

House Committee on Financial Services

Subcommittee on National Security, International Development, and Monetary Policy

Dollars against Democracy: Domestic Terrorist Financing in the Aftermath of Insurrection

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Introduction

Chairman Himes, Ranking Member Hill, and distinguished members of the subcommittee, thank you for the opportunity to appear before you today to talk about how the U.S. government (USG), and in particular the U.S. Department of the Treasury, can employ similar tools and strategies against white nationalist and other domestic terrorist groups as it has employed against global jihadist groups over the past two decades.

This is a personal issue for me. During my time at the Treasury Department, I fought to cut off funding to terrorist groups such as al-Qaeda, the Islamic State, and Hezbollah. As a deputy assistant secretary in the Bush administration and eventually as the assistant secretary for terrorist financing in the Obama administration, my primary responsibility was to lead the design and implementation of strategies to attack the financial networks of these groups and other threats to our country's national security. And while we should never let down our guard with respect to those still-potent terrorist organizations, it has become tragically clear that there are domestic extremist groups that in some ways present an even greater threat to our ideals and our democracy.

The events of January 6 cast this threat into stark relief, but racially and ethnically motivated violent extremists (REMVEs) have been on the rise for many years. We have the responsibility to target those extremist groups with the same determination, creativity, and sense of purpose that we displayed in the years following 9/11. To be sure, counter-illicit finance strategies are not silver bullets. There are practical and constitutional limitations to domestic action that do not arise in the global context, and it is imperative that we adhere to constitutional requirements in applying these tools domestically.

But if there is one thing that the Treasury Department has demonstrated since the establishment of its Office of Terrorism and Financial Intelligence in 2004, it is that any comprehensive, all-of-government response to a national security threat must include a strategic financial component. It is my hope and expectation that the new leadership at the Treasury Department will turn its attention to precisely that challenge, and below I offer some thoughts on how Treasury could shape its approach.

Development of a Counter-Illicit Finance Strategy

From the outset, I must be clear that the purpose of a counter-illicit finance strategy is not to replace the traditional law enforcement tools of the Justice Department, FBI, or other federal, state, and local law enforcement agencies. Those law enforcement activities – including investigations, prosecutions, and criminal and civil forfeiture – will remain the foundation of any domestic effort.

Supplementing those efforts, the USG counter-illicit finance strategy should seek to hinder REMVEs' ability to use the financial system to mask their identities and to raise and move funds. An effective strategy should ensure the U.S. financial system is a hostile environment for REMVE financing, making it costlier and riskier for these groups to engage in financial activity and advance their nefarious ends. The first step must be to understand the typologies and

methods by which such groups raise and move funds, and to map out their financial networks. This first step should be followed by two general categories of actions: 1) “Offense” – undermining the financial networks that support these groups; and 2) “Defense” – taking systemic action within the financial system to make it less vulnerable to abuse by these groups.

1. Understanding the Financial Networks and Activities of REMVE Groups

It is sometimes stated that REMVE groups are less vulnerable to financial measures because of their informal and decentralized structure. I believe that this is a hypothesis that has yet to be tested. Any group that engages in organized activity needs to raise and move funds. And when those activities extend nationwide or globally, it only increases such groups’ reliance on the financial system.

The USG should undertake a comprehensive effort to understand how REMVE groups are accessing the financial system, and to the extent possible, to map their financial networks. With respect to groups that operate domestically, the USG will need to rely not just on law enforcement information, but also on financial analysis from the Treasury Department’s Financial Crimes Enforcement Network, and on information and insights gleaned from public-private partnerships with financial institutions and other stakeholders. REMVE groups that operate globally are further subject to collection by intelligence agencies, and U.S. authorities can likewise benefit from information exchange with foreign authorities tracking these groups. Information exchange can occur bilaterally with our allies and partners or through multilateral groups such as the Financial Action Task Force, the Egmont Group of Financial Intelligence Units, or the G-7.

2. Targeted Financial Measures

Once the financial networks and activities of REMVE groups are better understood, the USG should consider the application of targeted financial measures. The USG currently has the authority needed to apply targeted financial sanctions against foreign REMVE groups, and it began to do so last spring with the designation of the Russian Imperial Movement (RIM) as a Specially Designated Global Terrorist. As a result, U.S. persons are required to freeze the assets of, and are prohibited from engaging in any transactions with, this group. This designation also allows the U.S. government to pursue criminal action against domestic actors who receive or provide material support from or to RIM. Importantly, it also provides the foundation for a Treasury Department financial campaign against RIM composed of follow-on designations targeting RIM’s foreign financiers and facilitators.

Unfortunately, the USG has yet to target additional foreign REMVE groups. In addition, and in contrast to previous campaigns against jihadist groups, Treasury has not followed up the initial RIM designation with a financial pressure campaign involving waves of sanctions seeking to dismantle facilitation networks. I encourage the USG to pursue such a campaign as a priority matter.

The Treasury Department could also deploy Section 311 of the USA PATRIOT Act to target foreign financial institutions or classes of transactions that support the financial networks of

foreign extremist groups. Section 311 empowers the Secretary of the Treasury to identify a foreign financial institution or class of transactions that poses a money laundering or terrorist financing threat to the U.S. financial system, and instruct U.S. financial institutions to take specific actions to protect themselves from the identified threat. Such actions could include a variety of measures up to and including cutting the identified threat off from the U.S. financial system. The menu of regulatory options under Section 311 provides Treasury with a flexible and graduated set of responses to specific threats.

Practical and constitutional constraints give the USG far less ability to apply targeted financial measures against domestic REMVE groups. Congress should consider legislation allowing for the criminal prosecution of actors that provide material support to domestic REMVE groups. Beyond that, it could also consider legislation allowing for sanctions-like or 311-like authorities to protect the U.S. financial system from abuse by domestic groups. Such authorities will need to be tailored to ensure that the government complies with constitutional requirements, including First Amendment restrictions on how groups are targeted and due process restrictions on how such measures are applied. One consideration could be to forego the asset freezes usually associated with sanctions in favor of some of the more limited enhanced reporting or customer due diligence requirements contained in Section 311.

3. Systemic Preventative Financial Measures

There are measures that the USG can take today to make the U.S. financial system less vulnerable to abuse by REMVE groups. The United States has a robust anti-money laundering and countering the financing of terrorism (AML/CFT) regime, and the enactment of legislation last month imposing new beneficial ownership reporting requirements will make it even more difficult for illicit actors to hide within the financial system and engage in anonymous transactions. The U.S. AML/CFT regime, however, can always be fine-tuned and adjusted to address a variety of vulnerabilities, including those presented by REMVE groups. The potential measures in Treasury's AML/CFT toolbox include:

- The issuance of guidance to financial institutions on REMVE financial typologies, methodologies, and red flags;
- The establishment of public-private partnerships to ensure effective cooperation and communication between government—federal law enforcement and supervisory authorities—and the private sector, including financial institutions, and social media and technology companies that are involved in the movement of money or value;
- The use of the information-sharing authorities created by Section 314 of the USA PATRIOT Act to share with financial institutions the names of individuals or entities suspected of criminal activity associated with REMVE groups;
- The use of Geographic Targeting Orders (GTOs) to collect information on the financial activities of REMVEs engaged in criminal activity; and
- Adjustments to the Suspicious Activity Report form to highlight the importance of identifying suspicious activity relating to REMVE groups.

Taken together, these measures will strengthen the ability of financial institutions to identify, report, and impede the financial activity of REMVE groups, and will ensure that the U.S. financial system is a hostile environment for these groups.

Thank you again for the opportunity to testify. I look forward to answering your questions.