant in the history of combating money laundering.

The proposed KYC regulations are significant because they provide the means "to help banks spot illegal activity by customers." The regulations require banks to develop a profile of each customer's typical transactions and to keep an eye out for deviations. In order to comply with the KYC regulations, a bank must determine the identity of each customer; the kinds of instruments that are normally used by the customer; the typical transaction that the customer conducts for each account; and the origin of the funds used. Pursuant to the regulations, a bank may develop a compliance


141. See Agreeing to KYC Rules, supra note 36, at 1; see also supra notes 137-40.

142. See Agreeing to KYC Rules, supra note 36, at 1.

143. See id.

144. Barancik, supra note 140, at 2.


program consistent with its business practices as long as the program complies with Federal Reserve requirements. The Federal Reserve asserts that the new KYC regulations simply formalize the practices already used by the banking industry following the banks' self-imposed internal KYC rules and implicit KYC requirements dictated under the Bank Secrecy Act.

Although the KYC regulations proposed by the different agencies are virtually identical, some differences do exist. For example, there is some question as to whether the FRB's KYC regulations will treat existing customers the same as the FDIC regulations. The FDIC, unlike the FRB, clearly states that it will require banks to "know" both new and existing customers. The FRB's regulation, on the other hand, does not differentiate between existing and new customers; only stating in its preamble that banks may, when confronted with high risk situations, be required to meet the KYC requirements for existing customers as if they were new customers.


148. 12 U.S.C. §§ 1951-1959 (1994). Arguably, the "knowingly or willfully engage in money laundering" language of Title 18, section 1956, coupled with the filing requirements of suspicious activity reports under the BSA present an implicit KYC requirement for banks. See Telephone Interview with staff member of the Federal Reserve Board (Jan. 5, 1999).


150. See Agreeing to KYC Rules, supra note 36, at 1.

151. See id.


153. See Membership of State Banking Institutions in the Federal Reserve System; International Banking Operations; Bank Holding Companies and Change in Bank Control, 63 Fed. Reg. at 67,516-17; Agreeing to KYC Rules, supra note 36, at 1. It is not,
More significantly, the proposed rule amendments will speak directly to the problem cited in the GAO report of the difficulties that federal banking regulators have in acquiring access to beneficial owner documentation. The report strongly urged the formal creation and implementation of effective KYC regulations as a means of addressing the money-laundering problem of identifying and profiling the beneficial owners of private bank accounts. The proposed KYC regulations will provide an effective mechanism for determining the true identity of customers involved in suspicious transactions by requiring banks to provide inspectors with appropriate documentation regarding accounts opened or maintained in the United States within 48 hours of a request for such information. If the information is housed somewhere other than where the customer’s account is maintained or receives his financial services, banks are required to adopt “specific procedures designed to ensure that the information and documentation is reviewed by personnel at the location where the customer’s account is located or financial services are rendered, and the bank should provide written evidence that the appropriate review of the information and documentation” is being conducted on a regular basis by personnel at that location. This provision will be helpful in providing an efficient mechanism for determining the true identity of customers involved in suspicious transactions.

Although many banks already have KYC programs in place, however, the intention of the agencies to create vastly different KYC regulations, although some difference do in fact exist. See Telephone Interview with staff member of the Federal Reserve Board (Jan. 7, 1999).

154. See Memorandum from the Division of Banking Supervision and Regulation to the Board of Governors, at 9 (Sept. 28, 1998) [hereinafter Division of Banking Supervision Memorandum] (on file with the University of North Carolina School of Law Banking Institute); GAO REP. No. 98-154, supra note 52, at 5.
155. See GAO REP. No. 98-154, supra note 52, at 11; Division of Banking Supervision Memorandum, supra note 154, at 8-9.
the regulations have generated much controversy. Among the proposed KYC regulations opponents are banks, the American Bankers Association (ABA), and a number of Republican congressional representatives. Banks are reluctant to give out information on their foreign customers. They are reluctant because they are often subject to foreign laws precluding such disclosure. Thus, a bank might be forced to violate foreign laws to comply with the requirements of the KYC regulations. Further, there are concerns that the regulations will force banks to perform the role of police officer and expend large amounts to properly comply with the regulations. Banks also point out that because the regulations are not issued under the Bank Secrecy Act, securities dealers do not have to comply with the KYC regulations. Consequently, securities dealers may appear a more attractive option for private banking.

158. See infra notes 159-85 and accompanying text.
160. See id. at 186-87. The ABA was generally pleased with the KYC proposals. See Sartipzadeh, Seeking to Stem Money Laundering, Fed Proposes "Know Your Customer" Rules, supra note 147, at 504. The ABA recently urged their withdrawal, however. See Sartipzadeh, Money Laundering: Bankers Urge Regulators to Scrap "Know Your Customer" Proposals, supra note 159, at 186-87.
162. See Sartipzadeh, Seeking to Stem Money Laundering, Fed Proposes "Know Your Customer" Rules, supra note 147, at 504.
163. See id.
164. In addressing this concern, the Federal Reserve Board and the Office of the Comptroller of the Currency have suggested that the information that is sought under the KYC proposals typically already exists within the bank in the United States because the information is used by the U.S. residing relationship manager to render services to the customer. See "Know Your Customer" Requirement, 63 Fed. Reg. 67,527; Membership of State Banking Institution in the Federal Reserve System; International Banking Operations; Bank Holding Companies and Change in Bank Control, 63 Fed. Reg. 67,522. Moreover, it was suggested that foreign law disclosure issues could be avoided by simply obtaining a waiver from the customers. See "Know Your Customer" Requirement, 63 Fed. Reg. 67,527; Membership of State Banking Institution in the Federal Reserve System; International Banking Operations; Bank Holding Companies and Change in Bank Control, 63 Fed. Reg. 67,522.
165. See Jaret Seiberg, Anti-Laundering Proposal Draws Flood Of Complaints; Regulators May Revise It, AM. BANKER, Dec. 29, 1998, at 1. This would be especially true for smaller banks as they lack the resources necessary to establish an effective computerized monitoring system. See id.
166. See Agreeing to KYC Rules, supra note 36, at 1.
customers seeking to avoid prying questions or intrusive customer profiling that banks will require its customers to endure.  

Thus, there is a growing concern among bankers that there could be a migration of customers seeking private client services from banks to securities firms because of the lack of a level playing field.  

In response to the banks' concern that KYC regulations create an unfair advantage for non-bank financial service providers, there is a possibility that KYC regulations may be extended to reach all financial services providers, including such entities as security broker-dealers, travelers check companies and money transmitters. This action would alleviate the concerns of many banks by creating a level playing field among financial institutions. Although no steps have been taken to extend the reach of KYC regulations beyond the banking industry, the Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) and the Securities and Exchange Commission are being urged to construct and implement KYC regulations to apply to all financial services providers.

The ABA's opposition to the KYC proposals was articulated in a letter sent on January 28, 1999, to the four regulatory agencies. It asked for the withdrawal of the KYC proposals primarily because the proposals were perceived negatively by the public. The ABA is concerned that the public will lose confidence in the banking industry and government institutions in general due to the intrusive nature of

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168. See id.
169. See id.
171. See Sartipzadeh, Seeking to Stem Money Laundering, Fed Proposes "Know Your Customer" Rules, supra note 147, at 504.
175. See id. The U.S. Public Interest Research Group, a leading consumer group, agreed with the ABA’s position that the KYC proposals should be changed. See id. The Consumer Bankers Association also expressed that they were alarmed by the KYC proposals and that they should be pulled. See id.
the proposals. The ABA argued that the KYC regulations raise public concerns due to the regulations' focus on profiling and monitoring the actions of bank customers. The ABA believes that because privacy is so important to the public and to the banking industry in general that any impingement into this area is without merit. The ABA also seeks the withdrawal of the proposals due to the outcry of opposition from banks.

In addition to the opposition expressed on these fronts, there is controversy surrounding the KYC regulation’s perceived intrusion into areas of individual privacy and civil liberties. This controversy is centered on arguments that the regulations will violate customers’ civil liberties and privacy by requiring disclosure of information that some wish to keep confidential. Other critics of the KYC regulations criticize the requirements of the regulations as closely resembling a “Big Brother” is watching scenario.

In early February of 1999, four Republican congressional representatives introduced separate bills that focused on delaying or banning federal banking regulators from implementing the KYC proposals. The bills varied from requiring congressional authorization before the proposals may go into effect to a complete prohibition on the federal agencies’ implementation of the regulations.

176. See id.
177. See id.
178. See id. at 186-87.
179. See id.
180. See Seiberg, Anti-Laundering Proposal Draws Flood Of Complaints; Regulators May Revise It, supra note 165, at 1; Sartipzadeh, Money Laundering: Bankers Urge Regulators To Scrap 'Know-Your-Customer' Proposals, supra note 159, at 186.
181. See Seiberg, Anti-Laundering Proposal Draws Flood Of Complaints; Regulators May Revise It, supra note 165, at 1.
182. See id.
184. See McElroy, supra note 161, at 238.
185. See id.
D. Financial Crimes Enforcement Network

On October 21, 1998, a rule became effective that the Financial Crimes Enforcement Network, the agency charged with implementing governmental policies and procedures to detect money laundering, promulgated to revise the way banks may meet the requirements of the Money Laundering Suppression Act of 1994. The rule, which banks have until July 1, 2000 to phase in compliance, is part of the FinCen's effort to reduce the number of times depository institutions must report large currency transaction. It applies to all depository institutions, credit unions, banks, and thrifts. The rule has two important aspects. First, it fights money laundering by significantly reducing the number of Currency Transaction Reports (CTRs) money laundering investigators must review. Second, the new system is expected to benefit banks by reducing the number of required CTR filings by more than 30 per

186. FinCEN was designated by the Department of Treasury as one of the principal agencies to create, oversee, and implement policies and procedures to detect money laundering. See FinCEN, FinCENfacts (Oct. 1998) (on file with the University of North Carolina School of Law Banking Institute). FinCEN accomplishes these goals in two ways. See id. First, FinCEN uses the Bank Secrecy Act and its requirements to fight money laundering. See id. Second, FinCEN offers intelligence and analytical support to law enforcement authorities. See id.


The rule helps to ease the burden of investigators by helping to narrow their search. Specifically, the new rule streamlines the requirement that financial institutions report currency transactions in excess of $10,000 by their customers, the cornerstone of the Bank Secrecy Act. The currency reports that must be filed, called CTRs, are vital to investigators in the battle against money laundering. At the same time, "the reporting requirement includes transactions by cash intensive businesses that are not of interest to investigators." Thus, by reducing the number of CTRs that a bank must file, investigators are able to examine those transactions that are most meritorious of scrutiny.

The FinCEN rule also affords some relief to the banking industry. The rule is aimed at the exemption of non-public companies. It permits banks to exempt domestic businesses that have been bank customers for one year and that have routine needs for large amounts of currency by simply filing a form stating that the business is exempt. This will eliminate cumbersome and expensive repetitive filings for routine transactions. The new rule does not, however, exempt banks from reporting suspicious activities by exempted businesses.

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192. See Revised Currency Transaction Report, supra note 45.
193. See FinCEN Further Streamlines, supra note 187.
195. The Bank Secrecy Act requires domestic financial institutions to file a CTR on each single or multiple deposit, withdrawal, exchange of currency or other payment or transfer, by, through, or to such financial institution that involves a transaction in currency of more than $10,000. See Revised Currency Transaction Report, supra note 45. The CTR requirements have been changed to require only basic information about the transaction. See id. They require disclosure of the identity of the person conducting the transaction, on whose behalf the transaction was conducted, the amount, and a description of the matter. See id.
196. See id.
197. Id. Banks also criticize the former reporting requirements concerning routine deposits by cash intensive businesses "because they mandated repetitive paperwork for such routine transactions." Id.
198. See FinCEN Further Streamlines, supra note 187.
200. See Amendment to the Bank Secrecy Act Regulations—Exemptions from the
There seems to be an inherent contradiction between the various federal agencies’ increasing reporting requirements by implementing KYC regulations and the FinCEN’s push towards reducing the number of CTRs filings. The KYC regulations require increased documentation and reporting, while FinCEN rule is aimed at lessening the filing burden.\textsuperscript{201} It is argued, however, that the CTRs represent an objective filing requirement while the KYC requirements are more subjective and thus do not give rise to the massive filings as did the former CTR filing requirements.\textsuperscript{202} More importantly, it can be posited that the KYC proposals are an attempt by the federal agencies to address a shortcoming in the money laundering laws not adequately addressed in the past. FinCEN, on the other hand, attempts to address the often burdensome requirements placed upon banks to combat money laundering by streamlining CTR filings.

VI. CONCLUSION

Although significant strides have been made in the area of money laundering with the passage of the Money Laundering Financial Crimes Strategy Act, problems remain. The problems associated with offshore private banking activities continue to present a thorny issue for U.S. regulators.\textsuperscript{203} Past attempts by legislators to address the issue were unsuccessful,\textsuperscript{204} and the proposed KYC regulations, which could in part address the offshore banking problem, are presently in the comment stage.\textsuperscript{205} Thus, it seems that the real problem with
effectively addressing the money laundering issue is not a lack of interest or understanding, but rather an inability to gather enough support to pass meaningful laws to combat the problem. The author suggests that the crux of the problem is twofold: how to balance privacy issues against the desire to construct an efficacious criminal justice system;\(^\text{206}\) and how to protect the United States' interest in combating money laundering when dealing with institutions subject to the laws of foreign jurisdictions.\(^\text{207}\)

In terms of an individual's privacy, the laws should strive to respect one's desire to conduct their finances in a secured and confidential manner. This being said, it is important to keep in mind that the boundaries between criminal and legal conduct are constantly evolving as the definition of what is criminal continues to expand.\(^\text{208}\) It is, therefore, axiomatic that in order to promulgate effective laws, more intrusions into the public's privacy may be necessary.\(^\text{209}\) Indeed, it is important to respect an individual's right to privacy, but are we willing to do so at the expense of the integrity of our financial institutions and the well being of our country?

In addition to the issue of individual privacy, it is clear that in an effort to properly address the many facets of money laundering, legislators must balance the interests of the United States with those of foreign nations and their rules of law.\(^\text{210}\) Tensions between the United States and foreign nations will rise if any legislation undermines the foreign systems of government. In light of such tension, retaliation against United States based financial institutions doing business overseas is possible.\(^\text{211}\)

Additional money laundering legislation will likely be introduced during the 106th Congress to address these outstanding problems.\(^\text{212}\) Crafting effective laws requires careful balancing, and

\(^{206}\) See Plombeck, supra note 41, at 98.

\(^{207}\) See Robertson Letter, supra note 123.

\(^{208}\) See Plombeck, supra note 41, at 98.

\(^{209}\) See id.

\(^{210}\) See Robertson Letter, supra note 123.

\(^{211}\) See id.

\(^{212}\) See Money Laundering Field in Upheaval, supra note 36. During the early stages of the 106th Congress a number of bills were introduced addressing money laundering issues. Drug-Free Century Act, S. 5, 106th Cong. §§ 1401-1408 (1999) (providing law enforcement with the proper authority to combat money laundering by increasing their access to transactional information that relates to coins and currency received in a
how our government decides to deal with these issues will be the
deciding factor in the war on money laundering.\textsuperscript{213}

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