

# Progress in the Financial War on Terrorism

September 11, 2002

*Today, the FDIC solemnly recognizes the one-year anniversary of the Attack on America and remembers those who lost their lives on that terrible day.*

This issue of FYI summarizes the progress that has been made over the past 12 months in the financial war on terrorism. The FDIC is proud to work closely with the Office of Homeland Security (OHS), the Department of the Treasury, and our fellow state and federal financial regulators to stem the flow of terrorist funds, provide technical assistance to foreign governments, and safeguard the nation's critical banking and finance infrastructure.

## **Stemming the Flow of Terrorist Funds**

The FDIC is participating on several Treasury Department working groups to implement provisions of Title III of the [USA PATRIOT Act](#) signed into law by President Bush on October 26, 2001. The Act expands the U.S. anti-money laundering umbrella to industries not previously subject to this type of regulation. It also marks the first time the United States has taken its money laundering regulations offshore – applying recordkeeping and monitoring requirements to the foreign branches of U.S. banks and foreign institutions operating in the U.S.

The Act calls for enhanced due-diligence procedures in U.S. banks for private banking accounts opened for foreign individuals and correspondent accounts opened for foreign banks. The rule specifically requires that these procedures be designed to detect and report money laundering and other illegal activities.

A number of important provisions of the Act that involve the FDIC are currently being implemented, as detailed below in Appendix 1.

In addition, the FDIC began working with the other federal financial institution regulators and the Federal Bureau of Investigation in October 2001 to establish a system to facilitate cooperation with law enforcement authorities in their ongoing investigation of terrorist activities. The [Financial Crimes Enforcement Network \(FinCEN\)](#) is working to consolidate, streamline and secure communications between FDIC-insured institutions and government regulatory and law enforcement bodies. FinCEN is mandated to establish these systems by the USA PATRIOT Act, and is working with the FDIC and the other regulators to complete the project.

## **Providing Technical Assistance to Foreign Governments**

The FDIC has long provided foreign technical assistance to help developing countries construct and maintain sound banking systems. Strong governance in foreign banks contributes to the stability of foreign economies which enhances trade opportunities for United States companies; limits the risks of contagion to this country from the failure of foreign banks; and reduces opportunities for money laundering supporting corruption, criminal activities and terrorism.

The FDIC is actively participating in working groups and technical assistance missions sponsored by the State and Treasury Departments to assess vulnerabilities to terrorist financing activity worldwide, and to develop and implement plans to assist foreign governments in their efforts in this regard. Last year the FDIC participated in 10 technical missions to countries in Asia, Eastern Europe and Latin America.

The FDIC has also participated in a number of meetings with the [Financial Action Task Force \(FATF\)](#), including a special FATF Money Laundering plenary held in Washington, D.C. in October 2001. This plenary developed a set of anti-terrorist funding recommendations that would be used as standards by the international community when assessing a country's vulnerabilities to terrorist funding and the adequacy of the measures it has in place to curtail such activity.

In addition, through participation on the [Basel Committee](#) the FDIC has been involved in the decision-making process that led to the approval and issuance of a number of international guidelines on money laundering and terrorism.

### **Safeguarding the Nation's Critical Banking and Finance Infrastructures**

The FDIC works with the OHS and the Office of Cyberspace Security through the [Finance and Banking Information Infrastructure Committee \(FBIIC\)](#) on efforts to improve the reliability and security of the financial industry's infrastructure.<sup>1</sup> The Treasury Department has been named as the primary coordinating body for critical infrastructure initiatives of the financial services industry and, as such, chairs the FBIIC.

The FBIIC is undertaking several initiatives aimed at protecting the critical infrastructure of the banking and finance sectors, all of which have FDIC participation. See Appendix 2 for details on FBIIC initiatives.

In addition, the FDIC participates on the Emergency Supervision Communications Group of the Federal Financial Institutions Examination Council (FFIEC). This interagency group is a subcommittee of the FFIEC's Supervision Task Force that is charged with developing FFIEC Supervisory Emergency Communication Protocols that focus on maintaining our supervisory responsibilities in times of emergency.

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In a September 9, 2002 speech at the Institute of International Bankers' annual membership luncheon in New York, NY, FDIC Chairman Don Powell discussed how the terrorist attacks of September 11, 2001 have affected the banking industry in the last year. The text of Chairman Powell's remarks is available at <http://www.fdic.gov/news/news/speeches/archives/2002/sp09sep02.html>.

### **Appendix 1 - Implementation of Banking-Related Provisions of the USA PATRIOT Act of 2001**

- [Section 312 — Enhanced Due Diligence](#). A proposal was published in the [Federal Register](#) on May 30, 2002, calling for banks to conduct enhanced due diligence procedures for any private banking accounts opened for foreign individuals, and correspondent accounts opened for foreign banks. The procedures are designed to detect money laundering or other illegal activity.
- [Section 313 — Prohibition on Correspondent Accounts with Foreign Shell Banks](#). This interim final rule that became effective on December 5, 2001, amends 31 USC 5318(j) by prohibiting financial institutions from providing correspondent accounts to foreign "shell banks" (banks that do not have a physical presence in any country). Foreign banks with accounts in the U.S. were asked to sign a certification that they are not shell banks and have a physical presence in some location, or are affiliates of a bank with a physical presence. The FDIC issued a financial institution letter ([FIL-110-2001](#)) to notify banks of the rule change.
- [Section 314 – Cooperative Efforts to Deter Money Laundering](#). An interim final rule and a proposed rule were published in the [Federal Register](#) on March 4, 2002. The interim rule requires banks to complete an annual certification to the Treasury Department that allows them to discuss with other institutions any matters involving terrorist financing or money laundering that may arise

during the upcoming year. Comments on this rule have been reviewed. The Treasury Department has begun a pilot program to test secure communications links between government agencies and financial institutions that can be used to file suspicious activities reports and issue alerts.

- [Section 326 – Minimum Standards for Customer Identification](#). A proposed rule was published in the [Federal Register](#) on July 23, 2002 that would specify minimum types of information a bank will be required to gather about new account holders and allows each institution to determine the most appropriate types of identification it will accept. A final rule is due by October 26, 2002.
- [Section 327 – Consideration of Anti-Money Laundering Record](#). As directed by the Act, the FDIC has issued internal directives and a financial institution letter ([FIL-82-2002](#)) to make a bank's effectiveness in combating money laundering activities a factor in considering merger applications. The provision applies to Bank Merger Act applications submitted after December 31, 2001.
- [Section 352 – Minimum Standards for Anti-Money Laundering Programs](#). A proposed rule was published in the [Federal Register](#) on April 29, 2002 that extends to non-bank financial institutions a series of requirements for training, review and compliance activities already required of banks under the Bank Secrecy Act (FDIC part 326, subpart (b)).

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## **Appendix 2 - Current Initiatives of the Finance and Banking Information Infrastructure Committee (FBIIC)**

Current FBIIC initiatives include:

- Financial Industry Infrastructure Assessment. This initiative, undertaken at the request of the Critical Infrastructure Protection (CIP) Board, identifies critical infrastructure assets, their locations, potential vulnerabilities, and prioritizes their importance to the financial system.
- Public/Private Partnership. The FBIIC named a private sector coordinator for a partnership between the government and the financial services industry to strengthen critical infrastructure protection initiatives.
- Industry Communication. The FDIC is assisting the OHS and the CIP Board in establishing secure communications with insured institutions for the purpose of communicating during an emergency.
- Sponsorship of Private Sector Institutions in Programs of the [National Communications System \(NCS\)](#). The FBIIC is developing policies on the sponsorship of NCS Priority Telecommunications Access services for private sector institutions. The committee's interim policy on the Government Emergency Telecommunications Service (GETS) Card Program was issued in late July. The FDIC issued a financial institution letter ([FIL 84-2002](#)) that describes the GETS Card Program, sets out the criteria to be used by FBIIC agencies to determine whether a private sector entity qualifies for federal sponsorship, and explains how FDIC-supervised financial institutions can obtain federal sponsorship for the issuance of GETS cards to key personnel.
- Roundtable on Continuity of Operations Planning. This initiative focuses on the continuity of operations of FBIIC agencies. Recently, the FDIC presented a briefing to attendees at a roundtable meeting on the development of our business continuity and emergency response

plans and lessons learned during the creation of those plans.

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<sup>1</sup> Members of FBIIIC include the federal financial regulatory agencies, the National Association of Insurance Commissioners, and representatives from OHS, OCS, and other national defense organizations. The federal financial regulatory agencies are the Commodity Futures Trading Commission (CFTC), Federal Reserve, FDIC, National Credit Union Administration (NCUA), Office of the Comptroller of the Currency (OCC), Office of Thrift Supervision (OTS), the Securities and Exchange Commission (SEC), and the Treasury Department.