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GAO

Report to Congressional Requesters

September 2003

COMBATING MONEY LAUNDERING

Opportunities Exist to Improve the National Strategy

GAO-03-813

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Opportunities Exist to Improve the National Strategy

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Highlights

Highlights of GAO-03-813, a report to congressional requesters

Why GAO Did This Study

Money laundering is a serious crime, with hundreds of billions of dollars laundered annually. Congress passed the Money Laundering and Financial Crimes Strategy Act of 1998 to better coordinate the efforts of law enforcement agencies and financial regulators in combating money laundering. This act required the issuance of an annual National Money Laundering Strategy for 5 years, ending with the issuance of the 2003 strategy. To help with deliberations on reauthorization, as agreed with your offices, GAO determined (1) agency perspectives on the benefit of the strategy and factors that affected its development and implementation, (2) whether the strategy has served as a useful mechanism for guiding the coordination of federal law enforcement agencies' efforts, (3) the role of the strategy in influencing the activities of federal financial regulators, and (4) whether the strategy has reflected key critical components.

What GAO Recommends

GAO recommends that, if the requirement for a national strategy is reauthorized, the Secretaries of the Treasury and Homeland Security and the Attorney General strengthen the leadership structure for strategy development and implementation, require processes to ensure key priorities are identified, and establish accountability mechanisms. The departments generally concurred with GAO's report.

www.gao.gov/cgi-bin/getrpt?GAO-03-813.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Rich Stana at (202) 512-8777 or Davi D'Agostino at (202) 512-8678.

What GAO Found

Treasury, Justice, and financial regulatory officials with whom GAO spoke said that the National Money Laundering Strategy was initially beneficial but that, over time, certain factors and events affected its development and implementation. They endorsed the concept of a strategy to coordinate the federal government's efforts to combat money laundering and related financial crimes. They also said that the strategy initially had a positive effect on promoting interagency planning and communication, but different agency views emerged over the scope and commitment required, and other events affected the strategy, such as the September 11 terrorist attacks and the creation of the Department of Homeland Security.

The strategy generally has not served as a useful mechanism for guiding the coordination of federal law enforcement agencies' efforts to combat money laundering and terrorist financing. While Treasury and Justice made progress on some strategy initiatives designed to enhance interagency coordination of money laundering investigations, most have not achieved the expectations called for in the annual strategies. Also, the 2002 strategy did not address agency roles in investigating terrorist financing, thus, it did not help resolve potential duplication of efforts and disagreements over which agency should lead investigations. In May 2003, Justice and Homeland Security reached an agreement aimed at resolving these problems.

Most financial regulators GAO interviewed said that the strategy had some influence on their anti-money laundering efforts because it provided a forum for enhanced coordination, particularly with law enforcement agencies. However, they said that it has had less influence than other factors. They described several other influences on their efforts, particularly their ongoing oversight responsibilities in ensuring compliance with the Bank Secrecy Act and, more recently, the USA PATRIOT Act, which was passed in October 2001 to fight terrorist financing and increase anti-money laundering efforts.

GAO's work reviewing national strategies has identified several critical components needed for development and implementation; however, key components have not been well reflected in the strategy. The first is clearly defined leadership, with the ability to marshal necessary resources. However, the leadership for the strategy has not agreed on the strategy's scope or ensured that target dates for completing initiatives were met. The second is clear priorities, as identified by threat and risk assessments, to help focus resources on the greatest needs. Each strategy contained more priorities than could be realistically achieved and none of the strategies was linked to a threat and risk assessment. The third is that established accountability mechanisms provide a basis for monitoring and assessing program performance. While later strategies contained several initiatives designed to establish performance measures, as of July 2003, none had yet been completed. Officials attributed this to the difficulty in establishing such measures for combating money laundering.

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Abbreviations

AFMLS	Asset Forfeiture and Money Laundering Section
BSA	Bank Secrecy Act
CFTC	Commodity Futures Trading Commission
DEA	Drug Enforcement Administration
DHS	Department of Homeland Security
EOUSA	Executive Office for U.S. Attorneys
FBI	Federal Bureau of Investigation
FDIC	Federal Deposit Insurance Corporation
FinCEN	Financial Crimes Enforcement Network
FRB	Federal Reserve Board
HIFCA	High Intensity Money Laundering and Related Financial Crime Area
ICE	Bureau of Immigration and Customs Enforcement
IRS-CI	Internal Revenue Service-Criminal Investigation
JTTF	Joint Terrorism Task Force
MLCA	Money Laundering Control Act of 1986
NCUA	National Credit Union Administration
NMLS	National Money Laundering Strategy
OCC	Office of the Comptroller of the Currency
OGQ	Operation Green Quest
OTS	Office of Thrift Supervision
SAR	Suspicious Activity Report
SEC	Securities and Exchange Commission
TFOS	Terrorist Financing Operations Section
USA PATRIOT Act	Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001

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Accountability * Integrity * Reliability

United States General Accounting Office
Washington, DC 20548

September 26, 2003

The Honorable Charles E. Grassley
Chairman, Caucus on International Narcotics Control
United States Senate

The Honorable Carl Levin
Ranking Minority Member
Permanent Subcommittee on Investigations
Committee on Governmental Affairs
United States Senate

Money laundering—the process of disguising or concealing illicit funds to make them appear legitimate—is a serious issue, with an estimated $500 billion to $1 trillion laundered worldwide annually, according to the United Nations Office of Drug Control and Prevention. Money laundering provides the fuel for drug dealers, arms traffickers, terrorists, and other criminals to operate and expand their activities, which can have devastating social and economic consequences.

Although the U.S. government had been working to combat money laundering for many years, efforts by law enforcement and regulatory agencies took on particular urgency, as the operations of large-scale criminal organizations grew increasingly sophisticated. To better coordinate the anti-money laundering efforts of federal, state, and local law enforcement agencies and financial regulators, Congress enacted the Money Laundering and Financial Crimes Strategy Act of 1998 (Strategy Act).[1] This act called for the annual issuance of a strategy to combat money laundering—the National Money Laundering Strategy (NMLS). This requirement will end with the issuance of the 2003 strategy unless reauthorized by Congress. In anticipation of reauthorization discussions, Congress is interested in knowing how the strategy has affected coordination and whether improvements could be made to increase its benefits.

[1]Pub. L. 105-310, 112 Stat. 2941 codified as 31 U.S.C. §§ 5340-42, 5351-55 (1998).

While money laundering first became a federal crime in 1986 with the passage of the Money Laundering Control Act,[2] law enforcement and the federal financial regulators had sought to protect the U.S. financial system from certain types of criminal activity since the passage of the Bank Secrecy Act (BSA) in 1970, which instituted currency reporting requirements.[3] By periodically amending the BSA, Congress has added anti-money laundering requirements for many types of financial institutions and transactions. Such amendments and the resulting regulations have increased the number of federal agencies with responsibility for ensuring compliance with anti-money laundering requirements, thereby creating a need to coordinate the efforts of numerous financial regulatory and law enforcement agencies. Appendix II describes major anti-money laundering legislation since 1970.

The Strategy Act requires the President—acting through the Secretary of the Treasury and in consultation with the Attorney General and other relevant federal, state, and local law enforcement and regulatory officials—to develop and submit the annual NMLS to Congress by February 1 of each year from 1999 through 2003. The goal of the Strategy Act is to increase coordination and cooperation among the various regulatory and enforcement agencies and to effectively distribute resources to combat money laundering. The Strategy Act requires the NMLS to define comprehensive, research-based goals, objectives, and priorities for reducing money laundering and related financial crime in the United States. The NMLS has generally included multiple priorities to combat money laundering to guide federal agencies' activities. Additionally, the Strategy Act authorizes the Secretary of the Treasury to designate High Intensity Money Laundering and Related Financial Crime Areas (HIFCA), in which federal, state, and local law enforcement would work cooperatively to develop a focused and comprehensive approach to targeting money laundering activity.[4]

In the wake of the September 11, 2001, terrorist attacks, Congress passed the Uniting and Strengthening America by Providing Appropriate Tools

[2]18 U.S.C. § 1956-57 (1994).

[3]Currency and Foreign Transactions Reporting Act (commonly referred to as the Bank Secrecy Act), Pub. L. No. 91-508, 84 Stat. 1114 (1970) (codified as amended in 12 U.S.C. §§ 1829(b), 1951-1959; 31 U.S.C. §§ 5311-5330.

[4]Such an "area" could be a geographic area, financial system, industry sector, or financial institution.

Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act) to, among other things, both fight terrorist financing and increase anti-money laundering efforts through further expansion of the types of financial institutions and transactions that are subject to anti-money laundering record keeping and reporting requirements.[5] The NMLS has also changed to reflect new federal priorities in the aftermath of September 11, 2001, including a goal to combat terrorist financing in 2002.

To assist in congressional deliberations on whether there is a continuing need for an annual NMLS, this report discusses the results of our review of the development and implementation of the 1999 through 2002 strategies. Specifically, as agreed with your offices, our objectives were to determine (1) agency perspectives on the benefit of the NMLS and factors that affected its development and implementation, (2) whether the strategy has served as a useful mechanism for guiding the coordination of federal law enforcement agencies' efforts to combat money laundering and terrorist financing, (3) the role of the NMLS in influencing the anti-money laundering and antiterrorist financing activities of the federal financial regulators, and (4) whether the NMLS has reflected the critical components we have found to be necessary for the development and implementation of such a strategy.

To determine agency perspectives on the benefit of the NMLS, we interviewed responsible officials at and reviewed relevant documentation obtained from the principal law enforcement components with anti-money laundering responsibilities at the Departments of the Treasury, Justice, and Homeland Security and the federal financial regulatory agencies.[6] In general, our work reviewing the strategy's usefulness for guiding the coordination of law enforcement agencies' efforts consisted of (1) examining the structure and operation of HIFCA task forces, (2) analyzing the implementation of NMLS initiatives to enhance interagency coordination, and (3) assessing the extent to which the 2002 NMLS addressed agency roles in combating terrorist financing. We did this by interviewing relevant agency officials, reviewing agency policies for

[5]The anti-money laundering provisions are contained in Title III of the USA PATRIOT Act, Pub. L. No. 107-56, 115 Stat. 272 (2001).

[6]The federal financial regulators include the Federal Reserve Board, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, Office of Thrift Supervision, the National Credit Union Administration, the Securities and Exchange Commission, and the Commodity Futures Trading Commission.

coordination, evaluating staffing levels and other resources devoted to NMLS initiatives, and reviewing the NMLS. Our work determining the role of the NMLS in influencing the efforts of the federal financial regulators focused primarily on the NMLS goal that sought to coordinate their efforts. In 2002, the goal was, "Prevent Money Laundering Through Cooperative Public-Private Efforts and Necessary Regulatory Measures." This goal had similar titles in earlier strategies (see table 1). We also examined the role the financial regulators played in supporting Treasury's efforts under the NMLS goal to strengthen international cooperation to fight money laundering. To do this, we interviewed financial regulatory, Treasury, and law enforcement agency officials. We also reviewed regulatory examination guidelines, policies, and training information. To determine whether the NMLS reflected components we have found necessary for national strategies, we reviewed drafts of the strategies from 1999 to 2002, interviewed officials that had been involved in the development and implementation of the strategies, and compared the results from this work with findings from our past work reviewing national strategies and their implementation.

We conducted our work from June 2002 to August 2003 in accordance with generally accepted government auditing standards. Additional information on our scope and methodology is discussed in appendix I.

Results in Brief

The Treasury, Justice, and financial regulatory agency officials we interviewed generally agreed that the NMLS was initially beneficial but that, over time, certain factors and events affected its development and implementation. The officials endorsed the concept of a strategy to coordinate the federal government's efforts to combat money laundering and related financial crimes. Generally, the officials commented that the annual NMLS probably was more beneficial in the first 2 years (1999 and 2000) than in the subsequent years (2001 and 2002). For example, Treasury officials said that the NMLS was initially instrumental in focusing on the need to combat money laundering systemically and not solely on a case-by-case basis. However, different agency views emerged about the appropriate scope of the NMLS and the level of agency commitment to the strategy that was required. Thus, the officials said the strategy did not reach its potential for integrating and harmonizing the nation's efforts to combat money laundering and related financial crimes. In addition, other events affected or delayed the strategy's implementation. For example, changes in the administration and senior agency officials led to major revisions to the NMLS in 2001 and 2002. In addition, the 2001 strategy was issued on September 12, 2001. Subsequent to the attacks of September 11,

the government's focus changed to terrorist financing, making money laundering less of a priority. More recently, the 2003 strategy was delayed, in part, because the creation of the Department of Homeland Security (DHS) brought a new player into the mix with the transfer of Treasury's enforcement functions and staff to the new department.

As a mechanism for guiding the coordination of federal law enforcement agencies' efforts to combat money laundering and related financial crimes, the NMLS has had mixed results but generally has not been as useful as envisioned by the Strategy Act. For example, although expected to have a central role in coordinating law enforcement agencies' efforts to combat money laundering, HIFCA task forces generally had not yet been structured and operating as intended and had not reached their expectations for leveraging investigative resources or creating investigative synergies. In some cases, federal law enforcement agencies had not provided the levels of commitment and staffing to the task forces called for by the strategy. Further, while Treasury and Justice made progress on some NMLS initiatives designed to enhance interagency coordination of money laundering investigations, most had not achieved the expectations called for in the annual strategies, including plans to (1) use a centralized system to coordinate investigations and (2) develop uniform guidelines for undercover investigations. Headquarters officials cited differences in the various agencies' anti-money laundering priorities as a primary reason why initiatives had not achieved their expectations. Moreover, due to difficulties in reaching agreement over which agency should lead investigations, the 2002 NMLS did not address agency and task force roles and interagency coordination procedures for investigating terrorist financing. Law enforcement officials told us that the lack of clearly defined roles and coordination procedures contributed to duplication of efforts and disagreements over which agency should lead investigations. To help resolve these long-standing jurisdictional issues, in May 2003, the Attorney General and the Secretary of Homeland Security signed a memorandum of agreement regarding roles and responsibilities in investigating terrorist financing. It is too soon to determine whether the agreement will be successful in resolving these issues.

Most financial regulators we interviewed said that the NMLS had some influence on their anti-money laundering efforts because it provided a forum for enhanced coordination, particularly with law enforcement agencies. Law enforcement agency officials said the level of coordination between their agencies and the financial regulators was good. However, the financial regulators also said that other factors had more influence on them than the strategy. For example, the financial regulators cited their

ongoing oversight responsibilities in ensuring compliance with the BSA as a primary influence on them. Another influence has been anti-money laundering working groups, some of which were initiated by the financial regulators or law enforcement agencies prior to enactment of the Strategy Act. The officials said that the U.S. government's reaction to September 11, which included a change in government perspective and new regulatory requirements placed on financial institutions by the USA PATRIOT Act, has driven their recent anti-money laundering and antiterrorist financing efforts. Although the financial regulators said that the NMLS had less influence on their anti-money laundering activities than other factors, they have completed the tasks for which the NMLS designated them as lead agencies over the years, as well as most of the tasks for which they were to provide support to Treasury.

In recent years, our work in reviewing national strategies for various crosscutting issues has identified several critical components needed for their development and implementation, including effective leadership, clear priorities, and accountability mechanisms.[7] For a variety of reasons, these critical components generally have not been fully reflected in the development and implementation of the annual NMLS. For example, the joint Treasury-Justice leadership structure that was established to oversee NMLS-related activities generally has not resulted in (1) reaching agreement on the appropriate scope of the strategy; (2) ensuring that target dates for completing strategy initiatives were met; and (3) issuing the annual NMLS by February 1 of each year, as required by the Strategy Act. Although Treasury generally took the lead role in strategy-related activities, the department had no incentives or authority to get other departments and agencies to provide necessary resources and participation. Also, the annual strategies have not identified and prioritized issues that required the most immediate attention. Each strategy has contained more priorities than could be realistically achieved, the priorities have not been ranked in order of importance, and no priority has been explicitly linked to a threat and risk assessment. Further, although the 2001 and 2002 strategies contained initiatives to measure program performance, none had been used to ensure accountability for results. Officials attributed this to the difficulty in establishing such measures for combating money laundering. In addition, Treasury has not provided annual reports to Congress on the effectiveness of policies to combat

[7]GAO continues to develop critical success factors for evaluating national strategies and will report on this work later this year.

money laundering and related financial crimes, as required by the Strategy Act.

If Congress reauthorizes the requirement for an annual NMLS, this report provides recommendations for the Secretary of the Treasury, working with the Attorney General and the Secretary of Homeland Security, to (1) strengthen the leadership structure responsible for strategy development and implementation, (2) ensure that clear priorities are identified, and (3) establish accountability mechanisms, so that the NMLS better meets its interagency coordination and cooperation expectations.

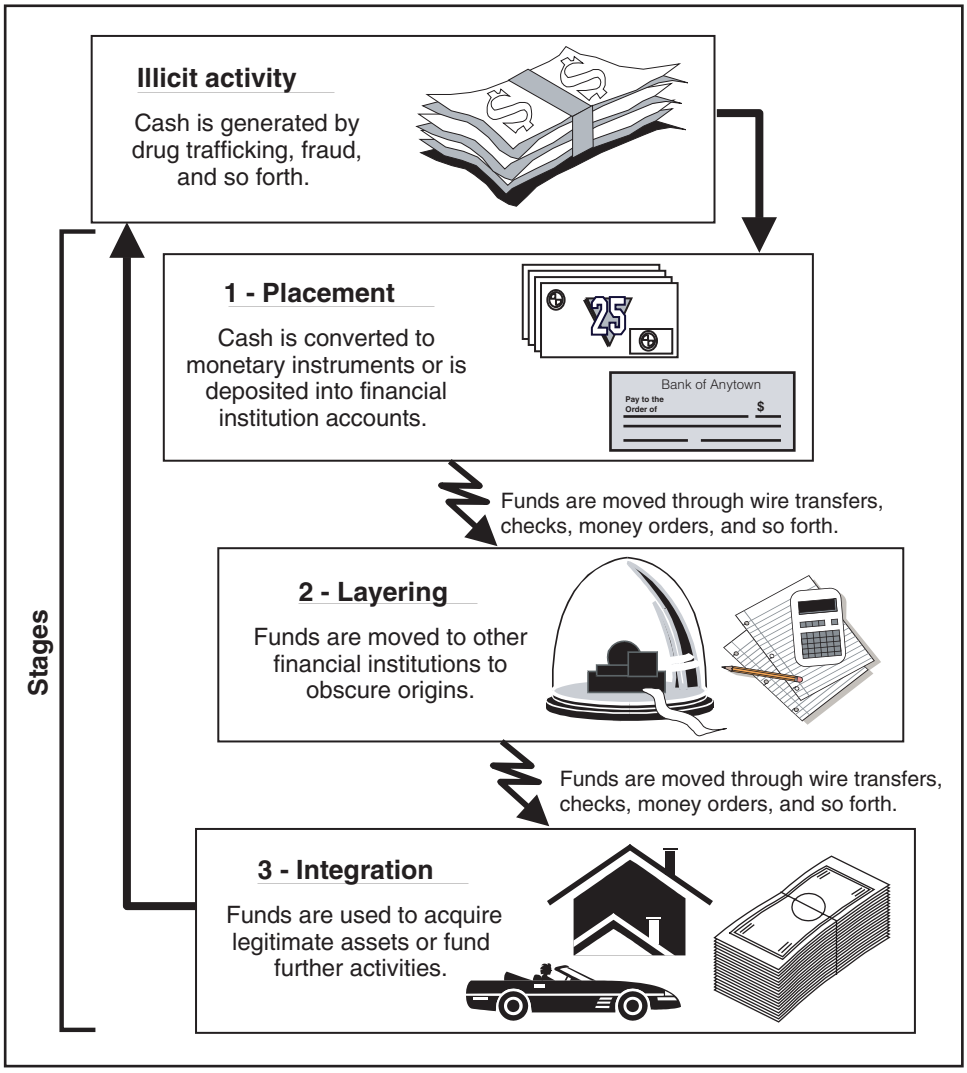
In commenting on a draft of this report, Treasury said that our recommendations are important, should Congress reauthorize the legislation requiring future strategies; Justice said that our observations and conclusions will be helpful in assessing the role that the strategy process has played in the federal government's efforts to combat money laundering; and DHS said that it agreed with our recommendations. The seven federal financial regulatory agencies did not address our recommendations, although the Federal Deposit Insurance Corporation (FDIC) noted that should a national money laundering strategy continue, annual goals should be achievable and roles and responsibilities clearly defined. The National Security Council did not respond to our request for comments.

Background

Money laundering is the process used to transform monetary proceeds derived from criminal activities into funds and assets that appear to have come from legitimate sources. Although the magnitude of global money laundering is unknown, many estimates suggest annual ranges in the hundreds of billions of dollars. The process of money laundering generally takes place in three stages: placement, layering, and integration. In the placement stage, cash is converted into monetary instruments, such as money orders or traveler's checks, or deposited into financial institution accounts. In the layering stage, these funds are transferred or moved into other accounts or other financial institutions to further obscure their illicit origin. In the integration stage, the funds are used to purchase assets in the legitimate economy or to fund further activities. All financial sectors and certain commercial businesses can be targeted during one or more of these stages. Many of these entities are required to report transactions with certain characteristics to law enforcement if they appear to be potentially suspicious. The transactions would generally fall within either the placement or layering stage if they proved to be involved in money

laundering. Transaction reporting requirements are discussed further later in this report. Figure 1 shows the three stages of money laundering.

Figure 1: The Three Stages of Money Laundering



Source: Financial Crimes Enforcement Network, *FinCEN Related Series: An Assessment of Narcotics Related Money Laundering*, July 1992.

Terrorist financing is generally characterized by different motives than money laundering and the funds involved often originate from legitimate sources. However, the techniques for hiding the movement of funds intended to be used to finance terrorist activity—techniques to obscure

the origin of funds and the ultimate destination—are often similar to those used to launder money. Therefore, Treasury, law enforcement agencies, and the federal financial regulators often employ similar approaches and techniques in trying to detect and prevent both money laundering and terrorist financing.

Many Agencies Are Responsible for Combating Money Laundering and Terrorist Financing

Agencies under the Departments of the Treasury, Justice, and Homeland Security are to coordinate with each other and with financial regulators in combating money laundering. Within Treasury, the Financial Crimes Enforcement Network (FinCEN) was established in 1990 to support law enforcement agencies by collecting, analyzing, and coordinating financial intelligence information to combat money laundering. In addition to FinCEN, Treasury components actively involved in anti-money laundering and antiterrorist financing efforts include the Executive Office for Terrorist Financing and Financial Crimes, the Office of International Affairs, and the Internal Revenue Service and its Criminal Investigation unit (IRS-CI).[8]

Department of Justice components involved in efforts to combat money laundering and terrorist financing include the Criminal Division's Asset Forfeiture and Money Laundering Section (AFMLS) and Counterterrorism Section, the Federal Bureau of Investigation (FBI), the Drug Enforcement Administration (DEA), and the Executive Office for U.S. Attorneys (EOUSA) and U.S. Attorneys Offices.[9] With the creation of DHS in March 2003, anti-money laundering activities of the Customs Service were transferred from Treasury to DHS's Bureau of Immigration and Customs Enforcement (ICE).

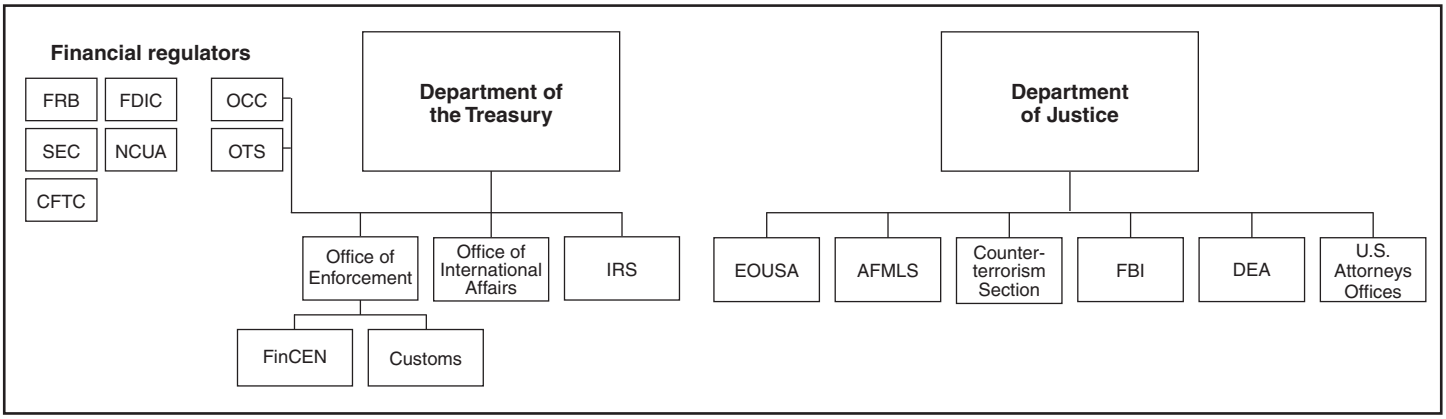
The financial regulators who oversee financial institutions' anti-money laundering efforts include the depository institution financial regulators—the Federal Reserve Board (FRB), FDIC, Office of the Comptroller of the Currency (OCC), Office of Thrift Supervision (OTS), and the National Credit Union Administration (NCUA)—and also the Securities and

[8]Among other duties, Treasury's Executive Office for Terrorist Financing and Financial Crimes is charged with developing and implementing the NMLS and U.S. government strategies to combat terrorist financing. These duties were previously conducted by Treasury's Office of Enforcement, which was disbanded in March 2003.

[9]Justice's Asset Forfeiture and Money Laundering Section (AFMLS) is the department's focal point for NMLS issues.

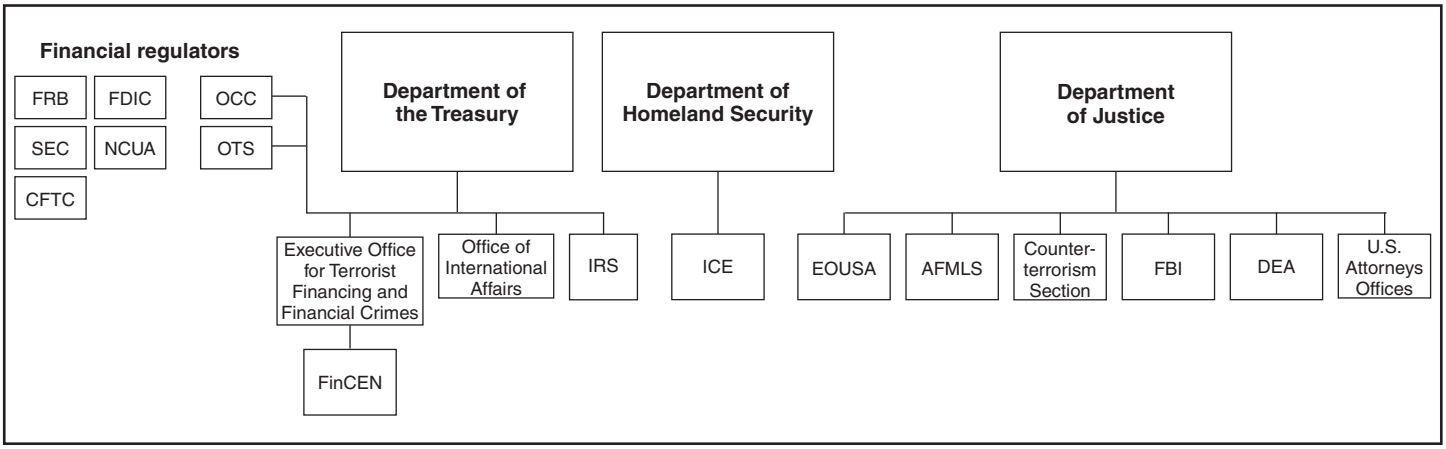
Exchange Commission (SEC), which regulates the securities markets, and the Commodity Futures Trading Commission (CFTC), which regulates commodity futures and options markets. While OCC and OTS are bureaus within Treasury, the FRB, FDIC, NCUA, SEC, and CFTC are independent agencies that are not part of the executive branch. Figure 2 shows the primary agencies responsible for combating money laundering and terrorist financing before the creation of DHS. Figure 3 shows the primary agencies responsible for combating money laundering and terrorist financing after the creation of DHS.

Figure 2: Principal Agencies Responsible for NMLS before the Creation of DHS



Source: GAO.

Figure 3: Principal Agencies Responsible for NMLS after the Creation of DHS



Source: GAO.

NMLS Was Intended to Coordinate the U.S. Government's Anti-Money Laundering Efforts

Given law enforcement's mixed history of both productive partnerships and turf-protection battles, proponents of the Strategy Act envisioned that the implementation of an annual NMLS would inaugurate a new level of coordination and cooperation between law enforcement agencies. The NMLS also sought to coordinate the efforts of law enforcement agencies and financial regulators to ensure that financial institutions were sufficiently vigilant to detect possible money laundering and that they reported any suspicious activity to law enforcement agencies to assist in their efforts to investigate money laundering and, more recently, terrorist financing.

The process for developing the NMLS has varied slightly from year to year, but it has generally involved Treasury working with other agencies to develop a draft. Treasury officials said that they have sometimes asked officials from other agencies to take the lead in drafting certain sections that pertain particularly to their efforts. In other instances, Treasury has drafted the sections and asked for participating agencies' review and comments on the sections relevant to them. Upon completion of the draft NMLS, the relevant agencies are given the opportunity to clear the final document through the Office of Management and Budget's clearance process, which requires that the agencies approve the document, that is, signify their agreement with its contents. Treasury officials told us that by approving the NMLS through this process, the agencies have agreed to it and should be held accountable to Congress and the public to complete their assigned responsibilities.

The drafting process has generally resulted in a document that lists four to six broad goals, each containing objectives, which in turn contain a list of priorities. Over time, the goals have changed, sometimes in their wording or order, and other times to cover new threats. For example, in the wake of September 11, the 2002 NMLS added the goal, "Focus Law Enforcement and Regulatory Resources on Identifying, Disrupting, and Dismantling Terrorist Financing Networks." As of September 24, the 2003 NMLS had not yet been issued. Table 1 shows the NMLS goals from 1999 through 2002 and the number of objectives and priorities.

Table 1: NMLS Goals, Objectives, and Priorities, 1999 through 2002

NMLS year	NMLS goals	Objectives	Priorities[a]
1999	1. Strengthening domestic enforcement to disrupt the flow of illicit money.	8	21
	2. Enhancing regulatory and cooperative public-private efforts to prevent money laundering.	7	15
	3. Strengthening partnerships with state and local governments to fight money laundering throughout the United States.	5	5
	4. Strengthening international cooperation to disrupt the global flow of illicit money.	6	25
Total		**26**	**66**
2000	1. Strengthening domestic enforcement to disrupt the flow of illicit money.	9	18
	2. Enhancing regulatory and cooperative public-private efforts to prevent money laundering.	7	16
	3. Strengthening partnerships with state and local governments to fight money laundering throughout the United States.	4	5
	4. Strengthening international cooperation to disrupt the global flow of illicit money.	7	19
Total		**27**	**58**
2001	5. Focus law enforcement efforts on the prosecution of major money laundering organizations and systems.	5	15
	6. Measure the effectiveness of anti-money laundering efforts.	1	4
	7. Prevent money laundering through cooperative public-private efforts and necessary regulatory measures.	4	13
	8. Coordinate law enforcement efforts with state and local governments to fight money laundering throughout the United States.	3	6
	9. Strengthening international cooperation to combat the global problem of money laundering.	5	13
Total		**18**	**51**
2002	10. Measure the effectiveness of anti-money laundering efforts.	2	9
	11. Focus law enforcement and regulatory resources on identifying, disrupting, and dismantling terrorist financing networks.	3	11
	12. Increase the investigation and prosecution of major money laundering organizations and systems.	4	11
	13. Prevent money laundering through cooperative public-private efforts and necessary regulatory measures.	2	7
	14. Coordinate law enforcement efforts with state and local governments to fight money laundering throughout the United States.	3	5
	15. Strengthen international anti-money laundering regimes.	5	10
Total		**19**	**50**

Source: NMLS 1999 to 2002.

[a]The NMLS for 1999 and 2000 used the term "Action Item," and the NMLS for 2001 and 2002 used the term "Priority."

The Strategy Act also created an operating mechanism within which to enhance interagency coordination of law enforcement investigations—HIFCAs. In accordance with the Strategy Act and the 1999 NMLS:

- HIFCA designations would allow law enforcement to concentrate its resources in areas where money laundering or related financial crimes appeared to be occurring at a higher rate than average.[10] An interagency HIFCA Designation Working Group would review requests for such designations and provide advice for selections to be made by the Secretary of the Treasury, in consultation with the Attorney General.[11]

- A money laundering action team, where appropriate, would be created when a HIFCA was designated to spearhead a coordinated federal, state, and local anti-money laundering effort in the area, or an existing task force already on the ground would be mobilized.

The 2001 NMLS specified that HIFCAs were to be operational and conduct investigations designed to result in indictments, convictions, and seizures, rather than focusing principally on intelligence gathering. Also, the 2001 NMLS reinforced the expectations that HIFCA task forces "will be composed of, and draw upon, all relevant federal, state, and local agencies, and will serve as the model of our anti-money laundering efforts" and that the Departments of the Treasury and Justice were to jointly oversee the HIFCA task forces.

The Strategy Act mandated that the NMLS be submitted to Congress by February 1 of each year, 1999 to 2003. The Strategy Act also required that—at the time each NMLS was transmitted to the Congress (other than the first transmission of any such strategy)—the Secretary of the Treasury must submit a report containing an evaluation of the effectiveness of policies to combat money laundering and related financial crimes.

[10]According to the Strategy Act, several factors are to be considered in making HIFCA designations, including the population of the area, the number of bank and nonbank financial institution transactions, and observed changes in trends and patterns of money laundering activity.

[11]Generally, the Secretary and the Attorney General can make designations on their own initiative, at the suggestion of other federal agencies, or at the formal request of a state or local official involved in money laundering detection, prevention, or enforcement.

Early Benefit of the NMLS Was Affected by Certain Factors and Events

The Treasury, Justice, and regulatory agency officials we interviewed said that the NMLS was initially beneficial but, over time, certain factors and events affected its development and implementation. Officials from each of the agencies endorsed the concept of having a national strategy for combating money laundering and related financial crimes. Generally, the officials said that the annual NMLS probably was more beneficial in the first 2 years (1999 and 2000) than in the subsequent years (2001 and 2002). As an initial benefit, for example, Treasury officials said that the NMLS was instrumental in focusing on the need to combat money laundering systemically and not solely on a case-by-case basis, encouraging multiple law enforcement agencies to work together, and raising general awareness of the importance of combating financial crimes. The NMLS enhanced their planning and communication when it was new because it served to formalize interagency communication in a way that had not existed before. Similarly, the officials noted that the early strategies were instrumental in expanding the perspectives of the regulatory agencies by refocusing them on the purposes underlying their BSA responsibilities. The early strategies renewed attention on the fight against money laundering that supports particular reporting or record keeping obligations. That is, due partly to the strategies, the financial regulators became more focused regarding ways in which criminals could be using financial institutions for money laundering activities.

However, after the first couple of years, the benefit of the annual NMLS was affected by a number of factors and events, according to the Treasury, Justice, and regulatory agency officials we interviewed. One factor cited was that the principal agencies had significantly differing views about the appropriate purpose and structure of the strategy. For instance, Treasury preferred a document that covered the full breadth and scope of the federal government's planned anti-money laundering efforts, while Justice preferred a more concise document that included only those priorities that realistically could be addressed during the year. Likewise, the regulatory agencies generally favored a more concise document. Several officials said that this fundamental difference in views resulted in less-than-full commitment or buy-in from some agencies, which lessened the overall benefit of the recent strategies.

An event that affected the 2001 NMLS was the change in presidential administrations prior to the strategy's issuance. Treasury and Justice officials explained that with the arrival of a new administration, it was necessary to revise a nearly complete NMLS to match the new administration's vision for combating money laundering. This redrafting

process caused the NMLS to be issued very late, leaving little time to implement any goals or objectives before drafting the 2002 NMLS.

The officials said that the implementation of the recent strategies has been affected most significantly by external events—particularly September 11, 2001, and its aftermath, which included passage of the USA PATRIOT Act and the creation of DHS. Treasury and Justice officials said that the 2001 NMLS, which was issued on September 12, 2001, was virtually obsolete at issuance because the nature of the issues they faced had just changed dramatically. After September 11, combating terrorist financing became a major element of the federal government's anti-money laundering efforts, but it was not part of the 2001 NMLS.

The passage of the USA PATRIOT Act increased the requirements on many financial institutions for conducting due diligence, record keeping, reporting, and sharing information. Because implementing the USA PATRIOT Act became the main focus for the financial regulators in the 2002 NMLS, financial regulators attributed their efforts to the USA PATRIOT Act rather than the NMLS. The creation of DHS required the transfer of most of the law enforcement functions and staff from agencies formerly under Treasury to the new agency. Justice anti-money laundering components remained in Justice. Treasury and Justice officials said that the implementation of some 2002 NMLS priorities was delayed pending formation of the new department. They also said that issuance of the 2003 NMLS has been delayed by the same disruptions.

NMLS Generally Has Not Been as Useful as Envisioned for Guiding the Coordination of Law Enforcement Efforts

As a mechanism for guiding the coordination of federal law enforcement agencies' efforts to combat money laundering and related financial crimes, the NMLS has had mixed results and—according to the evidence we reviewed and the officials we contacted—generally has not been as useful as envisioned by the Strategy Act. For example, although expected to have a key role in the federal government's efforts to disrupt and dismantle large-scale money laundering organizations, HIFCA task forces generally were not yet structured and operating as intended and had not reached their expectations for leveraging investigative resources or creating investigative synergies. Further, while Treasury and Justice made progress on some NMLS initiatives designed to enhance interagency coordination of money laundering investigations, most had not achieved the expectations called for in the annual strategies. Moreover, the 2002 NMLS did not address agency roles and interagency coordination procedures for conducting terrorist financing investigations.

HIFCA Task Forces Generally Had Not Yet Been Structured and Operating as Intended

As envisioned by the Strategy Act, HIFCAs represent a major NMLS initiative and were expected to have a flagship role in the U.S. government's efforts to disrupt and dismantle large-scale money laundering operations. They were intended to improve the coordination and quality of federal money laundering investigations by concentrating the investigative expertise of federal, state, and local agencies in unified task forces, thereby leveraging resources and creating investigative synergies. While neither the Strategy Act nor the annual NMLS specified a time frame for when designated HIFCAs were to become fully operational, we found that the task forces had made some progress but generally had not yet been structured and operating as intended. As of July 2003, Treasury and Justice were in the process of reviewing the HIFCA task forces to remove obstacles to their effective operations. The results of this review could provide useful input for an evaluation report on the HIFCA program, which the Strategy Act requires Treasury to submit to the Congress in 2004.

Status of HIFCA Task Forces

In May 2003, we contacted each of the seven designated HIFCAs to obtain information on the status of their task forces (see table 2). At that time, two of the seven HIFCAs (the Southwest Border and Miami) had not started operations. Law enforcement officials in the Southwest Border area cited several reasons for the HIFCA's nonoperational status, including (1) difficulty in coordinating activities in such a large area and (2) lack of funds to persuade state and local officials to participate.[12] In Miami, federal law enforcement officials had met but had not reached agreement on how the HIFCA should be structured or how it should operate. For example, the officials had not agreed on whether the Miami HIFCA should conduct investigations or focus principally on intelligence gathering.

[12]The Southwest Border HIFCA was designated to focus on a specific money laundering system—i.e., the smuggling of bulk cash between the United States and Mexico—rather than a specific geographic area. It was to include three U.S. judicial districts—the Southern District of Texas, the Western District of Texas, and the District of Arizona.

Table 2: Status of HIFCA Task Forces as of May 2003

Date designated	HIFCA	Start date[a]	Lead agency	Number of participating law enforcement agencies				Shared office space?[b]
				Federal	State	Local	Total	
March 2000	Los Angeles	September 2001	IRS-CI	10	2	4	16	No
	New York/New Jersey	March 2000	ICE and IRS-CI	10	6	21	37	Yes
	Puerto Rico	March 2000	ICE and IRS-CI	6	3	1	10	Yes
	Southwest Border			Not yet operating				
September 2001	Chicago	September 2002	IRS-CI	3	1	0	4	Yes
	San Francisco	September 2002	ICE and IRS-CI	7	0	0	7	No
January 2003	Miami			Not yet operating				

Source: Representatives from the seven designated HIFCAs and federal agency data.

[a]The start date is the date local HIFCA officials considered the task force to be conducting either investigations or intelligence gathering activities.

[b]According to Treasury and Justice officials, a key to the success of the HIFCA program is the ability to promote interagency cooperation by locating task force participants together in the same office space.

In September 2003, in commenting on a draft of this report, Justice said that while the Southwest Border HIFCA has not worked out as intended, the participants in Texas and Arizona met on numerous occasions over the past 4 years in an attempt to find an organizational structure that could meet the needs of all of the participants. Justice also said that headquarters officials and participants in the Southwest Border area recently decided that the dual-state HIFCA was too ambitious and that the HIFCA should be limited to Texas and relocated to augment an existing task force.

Although the 2001 NMLS specified that HIFCAs were to conduct investigations rather than principally gather intelligence, we found that two of the five operating task forces (Los Angeles and San Francisco) were primarily focusing on intelligence gathering activities—such as reviews of Suspicious Activity Reports (SAR) and other information required by the BSA—and had not established multiagency investigative

units to act on the intelligence.[13] HIFCA officials in Los Angeles told us they planned to locate task force participants together in the same area in mid- or late-2003, at which time multiagency investigative units would be established. In San Francisco, a HIFCA official told us their proposal to become a HIFCA specified that the task force would focus on intelligence and that there were no plans to establish multiagency investigative units within the HIFCA. Treasury and Justice officials responsible for overseeing the HIFCAs told us that headquarters was reluctant to require the task forces to establish multiagency investigative units, primarily because the Strategy Act did not provide additional funds or personnel to establish such units. The officials noted that even though the 2001 NMLS specified that HIFCAs were to conduct investigations, task forces that focus on intelligence gathering activities but do not conduct investigations do enhance interagency efforts to combat money laundering.

Also, because the investigative activities of the three HIFCAs that had multiagency investigative units (Chicago, New York/New Jersey, and Puerto Rico) were based on task force structures already in place before the HIFCA designation, the overall effect of the NMLS on these task forces is unclear. For example, the New York/New Jersey HIFCA essentially represented a renaming of the well-established El Dorado Money Laundering Task Force, which had existed since 1992. As mentioned previously, a HIFCA task force could be (1) created when a HIFCA was designated or (2) based on an existing task force.

Further, in some cases, federal law enforcement agencies had not provided the levels of commitment and staffing to the HIFCA task forces called for by the strategy. As shown in table 2, ICE and/or IRS-CI were designated the lead agency in each of the five operational task forces. We found that most of the HIFCAs did not have DEA or FBI agents assigned full-time to the task forces. For example, regarding the three HIFCAs with multiagency investigative units, DEA and the FBI were not members of the Chicago HIFCA, DEA was not a member of the New York/New Jersey HIFCA, and both DEA and the FBI had only part-time representation on the Puerto Rico HIFCA. As also shown in table 2, four of the five operating

[13]Pursuant to regulations issued by Treasury as authorized by the BSA and each of the bank regulators, certain financial institutions are required to file SARs with FinCEN to report transactions involving $5,000 or more that they suspect involve funds derived from illegal activity. These reports provide information that can enable law enforcement agencies to generate investigative leads, understand financial relationships in ongoing investigations, and identify forfeitable assets.

HIFCAs had little or no participation from state and local law enforcement agencies, with the notable exception being the New York/New Jersey HIFCA. The NMLS called for each HIFCA to include participation from all relevant federal, state, and local agencies.

Justice headquarters officials said the main problem with supporting the HIFCA task forces was the absence of additional funds or personnel to offer law enforcement agencies in return for their participation. A DEA official told us that, because of differences in agencies' guidelines for conducting undercover money laundering investigations, DEA will not dedicate staff to HIFCA task force investigative units but will support intelligence-related activities.[14] FBI officials cited resource constraints as the primary reason why the bureau does not fully participate. Various task force officials mentioned lack of funding to compensate or reimburse participating state and local law enforcement agencies as a barrier to their participation in HIFCA operations. Further, Treasury and Justice officials noted that a key to the success of the HIFCA program is the ability to promote interagency cooperation by locating task force participants together in the same office space. Accordingly, the 2002 NMLS called for headquarters to examine how to fund the colocation of HIFCA task force participants absent funds appropriated specifically for that purpose.

While we recognize that federal law enforcement agencies have resource constraints and competing priorities, we note that HIFCA task forces were expected to make more effective use of existing resources or of such additional resources as may be available. Without commitment and staffing from relevant federal, state, and local agencies, the task forces cannot fully leverage resources and create investigative synergies, as envisioned by the Strategy Act.

Oversight of HIFCA Task Forces Has Not Met Expectations

Treasury and Justice have not provided the level of oversight of the HIFCA task forces called for by the NMLS. For example, in response to our initial inquiries and formal requests for information, Treasury and Justice officials responsible for overseeing the HIFCA task forces could not readily provide basic information, such as names of participating agencies

[14]As discussed later in this report, the 2002 NMLS called for Treasury and Justice to develop uniform guidelines for undercover money laundering investigations.

and contact persons or the results of task force operations.[15] Also, as shown in table 3, Treasury and Justice had not addressed various NMLS initiatives designed to oversee HIFCA operations, and many of the initiatives were still ongoing well past expected completion dates. Fully addressing these initiatives could help ensure accountability within the HIFCAs, as well as refine the operational mission, structure, and composition of the task forces.

[15]Treasury and Justice were to jointly oversee the HIFCA task forces. To assist their efforts, the departments created an interagency HIFCA working group. Regarding the 2002 NMLS, the group was to include representatives from the Customs Service, DEA, EOUSA, the Executive Office for Organized Crime Drug Enforcement Task Forces, FBI, Federal Law Enforcement Training Center, FinCEN, IRS-CI, Justice's Asset Forfeiture and Money Laundering Section, Office of National Drug Control Policy, U.S. Postal Inspection Service, Secret Service, and Treasury's Office of Enforcement.

Table 3: Status of NMLS Initiatives Related to HIFCA Oversight

Annual NMLS	NMLS initiative	Target date for completion	Target date met?	Status (as of July 2003)[a]
2000 NMLS	Oversee newly designated HIFCA task forces:			
	16. Report on the progress of the HIFCA task forces.	(1) December 2000	No	Not addressed
	17. Formulate a reporting system so that the impact of the HIFCAs can be evaluated.	(2) During the year	No	Ongoing
2001 NMLS	Design the organizational structure of HIFCA task forces and designate regional task force directors.	October 2001	No	Not addressed
	HIFCA representatives will brief Treasury and Justice officials on:			
	18. HIFCA activities and coordination efforts.	(1) March 2002	No	Not addressed
	19. The progress of investigations and the involvement of federal, state, and local law enforcement and regulatory agencies.	(2) Quarterly	No	Not addressed
	Establish a new asset forfeiture reporting system for HIFCA task forces and implement its usage.	March 2002	No	Ongoing
2002 NMLS	Review HIFCA task forces to remove obstacles to their effective operation:			
	20. Review the progress of each HIFCA and assess how well the HIFCA concept is working.	(1) December 2002	(1) No	(1) Ongoing
	21. Recommend what changes to make so that the HIFCAs can achieve their mission objectives.	(2) February 2003	(2) No	(2) Ongoing
	Each HIFCA will report on participation of state and local enforcement, regulatory, and prosecution agencies, and identify steps needed to include participation of all relevant agencies.	November 2002	No	Ongoing
	Provide advanced money laundering training in each of the six HIFCA locations.	November 2002	Yes	Completed[b]

Source: GAO analysis of the NMLS (2000 through 2002) and interviews with Treasury and Justice headquarters officials.

[a] "Not addressed" indicates that Treasury and Justice took little or no action on the NMLS initiative and that no future action is planned. "Ongoing" indicates that Treasury and Justice had not completed the initiative by its target date, but there was ongoing or planned future work related to the initiative.

[b] Advanced money laundering training was not provided to the Southwest Border HIFCA, because the HIFCA did not have an operational task force.

Treasury and Justice officials told us the primary reasons for not addressing or not yet completing the HIFCA initiatives were that headquarters (1) was reluctant to impose a structure or reporting requirement on the field without offering any new resources and (2) did not believe that a single structure could fit every HIFCA. The officials also said that the individual HIFCAs were in the best position to address their

specific needs and problems. Further, the officials told us that, while most of the HIFCA initiatives had not been addressed or were not yet completed, the HIFCA structure at headquarters has provided a framework for regular interagency meetings to discuss money laundering trends and ways to improve interagency cooperation.

As shown in table 3, although only one of the HIFCA initiatives was completed by the specified milestone or goal date, many of the initiatives were still ongoing. For example, the 2002 NMLS called for a review of HIFCA task forces to remove obstacles to their effective operation. Specifically, the initiative called for an interagency HIFCA team to (1) review the accomplishments of the HIFCA task forces to date; (2) examine structural and operational issues, including how to fund the colocation of participants in HIFCA task forces absent funds appropriated for that purpose; and (3) examine existing operations and make recommendations to ensure that each HIFCA is composed of all relevant federal, state, and local enforcement authorities, prosecutors, and financial supervisory agencies as needed. As of July 2003, the HIFCA review team was still in the process of assessing the HIFCAs. When completed, the team's review could provide useful input for an evaluation report on the effectiveness of and the continued need for HIFCA designations, which is required by the Strategy Act to be submitted to the Congress in 2004.

Money Laundering Training Was Provided to HIFCAs

According to the 2002 NMLS, Treasury and Justice have conducted a substantial amount of fundamental, advanced, and specialized money laundering training to task forces, agencies, investigators, and prosecutors. For example, as included in the 2002 NMLS (see table 3), the Federal Law Enforcement Training Center, in cooperation with Treasury and Justice, have provided an advanced money laundering training course in six HIFCA locations. According to a Federal Law Enforcement Training Center official, approximately 900 to 1,000 agency representatives have participated in the 3-day training seminar. The official said that the training focused on numerous issues, including money laundering statutes, the impact of the USA PATRIOT Act, basic and international banking, asset forfeiture issues, and specific money laundering schemes and organizations.

NMLS Initiatives to Enhance Coordination of Law Enforcement Investigations Generally Were Not Addressed or Were Still Ongoing

While Treasury and Justice made progress on some NMLS initiatives that were specifically designed to enhance coordination of federal law enforcement agencies' money laundering investigations, most of the initiatives were not addressed or were still ongoing.[16] In general, the failure to address or complete the initiatives indicates that interagency coordination was falling short of expectations.

Progress Was Made on Some Law Enforcement Coordination Initiatives

Treasury and Justice made progress in implementing some of the NMLS law enforcement coordination initiatives. For example, as called for in the 1999 and 2000 strategies, the departments took steps to (1) enhance the money laundering focus of interagency counter-drug task forces and (2) collect and analyze information on the money laundering aspects of the task forces' investigations. More recently, the 2002 NMLS called for an interagency team to identify money laundering-related targets for coordinated enforcement action. The strategy noted that targets could be particular organizations or systems used or exploited by money launderers, such as the smuggling of bulk cash and unlicensed money transmitters. In August 2002, Treasury and Justice created an interagency team and identified a money laundering-related target and four cities in which to conduct investigations. In July 2003, Justice officials told us that U.S. Attorneys Office officials had agreed to participate in the targeting initiative and that the initiative was ongoing.

Most Law Enforcement Coordination Initiatives Were Not Addressed or Were Still Ongoing

Most of the annual strategy initiatives designed to enhance interagency coordination of law enforcement investigations were not addressed or were still ongoing. Three examples are as follows. First, the Customs Service created a Money Laundering Coordination Center in 1997 to (1) serve as the repository for all intelligence information gathered through undercover money laundering investigations and (2) function as the coordination and "deconfliction" center for both domestic and international undercover money laundering investigations.[17] Both the

[16]Each of the four published annual strategies (1999 through 2002) presented one or more initiatives to enhance interagency coordination of money laundering investigations. Collectively, the four strategies presented 14 such initiatives.

[17]Deconfliction is a process that law enforcement agencies use to help ensure officer safety during tactical activities such as drug stings. For example, by logging each planned activity into a central location or deconfliction unit, officers try to ensure that they are not targeting another investigation's subjects or otherwise compromising an ongoing investigation.

1999 and the 2000 NMLS contained an initiative to encourage all applicable federal law enforcement agencies to participate in the Money Laundering Coordination Center. During our review, Customs Service officials (before the agency was transferred to DHS) told us that, although Justice agencies (including DEA and FBI) were invited to use the center, these agencies were only occasional users and did not contribute information to the center.[18]

DEA and FBI officials told us that their agencies did not use the Money Laundering Coordination Center because they could not reach a satisfactory memorandum of understanding regarding participation, including controls over the dissemination of information. DEA officials added that the center does not meet DEA's needs because it is used for deconfliction only. In August 2003, the DEA officials said that DEA had created and was testing a new database that is designed to be a single source for information on money laundering investigations related to drug money. The officials added that DEA has briefed Treasury and DHS about the new database, but as of August 2003, no other agencies were participating.

Second, federal law enforcement agencies do not have uniform guidelines applicable to undercover money laundering investigations. According to the 2002 NMLS and our discussions with law enforcement officials, the lack of uniform guidelines inhibits some agencies from participating in investigations that have an international component. For example, a DEA official told us that DEA guidelines generally are more restrictive than guidelines used by Customs (as part of ICE) in regard to (1) obtaining approval to initiate and continue undercover investigations and (2) coordinating activities with foreign counterparts. Therefore, the officials noted that DEA generally could not participate in international undercover money laundering investigations led by Customs. The 2002 NMLS called for Treasury and Justice to develop uniform undercover guidelines by September 2002 to ensure the full participation of all applicable federal law enforcement agencies in undercover money laundering investigations. Treasury officials told us the initiative is still ongoing but has been put on hold, pending reorganizations associated with the creation of DHS.

[18]In March 2003, the Customs Service and the Money Laundering Coordination Center were transferred from Treasury to DHS's ICE.

Third, Treasury and Justice have not yet fully implemented NMLS initiatives designed to establish SAR review teams in federal judicial districts. The 2001 NMLS contained an initiative that called for the creation of a SAR review team in each federal judicial district. Generally, each team—to be comprised of an Assistant U.S. Attorney and representatives from federal, state, and local law enforcement agencies—was expected to evaluate all SARs filed in their respective federal judicial district.

The 2001 SAR initiative has been partially implemented. Treasury officials noted that Justice has primary responsibility for implementation because Justice provides guidance and direction to EOUSA and the U.S. Attorneys Offices. According to EOUSA officials, Justice, EOUSA, and the U.S. Attorneys Offices have actively encouraged the creation of SAR review teams and these efforts remain ongoing. At our request, in July 2003, EOUSA conducted an informal survey of U.S. Attorneys Offices and reported that at least 33 of the 94 federal judicial districts were actively using interagency SAR review teams.

The 2002 NMLS had a more conservative SAR-related initiative, calling for the establishment of five additional review teams. Specifically, the 2002 NMLS initiative called for Treasury and Justice—by August 2002—to (1) identify a priority list of five federal judicial districts that do not have a SAR review team but could benefit from one and (2) work with EOUSA and the respective U.S. Attorneys Offices to encourage the creation of interagency review teams.[19] As of July 2003, this initiative had not yet been completed, but efforts were still ongoing.

Further, although not called for by the NMLS, the IRS has had a related initiative to create interagency SAR review teams. Specifically, IRS-CI data show that IRS has established 41 SAR review teams nationwide—with all 35 IRS field offices having at least one functioning team—and that most of the review teams had participation from other agencies. According to IRS-CI officials, collectively, the 41 teams are to review every SAR filed in the 94 federal judicial districts. The officials said that at least 4 of the districts in which a HIFCA task force is located were using an interagency SAR review team. The officials noted that IRS review teams are not to duplicate

[19]According to the 2002 NMLS, SAR review teams also can review selected wire transfers. The strategy noted that expanding the work of the teams to include the selective review of wire transfers could help law enforcement agencies coordinate their efforts to investigate and prosecute money laundering organizations.

SAR reviews already performed by existing task forces in federal judicial districts.

Reasons for Not Fully Implementing Interagency Coordination Initiatives

Treasury officials told us that resource constraints and competing priorities were the primary reasons why many of the law enforcement coordination initiatives were not yet fully implemented. Also, the officials said that, over the past few years, Treasury has given higher priority to other parts of the annual strategy—such as international, regulatory, and terrorism-related initiatives—than to domestic law enforcement initiatives. Further, the officials said that Treasury generally took the lead in implementing the annual strategy but could not require other agencies to focus on specific initiatives or activities. In this regard, the officials said that other agencies frequently had their own priorities.

Justice officials also said that the annual strategies have contained more initiatives than realistically could be pursued. The officials added that to the extent NMLS initiatives were not completed or target dates were missed, it was because of competing priorities or the lack of resources available for proper implementation of the strategy. The officials noted that there are complex issues involved in attempting to coordinate the resources, practices, and priorities of two (and sometimes more) departments and several law enforcement agencies, as well as U.S. Attorneys Offices throughout the country. Further, Justice officials told us that while NMLS initiatives to institutionalize coordination may not have been fully implemented, the efforts to do so and regular meetings have been continuing.

NMLS Did Not Address Agency Roles and Task Force Coordination in Terrorist Financing Investigations, but a Recent Interagency Agreement May Help Clarify Roles

In developing the 2002 NMLS, Treasury and Justice officials met to discuss the roles of the various investigative agencies involved in combating terrorist financing. However, the two departments could not reach agreement, and the 2002 strategy was published without addressing the agencies' roles. In general, Justice's position was that it had exclusive statutory authority to lead all terrorist financing investigations, while Treasury maintained that it also had the authority and the needed expertise to lead such investigations.[20] In commenting on a draft of the 2002 strategy, the FBI noted the following:

- The strategy does not address the various agencies' duplication of efforts to combat terrorist financing.
- By not specifically addressing and delineating the roles of the respective agencies, the strategy creates more confusion than it resolves and wastes limited resources.

Moreover, the strategy section on U.S. government efforts to identify, disrupt, and dismantle terrorist financing networks did not mention or clarify roles of the three primary law enforcement task forces involved in investigating terrorist financing—Customs' Operation Green Quest (OGQ) and the FBI's Terrorist Financing Operations Section (TFOS) and Joint Terrorism Task Forces (JTTF).[21]

According to Treasury officials, the NMLS drafting process realistically could not have been expected to resolve the long-standing, highly challenging issues associated with the interagency jurisdictional dispute. While we agree that it may have been unrealistic to expect the drafting process to resolve the long-standing issues, we note that a primary role of the NMLS is to enhance interagency coordination and help resolve turf-protection battles. Because the issue was not addressed in the 2002 NMLS, the problem remained, thus leaving unresolved possible duplication of efforts and disagreements over which agency should lead investigations. In our view, any way the NMLS could have advanced resolution of the matter would have been beneficial.

[20]In commenting on a draft of this report, Justice said that, in summary, 18 U.S.C. § 2332b(f) assigned to the Attorney General primary investigative responsibility for all federal crimes of terrorism generally, and that 18 U.S.C. § 2339B(e) directed the Attorney General specifically to conduct any investigation of a possible violation of the federal terrorism financing statutes.

[21]In March 2003, Customs and OGQ were transferred from Treasury to DHS's ICE.

Agencies Did Not Fully Coordinate Terrorist Financing Investigations

To help avoid overlapping investigations and duplication of efforts, it is important that agencies investigating terrorist financing have coordination mechanisms. At the policy level, a National Security Council policy coordination committee on terrorist financing is responsible for coordinating antiterrorist financing activities.[22] This committee is to consider evidence of terrorist financing networks and coordinate strategies for targeting terrorists, their financiers, and supporters. At the operational level, we found that some interagency coordination of terrorist financing investigations existed between agency headquarters' components. For example, OGQ and TFOS had assigned one agent to each other's headquarters in Washington, D.C. The FBI also was to provide information on its activities to OGQ through daily downloads from the FBI's terrorist financial database. Further, OGQ and FBI officials told us that local mechanisms existed around the country to deconflict investigations.

While OGQ and the FBI task forces took steps to inform each other about the targets of their investigations, we found that the task forces did not fully coordinate their activities. For example, at the three locations we visited (Los Angeles, Miami, and New York City), OGQ and JTTF officials told us they generally were not aware of each other's financial investigations and that the task forces generally did not share investigative information. Several officials indicated that there were problems with conflicting or competing investigations, including disagreements over which task force should lead investigations. Officials at all three locations noted that the government's antiterrorist financing efforts could be improved if the task forces worked more closely with each other or were combined.

Further, at the three locations we visited, IRS-CI officials who had agents assigned to the local OGQ and JTTF also indicated that the task forces were not fully operating in a coordinated and integrated manner. Specifically, in Miami and New York City, IRS-CI officials told us that having both OGQ and the JTTF doing the same type of antiterrorist financing work was a duplication of effort. IRS-CI officials in Los Angeles noted that communication between the two task forces could be better. Also, in response to our inquiry about interagency coordination, U.S.

[22]Committee participants include representatives from the Departments of the Treasury, Justice, and State; the National Security Council; and the intelligence community.

Attorneys Office officials in the Southern District of Florida provided the following response in February 2003:

"With respect to the FBI's Joint Terrorism Task Force (FBI-JTTF) and Customs' Operation Green Quest, we would like to see increased cooperation and coordination between the agencies. Too often agents of the FBI and Customs are investigating terrorist financing independent of each other or overlapping in the targets of their investigations. Some of the barriers to greater interagency participation may be conflicting priorities of each of the agencies. Ongoing battles as to which agency is the 'lead' agency continues to be a problem…"

In commenting on a draft of this report, Treasury said that it continues to believe that the dispute over who took the lead in investigating the financing of terrorism did not necessarily result in duplication of efforts. Treasury said that the issue was largely definitional, with the FBI leading terrorist investigations with an ancillary financial component versus Customs financial investigations that might have a terrorist-related connection.

May 2003 Interagency Agreement Defined Agency Roles

On May 13, 2003, the Attorney General and the Secretary of Homeland Security signed a memorandum of agreement regarding the antiterrorist financing roles of the respective departments and component agencies. In general, the agreement gives the FBI the lead role in investigating terrorist financing and specifies that DHS is to pursue terrorist financing investigations solely through its participation in FBI-led task forces, except as expressly approved by the FBI. Some excerpts from the May 2003 agreement are paraphrased substantially as follows:

- The FBI is to lead terrorist financing investigations and operations, utilizing the intergovernmental and intra-agency National JTTF at FBI headquarters and the JTTFs in the field. Through TFOS, the FBI is to provide overall operational command to the national JTTF and the field JTTFs.
- After June 30, 2003, DHS is to pursue terrorist financing investigations and operations solely through its participation in the National JTTF, the field JTTFs, and TFOS, except as expressly approved by TFOS.
- The Secretary of Homeland Security agreed that, no later than June 30, 2003, OGQ was to no longer exist as a program name. The Secretary agreed to ensure that any future DHS initiative or program to investigate crimes affecting the integrity and lawful operation of U.S. financial

infrastructures would be performed through the financial crimes division at ICE.

The May 2003 agreement also contained several provisions designed to enhance the coordination and integration of FBI and ICE financial investigations. For example, the agreement calls for the FBI and ICE to (1) detail appropriate personnel to each other's task forces, (2) take steps to ensure that the detailees have full and timely access to data and other information, and (3) develop procedures to ensure effective operational coordination of FBI and ICE investigations. Further, the FBI Director and the Assistant Secretary for ICE were to provide a joint written report on the implementation status of the agreement 4 months after its effective date to the Attorney General, the Secretary of Homeland Security, and the Assistant to the President for Homeland Security. However, as of September 24, 2003, the report had not yet been issued.

If successful, the May 2003 agreement could prove to be a significant step toward establishing a coordinated interagency framework for conducting terrorist financing investigations. At the time of our review, it was too early to assess the implementation of the agreement.

NMLS Has Had Some Influence on Financial Regulators' Efforts, but Other Factors Played a Larger Role

Most financial regulators we interviewed said that the NMLS had some influence on their anti-money laundering and antiterrorist financing efforts but that it has had less influence than other factors. Officials said that, since September 11, a change in government perspective and additional requirements placed on financial institutions by the USA PATRIOT Act and its implementing regulations have been the primary influences on their efforts. Although the financial regulators said that the NMLS had minimal influence on establishing priorities for their anti-money laundering and antiterrorist financing activities, they have completed the tasks for which they were designated as lead agencies over the years, and most of those for which they were to provide support to Treasury. The 2002 NMLS noted that the financial regulators were responsible for implementing the parts of the USA PATRIOT Act that applied to the entities they regulate. Appendix III describes the anti-money laundering requirements set forth in the USA PATRIOT Act and the rules that have been implemented thereunder.

Financial Regulators Said Factors Other Than the NMLS Exerted a Greater Influence on Their Anti-Money Laundering Efforts

Most financial regulators we interviewed said that the NMLS had some influence on their anti-money laundering efforts because it has provided a forum for enhanced coordination, particularly with law enforcement agencies, but that it has had less influence than other factors. Similarly, law enforcement agency officials told us that the level of coordination between the financial regulators and their agencies was good and that they received the assistance and information they needed from the regulators. They did not, however, attribute this to the strategy but, rather, to legal requirements.

Financial regulators said that several other factors influenced their anti-money laundering efforts to a greater extent than the NMLS. These factors include working groups that had already developed as a result of BSA implementation, the impact of September 11 on raising awareness of the importance of fighting money laundering and terrorist financing, and the passage of the USA PATRIOT Act. The financial regulators said that they have been working on anti-money laundering issues for many years and generally initiate their own anti-money laundering activities. Bank regulators and SEC pointed out that the BSA was passed in 1970 and that they have been concerned with ensuring banks' and broker-dealers' compliance with its requirements ever since. The USA PATRIOT Act extended responsibility for implementing the BSA to additional financial regulators as well as increased anti-money laundering requirements for certain financial institutions.[23] Additionally, most financial regulators participate in the BSA Advisory Group, in which the financial regulators coordinate and communicate among themselves and with financial institutions on enforcing BSA requirements. Other coordinating forums include the Federal Financial Institutions Examination Council, Financial Action Task Force, and USA PATRIOT Act working groups established to develop and implement regulations resulting from the passage of the USA PATRIOT Act.[24]

[23]Not all BSA regulations have been implemented for banks and broker-dealers at the same time. The suspicious activity reporting requirement for banks was adopted by Treasury in 1996. The suspicious activity reporting requirement for most broker-dealers was adopted by Treasury in 2002. Broker-dealers affiliated with bank holding companies were subject to the earlier 1996 reporting requirement.

[24]The Financial Action Task Force is an international body with 33 member countries, territories, and organizations that sets international standards to assist countries in their efforts to combat money laundering and terrorist financing. The U.S. delegation to the Financial Action Task Force includes representatives from the Departments of the Treasury, Justice, and State.

Although the NMLS provided a forum in which the financial regulators could better coordinate with law enforcement agencies, other avenues for cooperation are prescribed by law, and some existed before passage of the Strategy Act. For example, depository institutions have been required to file SARs since 1996. Since December 2002, securities brokers and dealers have been required to file SARs with FinCEN as a result of the USA PATRIOT Act and its implementing regulations. (See app. III.) Certain financial institutions are also required to file Currency Transaction Reports with FinCEN for transactions that involve $10,000 or more in currency. Like SARs, these reports are supposed to be analyzed to look for suspicious activity. Financial regulators said they oversee financial institutions' programs for complying with these legal requirements because it is their statutory responsibility, not because it is included in the NMLS. They said they would do so with or without the strategy.

Most officials said that September 11 greatly affected how the administration and Congress thought about money laundering because some of the techniques used to launder money, illicitly moving funds to avoid detection, are similar to those used to finance terrorist activity. Some officials said the new administration was more concerned with the burden anti-money laundering compliance placed on financial institutions prior to September 11, but that the events of September 11 changed this, resulting in more attention being paid to the importance of anti-money laundering compliance. Congress passed the USA PATRIOT Act, which, for example, increased the due diligence, reporting, and record keeping requirements for some financial institutions to guard against their being used by their customers to launder money or finance terrorist activity. Some officials noted that USA PATRIOT Act requirements reflected topics being discussed in the NMLS and other working group meetings that might still have been in the discussion phase had not September 11 motivated their inclusion in the USA PATRIOT Act, thus requiring Treasury and other agencies to issue regulations. Reflecting this change of emphasis, the 2002 NMLS discussed the need to adapt traditional methods of combating money laundering to unconventional tools used by terrorist organizations to finance their operations. According to the 2002 NMLS, the primary responsibility of the financial regulators was to participate in the drafting and issuance of USA PATRIOT Act regulations and to provide technical expertise on the operations of depository institutions and other financial institutions to Treasury. The regulators also worked to educate financial institutions and their own staff on the new requirements.

Federal Financial Regulators Have Been Involved in the Implementation of Many Action Items in the NMLS, but Most Have Been Led by Treasury

The federal financial regulators have participated in the implementation of the NMLS from 1999 to 2002 in a variety of ways, including participation in working groups established by the NMLS and, in 2002, worked with Treasury to implement provisions of the USA PATRIOT Act. The federal financial regulators were expected to participate in NMLS initiatives, but Treasury, rather than the financial regulators, was usually designated as the lead agency responsible for implementation.[25] Most federal financial regulators are independent federal agencies. Therefore, while the financial regulators have committed to work with Treasury and Justice on NMLS initiatives, they are not required to do so because, with the exception of OCC and OTS, they are not part of the executive branch. Previous strategies have called for the financial regulators to work with Treasury and Justice on several efforts, such as (1) coordinating on establishing policies for enhanced information sharing between law enforcement agencies and the regulatory agencies, (2) working with the financial services industry to develop guidance for financial institutions to enhance scrutiny of high-risk money laundering transactions and customers, and (3) developing a SAR requirement for broker-dealers. However, policies for enhanced information sharing were not finalized until the USA PATRIOT Act required that they be developed. For example, section 314 of the USA PATRIOT Act was designed to enhance cooperation among certain entities involved in the detection of money laundering. Section 314(a) encourages regulatory authorities and law enforcement authorities to share with financial institutions information regarding individuals, entities, and organizations engaged in or reasonably suspected based on reliable evidence of engaging in terrorist acts or money laundering activities. Section 314(b) encourages information sharing among financial institutions themselves. In addition, rules promulgated by FinCEN under section 314 allow law enforcement authorities to make requests to financial institutions through FinCEN of certain account information for individuals, entities, and organizations that may be engaged in terrorist acts or money laundering activities. Information is provided to FinCEN, who gives the law enforcement entities a comprehensive product. SEC worked with FinCEN on a proposed broker-dealer SAR requirement from 1999 to 2001. However, a final rule was not issued until 2002, when it was required under the USA PATRIOT Act.

[25]The 1999 NMLS did not designate leads for priority or action items, but the 2000, 2001, and 2002 NMLS did.

Each NMLS has called for the federal bank regulators as a group or OCC individually to lead a review of their bank examination procedures regarding anti-money laundering efforts and to implement the results of these reviews. While the financial regulators have been involved in a variety of different tasks and working groups in the NMLS, they served as leads only in these reviews.[26] Table 4 lists annual NMLS initiatives to review bank examination procedures, the lead agency or agencies, and the status of the initiatives.

[26]However, OCC, along with the Departments of the Treasury and State, was designated as lead in the 2001 NMLS for initiating counter measures against noncooperative countries and territories.

Table 4: NMLS Initiatives to Review Bank Examination Procedures, as of July 2003

NMLS year	NMLS initiative[a]	Status
1999	Federal bank regulators, in cooperation with the Department of the Treasury, will conduct a review of existing bank examination procedures relating to the prevention and detection of money laundering at financial organizations, to be completed within 180 days.[b] Lead: None designated.	Completed
2000	The federal bank supervisory agencies will implement the results of their 180-day review of bank examinations procedures relating to the prevention and detection of money laundering at financial organizations. Lead: OCC. Examples of anticipated actions:	
	OCC will (1) update Comptroller's Handbook for Bank Examiners, including a new requirement to perform transactional testing of high-risk accounts at every bank examination and (2) implement a program to target for examination those institutions that are considered most vulnerable to money laundering.	(1) Completed (2) Completed
	FDIC will amend examination procedures on enhanced guidance to bank examiners on high-risk activities to include guidance on foreign correspondent accounts.	Completed
	FDIC and OCC will continue to develop interagency anti-money laundering training modules, which will be completed in 2000.	Completed
	The Federal Reserve will: (1) implement new procedures that will concentrate on ensuring that banks implement effective operating systems and procedures to manage operations legal and reputational risks as they pertain to BSA anti-money laundering efforts; (2) provide guidance on appropriate levels of enhanced scrutiny for high-risk customers and services; and (3) increase emphasis on maintaining systems to detect and investigate suspicious activity throughout every business sector of a banking organization.	(1) Completed (2) Completed (3) Ongoing
	OTS will assess the efficacy of its recently revised risk-focused BSA examination procedures and will implement enhancements developed by benchmarking with other agencies.	Completed
2001	Continue to identify and implement enhancements to examination procedures where necessary to address the ever-changing nature of money laundering. Lead: All federal bank regulators.	Ongoing
2002	Review current examination procedures of the federal supervisory agencies to determine whether enhancements are necessary to address the ever-changing nature of money laundering, including terrorist financings. Lead: OCC and Treasury.	Ongoing

Source: 1999 to 2002 NMLS and financial regulatory data.

[a]The NMLS for 1999 and 2000 used the term "Action Item," and the NMLS for 2001 and 2002 used the term "Priority."

[b]Although NCUA officials said they also completed these initiatives, the NMLS named only FRB, OCC, FDIC, and OTS as agencies responsible for these initiatives.

The financial regulators have also worked with Treasury as the lead agency for the U.S. government's international anti-money laundering efforts. Over time, the NMLS has called for the United States to strengthen international cooperation and collaboration and to work to strengthen the anti-money laundering efforts of other countries. Much of Treasury's effort in this area has been done as part of multinational bodies, such as the Financial Action Task Force, and international financial institutions, such

as the World Bank and the International Monetary Fund.[27] Treasury's efforts, working with these bodies, have focused on making anti-money laundering assessments a permanent part of the International Monetary Fund and World Bank surveillance and oversight of financial sectors and providing technical assistance and training to jurisdictions willing to make the necessary changes to their anti-money laundering regimes. Treasury officials involved in international anti-money laundering efforts said that the NMLS has served as a useful tool to plan and coordinate their international efforts that include the financial regulators, which provide technical assistance and participate in international meetings of these bodies. Officials from the FRB, OCC, FDIC, OTS, SEC, and CFTC all said that they had worked with Treasury on international anti-money laundering efforts, including the preparation for or participation in meetings of the Financial Action Task Force and of international financial institutions.

The Annual NMLS Has Not Reflected Critical Components Identified by GAO as Key to Developing and Implementing National Strategies

In recent years, our work in reviewing national strategies for various crosscutting issues has identified several critical components needed for their development and implementation; however, key components have not been well reflected in the NMLS.[28] These components include clearly defined leadership, with the ability to marshal necessary resources; setting clear priorities and focusing resources on the greatest areas of need, as identified by threat and risk assessments; and established accountability mechanisms to provide a basis for monitoring and assessing program performance. We identified a number of ways in which these critical components could be better reflected in the development and implementation of the annual NMLS, should it be reauthorized.

[27]As mentioned previously, in addition to Treasury, the U.S. delegation to the Financial Action Task Force includes representatives from the Departments of Justice and State.

[28]See U.S. General Accounting Office, *Combating Terrorism: Observations on National Strategies Related to Terrorism*, GAO-03-519T (Washington D.C.: Mar. 3, 2003); *Homeland Security: A Framework for Addressing the Nation's Efforts*, GAO-01-1158T (Washington D.C.: Sept. 21, 2001); *International Crime Control: Sustained Executive-Level Coordination of Federal Response Needed*, GAO-01-629 (Washington D.C.: Aug. 13, 2001*); and Managing for Results: Next Steps to Improve the Federal Government's Management and Performance*, GAO-02-439T (Washington D.C.: Feb. 15, 2002*)*. In addition, GAO continues to develop critical success factors for evaluating national strategies related to homeland security and terrorism and will report on this topic later this year.

NMLS Leadership Structure Generally Has Not Resulted in Consensus on the Approach NMLS Should Take

Our past work in reviewing various national strategies has consistently concluded that having clearly defined leadership, with the ability to marshal necessary resources, is a critical component of any national strategy. For instance, our work has noted the importance of establishing a focal point or executive-level structure to provide overall leadership that would rise above the interests of any one department or agency. Regarding the annual NMLS, we found that the joint Treasury-Justice leadership structure generally has not been able to reach consensus in developing and implementing the strategies—particularly in recent years when the structure did not include representatives from the two departments' top leadership. This has resulted in an inability to reach agreement on the appropriate scope of the strategy and ensure that target dates for completing strategy initiatives were met.

The Strategy Act required the President, acting through the Secretary of the Treasury and in consultation with the Attorney General, to produce an annual NMLS. However, Treasury and Justice officials told us that the Strategy Act did not provide additional funding or otherwise enhance either department's ability to develop and implement the annual strategies. Rather, development and implementation of the annual NMLS has been dependent largely on consensus-building efforts between Treasury and Justice—with Treasury having de facto lead responsibility. In this regard, Treasury officials told us that, while the department could request participation from other agencies, it had no incentives it could use to marshal necessary resources or compel participation in implementing initiatives or action items. The Treasury officials noted, for example, that the department's inability to compel action by other agencies was a contributing factor to delays in producing each annual NMLS. As shown in table 5, none of the four annual strategies issued to date was submitted to the Congress by February 1 of each year, as required by the Strategy Act. As of September 24, the 2003 strategy had yet to be submitted.

Table 5: Annual NMLS—Dates Submitted to Congress

Annual NMLS	Required issue date	Date submitted	Months late
1999	February 1999	September 1999	7
2000	February 2000	March 2000	1
2001	February 2001	September 2001	7
2002	February 2002	July 2002	5
2003	February 2003	Not yet issued	More than 7

Source: Annual NMLS.

The initial NMLS (1999) established a joint leadership structure for implementing the strategy. Specifically, the strategy noted that overall implementation of the strategy would be guided by an interagency Steering Committee chaired by the Deputy Secretary of the Treasury and the Deputy Attorney General, with participation of relevant departments and agencies. The Steering Committee was to be responsible for overseeing action items and timelines and, as appropriate, making specific assignments. Also, with respect to action items that involved international aspects of anti-money laundering efforts, the National Security Council was to have a central role and was to advise the Steering Committee, as necessary. The 2000 NMLS also called for the Steering Committee to oversee implementation of initiatives, although the strategy did not mention a specific role for the National Security Council.

According to Treasury officials, the Steering Committee was not reconvened to oversee the development and implementation of the 2001 NMLS, in part because of the change in administrations and the timing in making political appointments. Instead, overall responsibility for developing and implementing the 2001 NMLS was assumed by two lower-level officials—a Treasury Deputy Assistant Secretary (Money Laundering and Financial Crimes) and a Justice Criminal Division Section Chief (Asset Forfeiture and Money Laundering). The 2002 NMLS called for Treasury and Justice to reconvene the Steering Committee to provide coordination and cooperation among all the participating departments and agencies. However, according to Treasury and Justice officials, the Steering Committee was not reestablished. Treasury and Justice officials with responsibility for developing the strategy and overseeing its implementation at those departments said the benefits of the Steering Committee were that it brought together the officials who were needed to make decisions when those below them could not agree and that it could hold those responsible for implementing certain priorities accountable for getting things done.

Moreover, the role of the National Security Council in overseeing implementation of the annual NMLS remains somewhat unclear.[29] On the one hand, the National Security Council does have a designated policy coordination committee responsible for overseeing antiterrorist financing activities, including those related to implementation of the 2002 NMLS. On

[29]In response to our request, National Security Council officials declined to meet with us to discuss the Council's role regarding the annual NMLS.

the other hand, Treasury and Justice officials told us that this policy coordination committee has no responsibility for addressing other aspects of the strategy. The officials said that they were unaware of any National Security Council component responsible for overseeing all aspects of NMLS implementation.

NMLS Initiatives Have Not Been Clearly Prioritized

Our past work in reviewing various national strategies has recognized the importance of identifying and prioritizing issues that require the most immediate attention. While each NMLS (1999 through 2002) identified some "top" priorities, each strategy contained more priorities—of seemingly equal importance—than could be realistically achieved. Our prior strategy work also has shown that threat and risk assessments can be useful in establishing priorities; however, none of the money laundering strategies issued to date was preceded or guided by such an assessment.

Annual Strategies Have Contained More Priorities Than Could Realistically Be Accomplished

The Strategy Act called for the NMLS to include comprehensive, research-based goals, objectives, and priorities for reducing money laundering and related financial crimes in the United States. The 1999 NMLS included a total of 66 priorities, which laid out actions to be taken by Treasury, Justice, and the financial regulators; the number decreased to 50 in the 2002 NMLS (see table 1). According to Treasury officials, Treasury's vision for the annual strategies was to provide Congress and the public with a comprehensive document identifying current and planned anti-money laundering (and in 2002, antiterrorist financing) initiatives. The officials also said that the strategies did identify some top priorities for each respective year and that the most important priorities generally were discussed in the each strategy's executive summary. Nonetheless, the officials acknowledged that, in retrospect, each strategy probably contained more priorities than realistically could have been completed during the annual strategy year.

Similarly, Justice and regulatory officials told us that the annual strategies generally have been too long and included too many initiatives and priorities to deal with in a given year. The officials noted that the strategies looked good on paper and contained important issues and concepts but served more as reference documents than strategies. The officials said that the annual strategies generally did not affect how their agencies set policy direction or aligned resources. Also, Justice officials told us that the strategies generally did not affect field offices or how field agents conducted their work. Justice and regulatory officials told us they would prefer a broader, more conceptual and focused strategy with fewer priorities and more realistic goals that could be achieved during the year.

Justice officials noted that target dates for completing strategy priorities generally were not met, because there were too many priorities and there was no funding or new resources provided to implement the plan. Justice officials said that by focusing on too many priorities, the strategy can divert resources from investigations and other law enforcement activities.

Threat and Risk Assessments Have Not Been Used to Assist in Establishing Priorities

Our past work in reviewing various national strategies has shown that threat and risk assessments can serve to better target use of funds, set priorities, and avoid duplication of effort.[30] For example, regarding federal efforts to combat terrorism, the importance of setting priorities on the basis of risks was highlighted in our 1998 testimony before the Subcommittee on National Security, International Affairs and Criminal Justice, House Committee on Government Reform and Oversight. Our statement emphasized that

> "… a critical piece of the equation in decisions about establishing and expanding programs to combat terrorism is an analytically sound threat and risk assessment using valid inputs from the intelligence community and other agencies. Threat and risk assessments could help the government make decisions about how to target investments in combating terrorism and set priorities on the basis of risk; identify program duplication, overlap, and gaps; and correctly size individual agencies' levels of efforts."[31]

However, regarding the annual NMLS, none of the four strategies (1999 through 2002) issued to date was preceded or guided by such an assessment. Further, in response to our inquiries, Treasury and Justice officials indicated that the 2003 NMLS would not be based on a formal assessment of threats and risks.

Law enforcement officials generally had favorable views on the need for the NMLS to be driven by some consideration of a threat and risk assessment. Justice officials noted that money laundering investigations take a lot of expertise, money, and time, and that, in their view, a formal assessment of threats and risks would help to set NMLS priorities and assist law enforcement in focusing its limited resources. Justice officials told us that they drafted a money laundering threat assessment in late

[30]U.S. General Accounting Office, *Combating Terrorism: Threat and Risk Assessments Can Help Prioritize and Target Program Investments*, GAO-NSIAD-98-74 (Washington D.C.: Apr. 9, 1998).

[31]U.S. General Accounting Office, *Combating Terrorism: Observations on Crosscutting Issues*, GAO/T-NSIAD-98-164 (Washington D.C.: Apr. 23, 1998).

2002 and circulated it to other law enforcement agencies.[32] The officials planned to use the assessment as a basis for setting 2003 NMLS priorities. Treasury officials generally agreed with the concept of a money laundering threat assessment to drive priorities, but told us that the assessment prepared by Justice was not useful. The officials added that, in their view, Justice's threat assessment mostly contained information that was already widely known and, thus, probably was at least implicitly considered in setting priorities while drafting the 2003 strategy.[33]

Accountability Mechanisms Have Recently Been Included in the NMLS, But None Had Yet Been Completed

Our past work in reviewing various national strategies has recognized the importance of establishing accountability mechanisms to assess resource utilization and program performance. The 2001 and 2002 strategies presented various initiatives designed to establish performance measures related to federal anti-money laundering efforts. As of July 2003, efforts were ongoing on many of them, while others had not been addressed. Another potential accountability mechanism required in the Strategy Act was annual reports to Congress on the effectiveness of anti-money laundering policies; however, Treasury has not provided such reports.

NMLS Initiatives to Establish Performance Measures Have Not Been Addressed or Are Ongoing

Establishing and implementing performance measures for the NMLS would assist in monitoring and evaluating law enforcement and financial regulatory agencies' anti-money laundering and antiterrorist financing efforts. The 2001 strategy was the first annual strategy to call for the creation of performance measures and indicators to evaluate results against stated goals. The 2002 NMLS continued on the work started under the 2001 strategy. Both strategies designated components of Treasury and Justice to co-lead the initiatives. As shown in table 6, the 2002 NMLS contained five initiatives to measure the effectiveness and results of federal anti-money laundering activities. As of July 2003, Treasury and Justice had not yet completed any of these initiatives, although efforts were still ongoing to complete some of them.

[32]We reviewed a copy of the draft threat assessment at Justice headquarters. However, since the document was never finalized or published, we were not in a position to comment on it.

[33]As mentioned previously, the 2003 strategy had not yet been issued as of September 24, 2003.

Table 6: Status of 2002 NMLS Initiatives Designed to Measure Performance

2002 NMLS initiative	Target date for completion	Target date met?	Status (as of July 2003)[a]
Develop a "traffic light" (e.g., red, yellow, or green) system for scoring progress on NMLS goals and providing an indication of where the strategy stands at a given point in time.	To be presented in 2003 NMLS	No[b]	Not addressed
Devise and implement a uniform case reporting system to measure the results of federal law enforcement agencies' anti-money laundering efforts.			
22. Consider adapting the case reporting system used by an existing federal agency for use by federal law enforcement agencies.	(1) Not specified	Not applicable	(1) Ongoing
23. Develop recommendations for how qualitative factors, such as case significance, can be incorporated into quantitative measures of success.	(2) November 2002	No	(2) Ongoing
Establish a standardized reporting system for Treasury and Justice to use to quantify assets forfeited or seized pursuant to money laundering investigations.	Not specified	Not applicable	Ongoing[c]
Analyze "cost of doing criminal business" initiatives to develop a pricing model for laundering money in non-narcotics-related cases.[d]	Not specified	Not applicable	Ongoing
Review the costs and resources devoted to anti-money laundering efforts. Analyze results from budget data requests, and work to ensure that data requests relating to work against terrorist financing are also incorporated.[e]	December 2002	No	Not addressed

Source: 2002 NMLS and interviews with Treasury and Justice officials.

[a]"Not addressed" indicates that Treasury and Justice took little or no action on the NMLS initiative and that no future action is planned. "Ongoing" indicates that Treasury and Justice had not completed the initiative by its target date, but that there was ongoing or planned future work related to the initiative.

[b]According to Treasury officials, the 2003 NMLS will not include the traffic light scorecard.

[c]According to Treasury officials, the department has had systems in place to measure assets forfeited or seized pursuant to Treasury's money laundering investigations. EOUSA officials told us that Justice, EOUSA, and the U.S. Attorneys Offices—working closely with other Justice law enforcement agencies—have ongoing efforts to develop a reporting system to accurately measure assets forfeited or seized. The officials noted that developing such a system is a complicated and time-consuming process. Also, the officials said that future efforts to develop a standardized reporting system inevitably would have to include DHS.

[d]In 2001, the Customs Service's Money Laundering Coordination Center completed a study to determine the percentage commission charged to launder money in narcotics cases. The study was to serve as a baseline for tracking changes in the commission rate over time. The 2002 NMLS also noted that another federal agency had conducted a study relating to the cost of doing business for alien smuggling. The 2002 strategy called for FinCEN to lead an effort to examine these business model assessments to determine if a systematic model could be constructed to apply to all types of money laundering cases.

[e]In 2001, the Office of Management and Budget obtained budget data from law enforcement and financial regulatory agency units that were involved in the prevention, investigation, or prosecution of money laundering.

Generally, the purpose of the 2002 NMLS measurement initiatives was to provide Congress and other policymakers a basis for (1) evaluating federal agencies' anti-money laundering efforts and results and (2) deciding how to deploy limited public resources most effectively. For example, the traffic-light scorecard was intended to provide information on the overall performance of the federal government's efforts to combat money laundering and assess how well the government was executing each of the six goals described in the 2002 strategy (and future strategies). Also, the 2002 NMLS notes that the initiative to review law enforcement and financial regulatory costs and resources devoted to anti-money laundering activities was designed to permit Congress and other policymakers to draw informed conclusions about the effectiveness of those activities.

The 2002 NMLS noted that, while deceptively easy to articulate in the abstract, the task of developing meaningful performance measures for federal agencies engaged in combating money laundering has proven to be quite difficult. Treasury officials also told us that (1) the 2002 strategy was not published until July 2002, which did not leave much time for either implementation or evaluation and (2) several measurement initiatives were put on hold pending the reorganization associated with DHS. Further, the officials noted that Treasury generally had no plans to report on performance progress (results and accomplishments) made under the 2002 strategy.

The 2002 strategy did provide, for the first time in an NMLS, some baseline facts and figures designed to help determine how well the federal government was succeeding in its efforts to detect, prevent, and deter money laundering. For example, the strategy published U.S. Sentencing Commission data for fiscal year 2000 regarding defendants sentenced in federal court for the principal offense of money laundering. The 2002 strategy noted that the Sentencing Commission data could be tracked over a period of years and, thereby, serve as one measure for evaluating progress in combating money laundering.

Treasury Has Not Met the Requirement for Annual Effectiveness Reports

The Strategy Act required that—at the time each NMLS was transmitted to the Congress (other than the first transmission of any such strategy)—the Secretary of the Treasury submit a report containing an evaluation of the effectiveness of policies to combat money laundering and related financial

crimes.[34] As of July 2003, Treasury had not submitted any effectiveness reports. Treasury officials said they did not see this as a requirement to submit a separate report and, in their view, the strategy itself has been used to report on the effectiveness of the government's anti-money laundering efforts. The officials explained that the "accomplishment" sections that were added to the 2002 strategy were intended to meet the Strategy Act's reporting requirement.

We believe that this information does not fully meet the Strategy Act's requirement, because the accomplishment sections generally provided descriptive information about initiatives rather than evaluations of the effectiveness of policies to combat money laundering and related financial crimes. For example, an accomplishment section in the 2002 strategy noted that HIFCA task forces initiated over 100 investigations in 2001, but the section did not address the effectiveness of the HIFCA concept or the task forces.

Ways to Incorporate Critical Strategy Components into the NMLS

We identified a number of ways in which the critical components for national strategies could be incorporated into the NMLS, should Congress decide to continue the requirement. To incorporate a more clearly defined leadership structure that has the ability to marshal resources for a coordinated effort against money laundering and terrorist financing, a high-level leadership mechanism could be reestablished or a single official could be designated to carry out this responsibility. The role of the leadership structure would be to marshal resources to ensure that the vision laid out in the strategy is achieved, resolve disputes between agencies, and ensure accountability for strategy implementation. This leadership mechanism would also be in a good position to evaluate annual progress and report such progress to Congress, as is currently required of Treasury. This is especially critical now that there are three principal departments with anti-money laundering and antiterrorist financing responsibilities, in addition to the federal financial regulators.

One way to help set clear priorities and focus resources on the areas of greatest need would be to require that the strategy be linked to a periodic threat assessment. Such an assessment would outline what the lead agencies see as the most significant threats. This would provide a better

[34] 31 U.S.C. § 5341(c).

basis to draft a strategy to address these threats. Performance could be measured by the level of progress made in combating these threats.

One way to improve accountability for the agencies and regulators following the strategy would be for the strategy to set broad policy objectives that leave it to the principal agencies to develop outcome-oriented performance measures that are linked to the NMLS's goals and objectives. These performance measures would be reflected in the agencies' annual performance plans. However, our work showed that, throughout its history, the NMLS has tried to specify detailed priorities for each objective, many of which were not accomplished or, in the case of the financial regulators, would have been accomplished for statutory reasons even without a strategy.

Conclusions

The annual NMLS has had mixed results in guiding the efforts of law enforcement and financial regulators in the fight against money laundering and, more recently, terrorist financing. Through our work in reviewing other national strategies, we have identified critical components needed for successful development and implementation; but, to date, these components have not been well reflected in the annual NMLS. We believe that incorporating these critical components into the NMLS would improve its development and implementation. For example, the current NMLS leadership structure has not reached consensus on the approach the strategy should take or ensured that goals and objectives are met, and has failed to issue any of the annual strategies on time. A clearly defined high-level leadership structure could better ensure that resources are appropriately marshaled for achieving the strategy's vision and goals.

Also, without an assessment of threats and risks, it is difficult to determine what the highest-priority activities should be. Linking the strategy's development to a periodic assessment of threats and risks could help set priorities and ensure that resources are focused on the areas of greatest need. Moreover, such assessments could be helpful in tracking progress made in combating money laundering and terrorist financing.

Furthermore, the establishment of accountability mechanisms could help to provide a basis for monitoring and assessing NMLS implementation. One possible mechanism would be linking the relevant agencies' performance plans more closely to NMLS goals and objectives. Another mechanism would be to ensure that periodic progress reports are submitted to Congress, as currently required by the Strategy Act.

In sum, if Congress decides to reauthorize the requirement for an annual NMLS, adoption of these critical components in the agencies' future efforts could help to resolve or mitigate the deficiencies we identified.

Recommendations for Executive Action

If Congress reauthorizes the requirement for an annual NMLS, we recommend that the Secretary of the Treasury, working with the Attorney General and the Secretary of Homeland Security, take appropriate steps to

- strengthen the leadership structure responsible for strategy development and implementation by establishing a mechanism that would have the ability to marshal resources to ensure that the strategy's vision is achieved, resolve disputes between agencies, and ensure accountability for strategy implementation;
- link the strategy to periodic assessments of threats and risks, which would provide a basis for ensuring that clear priorities are established and focused on the areas of greatest need; and
- establish accountability mechanisms, such as (1) requiring the principal agencies to develop outcome-oriented performance measures that must be linked to the NMLS's goals and objectives and that also must be reflected in the agencies' annual performance plans and (2) providing Congress with periodic reports on the strategy's results.

Agency Comments and Our Evaluation

We provided a draft of this report for review and comment to the Departments of the Treasury, Justice, and Homeland Security; seven federal financial regulatory agencies (FRB, FDIC, OCC, OTS, NCUA, SEC, and CFTC); and the National Security Council.

In written comments, Treasury said that our recommendations for improving the process for creating the NMLS and enhancing accountability of all agencies with responsibility for combating financial crimes and the financing of terrorism are important, should Congress reauthorize the legislation requiring future strategies. Justice did not specifically address our recommendations but said that our observations and conclusions will be helpful in assessing the role that the strategy process has played in the federal government's efforts to combat money laundering. For example, Justice concurred with our conclusion that linking the strategy's development to a threat assessment could help set priorities and ensure that limited resources are focused on the areas of greatest need. DHS said that it would work with the Secretary of the Treasury as recommended

and would do its part to implement necessary actions to address concerns raised in the report.

Treasury, Justice, and DHS said that the lack of funds to finance NMLS development and implementation was an impediment and that the success of the HIFCA program in particular would be enhanced by an independent funding source. While we did not assess the participating agencies' funding decisions regarding the NMLS or the HIFCA program, our report acknowledges that federal law enforcement agencies have resource constraints and competing priorities. We also note, however, that a primary purpose of the NMLS was to improve the coordination and quality of federal anti-money laundering investigations by concentrating and leveraging existing resources, including funding. Further, the report notes that HIFCA task force officials said that the lack of funding to compensate or reimburse participating state and local law enforcement agencies was a barrier to their participation. The 2002 NMLS called for an interagency team to examine how to fund the colocation of participants in HIFCA task forces absent funds appropriated for that purpose. At the time of our review, this initiative had not yet been completed.

Treasury also said that it has satisfied the Strategy Act requirement that it submit a report to Congress—at the time the NMLS is submitted—on the effectiveness of policies to combat financial crimes. Treasury said that (1) evaluations of effectiveness have been contained in the NMLS itself and (2) any evaluation of effectiveness logically forms a part of the NMLS. While the annual strategies have contained some useful information to help Congress better understand programs to combat money laundering and terrorist financing, the strategies generally have provided descriptive information about NMLS initiatives rather than evaluations of the effectiveness of policies. As noted in our report, Treasury and Justice have efforts under way to measure performance that, when completed, could provide useful input into an overall evaluation of the effectiveness of policies to combat financial crimes.

DHS highlighted the value of its Money Laundering Coordination Center, stating that the center has provided information to DEA, FBI, and other outside agencies on at least 46 occasions and that DEA was the most active outside agency user of the center, with at least 21 requests for assistance. While the sharing of relevant information is commendable, as mentioned in our report, DEA officials told us that the center does not meet DEA's needs and that DEA has created a new database for information on money laundering investigations related to drugs. DHS also provided additional information on (1) methods used by ICE to coordinate

terrorist financing investigations with other agencies and (2) steps taken by ICE and the FBI to implement the May 2003 memorandum of agreement between Justice and DHS regarding roles and responsibilities in investigating terrorist financing.

The full text of Treasury's, Justice's, and DHS's written comments are reprinted in appendix IV, V, and VI, respectively. The three departments also provided technical comments and clarifications, which have been incorporated in this report where appropriate.

Of the seven federal financial regulatory agencies, four (FRB, FDIC, NCUA, and SEC) provided technical comments and clarifications, which have been incorporated in this report where appropriate. The other three agencies (OCC, OTS, and CFTC) had no comments. FDIC also said that, should a national money laundering strategy continue, annual goals should be achievable and roles and responsibilities clearly defined.

The National Security Council did not respond to our request for comments.

As arranged with your offices, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days after its issue date. At that time, we will send copies of this report to interested congressional committees and subcommittees. We will also make copies available to others on request. In addition, the report will be available at no charge on GAO's Web site at http://www.gao.gov.

If you or your staffs have any questions about this report or wish to discuss the matter further, please contact Richard M. Stana at (202) 512-8777 or by e-mail at stanar@gao.gov or Davi M. D'Agostino at (202) 512-8678 or by e-mail at dagostinod@gao.gov. GAO contacts and key contributors to this report are listed in appendix VII.

Richard M. Stana, Director
Homeland Security and Justice

Davi M. D'Agostino, Director
Financial Markets and Community Investment

Appendix I: Scope and Methodology

To determine agency perspectives on the benefit of the annual National Money Laundering Strategy (NMLS), we interviewed responsible officials at and reviewed relevant documentation obtained from the principal law enforcement components with anti-money laundering responsibilities at the Departments of the Treasury, Justice, and Homeland Security and the federal financial regulatory agencies. To determine whether the NMLS has served as a useful mechanism for guiding law enforcement agencies' efforts, we (1) compared the structure and operation of High Intensity Money Laundering and Related Financial Crime Area (HIFCA) task forces to guidance provided in the strategies, (2) assessed whether the implementation of NMLS initiatives to enhance interagency coordination has met strategic goals, and (3) assessed the extent to which the 2002 NMLS addressed agency roles in combating terrorist financing. To do this, we interviewed responsible officials and reviewed documentation from the four primary agencies responsible for investigating money laundering and related financial crimes—Treasury's Internal Revenue Service-Criminal Investigation (IRS-CI), Justice's Federal Bureau of Investigation (FBI) and Drug Enforcement Administration (DEA), and Homeland Security's Bureau of Immigration Control and Enforcement (ICE).[1] For investigations of terrorist financing, we reviewed the roles and activities of and interviewed officials from ICE's Operation Green Quest (OGQ) and two FBI components—Terrorist Financing Operations Section (TFOS) and Joint Terrorism Task Forces (JTTF).[2] Our work with law enforcement agencies was conducted at the principal federal agencies' headquarters in Washington, D.C., and at field office locations in three major U.S. financial centers (Los Angeles, Miami, and New York City).

To determine the role of the NMLS in influencing the anti-money laundering activities of federal financial regulators, we reviewed their efforts to carry out the NMLS 2002 goal, "Prevent Money Laundering Through Cooperative Public-Private Efforts and Necessary Regulatory Measures," and its earlier iterations. We gathered information on these agencies' anti-money laundering and antiterrorist financing efforts—including efforts to implement provisions of the Uniting and Strengthening

[1]Our work at ICE primarily involved the same Customs Service officials we contacted at Treasury before they were transferred to Homeland Security in March 2003.

[2]OGQ operated through two components—a targeting and coordination center located in Washington, D.C., and financial investigation groups in 20 U.S. cities. The FBI's TFOS, also located in Washington, D.C., was created to provide a centralized component to conduct and coordinate terrorist financing investigations. The FBI's 66 JTTFs are located throughout the nation to investigate and prevent acts of terrorism.

America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act)—and determined the influence of the NMLS on those efforts. We also examined the role the financial regulators played in supporting Treasury's efforts under the NMLS goal to strengthen international cooperation to fight money laundering. To do this work, we interviewed responsible headquarters officials and reviewed documentation from the Commodity Futures Trading Commission (CFTC), Federal Deposit Insurance Corporation (FDIC), Federal Reserve Board (FRB), National Credit Union Administration (NCUA), Office of the Comptroller of the Currency (OCC), Office of Thrift Supervision (OTS), Treasury, and Securities and Exchange Commission (SEC). We also interviewed officials from the law enforcement agencies listed above to assess coordination between law enforcement and the financial regulators.

To compare NMLS efforts to the components we have found are necessary for a successful strategy, we reviewed drafts of the strategies from 1999 to 2002, interviewed officials who had been involved in the development and implementation of the strategies, and compared the results from this work with findings from our past work reviewing national strategies and their implementation.

We conducted our work from June 2002 to August 2003 in accordance with generally accepted government auditing standards.

Appendix II: Legislation Has Expanded the Responsibility to Combat Money Laundering

The U.S. government's framework for preventing, detecting, and prosecuting money laundering has been expanded through additional pieces of legislation since its inception in 1970 with the Bank Secrecy Act (BSA).[1] The BSA required, for the first time, that financial institutions maintain records and reports that financial regulators and law enforcement agencies have determined have a high degree of usefulness in criminal, tax, and regulatory matters. The BSA authorizes the Secretary of the Treasury to issue regulations on the reporting of certain currency transactions. The BSA had three main objectives: create an investigative audit trail through regulatory reporting standards; impose civil and criminal penalties for noncompliance; and improve detection of criminal, tax, and regulatory violations.

The reporting system implemented under the BSA was by itself an insufficient response to money laundering because, under the BSA, anybody who satisfied the reporting requirements would not be subject to money laundering violations. Thus, Congress enacted the Money Laundering Control Act of 1986 (MLCA),[2] which made money laundering a criminal offense separate from any BSA reporting violations. It created criminal liability for individuals or entities that conduct monetary transactions knowing that the proceeds involved were obtained from unlawful activity and made it a criminal offense to knowingly structure transactions to avoid BSA reporting. Penalties under the MLCA include imprisonment, fines, and forfeiture.

Congress enacted the Money Laundering Prosecution Improvements Act of 1988 to enhance the provisions of the BSA and the MLCA and amended provisions in both statutes.[3] The Improvements Act aimed to increase the cooperation that the government receives from financial institutions by imposing liability and fines on facilitators, such as negligent bankers. It also expanded the definition of a financial institution under the BSA and permitted government agencies to undertake sting operations.

[1]Currency and Foreign Transactions Reporting Act (commonly referred to as the Bank Secrecy Act), Pub. L. No. 91-508, 84 Stat. 1114 (1970) (codified as amended in 12 U.S.C. §§ 1829(b), 1951-1959; 31 U.S.C. §§ 5311-5330.

[2]18 U.S.C. §§ 1956 -1957 (1994).

[3]Pub. L. No. 100-690, 102 Stat. 4354-59, 4378 (1988) (codified as amended in scattered sections of 12 U.S.C., 18 U.S.C. and 31 U.S.C.).

The Annunzio-Wylie Anti-Money Laundering Act of 1992 amended the BSA in a number of ways.[4] It authorized Treasury to require financial institutions to report any suspicious transaction relevant to a possible violation of a law. It also authorized Treasury to require financial institutions to carry out anti-money laundering programs and create record-keeping rules relating to fund transfer transactions. Annunzio-Wylie also made the operation of an illegal money transmitting business a crime.

As authorized by Annunzio-Wylie, in 1996, Treasury issued a rule requiring that banks and other depository institutions use a Suspicious Activity Report (SAR) form to report activities involving possible money laundering. During the same year, bank regulators issued regulations requiring all depository institutions to report suspected money laundering as well as other suspicious activities using this form. The bank regulators also placed SAR requirements on the subsidiaries, including broker-dealer firms, of the depository institutions and their holding companies under their jurisdiction.

The Money Laundering and Financial Crimes Strategy Act of 1998 (Strategy Act)[5] amended the BSA to require the President, acting through the Secretary of the Treasury, in consultation with the Attorney General and other relevant agencies, including state and local agencies, to coordinate and implement a national strategy, produced annually for 5 years beginning in 1999, to address money laundering. 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. The purpose of demarcating areas as high risk is to designate the communities that experience severe problems with money laundering that need more help. The Strategy Act also authorizes federal funding of efforts by state and local law enforcement agencies to investigate money laundering activities. In 1999, Treasury consulted with 18 federal agencies, bureaus, and offices in developing the NMLS. By 2002, that number had increased to over 25. The Strategy Act provides that the NMLS should include:

[4]Pub. L. No. 102-550, 106 Stat. 4044-47 (1992) (codified as amended in scattered sections of 12 U.S.C., 18 U.S.C., and 22 U.S.C.).

[5]31 U.S.C. §§ 5340-42, 5351-55 (1998).

1. Goals for reducing money laundering and related financial crimes in the United States.

2. Goals for coordinating regulatory efforts to prevent the exploitation of financial systems in the United States through money laundering.

3. A description of operational initiatives to improve the detection and prosecution of money laundering and related financial crimes and the seizure and forfeiture of the proceeds derived from those crimes.

4. The enhancement of partnerships between the private financial sector and law enforcement agencies with regard to the prevention and detection of money laundering and related financial crimes.

5. The enhancement of cooperative efforts between the federal government and state and local officials, including state and local prosecutors and other law enforcement officials; and cooperative efforts among the several states and between state and local officials, including state and local prosecutors and other law enforcement officials.

In the wake of the September 11 terrorist attacks, Congress enacted the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act) on October 25, 2001.[6] The passage of the USA PATRIOT Act was prompted, in part, by the enhanced awareness of the importance of combating terrorist financing as part of the U.S. government's overall anti-money laundering efforts, because terrorist financing and money laundering both involve similar techniques. Title III of the USA PATRIOT Act, among other things, expands Treasury's authority to regulate the activities of U.S. financial institutions; requires the promulgation of regulations; imposes additional due diligence requirements; establishes new customer identification requirements; and requires financial institutions to maintain anti-money laundering programs. In addition, title III adds activities that can be prosecuted as money laundering crimes and increases penalties for activities that were money laundering crimes prior to enactment of the

[6]Pub. L. No. 107-56, 115 Stat. 272 (2001).

USA PATRIOT Act. Further, title III amends various sections of the BSA, the MLCA, and other statutes. Appendix III contains a detailed summary of key provisions in title III of the USA PATRIOT Act.

Appendix III: Summary of Key Anti-Money Laundering Provisions in Title III of the USA PATRIOT Act and Rules

Due diligence
(Section 312)

Amends 31 U.S.C. § 5318 by requiring U.S. financial institutions to exercise due diligence and, in some cases, enhanced due diligence, when opening or operating correspondent accounts for foreign financial institutions or private banking accounts for wealthy foreign individuals. Also requires U.S. financial institutions to establish due diligence policies, procedures, and controls reasonably designed to detect and report money laundering through such correspondent and private banking accounts.

Proposed rule **Applies to:** **Financial institutions**	Sets forth certain minimum due diligence and enhanced due diligence requirements and otherwise adopts a risk-based approach, permitting financial institutions to tailor their programs to their own lines of business, financial products and services offered, size, customer base, and location.	**Issuance date:** **May 30, 2002**
Interim final rule **Applies to:** **Financial institutions other than banks, securities brokers and dealers, futures commission merchants, and introducing brokers**	Defers the application of Section 312 requirements and provides interim compliance guidance pending issuance of a final rule.	**Effective date:** **July 23, 2002**

Shell bank ban and record keeping
(Sections 313 and 319(b))

Amends 31 U.S.C. § 5318 by prohibiting U.S. banks and securities firms from opening or maintaining accounts for foreign shell banks, meaning banks that have no physical presence anywhere and no affiliation with another, non-shell bank. Requires closure of any existing correspondent accounts for foreign shell banks by December 2001. Also requires U.S. firms to take reasonable steps to ensure no foreign bank client is allowing a foreign shell bank to utilize the foreign bank's U.S. correspondent account. Also requires foreign banks with U.S. correspondent accounts to identify their owners and designate a U.S. resident to accept legal service of a government subpoena or summons. Allows U.S. to subpoena documents related to the foreign bank's U.S. account whether the documents are inside or outside the U.S. Allows the Attorney General or Treasury to require closure of a foreign bank's U.S. account if the foreign bank ignores a government subpoena or summons.

Final rule **Applies to:** **Banks and securities broker-dealers**	Defines the scope of the application of the shell bank prohibition and record keeping requirement and provides certification form to aid covered financial institutions in complying with the rule.	**Effective date:** **October 28, 2002**

Public-private cooperation
(Section 314)

Enables and encourages two forms of information sharing to deter terrorism and money laundering: (1) among law enforcement, the regulators, and financial institutions (314(a)); and (2) among financial institutions themselves (314(b)).

Final rule **Applies to:** **Financial institutions and federal government law enforcement agencies**	Creates a communication network to link federal law enforcement agencies with financial institutions so that information relating to suspected terrorists and money launderers can be exchanged quickly and without compromising pending investigations. Federal law enforcement agencies can provide names of suspected terrorists and money launderers to financial institutions through Treasury's Financial Crimes Enforcement Network (FinCEN). After receiving the information, financial institutions are required to check accounts and transactions involving suspects and report matches. Law enforcement agencies can then follow up with the financial institution directly. Permits the sharing of information relating to individuals and entities suspected of money laundering or terrorism among financial institutions so long as financial institutions provide a yearly notice to FinCEN of their intent to share information under this provision.	**Effective date:** **September 26, 2002**

Commodity firms and credit unions (Section 321)

Clarifies that commodity firms and credit unions are "financial institutions" subject to Title 31's anti-money laundering provisions.

Concentration accounts (Section 325)

Amends 31 U.S.C. § 5318(h) by authorizing Treasury regulations to ensure that client funds moving through a financial institution's administrative accounts do not move anonymously, but are marked with the client's name.

Customer verification (Section 326)

Amends 31 U.S.C. § 5318 by requiring all U.S. financial institutions to implement procedures to verify the identity of any person seeking to open an account and requires all clients to comply with such procedures. Requires Treasury jointly with financial regulators to implement rules requiring financial institutions to comply.

Joint final rule **Applies to:** **Banks, savings associations, credit unions, private banks, and trust companies**	Requires banks, savings associations, credit unions, private banks, and trust companies to implement procedures to verify the identity of any person seeking to open an account.	**Effective date:** **June 9, 2003** **Compliance date:** **October 1, 2003**
Joint final rule **Applies to:** **Mutual funds**	Requires mutual funds to implement procedures to verify the identity of any person seeking to open an account.	**Effective date:** **June 9, 2003** **Compliance date:** **October 1, 2003**
Joint final rule **Applies to:** **Futures commission merchants and introducing brokers**	Requires futures commission merchants and introducing brokers to implement procedures to verify the identity of any person seeking to open an account.	**Effective date:** **June 9, 2003** **Compliance date:** **October 1, 2003**
Joint final rule **Applies to:** **Broker-dealers**	Requires broker-dealers to implement procedures to verify the identity of any person seeking to open an account.	**Effective date:** **June 9, 2003** **Compliance date:** **October 1, 2003**
Proposed rule **Applies to:** **Banks lacking a federal functional regulator**	Requires certain banks lacking a federal functional regulator to implement procedures to verify the identity of any person seeking to open an account.	**Issuance date:** **May 9, 2003**
Report to Congress **Applies to:** **Financial institutions**	Report to Congress on ways to improve the ability of financial institutions to identify foreign nationals.	**Issuance date:** **October 2002**

International cooperation (Section 330)

Directs the United States to negotiate with other countries to increase anti-money laundering and terrorist financing cooperation, ensure adequate record keeping of transactions and accounts related to money laundering or terrorism.

Anti-money laundering programs (Section 352)

Amends 31 U.S.C. § 5318(h) to require all U.S. financial institutions to establish anti-money-laundering programs. Authorizes Treasury, after consulting with the appropriate federal regulators to prescribe minimum standards for these programs.

Interim final rule **Applies to:** **Banks, savings associations, credit unions, registered brokers and dealers in securities, futures commission merchants, and casinos**	Banks, savings associations, credit unions, registered brokers and dealers in securities, futures commission merchants, and casinos deemed in compliance with Section 352 if they establish and maintain anti-money laundering programs pursuant to existing BSA rules, or rules adopted by their federal functional regulator or self-regulatory organization.	**Effective date: April 24, 2002**
Interim final rule **Applies to:** **Credit card system operators**	Required operators of a credit card system to establish programs reasonably designed to detect and prevent money laundering and the financing of terrorism.	**Effective date: April 24, 2002**
Interim final rule **Applies to:** **Money services business**	Required money services businesses to establish programs reasonably designed to prevent money laundering and the financing of terrorism.	**Effective date: April 24, 2002**
Interim final rule **Applies to:** **Mutual funds**	Required mutual funds to establish programs reasonably designed to detect and prevent money laundering and the financing of terrorism.	**Effective date: April 24, 2002**
Proposed rule **Applies to:** **Insurance companies**	Would require certain insurance companies (those offering life or annuity products) to establish programs reasonably designed to detect and prevent money laundering and the financing of terrorism. Prescribes minimum anti-money laundering standards applicable to insurance companies.	**Issuance date: September 26, 2002**
Proposed rule **Applies to:** **Unregistered investment companies**	Would require unregistered investment companies, such as hedge funds, commodity pools, and similar investment vehicles, to establish programs reasonably designed to detect and prevent money laundering and the financing of terrorism.	**Issuance date: September 26, 2002**

Amendment of interim final rule **Applies to:** **Dealers in precious metals, pawnbrokers, loan or finance companies, private bankers, insurance companies, travel agencies, telegraph companies, sellers of vehicles, persons engaged in real estate closings, certain investment companies, commodity pool operators and commodity trading advisers**	Extends the provision that temporarily defers, for dealers in precious metals, pawnbrokers, loan or finance companies, private bankers, insurance companies, travel agencies, telegraph companies, sellers of vehicles, persons engaged in real estate closings, certain investment companies, commodity pool operators and commodity trading advisers, the requirement to adopt anti-money laundering programs.	**Effective date: November 6, 2002**
Proposed rule **Applies to:** **Dealers in precious metals, stones, or jewels**	Would require dealers in precious metals, stones, or jewels to establish programs reasonably designed to detect and prevent money laundering and the financing of terrorism.	**Issuance date: February 21, 2003**
Advance notice of proposed rulemaking **Applies to:** **Businesses engaged in vehicle sales**	Solicits comments on whether businesses engaged in vehicle sales should be required to adopt anti-money laundering programs under Section 352.	**Issuance date: February 24, 2003**
Advance notice of proposed rulemaking **Applies to:** **Travel agencies**	Solicits comments on how to define travel agency and whether such persons should be required to adopt anti-money laundering programs under Section 352.	**Effective date: February 24, 2003**
Advance notice of proposed rulemaking **Applies to:** **Persons involved in real estate closings and settlements**	Solicits comments on how to define persons involved in real estate closings and settlements and whether certain of these persons should be exempt from having anti-money laundering programs under section 352.	**Issuance date: April 10, 2003**
Proposed rule **Applies to:** **Investment advisers that manage client assets**	Would require certain investment advisers that manage client assets to establish programs reasonably designed to detect and prevent money laundering and the financing of terrorism. Would delegate authority to examine certain investment advisers for compliance with such programs to SEC.	**Issuance date: May 5, 2003**
Proposed rule **Applies to:** **Commodity trading advisors**	Would require certain commodity trading advisors to establish programs reasonably designed to detect and prevent money laundering and the financing of terrorism. Would delegate the authority to examine such commodity trading advisers to the CFTC.	**Issuance date: May 5, 2003**
Suspicious activity reporting (Section 356) Requires all U.S. securities firms to report suspicious financial activity to U.S. law enforcement under regulations to be published by July 1, 2002. Authorizes Treasury to issue regulations requiring suspicious activity reporting by commodity firms; and requires a report and recommendations by October 2002 on effective regulations applying anti-money laundering reporting and other requirements to investment companies.		
Final rule **Applies to:** **Brokers and dealers**	Requires brokers or dealers in securities to report suspicious transactions.	**Effective date: July 31, 2002**

Proposed rule **Applies to:** **Mutual funds**	Would require mutual funds to file suspicious activity reports.	**Issuance date:** **January 21, 2003**
Proposed rule **Applies to:** **Futures commission merchants and introducing brokers in commodities**	Would add futures commission merchants and introducing brokers in commodities to the regulatory definition of "financial institution" and would require them to report suspicious transactions.	**Issuance date:** **May 5, 2003**
Proposed rule **Applies to:** **Insurance companies**	Would require insurance companies to file suspicious activity reports.	**Issuance date:** **October 17, 2002**
Report to Congress **Applies to:** **Investment companies**	Report to Congress recommending additional regulations applicable to investment companies.	**Issuance date:** **December 31, 2002**

Reporting of suspicious activities by underground banking systems (Section 359)

Amends the definition of "financial institution" in 31 U.S.C.§ 5312(a)(2)(r) to include a licensed sender of money or any other person who engages as a business in the transmission of funds. Also directs the Secretary of the Treasury to issue a report to Congress on or before October 26, 2002, detailing the need for any additional legislation regarding the regulation of informal banking networks.

Report to Congress	Report to Congress discussing informal value transfer systems and suggesting methods for minimizing potential abuse of such systems.	**Issuance date:** **November 22, 2002**

Reports relating to coins and currency received in nonfinancial trade or business (Section 365)

Adds new section 5331 to title 31 of the U.S. Code and requires any person who is engaged in a trade or business and who, in the course of such trade or business, receives more than $10,000 in coins or currency in one transaction (or two or more related transactions) to file a report with FinCEN.

Interim final rule	Deems the filing of form 8300 with the Internal Revenue Service to satisfy the requirement to file a currency report with FinCEN.	**Issuance date:** **December 31, 2001**

(2) Anti-Money Laundering Investigations, Civil and Criminal Proceedings, and Forfeitures

Money laundering designations (Section 311)

Amends 31 U.S.C. § 5318 by authorizing Treasury to designate specific foreign financial institutions, jurisdictions, transactions or accounts to be of "primary money laundering concern." Mandates special measures to restrict or prohibit access to the U.S. market.

Designation of Ukraine and Nauru as jurisdictions of primary money laundering concern		**Issuance date:** **December 20, 2002**

Revocation of designation of Ukraine as jurisdiction of primary money laundering concern		**Effective date: April 17, 2003**
Proposed rule	Would impose special measures against Nauru, requiring U.S. financial institutions to terminate all correspondent accounts involving Nauru.	**Issuance date: April 17, 2003**

Foreign corruption
(Section 315)

Amends 18 U.S.C. § 1956(c)(7) by expanding the list of crimes that can trigger U.S. money laundering prosecutions to include foreign corruption crimes such as bribery and misappropriation of funds. Also, expands the list of crimes that can trigger U.S. money laundering prosecutions to include weapons smuggling, export control violations, certain computer crimes, bribery, and other extraditable offenses.

Antiterrorist forfeiture protection
(Section 316)

Authorizes any person whose property is confiscated as terrorist assets to contest the confiscation through civil proceedings in the United States.

Long arm jurisdiction over foreign money launderers antiterrorist forfeiture protection
(Section 317)

Amends 18 U.S.C. § 1956(b) by giving U.S. courts jurisdiction over persons who commit a money laundering offense through financial transactions that take place in whole or in part in the United States, over foreign banks with U.S. accounts, and over foreign persons who convert to their personal use property that is the subject of a forfeiture order. Allows U.S. prosecutors and federal and state regulators to use court-appointed receivers in criminal and civil money laundering proceedings to locate and take custody of a defendant's assets wherever located. Requires U.S. banks to respond within 120 hours to a request by a federal banking agency for money laundering information.

Laundering money through a foreign bank
(Section 318)

Amends 18 U.S. C. § 1956(c) by prohibiting conducting a transaction involving a financial institution if the transaction involves criminally derived property. Explicitly includes foreign banks within the definition of "financial institution."

Forfeiture of funds in United States interbank accounts
(Section 319(a))

Amends 18 U.S.C. § 981 by closing a forfeiture loophole so that depositors' funds in a foreign bank housing a U.S. bank account are subject to the same forfeiture rules as depositors' funds in other U.S. bank accounts.

Proceeds of foreign crimes
(Section 320)

Amends 18 U.S.C. § 981(a)(1)(B) to authorize the forfeiture of both the proceeds of, and any property used to facilitate, offenses listed in section 1956(c)(7)(B), if the offense would be a felony if committed within the jurisdiction of the United States.

Corporation represented by a fugitive
(Section 322)

Amends 18 U.S.C. § 2466 by applying the fugitive disentitlement doctrine to claims filed by corporations if any majority shareholder, or individual filing the claim on behalf of the corporation is disqualified from contesting the forfeiture. It clarifies that a natural person who is a fugitive may not file, or have another person file, a claim on behalf of a corporation that the fugitive controls.

Enforcement of foreign judgments (Section 323) Amends 28 U.S.C. § 2467 by allowing the government to apply for and the court to issue a restraining order to preserve the availability of property subject to a foreign forfeiture or confiscation judgment.
Consideration of anti-money laundering record (Section 327) Amends 12 U.S.C. § 1842(e) by requiring U.S. bank regulators to consider when approving a bank merger or acquisition the anti-money laundering records of the banks involved.
International cooperation on identification of originators of wire transfers (Section 328) Requires Treasury to consult with the U.S. Attorney General and the Secretary of State to take all reasonable steps to encourage foreign governments to require the inclusion of the name of the originator in wire transfer instructions sent to the United States.
Criminal penalties (Section 329) Any person who is an official or employee of any federal agency who, in connection with administration of the anti-money laundering provisions in the Patriot Act, corruptly receives anything of value in return for being influenced in the performance of any official act will be fined, or imprisoned for 15 years, or both.
Amendments relating to reporting of suspicious activities (Section 351) Amends 31 U.S.C. § 5318(g)(3) so that any financial institution that makes a voluntary disclosure of any possible violation of a law or regulation relating to money laundering is not liable to any other person for such disclosure.
Penalties for violations of geographic targeting orders (Section 353) Amends 31 U.S.C. § 5321(a)(1), 5322, 5324(a), 5326(d). Under prior law Treasury has had the authority to issue orders requiring any domestic financial institution in a geographic area to perform additional record keeping and reporting requirements if reasonable grounds exist for concluding that additional requirements are necessary to carry out anti-money laundering requirements. These amendments expand civil and criminal penalties to include violations of geographic targeting orders issued and violations of regulations.
Authorization to include suspicions of illegal activity in written employment references (Section 355) Amends 12 U.S.C. § 1828 to authorize certain depository institutions to disclose in a written employment reference information concerning a possible involvement in potentially unlawful activity.
Banks secrecy provisions and activities of United States intelligence agencies to fight international terrorism (Section 358) Amends the Right to Financial Privacy Act of 1978, 12 U.S.C. § 3412(a), to allow law enforcement authorities to obtain financial data related to intelligence or counterintelligence activities, investigations, or analysis in an effort to protect against international terrorism.

Increase in civil and criminal penalties for money laundering (Section 363) Amends 31 U.S.C. § 5321(a) & 5322 by increasing from $100,000 to $1,000,000 the maximum civil and criminal penalties for a violation of provisions added to the Bank Secrecy Act by sections 311 and 312 of the Patriot Act.
Bulk cash smuggling (Section 371) Adds section 5332 to Title 31 of the U.S. Code, which makes smuggling large amounts of cash across U.S., borders a crime.
Forfeiture in currency reporting cases (Section 372) Amends 31 U.S.C. § 5317(c), and allows forfeiture of undeclared cash whose source and intended use cannot be established.
Illegal money transmitting businesses (Section 373) Amends 18 U.S.C. § 1960 -- which prohibits operation of an unlicensed money transmission business -- to abolish any requirement that the defendant be aware of the laws requiring money transmitting licenses.
Counterfeiting domestic currency and 0bligations (Section 374) Amends 18 U.S.C. § 470, which prohibits the use of electronic images in counterfeiting.
Counterfeiting foreign currency and obligations (Section 375) Amends 18 U.S.C. § 478 by providing that the penalties for counterfeiting are increased (generally to allow a maximum term of imprisonment of 20 years).
Laundering the proceeds of terrorism (Section 376) Amends 18 U.S.C. § 1956(c)(7)(D) which provides material support to designated foreign terrorist organizations, as a predicate offense for a money laundering prosecution.
Extraterritorial jurisdiction (Section 377) Amends 18 U.S.C. § 1029. Enhances the applicability of computer fraud by covering offenses committed outside the United States that involves an access device issued by a U.S. entity.
Terrorism (Sections 801 to 817) Modernizes anti-terrorism criminal statutes by, among other provisions, making it clear the crime includes bioterrorism, mass transit terrorist acts, cyberterrorism, harboring of terrorists and support for terrorists; that all terrorist crimes serve as predicate offenses for money laundering prosecutions; and that anti-money laundering provisions apply to all terrorists assets, including legally obtained funds, if intended for use in planning, committing or concealing a terrorist act.

Exclusion of aliens (Section 1006) Permits the United States to exclude any alien engaged in money laundering from the United States and requires establishment of a money laundering watch list for officials admitting aliens into the United States.
(3) Required Reports by Treasury
Report and recommendation (Section 324) Requires Treasury within 30 months of enactment of the Patriot Act to make a report on operations respecting the provisions relating to international counter-money laundering measures and any recommendations to Congress as to advisable legislative action.
Anti-money laundering strategy (Section 354) Amends 31 U.S.C. § 5341(b) by directing the Secretary of the Treasury to consider data regarding the funding of terrorism and efforts directed at the prevention, detection and prosecution of such funding as topics for the Anti-Money Laundering Strategy.
Special report on administration of bank secrecy provisions (Section 357) Treasury must submit a report to Congress relating to the role of the IRS in the administration of the records and reports on monetary instrument transactions within 6 months of enactment of the Patriot Act. Report submitted on April 26, 2002.
Efficient use of currency transaction report system (Section 366) Directs Treasury to review the cash transaction reporting system to make it more efficient, possibly by expanding the use of exemptions to reduce the volume of reports, and to submit a report by October 25, 2002. Report submitted on October 25, 2002.
(4) Miscellaneous Provisions
Use of authority of United States executive directors (Section 360) Allows Treasury to instruct the United States Executive Director of each international financial institution to use the voice and vote of the Executive Director to support loans and use of funds of respective institutions or public and private entities within the country if the President determines that a foreign country has taken actions supporting the United State's effort to combat terrorism.
Financial crimes enforcement network (Section 361) Amends 31 U.S.C. § 310 by specifying the responsibilities of FinCEN's director, expanding the duties of FinCEN, and, giving it statutory authority to perform its functions.
Establishment of highly secure network (Section 362) Directs Treasury to establish within FinCEN a highly secure electronic network through which reports (including SARs) may be filed and information regarding suspicious activities warranting immediate and enhanced scrutiny may be provided to financial institutions.
Uniform protection authority for Federal Reserve facilities (Section 364) Amends 12 U.S.C. § 248 by allowing law enforcement officers to protect and safeguard Federal Reserve facilities.

Source: GAO.

Appendix IV: Comments from the Department of the Treasury

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

September 15, 2003

Mr. Richard M. Stana
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United States General Accounting Office
Washington, D.C. 20548

Ms. Davi M. D'Agostino
Director
Financial Markets and Community Investment
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. Stana and Ms. D'Agostino:

Thank you for the opportunity to comment on the September 2003 draft report entitled, "Combating Money Laundering: Opportunities Exist to Improve the National Strategy" (GAO-03-813). We welcome the assessment of both the successes and challenges associated with the National Money Laundering Strategy (NMLS). In particular, we believe that your recommendations for improving the process for creating the NMLS and enhancing accountability of all agencies with responsibility for combating financial crime and the financing of terrorism are important, should Congress reauthorize the enabling legislation.

Treasury is committed to working across agency and departmental lines to develop a cohesive strategy for attacking financial crime and terrorist financing through all available channels, including criminal investigations, the domestic regulatory regime, and the international financial system. In the assessment of the process for creating such a strategy, we appreciate the GAO's recognition of the practical difficulties associated with ensuring accountability for the goals and priorities identified. The dedicated professionals within the U.S. Government share the common goal of stemming the flow of illicit funds and funds intended to finance terrorism; however, that overarching goal and related activities are certainly affected by competing priorities and limited resources. Thus, priorities identified within the NMLS may well shift or be adapted throughout the year to allow for attention to be focused on equally, or even more, important objectives that may arise.

We concur with the assessment that outside events and legislation have a strong influence on the regulatory agenda, and believe that this is appropriate. This is reflected in recent strategies in which we have identified goals and priorities of Treasury and the regulators that arise out of legislation. Treasury, law enforcement, the regulatory community, and the financial services industry have been able to attain a new level of cooperation as a result of recent events, such as the passage of the USA PATRIOT Act. The results have been palpable, such as the issuance of smarter regulations tailored to the financial institutions affected and an enhanced ability to fight financial crime and the financing of terrorism. We have made it part of our strategy to continue to foster this cooperation.

An important purpose of the GAO report on the NMLS is to inform Congress' consideration of whether to reauthorize the legislation requiring future strategies. With this in mind, Treasury has two important comments concerning certain aspects of the draft report as outlined below because we believe that such issues are relevant to Congress' consideration of whether to renew the Strategy Act and, if so, in what form. Specifically:

- The draft report discusses problems associated with the High Intensity Money Laundering and Related Financial Crime Areas (HIFCAs). While the discussion acknowledges the lack of additional resources associated with a HIFCA designation, we think it important to emphasize this point further. In our view, the lack of funds to finance HIFCA operations is an impediment to their creation and viability. Should the Congress choose to reauthorize the HIFCA program, the likelihood of success of that program will in large measure be enhanced by attaching an independent source of funding.

- Treasury takes the position that the requirement contained in 31 U.S.C. § 5341(c) – that the Secretary submit a report to Congress, at the time the NMLS is submitted, evaluating the effectiveness of policies to combat financial crime – has been satisfied by the evaluations of effectiveness contained in the NMLS itself. The draft GAO report suggests that Treasury has not complied with this requirement. Treasury believes that any evaluation of effectiveness logically forms a part of the NMLS.

Treasury remains committed to developing a cohesive strategy to combat the financing of terrorism and financial crime. We look forward to continuing to work with Congress and the GAO to discuss prior strategies and our views concerning the possible reauthorization of the Strategy Act. Thank you for the opportunity to review and comment on the draft report.

Sincerely,

Juan C. Zarate
Deputy Assistant Secretary
Executive Office for Terrorist Financing & Financial Crimes

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Appendix V: Comments from the Department of Justice

U.S. Department of Justice

SEP 15 2003

Washington, D.C. 20530

Mr. Richard M. Stana
Director, Justice Issues
General Accounting Office
Washington, D.C. 20548

Dear Mr. Stana:

Thank you for the opportunity to review the final draft of the General Accounting Office (GAO) report entitled "*COMBATING MONEY LAUNDERING: Opportunities Exist to Improve the National Strategy, GAO-03-813.*" This draft report was reviewed by representatives of the Department of Justice's (DOJ) Criminal Division, Federal Bureau of Investigation, Drug Enforcement Administration and the Executive Office of the United States Attorneys. This letter constitutes the DOJ's formal comments and I request that it be included in the final report. The DOJ's technical comments are provided under separate cover and I understand they will be incorporated appropriately in the final report.

The extensive effort that your staff has put into this report and the opportunity to work with them on this important issue is appreciated. The draft report's analysis of the issues surrounding the National Money Laundering Strategy (NMLS) represents a comprehensive analysis of the strategy process issues over the past five years. We believe that the report's discussion of the strengths and weaknesses of the strategy process will make a significant contribution to future endeavors of this nature.

We would like to comment on several aspects of the draft report. However, preliminarily, we would like to emphasize that, even though we agree that the strategy did not reach its potential for integrating and harmonizing the nation's efforts to combat money laundering, there should be no doubt that the DOJ was fully committed to the strategy process. Over the past five years, the DOJ, along with the Department of the Treasury (Treasury), devoted considerable resources to the strategy process. This is especially true with respect to the High Intensity Money Laundering and Related Financial Criminal Area (HIFCA) program. After the Money Laundering and Financial Crimes Strategy Act (the Strategy Act) was passed in 1998, the Treasury set up an interagency HIFCA Working Group to develop and implement the HIFCA program. This group met industriously over the five-year period to develop a program without any additional resources. All of the participating agencies put forth their best efforts to work together to find the best way to operate the program. The HIFCA Working Group is now in the process of conducting a review of the five years of the HIFCA program. While the results of the HIFCA program and the strategy process as a whole have been varied, this was not due to a lack of commitment or effort despite the unfunded mandate.

With respect to the substance of the draft report, the DOJ agrees with several of the report's observations and conclusions. First, as we stated to the analysts and as reflected in the draft report (p. 48), the Strategy Act did not provide additional funding or otherwise enhance the DOJ or Treasury's ability to develop and implement the annual strategies. As a result, any resources devoted to the strategy process were diverted from other ongoing duties. This limited the amount of resources that could be devoted to the strategy process. The lack of additional resources was especially critical with respect to the HIFCA program, where prosecutors and law enforcement agents in the field were asked to take on additional responsibilities without any resource enhancements. Without supplemental resources, it is difficult to develop and implement a new program.

Second, the DOJ agrees with the conclusion that the strategy process suffered from the lack of a threat assessment and the lack of clear prioritization. We concur with the conclusion that linking the strategy's development to a threat assessment could help set priorities and ensure that limited resources are focused on the areas of greatest need. Without a threat assessment, it is difficult to establish priorities and focus resources.

In conclusion, the DOJ would like to commend the GAO analysts who worked on this report. DOJ representatives met with them on several occasions and they worked diligently to analyze all aspects of this issue in a fair and constructive manner. Their observations and conclusions will be most helpful in assessing the role that the strategy process has played in the federal government's efforts to combat money laundering. The DOJ is committed to continuing and improving our efforts in this regard and looks forward to working with the GAO in the future on the important issue of money laundering.

Sincerely,

Paul Corts
Assistant Attorney General
for Administration

cc:
Julie Wellman, Audit Liaison, Criminal Division
Donna Enos, Audit Liaison, USA
Marji Snider, Audit Liaison, DEA
Monica McLean, Audit Liaison, FBI

Appendix VI: Comments from the Department of Homeland Security

U.S. Department of Homeland Security
Bureau of Immigration and Customs Enforcement

425 I Street NW
Washington, DC 20229

SEP 25 2003

Mr. Richard M. Stana
Director, Homeland Security and
Justice Issues

Ms. Davi M. D'Agostino
Director, Financial Markets and
Community Investment

U.S. General Accounting Office
441 G Street, NW
Washington, DC 20548

Dear Mr. Stana and Ms. D'Agostino:

We have received your draft report, *Combating Money Laundering: Opportunities Exist to Improve the National Strategy, GAO-03-813* and appreciate being provided the opportunity to comment. Overall we agree to work with the Secretary of the Treasury as recommended and we will do our part to implement necessary actions to address concerns raised in the report. Below we have commented on each recommendation as well as on information presented in the report.

Recommendation: Strengthen the leadership structure responsible for strategy development and implementation by establishing a mechanism that would have the ability to marshal resources to ensure the strategy's vision is achieved, resolve disputes between agencies, and ensure accountability for strategy implementation.

We wish to note the lack of funding to support the High Intensity Laundering and Related Financial Crime Areas (HIFCA) program, one of the major initiatives in the National Money Laundering Strategy (NMLS) to enhance information sharing and coordinated investigative activity among federal, state and local law enforcement agencies, impacted the effectiveness of implementing the strategy. The establishment of the Department of Homeland Security should, in time, eliminate duplicative functions and enhance coordination of intelligence and investigative efforts among its component law enforcement agencies.

Recommendation: Link the strategy to periodic assessments of threats and risks, which would provide a basis for ensuring that clear priorities are established and focused on the areas of greater need.

We agree with the intent of the recommendation.

Recommendation: Establish accountability mechanisms, such as (1) requiring the principal agencies to develop outcome-oriented performance measures that must be linked to the NMLS' goals and objectives and that also must be reflected in the agencies' annual performance plans and (2) providing Congress periodic reports on the strategy's results.

We agree that Congress should be provided with periodic reports analyzing the results and effectiveness of the NMLS, and we look forward to working on an interagency basis to provide this information to the Congress.

Additional Departmental Comments

HIFCA task forces generally had not yet been structured and operating as intended.

Page 21 (first paragraph) states that HIFCAs were expected to have a key role in the Federal Government's efforts to disrupt and dismantle large-scale money laundering. They were intended to improve the coordination and quality of federal money laundering investigations by concentrating the investigative expertise of federal, state, and local agencies in unified task forces, thereby leveraging resources and creating investigative synergies. While neither the Money Laundering and Financial Crimes Strategy Act nor the annual NMLS specified a time frame for when designated HIFCAs were to become fully operational, we found the task forces had made some progress but generally had not yet been structured and operating as intended.

DHS Comments: A significant impediment was that no source of permanent funding was provided for HIFCA. Funds have not been available to support co-location of facilities and equipment, which would have facilitated collaboration and joint investigations by federal, state and local law enforcement.

NMLS initiatives to enhance coordination of law enforcement investigations generally were not addressed or were still ongoing.

Page 31 (second paragraph) states Drug Enforcement Administration (DEA) and Federal Bureau of Investigation (FBI) officials told the Government Accounting Office (GAO) their agencies did not use the Money Laundering Coordination Center because they could not reach a satisfactory memorandum of understanding regarding participation, including controls over the dissemination of information. DEA officials added the center does not meet DEA's needs because it is used for deconfliction only.

DHS Comments: On scores of occasions, the Money Laundering Coordination Center provided information to the DEA, FBI, Internal Revenue Service and U.S. Postal Inspection Service. The Money Laundering Coordination Center identifies crossovers between money laundering operations and investigations worldwide; coordinates the exchange of money laundering information between agencies; and identifies methodologies and trends gathered from financial investigations, outbound currency operations, and Foreign Investigative Teams. DEA was the most active outside agency user of the Money Laundering Coordination Center with over 20 requests for assistance.

Most law enforcement coordination initiatives were not addressed or were still ongoing.

Page 32 (second paragraph) states according to the 2002 NMLS and our discussions with law enforcement officials, the lack of uniform guidelines inhibits some agencies from participating in investigations that have an international component. For example, a DEA official told us DEA guidelines generally are more restrictive than guidelines used by Customs (as part of U.S. Immigration and Customs Enforcement (ICE)) in (1) obtaining approval to initiate and continue undercover investigations and (2) coordinating activities with foreign counterparts. Therefore, the officials noted that DEA generally could not participate in

international undercover money laundering investigations led by U.S. Immigration and Customs Enforcement.

DHS Comments: U.S. Immigration and Customs Enforcement's Undercover Review Committee, of which the Department of Justice is a participant, reviews the progress of each certified undercover operation every 6 months. If the undercover operation is not achieving minimum goals or its performance is unsatisfactory, the operation is closed. Department of Justice representatives at committee meetings are extended an opportunity to vote in favor of or disapprove all undercover operations.

Agencies did not fully coordinate terrorist financing investigations.

Page 37 (first paragraph) states at the operational level, GAO found some interagency coordination of terrorist financing investigations existed between agency Headquarters' components. For example, Operation Green Quest and the Terrorist Financing Operations Section had assigned one agent to each other's Headquarters in Washington, DC. The FBI also was to provide information on its activities to Operation Green Quest through daily downloads from the FBI's terrorist financial database. Further, Operation Green Quest and FBI officials told GAO that local mechanisms existed around the country to deconflict investigations.

DHS Comments: The interagency participation, including FBI, at the Operation Green Quest Headquarters task force was specifically designed to deconflict and coordinate field investigations. This process included complete access to investigative data and vetting of information to insure no duplication of effort occurred at the Headquarters and field office levels.

Agencies did not fully coordinate terrorist financing investigations. (Continued)

Page 37 (second paragraph) states that while Operation Green Quest and the FBI task forces took steps to inform each other about the targets of their investigations, GAO found the task forces did not fully coordinate their activities. For example, at the three locations GAO visited (Los Angeles, Miami, and New York City), Operation Green Quest and Joint Terrorism Task Force officials told GAO they generally were not aware of each other's financial investigations and the task forces generally did not share investigative information. Several officials indicated there were problems with conflicting or competing investigations, including disagreements over which task force should lead investigations. Officials at all three locations noted the Government's anti-terrorist financing efforts could be improved if the task forces worked more closely with each other or were combined.

DHS Comments: Coordination of terrorist financing investigations was conducted at both the Headquarters and field levels. Operation Green Quest had a targeting and coordination center located at ICE Headquarters in Washington, DC. Staffed by agents and analysts from the various participating agencies, including the FBI, the center collected, managed, and disseminated financial leads to ICE field agents around the country. The center also coordinated and deconflicted all terrorist-financing investigations with the participating member task force agencies to minimize duplication of investigative efforts aimed at terrorist financing networks. This deconfliction took place on a daily basis at Headquarters and through ICE agents assigned to the Joint Terrorism Task Force at field offices.

May 2003 Interagency Agreement defined agency roles.

Page 38 (third paragraph) states that on May 13, 2003, the Attorney General and the Secretary of Homeland Security signed a Memorandum of Agreement (MOA) regarding the anti-terrorist financing roles of the respective departments and component agencies. In general, the agreement gives the FBI the lead role in investigating terrorist financing and specifies that DHS is to pursue terrorist financing investigations solely through its participation in FBI-led task forces, except as expressly approved by the FBI.

DHS Comments: Under the MOA, ICE and the FBI developed collaborative procedures to determine whether a case is related to terrorism or terrorist financing and should be referred to the Joint Terrorism Task Forces. These procedures govern all past, current and future cases with terrorist links. The MOA promotes the sharing of intelligence and information between the two organizations. To facilitate the exchange of information we have created a Joint Vetting Unit within the Financial Investigations Division at ICE Headquarters. The Joint Vetting Unit uses the existing Operation Green Quest vetting methodology to identify financial leads or investigations with a nexus to terrorism or terrorism financing. It will be staffed by ICE and FBI personnel who will have full access to relevant databases to conduct reviews to determine whether ICE leads the appropriate investigation or determine if the investigations have a nexus to terrorism or terrorist financing.

Additionally, as per the MOA, the Financial Investigations Division has assigned two agents to the FBI, one of whom is a senior manager, currently in the position of Deputy Section Chief of Terrorist Financing Operations Centers.

Thank you again for the opportunity to respond to the draft report. If you have any questions, please contact Kathleen Stanley, Audit Liaison, U.S. Immigration and Customs Enforcement, at (202) 353-8031.

Sincerely,

Michael J. Garcia
Acting Assistant Secretary

Appendix VII: GAO Contacts and Staff Acknowledgments

GAO Contacts

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Acknowledgments

In addition to those named above, Allison Abrams, Thomas Conahan, Eric Erdman, Barbara Keller, Marc Molino, Jan Montgomery, Robert Rivas, Barbara Roesmann, and Sindy Udell made key contributions to this report.

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