Oversight of the Office of Terrorism and Financial Intelligence (TFI) and the Financial Crimes Enforcement Network (FinCEN)

House Financial Services Committee

Subcommittee on National Security, Illicit Finance, and International Financial Institutions

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Under Secretary Brian E. Nelson

U.S. Department of the Treasury

Written Testimony

Introduction

Good afternoon, Chair and Ranking Member, and distinguished members of the sub-committee. Thank you for the opportunity to speak with you about the Treasury Department's efforts and achievements on anti-money laundering and countering the financing of terrorism or “AML/CFT”, and the critical work that Treasury’s Office of Terrorism and Financial Intelligence or “TFI” does to safeguard the United States and international financial systems.

The offices I lead, which include the Office of Foreign Assets Control, known as OFAC, the Office of Intelligence and Analysis, or OIA, the Office of Terrorist Financing and Financial Crimes (TFFC), the Financial Crimes Enforcement Network, or FinCEN, and the Treasury Executive Office for Asset Forfeiture of TEOAF, are tasked with deploying our financial intelligence, expertise, and economic authorities to combat terrorist financing, money laundering, weapons proliferators, corrupt actors, and other national security threats. In the past few years, the demand for TFI’s expertise has grown exponentially, and in the past year alone, the Department has played a pivotal role on a range of national security priorities in the Biden-Harris Administration, including a central role in the United States’ and our allies’ response to Russia’s further invasion of Ukraine.

TFI Evolution

While the recent impacts of TFI are apparent, the work of the Department on national security issues began well before TFI was formally established. OFAC began its work in 1940 at the onset of World War II, when a small group of Treasury officials made the decision to leverage the Department’s tools to freeze the U.S.-based assets of European countries under Nazi occupation, and support Jews in Europe fleeing Hitler’s oppression.

This is an early example of how Treasury was able to leverage our economic power to support the United States' foreign policy and national security objectives.

FinCEN was created in 1990 to support federal, state, local, and international law enforcement by analyzing the information required to be reported by U.S. financial institutions to FinCEN under the Bank Secrecy Act, the first major piece of legislation that gave Treasury the tools needed to fight money laundering and other illicit financial activity.

Following the attacks of September 11, 2001, and the focus on executing a whole-of-government effort to countering terrorism, strengthened by the USA PATRIOT Act in 2004, Congress and the Executive Branch had the vision and foresight to combine under one office a broad range of powerful economic tools, including economic sanctions, anti-money laundering measures, enforcement, foreign engagement, policy coordination, asset forfeiture, and intelligence and analysis, among others. We remain the only country that combines these economic authorities, including an intelligence department, within one office, which helps the United States respond effectively and nimbly to the country's greatest illicit finance and national security threats.

TFI marshals the Department's intelligence and enforcement functions with the twin aims of safeguarding the financial system against illicit use and combating corrupt regimes, terrorist facilitators, weapons of mass destruction proliferators, money launderers, drug kingpins, and other national security threats.

While the scope of our work has evolved over time, our efforts today are focused on identifying and disrupting threats to our national security through the use of our economic and financial tools.

Now, more than ever, Treasury is at the forefront of our nation's response to critical national security crises. As we noted in our 2021 Sanctions Review, economic and financial sanctions are "a tool of first resort to address a range of threats to the national security, foreign policy, and economy of the United States." Treasury through its targeted and precise tools is leading the effort to impose costs on Russia for Putin's unlawful occupation of Ukraine, mindful that we should also have these tools at hand for any potential crises in the future.

Simultaneously, we understand that illicit actors have taken advantage of vulnerabilities in the United States and international financial systems. As such, we continue to focus on ways, through regulatory actions, enforcement actions, and public-private partnerships, to strengthen our own AML/CFT regime, and work with partners and allies to strengthen theirs as well.

Threats to the United States Financial System

The United States, as a global leader, brings its economic power to bear against illicit activities and national security threats. One of TFI's core missions is to safeguard the domestic and international financial systems from abuse by identifying and closing vulnerabilities that illicit actors use to support their networks. Working alongside our interagency partners, international counterparts, civil society organizations, and the private sector, we advance these interests by: (1) administering the Bank Secrecy Act and promulgating regulations to ensure that the United States has a comprehensive and risk-based AML/CFT framework; (2) identifying and publishing typologies of illicit finance that present systemic threats to the domestic and international financial systems; (3) collecting, analyzing, and, as appropriate, sharing information reported under the Bank Secrecy Act, and starting next year, under the Corporate Transparency Act; (4) strengthening and expanding international standards to combat money laundering, and terrorism and proliferation financing, and to enhance transparency across the international financial system, including by working with foreign government partners to effectively implement AML/CFT international standards; (5) taking appropriate enforcement, regulatory, sanctions, and other actions against jurisdictions, actors, and financial institutions that threaten the U.S. financial system; and (6) working with the private sector and non-governmental organizations as they are on the front lines, protecting the U.S. and international financial systems.

This approach gives TFI the flexibility to help us identify systemic threats to the domestic and international financial systems and effectively respond. Moreover, this approach enables us to balance the national security imperative with economic considerations, as we seek to mitigate the unintended consequences of the application of our tools. For example, after multiple consultations with the humanitarian sector, the United States co-led the development of the humanitarian carveout Resolution at the United Nations and moved quickly to implement the carveout through general licenses and related guidance in our domestic sanctions regimes. As Deputy Secretary Adeyemo said at the time, these licenses "reflect the United States' commitment to ensuring that humanitarian assistance and related trade continues to reach at-risk populations through legitimate and transparent channels, while maintaining the effective use of targeted sanctions…"

Sanctions continue to be an effective tool of U.S. foreign policy. As evidenced by the U.S. response to Russia's aggression in Ukraine, since the beginning of Russia's war, our efforts have involved the issuance of four executive orders, over 80 new or amended general licenses, over 200 responses to frequently asked questions, and more than

1,600 new and 700 amended designations. As the Deputy Secretary recently noted, “our response to Russia has been rooted in multilateralism. Our coalition of more than 30 nations, representing over 50 percent of global economy, came together within three weeks of the further invasion of Ukraine.” We have held countless meetings around the world to coordinate with allies and partners, and engage with financial institutions, energy market analysts, and other stakeholders.

The efforts of the U.S. and our allies have resulted in immobilizing Russia’s central bank reserves, as well as sanctioning and de-SWIFTing some of Russia’s largest banks. Our sanctions and export controls—implemented by the Department of Commerce—have degraded Russia’s ability to replace over 10,000 tanks and pieces of equipment” lost since the start of the war, forced production shutdowns at key defense facilities, and caused shortages of essential components for tanks and aircraft production. Russia is running out of munitions and has lost as much as 50 percent of its tanks. At the same time, our allies and partners have joined us in providing Ukraine with state-of-the-art military equipment, while Russia has been forced to turn to mothballed Soviet-era weapons.

Bloomberg Economics estimates that through 2026, Russia’s GDP will grow $190 billion less than it would have according to pre-war projections. The best educated, most productive Russian citizens have left, which will dramatically reduce the economic capacity of the country.

Our work of course continues, and as we move forward, we are also focusing our efforts on looking and adapting to ways Russia is seeking to evade our sanctions.

And, as part of this effort, the United States, along with a coalition of countries including the G7, Australia and the European Union, implemented a novel “price cap” policy to maintain a reliable supply of oil to the global market while reducing the revenues the Russian Federation earns from oil after its war of choice in Ukraine inflated global energy prices.

At the same time, we recognize, along with the rest of the Administration, the strategic challenge the People’s Republic of China poses to the effective functioning of the international, rules-based order. This challenge grows more apparent with the deepening ties between the PRC and Russia, and the Department is tracking the implications of this trend closely. In the context of Russia’s war in Ukraine, Secretary Yellen has stated that “we will certainly continue to make clear to the Chinese government and the companies and banks in their jurisdiction about what the rules are regarding our sanctions and the serious consequences they would face for violating them.” We also continue to monitor closely the risk of increased PRC aggression against Taiwan, the PRC’s campaign of economic coercion, and the implications these actions have on the global economy.

TFI has also continued to do groundbreaking work to respond to North Korean ransomware attacks, North Korea’s provision of arms to Russia, Iran’s development and export of drones and procurement of missile and other components necessary for its nuclear and ballistic missile programs, the Qods Force and Hezbollah’s involvement in Iran’s petroleum and petrochemical smuggling activities, state capture and significant corruption in Eastern Europe, Central America, and Sub-Saharan Africa, and targeting the proceeds of fentanyl trafficking and human smuggling networks operating along our southern border.

Domestic and other International Efforts

As the largest economy in the international financial system, the United States bears responsibility to close the deficiencies in our own domestic AML/CFT regime, while increasing transparency and accountability in the U.S. and international financial systems. A strong AML/CFT framework makes it harder for illicit actors to abuse the U.S. and international financial systems, while also allowing us to target more effectively those who nevertheless slip through.

The Bank Secrecy Act, as enhanced by the USA PATRIOT Act, gave TFI the ability to strengthen the U.S. AML/CFT regime in impactful ways. The latest tools, given to us by you in Congress, are available as a result of the bipartisan Anti-Money Laundering Act of 2020 or “AMLA”. As you will hear more today, implementing the AMLA and the Corporate Transparency Act or “CTA”, is my top priority. In late September, FinCEN took a historic step in support of U.S. government efforts to crack down on illicit finance and enhance transparency, by issuing a final rule to implement the CTA’s beneficial ownership information reporting requirement. The rule addresses deficiencies in our AML regime as identified by both U.S. government officials and the Financial Action Task Force or “FATF”, the AML/CFT/counter proliferation financing international standard setting body, and delivers on commitments we made in the first-ever U.S. Strategy on Countering Corruption.

As Secretary Yellen stated last month at the Summit for Democracy, by this time next year, it will be more difficult for corrupt and criminal actors to hide their identities and wealth behind anonymous shell companies in the United States. Starting January 1, 2024, thanks to the authorities granted by Congress, many companies formed or operating in the United States will be required to report information about their beneficial owners to FinCEN. As you all know, this is the key step that we can take to make our financial system harder for illicit actors to exploit. That rulemaking, however, is just one small piece of a much broader regulatory agenda that includes work on real estate, investment advisers, and reform of the U.S. AML/CFT regime.

We are cognizant that the requirement will mean new reporting efforts from small businesses, and as you will hear shortly from Acting Director Das, we are working on developing guidance materials and responses to frequently asked questions, and a support helpline to assist small businesses and help minimize the amount of effort it will take for small business owners to comply with the CTA's reporting requirement while ensuring that it remains highly valuable to law enforcement.

The AMLA further established several of our authorities that have been instrumental in countering Russia's ability to wage war in Ukraine. Among them our public-private partnership tools, like the FinCEN Exchanges that FinCEN hosts, that bring together law enforcement, financial institutions, and Treasury experts to focus on emerging threats and threat actors. FinCEN has also bolstered our use of the Egmont Group of Financial Intelligence Units to harness greater cooperation among like-minded countries seeking to deny Russia access to the global financial system to support its aggression.

Beyond our AMLA and CTA regulatory agenda and our work to combat corruption, we must continue to do more to address the de-risking impacting the humanitarian community, small nation states, and generally underserved populations. Our work on de-risking and financial inclusion is very important to me, and I believe it to be critical in maintaining the overall strength of the U.S. financial system as the center of the international financial system. For the past year, Treasury has been studying this phenomenon of de-risking and how to address the issue. As such, on April 25, Treasury released its first ever De-risking Strategy, which identifies the key customer categories that are impacted most often by de-risking, the top causal factors behind de-risking, and the recommended policy options for combatting the phenomenon. In the coming weeks and months, Treasury will be reaching out to our partners in the public and private sector to help coordinate the best path forward to implement the policy options in the strategy.

As I mentioned earlier, a key part of our work also relates to the international work to which we are committed. We continue to focus on raising standards for AML/CFT at international fora, like the FATF. We continue to work with our partners and allies to build international coalitions, such as the Russian Elites, Proxies, and Oligarchs (REPO) Task Force, to make it harder for illicit actors to evade U.S. sanctions and other U.S. laws by stashing their wealth in the international financial system.

Through all this work, our partnership with the private sector and civil society is paramount. We could not do our work effectively, or at all, without this close partnership, and I am also focused on further nurturing this partnership, including sharing information, and maintaining a proactive dialogue with those on the front lines. The safeguards employed by the private sector, and the information reported, help us prevent malign actors from abusing our financial system, and to protect our national security.

Evolving Threats

Part of our efforts to keep up with the way illicit actors abuse our financial system is to continue to stay ahead of evolving threats. We continue to lead the world in mitigating the illicit finance risks of emerging technology, including the use of digital assets. In FY22, Treasury took 2,280 total new sanctions designation actions, and issued 16 public enforcement actions. TFI has also published multiple risk assessments and analyses related to the digital assets ecosystem. Just this month, we published a decentralized finance risk assessment, the first of any country to do so. We also continue to take regulatory actions in this space. To date, FinCEN has released two Financial Trend Analysis reports pursuant to Section 6206 of the AMLA, which requires FinCEN to share threat pattern and trend information derived from BSA reporting at least semiannually. On November 1, 2022, we issued our second Financial Trend Analysis report on ransomware, which we released in response to an increase in the number and severity of ransomware attacks against U.S. critical infrastructure since late 2020. FinCEN's first Financial Trends Analysis on ransomware was released in October 2021.

We are working to enhance our own IT systems including by upgrading our IT infrastructure, and developing databases to facilitate our research, so that we can more effectively combat national security threats.

Conclusion

Before I conclude, I want to stress that this work is only possible because of the dedicated and diligent work of the men and women of TFI. Their commitment to the mission is unparalleled, especially given the relative size of TFI compared to other national security-focused elements of our government. I am grateful for the opportunity to work side by side with them every day, to help make our country safer. I am thankful for this Committee's leadership and support, both in giving us the tools to more effectively combat illicit finance threats, and the resources to do so. I look forward to continuing to work with this Committee and others across Congress to effectively address the threats our country faces. With that, I look forward to your questions.