Testimony of Jennifer Fowler

Deputy Assistant Secretary, Office of Terrorist Financing and Financial Crimes

House Foreign Affairs Committee- Subcommittee on the Western Hemisphere

May 23, 2018 at 2:00 p.m.

Introduction

Subcommittee Chairman Cook and distinguished members of the subcommittee, as Deputy Assistant Secretary for the Department of the Treasury's Office of Terrorist Financing and Financial Crimes (TFFC), I am honored to appear before you to discuss Treasury's efforts to counter the illicit financial activities of transnational criminal organizations (TCOs) in the Western Hemisphere. Thank you for the invitation to speak with you today.

TCOs threaten the security of the United States, our partners in the region, and the integrity of the U.S. and global financial systems. Drug traffickers, arms dealers, human smugglers, kleptocrats, terrorists and other illicit actors are persistently seeking to move and hide their ill-gotten proceeds in order to sustain their criminal enterprises. It is the mission of my office, along with colleagues across the Treasury Department's Office of Terrorism and Financial Intelligence, to disrupt these illicit networks by using the unique financial tools and authorities available to the Department of the Treasury in coordination with other agencies across the U.S. government and international partners.

I would like to begin my remarks by highlighting the key threats we see in the Western Hemisphere. I will then turn to the efforts we have made to counter these threats in our work around the region. Lastly, I will discuss our efforts to strengthen our own financial system against abuse by TCOs and their affiliates.

Assessing the Threat

Through crimes such as drug and human trafficking, extortion, weapons smuggling, and attacks on civil society and government institutions, TCOs operating in this hemisphere pose a threat to the prosperity, as well as the safety, of the United States and our allies in the region. This includes the direct physical threat posed by the violence of TCO activity, as well as the threats to economic growth and prosperity as a result of the corruption of government and law enforcement, the intimidation of local populations, and increased costs for public security and health care services.

Treasury is particularly focused on the threat TCOs pose to the U.S. and global financial systems. Our most recent National Money Laundering Risk Assessment, published in 2015, estimates that around $64 billion in revenue is generated annually from U.S. sales of drugs. Though, based on our recent engagement with U.S. law enforcement, we believe this figure has increased in recent years. Mexico is the primary supplier for some drugs and a transit zone for others. We know that Mexican drug trafficking organizations (DTOs) launder and place drug proceeds into both the U.S. and Mexican financial systems through the movement of bulk cash across our borders, through "smurfing" and funnel account activity, and through complex trade based money laundering schemes. Mexican DTO leaders and their associates have also invested criminal proceeds into real estate in the United States, Mexico, and elsewhere. We invest significant time and energy into identifying and detecting the money laundering operations of Mexican DTOs, such as the Sinaloa Cartel, Jalisco New Generation Cartel, and the Zetas, which seek to integrate billions of dollars in drug and other crime-related proceeds into the U.S. and Mexican economies. As I will discuss in more detail later, Mexico is one of our closest partners in the fight against illicit financial activity, and in collaboration with Mexican authorities, we have taken concrete steps to strengthen our abilities to deter TCOs from placing criminal proceeds in our financial systems.

Mexico, however, is certainly not the only country from which the drug trafficking threat emanates. Colombia remains the leading provider of cocaine available in the United States and also is a source country for heroin and marijuana to a lesser degree. Since 2014, coca cultivation and cocaine production has risen partly as a result of the Colombian Government's decision to end coca aerial eradication programs. While Colombia is working to implement the peace accord with the *Fuerzas Armadas Revolucionarias de Colombia* (FARC), both Colombia and the United States remain concerned and vigilant to the possibility of factions composed of dissident FARC members converting themselves into new organized crime groups.

In addition to these drug traffickers, the U.S. and our allies face threats from Central American gangs, such as MS-13. The criminal activities of these TCOs, and their efforts to raise revenue primarily through extortion, kidnapping, and drug trafficking, have a significant negative effect on economic growth in the Northern Triangle countries of El Salvador, Honduras, and Guatemala. They also negatively impact individuals' quality of life as they seek work and, in many cases, aim to grow their businesses to sustain their families. This can lead to negative consequences, such as increased migration from the region and decreased foreign investment in Northern Triangle countries.

Along with the threats we face from TCOs, we are also focused on the threat posed by the dictatorship of Nicolas Maduro, which is fueled by the Maduro regime's involvement in transnational organized crime (TOC), including drug smuggling, predatory economic policies, vast public corruption schemes, and brutal repression. Venezuelan Government officials at the highest level, to include Executive Vice President Tareck El-Aissami, and senior law enforcement and intelligence officials are guilty of participating in, and leading, nefarious activities of drug trafficking organizations, and conspiring to launder and hide funds they have stolen from the Venezuelan people. Treasury has taken action to target Venezuelan regime figures' criminal activities, including designating El-Aissami for playing a significant role in international narcotics trafficking, and designating former senior Venezuelan intelligence official Pedro Luis Martin Olivares for leading a drug trafficking and money laundering network. As a result of these designations, hundreds of millions in assets have been blocked.

Maduro and his regime have destroyed what was once one of the hemisphere's richest economies. What is left is a developing humanitarian catastrophe, with consequences that extend beyond Venezuela's borders, threatening regional stability. The poverty rate in Venezuela has almost doubled over the last 20 years to 87 percent, with 60 percent of Venezuelans living in extreme poverty today. The Office of the United Nations High Commissioner for Refugees (UNHCR) estimates that 1.5 million Venezuelans are displaced in the region. The entire region is shouldering the costs of the humanitarian crisis and providing humanitarian assistance for Venezuelans who have fled their country, and the communities that are hosting them.

In addition to the threats posed by TCOs and the Maduro regime, terrorist groups, namely Hizballah, have been active in the region. Hizballah sympathizers have taken advantage of free trade zones and a lax regulatory environment to build both legitimate and illegitimate import-export companies. As our designation of the Barakat organization demonstrates, some of these businesses have been used as front companies for Hizballah while others have siphoned a portion of their profits to provide support to Hizballah. We continue to investigate possible Hizballah terrorist financing and criminal activity in this area.

Cooperation with Regional Partners

Together with our partners in Latin America, and through the Financial Action Task Force-style regional bodies (FSRBs) in the region, we are working to strengthen the anti-money laundering/countering the financing of terrorism (AML/CFT) frameworks of countries across the region, as well as to improve their implementation of those frameworks, to prevent and protect against illicit financial activity. Our efforts in the Western Hemisphere also include initiatives to improve information sharing on illicit financial activities between governments as well as amongst financial institutions and supervisory authorities. In addition, we are working with our partners to implement more targeted efforts to disrupt specific criminal activities and networks through the use of sanctions and operational information sharing.

Mexico

Our cooperation with Mexico on a wide range of AML/CFT issues is particularly strong. The economies and financial systems of the United States and Mexico are deeply linked. Mexico is our third largest trading partner in the world with over $500 billion in goods and services flowing between our economies each year. Yet we know that the conduits used for legitimate trade can also serve as channels for criminal activity, helping criminal elements operating on both sides of our border to raise, move, and hide their ill-gotten gains.

In response to this challenge, Treasury co-leads the Bilateral Public-Private Banking Working Group (BPPBWG), a working group with representatives from the U.S. and Mexican Governments and our private sectors to improve information sharing on illicit finance between governments and financial institutions. This initiative helped spur changes to Mexico's domestic legislation to allow Mexican banks to share information on specific suspicious transactions with their correspondent banks in the United States and elsewhere.

Partnering with the Mexican government, we have also looked at the flow of U.S. dollar cash from Mexico to the United States. Drug purchases in the U.S. are generally made in cash, and we have worked to improve our understanding of how both licit and illicit dollars move across the southern U.S. border and how Mexican restrictions on dollar cash deposits into Mexican banking accounts affect the border economy.

In addition to working with our counterparts in the Mexican government, we also work directly with their private sector. Our engagement with the Mexican private sector helped to lead to a decision in 2016 by the Mexican Bankers Association to require banks in Mexico to impose financial sanctions on those listed on OFAC's Specially Designated Nationals (SDN) list, which includes significant narcotics traffickers and money launderers across the region, as well as terrorists and other illicit actors. This requirement improves banks' ability to identify and deter illicit financial activities by drug traffickers and other sanctioned individuals.

Treasury also works closely with Mexican authorities on operational matters. This includes our efforts to take enforcement actions against TCOs. For example, OFAC used its authority under the Foreign Narcotics Kingpin Designation Act ("Kingpin Act"), to designate the Raul Flores Hernandez drug trafficking organization, comprised of 21 Mexican citizens, including prominent Mexican figures in the sports and music industries, and a network of 42 entities, with assistance from Mexican authorities. In response, Mexican authorities also seized six companies linked to the Flores Hernandez network and opened their own investigations into several of his associates.

Treasury also cooperates with Mexican authorities to share information about targets and to exchange financial intelligence information through the Egmont Group process. Treasury co-leads the Strategic Dialogue on Illicit Finance with Mexican authorities, which has resulted in the exchange of lead information on specific targets and suspicious activities by financial institutions and legal entities."

Central America

We have also enhanced our cooperation with Central American governments as we respond to ongoing illicit finance risks and vulnerabilities in Central America. Treasury leads a public-private sector dialogue with U.S. and Central American bank supervisors, regulators, financial intelligence authorities, and private sector representatives to improve understanding and information sharing on illicit finance matters. This group meets annually to discuss changes in correspondent banking relationships between U.S. and Central American banks, and efforts Central American public and private sector representatives can take to strengthen their AML/CFT frameworks as one way to prevent future correspondent banking losses. We have also conducted surveys in the region aimed to identify impediments to bank-to-bank information sharing, and more recently, discussed illicit finance typologies associated with Central American gangs. We are continuing to work with key countries to improve our understanding of how Central American gangs finance themselves and the threat this poses to regional financial systems.

Furthermore, Treasury has taken significant enforcement actions against TCOs operating in Central America. In addition to designating MS-13, in 2015, OFAC sanctioned the Rosenthal money laundering organization in Honduras, a network of three members of the prominent Rosenthal family involved in laundering drug proceeds and seven key businesses, a Panamanian holding company and a Honduran bank. This action was the first time OFAC had designated a bank pursuant to the Kingpin Act. As part of the enforcement action, the Department of Justice also indicted the three Rosenthal family members, along with a fourth individual, and arrested one of the three family members in the United States.

In May 2016, OFAC sanctioned the Waked money laundering organization, including its leaders, six of their associates and 68 companies involved in laundering drug proceeds, such as Balboa Bank and Trust and Grupo Wisa, which operates duty free stores across Latin America. Since then, Treasury has been actively engaged with Panamanian authorities to help them address weaknesses in their AML/CFT regime and steps they could take to strengthen it, improve compliance with international AML/CFT standards, and ultimately deter criminal elements who seek to abuse it. This includes our ongoing outreach by our financial intelligence units to share information on suspicious transactions that we see touching the U.S. and Panamanian financial systems.

Colombia

Colombia is also a key partner in combating TCO activities. For over 15 years, Treasury has worked closely with the Colombian Government to jointly act against the assets of major Colombian narcotics traffickers and their criminal organizations. Through Executive Order 12978 and the "Kingpin Act," Treasury has targeted hundreds of individuals and companies including leaders and members of the Cali and North Valle drug cartels, FARC and the *Autodefensas Unidas de Colombia* (AUC). Colombian authorities have seized over two billion dollars in assets related to joint investigations with Treasury's Office of Foreign Assets Control (OFAC) and the Drug Enforcement Administration, which demonstrates the immense wealth of these powerful criminal organizations and the effectiveness of joint U.S.-Colombian efforts to target and seize their ill-gotten assets. We continue to work closely with the Colombian government to combat narcotics traffickers and criminal organizations, and we are working closely with Colombian partners to address the crisis in Venezuela, which is having direct humanitarian and economic impacts on Colombia.

Venezuela

Treasury's engagement with regional financial authorities has been a cornerstone of the Administration's strategy on Venezuela. Secretary Mnuchin has hosted three meetings of finance ministers from the Western Hemisphere, Europe, and Japan to discuss the crisis in Venezuela. The ministers have agreed that concrete actions are necessary to restrict the ability of corrupt Venezuelan officials and their support networks from abusing the international financial system. They also have agreed to strengthen international cooperation and continue to share information through appropriate channels on the assets of corrupt Venezuelan officials and their support networks. Treasury's May 18 designation of influential ruling vice president Diosdado Cabello and key figures in his network further illustrates our commitment to holding accountable those who violate the trust of the Venezuelan people.

Terrorist Financing

In addition to our focus on TOC, we also closely track risks posed by terrorist financing in the region. Last year, Treasury undertook a focused effort to better understand illicit finance risks in the Tri-Border Area between Argentina, Brazil, and Paraguay, an area often assessed as a center of illegitimate economic activity, in partnership with authorities in all three countries. At present we are working towards a money laundering and terrorist financing risk assessment for the region and developing enhanced mitigating measures to address those risks. With Argentina, we have also initiated a recurring bilateral dialogue on illicit finance, which we are using to promote better cooperation on risk assessment, terrorist financing and money laundering in the Tri-Border Area, corruption, and Venezuela sanctions.

Technical Assistance Efforts

Finally, Treasury's Office of Technical Assistance (OTA) conducts capacity building programs aimed at strengthening AML/CFT frameworks and authorities responsible for identifying illicit proceeds while also taking enforcement actions against money launderers and terrorist financiers. OTA is very active in Latin America as well as the Caribbean, with eight programs focused on AML/CFT regime development in the region.

Addressing Risks and Vulnerabilities in Our Own Financial System

Our cooperation with Latin American countries to tackle the threat posed by TCOs outside of our borders helps to reduce the threat they pose to our own financial system. Nonetheless, the size and centrality of our financial system leave us with significant exposure to money laundering. Accordingly, Treasury works with other agencies across the U.S. government to ensure that the United States maintains a strong AML/CFT regime to protect our financial system from abuse by TOCs and other illicit actors.

Our efforts are yielding results. In 2016, the Financial Action Task Force, the global standard setter for AML/CFT, reviewed our AML/CFT regime. The FATF standards include 40 legal, regulatory, and operational measures that comprise an effective AML/CFT regime and FATF member countries receive periodic peer reviews to assess compliance with the standards and the effectiveness of particular components. FATF gave the United States the highest possible ratings for our efforts in pursuing civil and criminal asset forfeiture to deprive criminals of their illicit proceeds. The FATF also noted our strong collaboration and information sharing between our intelligence community and law enforcement to combat illicit finance; our effectiveness in prosecuting and convicting money launderers; the strength of our implementation of terrorist financing investigation and prosecution, and financial sanctions for terrorist financing and proliferation financing. Although we fared well in FATF's assessment, we are continually working to improve and strengthen our AML/CFT regime.

Preventative Measures to Protect Our Financial System

Treasury's work to deter criminals and terrorists and protect our financial system starts with understanding the existing and emerging risks we face and putting in effective preventative measures designed to counter those risks. To this end, we are taking a number of additional steps to improve our understanding of illicit actors' activities safeguard our financial system from them.

First, Treasury is working with the interagency to prepare a national strategy to counter illicit finance, as directed by Congress in section 261 of the Countering America's Adversaries through Sanctions Act (CAATSA). The strategy includes an update to the 2015 National Money Laundering Risk Assessment, which acknowledged the money laundering threat posed by TOC groups in the United States. The 2018 money laundering risk assessment will identify current money laundering methods associated with TOC groups, and the strategy will present how the interagency is addressing them. This August, the updated money laundering risk assessment will be published simultaneously with an updated terrorist financing risk assessment as well as a first-ever proliferation financing risk assessment.

One of the methods highlighted in the money laundering risk assessments is the misuse of legal entities, including shell and front companies. The collection of beneficial ownership information is critical both at the time of account opening and when a company is being incorporated. Treasury's Customer Due Diligence (CDD) rule took effect on May 11, requiring over 29,000 financial institutions to identify and verify the identity of the beneficial owners of companies opening new accounts. The rule will help financial institutions better address the risk posed by legal entities in the United States and bolster the ability of law enforcement to investigate criminals who use legal entities to launder money. At present neither the states nor the federal government require the identification of beneficial owners at the time of incorporation, which allows criminal actors to set up companies in the United States anonymously and establish banks accounts abroad. Collection of beneficial ownership information at the time of company formation would provide law enforcement access to valuable information in order to investigate and prosecute money launderers, terrorists, and other illicit actors.

Another area we are working to address concerns real estate. Treasury is assessing the scale and severity of the vulnerability associated with real estate, especially the misuse of legal entities to purchase real estate anonymously, and whether additional policy responses are needed. For example, we have been looking at case data from federal law enforcement agencies on real estate seizures to further develop our understanding of the risks involved and common typologies of money laundering and illicit finance through property transactions. Although real estate professionals have no obligation to report suspicious activity to Treasury's Financial Crimes Enforcement Network (FinCEN), FinCEN has released advisories and is conducting ongoing industry outreach to encourage voluntary reporting. This outreach and data analysis will help Treasury determine what policy changes may be necessary.

Treasury and the private sector benefit from a partnership in the process of collecting and analyzing financial intelligence to focus our efforts against TCOs. In recent years, FinCEN has produced a number of assessments and advisories for financial institutions and law enforcement on TOC organizations and the various methods they use to generate and launder illicit proceeds in the Western Hemisphere. By raising awareness of these methods, Treasury seeks to help financial institutions to detect this activity and report it, which support law enforcement investigations. These efforts are yielding important information. Since January 2015, U.S. financial institutions have filed approximately 2,400 suspicious activity reports (SARs) with very specific TOC indicators, of which at least 600 (25 percent) name specific TOC organizations in the SAR narratives, such as the Sinaloa Cartel or the FARC, a designated Foreign Terrorist Organization and Specially Designated Narcotics Trafficking Kingpin.

Finally, at the international level, Treasury works within the FATF to protect the global financial system. Recently, Treasury contributed to FATF's work on the financial flows associated with human trafficking – a common source of TCO profit – and on professional money laundering networks, which TCOs often use to launder their illicit proceeds. Treasury also participates as an observer in the Latin America Financial Action Task Force (GAFILAT) and the Caribbean Financial Action Task Force (CFATF), both of which aim to improve compliance with FATF standards throughout the Western Hemisphere. The FATF and these regional bodies hold countries to account for establishing the infrastructure to prevent, detect, investigate and prosecute money laundering and terrorist financing. To accomplish this, the FATF and its global network evaluate all countries' AML/CFT regimes and then leverage the possibility of public identification to pressure those falling behind to fulfil their commitments.

Use of Targeted Financial Sanctions and Enforcement Tools

In addition to these efforts to enhance our overall AML/CFT regime, Treasury does not hesitate to take measures to target individuals, entities, and support networks, responsible for narcotics trafficking, money laundering, terrorist financing, sanctions evasion, and other financial crimes. FinCEN has used its authority under section 311 of the USA PATRIOT Act to identify financial institutions that, among other things, facilitate TCO activity, including that of TCO facilitators (such as third party money launderers). As an example, in 2015 FinCEN issued a finding pursuant to Section 311 concerning Banca Privada d'Andorra (BPA), a bank headquartered in Andorra that TCOs, including a Venezuelan network, used to launder money via professional money launderers. As a result of changes we saw following FinCEN's action, BPA is no longer operating.

OFAC uses the Kingpin Act to target destabilizing and dangerous criminal organizations operating in Mexico, Venezuela, Colombia, Panama, Peru, and the Northern Triangle. Since January 2017, OFAC has announced 13 separate Kingpin Act actions that designated a total of 174 individuals and entities. Of those 13 actions, six targeted Mexican DTOs and designated a total of 103 individuals and entities. OFAC has also frozen hundreds of millions of dollars worth of assets using the Kingpin Act and TCO designation authority in just the past 16 months. Treasury has taken the lead to detect the movement of Venezuelan corruption and drug proceeds, deter their placement in U.S. and regional financial systems, and expose criminal networks connected to senior Venezuelan Government officials. Since 2017, OFAC has designated more than 50 Venezuelan Government officials and their criminal associates and has prohibited U.S. persons from dealing in Venezuela's digital currency (the "petro"), new debt, and equity financing related to the Government of Venezuela.

Just last month, OFAC used its transnational criminal organizations authority, Executive Order 13581, to designate a Syria-based transnational human smuggling organization involved in smuggling migrants through certain South and Central American countries to the U.S. Southwest border. This organization operates a global network of human smugglers that obtain fraudulent and/or counterfeit documents and engage in bribery to facilitate human smuggling, and money laundering. It also used its TCO authority in 2012 to impose sanctions on the MS-13 gang, naming it a significant TCO, and following up with derivative designations of its leadership in subsequent years. These are just a few examples of the novel ways that OFAC has deployed its robust sanctions authorities to combat organizations involved in drug trafficking, human smuggling, corruption, and organized crime throughout the Western Hemisphere.

Our AML/CFT regime is also designed to assist law enforcement to track illicit financial flows and take action, as well as for financial institutions to implement programs to detect, deter, and disrupt illicit finance. Where possible, FinCEN supports law enforcement investigations to learn about new or evolving TOC organizations and related illicit finance methods, and OFAC works joint cases with U.S. law enforcement counterparts. .

Conclusion

As I close, I would like to thank the Subcommittee for the invitation to be here today. TCOs represent a threat to U.S. interests at home as well as throughout the Western Hemisphere. At Treasury, we are particularly focused on the abuse and exploitation of the U.S. and international financial system by TCOs and their facilitators. We continue to work bilaterally with our partners in the region to prevent TCOs from moving, investing, and profiting from the proceeds of crime in other jurisdictions. At the same time, we are also working domestically and internationally to protect the U.S. and international financial systems against TCO abuse. We look forward to working with the members of this Subcommittee on this critical issue, and I welcome any questions you may have.

Thank you.