

Testimony for the Record
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Introduction

Chairman Crapo, Ranking Member Brown, and members of the Committee, thank you for inviting me to appear before the Committee on Banking, Housing and Urban Affairs on behalf of the Financial Crimes Enforcement Network (FinCEN). FinCEN's mission is to safeguard the financial system from illicit use and to promote national security through the collection, analysis, and dissemination of financial intelligence. I appreciate the opportunity to discuss the anti-money laundering (AML) and countering the financing of terrorism (CFT) regime in the United States and the value of the Bank Secrecy Act (BSA) in keeping our country strong and prosperous, our financial system secure, and our families and communities safe from harm.

The reach, speed, and accessibility of the U.S. financial system make it an attractive target to money launderers, fraudsters, terrorists, cyber criminals, rogue states, transnational organized crime syndicates, gangs, and other bad actors. To combat efforts by these individuals, groups, or networks to use, abuse, or benefit from the U.S. financial system, we have developed and rigorously enforce one of the most effective AML/CFT regimes in the world. However, despite the strength of our AML/CFT framework, malicious actors will continue to attempt to exploit any vulnerability to move their illicit proceeds undetected through legitimate financial channels in order to hide, foster, or expand the reach of their criminal or terrorist activity. We must therefore be vigilant in our mission and work to stay ahead of these criminals and terrorists by: (1) aggressively investigating and pursuing illicit activity; (2) ensuring that we collect the financial intelligence necessary to support these investigations; (3) understanding the evolving trends and typologies of illicit activity; and (4) closing any regulatory gaps that expose our financial system to money laundering and the other underlying illicit activity that threaten our financial system and put our nation, communities, and families in harm's way.

Many of our efforts to identify and disrupt illicit finance threats and the underlying crimes depend on financial institutions fully complying with the BSA laws and regulations designed to protect the financial system. Financial intelligence reported to us by financial institutions serves as a key component of our efforts to target terrorist financiers, cyber criminals, human traffickers, fraudsters, weapons proliferators, rogue regimes, and other illicit actors.

One of my top priorities is to ensure that the AML/CFT framework remains strong and effective. My testimony today will focus on the importance of BSA information and our efforts to promote innovation and to improve the effectiveness and efficiency of the BSA framework.

The Importance of Bank Secrecy Act Information

Financial institutions are on the front lines of our fight against financial crime. They play a key role in protecting our country by providing the information we need to keep illicit actors from using, exploiting, and benefiting from our financial system.

Law enforcement, counter-terrorism agencies, financial regulators, and other stakeholders extensively use the financial intelligence that FinCEN collects under the BSA. The information collected is critical in many areas: investigations and prosecutions targeting criminals, terrorists, rogue states, and other bad actors; effective use of our enforcement tools and authorities such as USA PATRIOT Act special measures and Office of Foreign Assets Control sanctions; and developing and fine-tuning BSA policy. BSA reporting also allows us to take a macro view of financial crime. We can map out significant criminal networks and identify trends and patterns of criminal and terrorist activity, which we can then share with the financial community to strengthen their ability to identify and report priority illicit activity as well as assess risk.

FinCEN and our law enforcement partners are able to do important things with the information provided by financial institutions. BSA data plays a critical role in keeping our country strong, our financial system secure, and our families safe from harm. When financial institutions report suspicions about elder fraud, human trafficking, cybercrime, narcotics trafficking, terrorism or other illicit activity, they provide incredibly valuable leads and ongoing support for law enforcement investigations and, importantly, they make it much harder for criminals to move or hide their illicit proceeds in the financial system.

FinCEN is often asked whether financial institutions' compliance efforts are actually working. The short answer is, yes. If the system were not working, bad actors would not be working so hard to come up with new and creative ways to move their ill-gotten gains in and around the financial system.

BSA information helps FinCEN further the core national security priority of protecting the financial system from exploitation by illicit actors or financial institutions with complicit insiders and broken controls. FinCEN does this in a number of ways, including through the use of Section 311 of the USA PATRIOT Act. This authority allows us to identify jurisdictions and financial institutions to be of primary money laundering concern and impose a range of special measures to safeguard the U.S. financial system. This powerful tool can lead to impactful systemic change.

For example, in February 2018, FinCEN found Latvia-based ABLV Bank to be a foreign financial institution of primary money laundering concern and issued a notice of proposed rulemaking (NPRM) that would prohibit U.S. financial institutions from opening or maintaining correspondent accounts on behalf of ABLV. As discussed in the NPRM, ABLV's management institutionalized money laundering as a pillar of the bank's business practices. Its failure to implement effective AML/CFT policies and procedures made the bank attractive to a range of illicit actors, including parties connected to U.S. and United Nations (U.N.)-designated entities, some of which are involved in North Korea's procurement or export of ballistic missiles, in addition to corrupt officials and organized crime – significant amounts of which emanated from Russia. BSA information was critical in this particular case, as multiple U.S. financial

institutions in recent years identified the same pattern of suspicious activity emanating from ABLV. This activity, which included banking for a significant number of shell companies processing large volumes of transactions with no apparent business purpose, led U.S. financial institutions to proactively close ABLV correspondent accounts on their own initiative, prior to the issuance of the NPRM.

FinCEN uses the financial intelligence it collects to report suspicious behaviors related to money laundering and terrorist financing threats to industry through our Financial Institution Advisory Program. FinCEN can issue public and non-public advisories to alert financial institutions of specific illicit finance risks. Advisories often contain illicit activity typologies, red flags to facilitate monitoring, and guidance on complying with FinCEN regulations to address threats and vulnerabilities. In June 2018, FinCEN issued an advisory on human rights abuses enabled by corrupt senior foreign political figures and their financial facilitators, and in November 2017, FinCEN issued an advisory to further alert financial institutions to North Korean schemes being used to evade U.S. and U.N. sanctions, launder funds and finance the North Korean missile programs. Financial institutions may use this information to enhance their AML monitoring systems to develop more valuable suspicious activity reporting.

BSA reporting also aides investigations tied to weapons trafficking, bulk cash smuggling, gang activity, significant fraud, transnational organized crime, human trafficking, bribery, health care fraud, corruption, embezzlement, narcotics, kleptocracy and third-party money laundering, among other crimes. We have nearly 500 federal, state, and local law enforcement and regulatory agencies with direct access to FinCEN's database of BSA records. Within these agencies, there are an estimated 11,000 active users of BSA data. This consists of 149 SAR Review Teams and Financial Crimes Task Forces located all around the country, covering all 94 federal judicial districts, including one in each state, the District of Columbia, and Puerto Rico. In the last five years, FinCEN query users have made more than ten million queries of the FinCEN database.

BSA data is also vital for unmasking and investigating criminal tax evasion and other crimes. Internal Revenue Service Criminal Investigation alone conducts more than 126,000 BSA database inquiries each year. And, 24 percent of its investigations begin with a BSA source. As my colleague from the Federal Bureau of Investigation (FBI) will discuss, financial intelligence is a key tool for FBI criminal investigations. All FBI subjects have their names run against the BSA database. More than 21 percent of FBI investigations use BSA data, and for some types of crime, like organized crime, nearly 60 percent of FBI investigations use BSA data. Roughly, 20 percent of FBI international terrorism cases contain BSA data.

As the Financial Intelligence Unit of the United States, FinCEN also shares information with our international partners. From February 2016 to February 2017, FinCEN made more than 900 spontaneous disclosures of BSA information to foreign partners on 3,500 individuals and 80 entities. In several cases, these disclosures provided details on suspected terrorists before they were involved in major plots or attacks. This resulted in more than 100 active investigations, the issuance of international arrest warrants, new listings on national terrorism sanctions lists, at least 25 visas revoked, and at least two convictions.

BSA information can also help financial institutions and other reporting entities assess and manage AML risks. The information obtained as a result of complying with BSA recordkeeping and reporting requirements helps institutions better understand their customers and any transactional risks they may pose. BSA data can help financial institutions develop unique insights to better partner with law enforcement and FinCEN around shared illicit finance priorities and threats.

The diligence that each financial institution exercises complying with their recordkeeping and reporting obligations keeps our nation, our communities, and our families safe. Simply put, BSA information: 1) provides leads; 2) helps expand cases and assembles pieces of the puzzle or illuminates networks we would not see otherwise; and 3) helps alert us to trends in illicit activity so that we can get ahead of the harm, deter it, or prevent the harm from spreading.

I want to emphasize this last point. While data from BSA reporting can assist with specific investigations, that does not mean, if it is unrelated to a specific case, it is any less valuable. FinCEN and law enforcement officials regularly analyze and work with the data to connect networks, understand trends and typologies, and develop red flags. When BSA data is combined with other information—such as open source data, research, and law enforcement information—we can see so much more. It maps out connections that we would not otherwise see or even know about, bringing criminal and terrorist networks out of the shadows.

We are getting better at this every day, but we believe we can do much more. Part of getting better and doing more includes providing both our financial institutions and delegated examiners better and more consistent feedback on how we use BSA data so they understand our priorities and how to better use their resources more effectively and efficiently in a more targeted and focused way.

One area we need to strengthen is addressing the misuse of legal entities by criminals seeking to access the financial system anonymously for money laundering and other illicit activities. FinCEN's Customer Due Diligence rule, which was implemented by covered financial institutions in May 2018, requires those institutions to identify and verify the identity of the beneficial owners of their legal entity customers at account opening. Although that is an important step in preventing the ability of criminals to hide behind a company with hidden beneficial owners when opening an account, the collection of beneficial ownership information is also critical at the time a company is being incorporated. FinCEN and the Department of the Treasury more broadly have prioritized increasing transparency in corporate formation, and we look forward to working with Congress on this important issue.

Regulatory Reform - Strengthening the AML/CFT Framework

A strong and effective AML/CFT framework keeps illicit actors out of the financial system. We recognize that to remain strong and effective, we must keep pace with evolving forms of illicit finance threats. To that end, we are taking a hard look at the BSA and the broader AML/CFT regime. We want to upgrade and modernize our system where needed to make sure we have the right framework in place to meet the current and evolving challenges well into the future.

To achieve this objective, FinCEN is working closely with the Federal Banking Agencies, state regulators, law enforcement, and the private sector to identify ways to improve the effectiveness and efficiency of the BSA regime. Our goal is to ensure that financial institutions are devoting their resources to identify and report activity that relates to the highest priority national security and law enforcement interests.

This effort requires a multi-prong approach with three key priorities: (1) understanding BSA value; (2) promoting responsible innovation; and (3) fostering information sharing, including through public-private partnerships.

Understanding BSA Value

One key component of FinCEN's reform efforts is to better identify and quantify the value and use of bank and other financial institution reporting, including a thorough, data-driven analysis of BSA reporting to inform our decision-making. While we are eager to improve and reform the BSA framework, we believe it is important to ensure that any change is supported by such an assessment and a clearer understanding of how to measure the effectiveness of BSA data.

As part of this effort, we are evaluating the suspicious activity report (SAR) and currency transaction report (CTR) requirements, including reporting thresholds. We are also looking at whether certain types of SAR reporting can or should be streamlined. With respect to thresholds, we have identified some initial concerns, especially from our law enforcement partners, that significant increases in the respective thresholds could reduce the amount of valuable financial intelligence available to Treasury, law enforcement, and other key domestic and international partners. For example, FinCEN recently reviewed CTR filings to assess how much of that financial intelligence we might lose if the threshold were doubled to approximately \$20,000. In that circumstance, FinCEN would lose over 60 percent of CTR-based financial intelligence on which FinCEN and law enforcement, in particular, currently rely to support investigations and analysis. Increasing the threshold to \$30,000 would result in a loss of close to 80 percent of currently provided data—in this case, the type of data points that enable the identification of illicit networks and the initiation or expansion of investigations. In addition, it is important to consider how changing practices can highlight the suspiciousness of a cash transaction, even in low amounts. Because customers often rely on wire transfers instead of cash deposits and withdrawals, a cash deposit of \$10,000 can be a valuable source of information.

BSA reporting has significant tactical value that supports, among other efforts, existing law enforcement and sanctions investigations or provides new leads and information to start those efforts. It also provides significant strategic value, ranging from studies of trends to identification of typologies associated with new illicit finance schemes, such as illicit use of crypto-currencies, which are used to develop and implement risk mitigation responses. Financial reporting also supports operations, including through the sharing of information with international partners to support efforts related to terrorist financing, proliferation financing, political corruption, drug or human trafficking, human rights abuses and corruption, and many other important illicit finance and national security issues.

For these reasons, we believe it is important to take a holistic view when considering thresholds, and ensure we examine the relative value of the SARs and CTRs.

The FinCEN led Bank Secrecy Act Advisory Group (BSAAG), a statutorily-mandated advisory group, and its working groups will be critically important as we evaluate these ideas and translate them in to concrete actions. The BSAAG allows representatives from federal regulatory and law enforcement agencies, financial institutions, and trade groups to advise FinCEN and others on the operations of the BSA. As the chair of the BSAAG, I am responsible for ensuring that relevant issues are placed before the BSAAG for review, analysis, and discussion. BSAAG has already established working groups that are either focusing on some of these ideas or may focus on some of these ideas in the future.

While we are conducting a data driven analysis, we are looking for ways we can enhance effectiveness and efficiency now. Treasury and the Federal Banking Agencies formed a working group to work closely on specific initiatives aimed at achieving this goal. And, I personally, meet with my counterparts every month to discuss these issues. Each day, law enforcement investigators rely on valuable information provided by our country's financial institutions. As federal regulators, we recognize that providing this valuable information costs time, talent, and money. We have an obligation to support and promote innovative ways to make complying with BSA responsibilities as effective and efficient as possible, while making sure that the effective use of that hard-won information is not diminished.

FinCEN also engages with all the Federal Functional Regulators responsible for the supervision of the U.S. financial sector to provide clarity on the BSA regulatory framework to industry through the BSAAG. In addition, FinCEN meets monthly with its banking counterparts through the Federal Financial Institution Examination Council's Anti-Money Laundering Working Group. Together, we are updating the Anti-Money Laundering Examination Manual for depository institutions.

Promoting Responsible Innovation

A second prong of our reform efforts is also one of my highest priorities. That is, to promote responsible innovation and creative solutions to combat money laundering and terrorist financing.

Innovation in financial services can be a great thing when it provides customers greater access to an array of financial services and at faster speeds than ever before. However, as industry evolves and adopts these new technologies, we also must be cognizant that financial crime evolves right along with it, or indeed sometimes because of it, creating opportunities for criminals and bad actors, including terrorists and rogue states. Our role at FinCEN is to protect and secure our financial system from those who seek to misuse important technological advancements for nefarious purposes—harming victims while undermining trust in our financial system upon which innovation and our country prosper.

In recent years, financial institutions have become more proactive in their AML/CFT approach, in some cases building sophisticated internal financial intelligence units devoted to identifying

strategic and crosscutting financial threats. Financial institutions have been improving their ability to identify customers and monitor transactions by experimenting with new technologies that rely on artificial intelligence and machine learning. Many institutions are also working closer together to share information to get a more accurate picture of risks and illicit activity. We encourage these innovations and are open to discussing any ideas financial institutions may have to improve AML/CFT compliance.

Within government, we are also exploring new and better ways to collect and use data. We are exploring more powerful and innovative tools to analyze the reporting that we collect to be more proactive and effective in our approach to keeping our nation strong, our financial system prosperous and secure, and communities and families safe from harm. We are continuously developing our technological capabilities and expertise to remain in step with the evolution of industry as well as the threat that persistently seek to take advantage of new vulnerabilities. We will be just as persistent. We are working hard on the dynamic infrastructure across analytic, operational, policy, and legal areas to be as agile and forward-looking as the world in which we operate and the financial system that is our mission to protect and advance.

Our collective innovative approaches and use of technology to derive higher quality information to address priority threats advances the underlying purpose of the BSA. I am committed to a long-term and collaborative approach with all our partners in this regard; we are much more effective when we work together. In this time of change, working closely with financial institutions and others in fostering innovation and leveraging technology is a priority. We are in close contact with all of our regulatory, law enforcement, and industry partners regarding emerging technology use cases in the financial industry. In fact, we have an innovation working group as part of the BSAAG that includes all our relevant stakeholders and where we can discuss these issues in depth.

We want to support innovation that advances the U.S. financial system. Therefore, that means regular engagement with industry on developments they are working on so that we can assess and address potential threats and gaps. We are in constant conversation with our regulatory partners on what they are seeing and who among us is best placed to cover emerging threats or gaps, including any guidance or regulatory changes that we need to work on to ensure that industry is developing advancements that minimize vulnerabilities.

Public-Private Information Sharing

This leads me to my final priority in this space—effective information sharing. Collaboration between the government and the private sector, including through better communication of risks, to further the objectives of the BSA. Financial institutions are often the first to detect and block illicit financing streams, combat financial crimes, and manage risk. Enhancing public-private partnerships that reveal and mitigate vulnerabilities is one of our top priorities. To make these partnerships work, we are arming the private sector with information that enhances their ability to identify and report suspicious activity. One way we accomplish this is through FinCEN

Exchange. FinCEN Exchange brings financial institutions, FinCEN, and law enforcement together to facilitate greater information sharing between the public and private sectors.

FinCEN collaborates closely with law enforcement and uses a number of mechanisms to provide feedback to financial institutions. Feedback is an important component of enhancing information sharing. We interact daily with our law enforcement counterparts, and FinCEN hosts liaisons from ten different law enforcement agencies to support our common missions. FinCEN holds regular meetings among these law enforcement liaisons to discuss mutual areas of concern and make sure that the BSA data is available to support their investigations. In addition to ensuring that BSA data is properly used, disseminated, and kept secure, these liaisons are a key conduit for FinCEN's routine collaboration with their parent agencies on a wide range of overlapping issues related to the administration of the BSA and combating illicit finance.

FinCEN has a number of other mechanisms to facilitate law enforcement input and feedback to financial institutions:

Bank Secrecy Act Advisory Group (BSAAG). The BSAAG is a key forum for law enforcement, regulators, and representatives from financial institutions to engage directly, and to exchange information and provide feedback in a dynamic environment. In addition to plenary meetings, representatives from law enforcement, regulators, and industry participate in the BSAAG working groups focused on discrete areas of concern and interest related to the BSA.

FinCEN Director's Law Enforcement Awards Program. In this program, FinCEN identifies investigations where BSA data has played a significant role in the success of a case to highlight the value of BSA data to the financial community.

Section 314 Program. FinCEN's 314 Program Office provides ongoing statistical feedback received on the utility of the 314(a) Program and also develops case descriptions or studies of instances in which the use of 314(a) by law enforcement has been particularly valuable to significant investigations. To date, 26 case studies have been made available to the financial institutions via FinCEN's Secure Information Sharing System.

FinCEN Advisories. FinCEN solicits feedback on emerging trends in financial crime typologies and related red flags from U.S. law enforcement and incorporates it into FinCEN Advisories that are disseminated to financial institutions.

FinCEN Exchange: The Exchange is a public-private information-sharing program that brings financial institutions, FinCEN, and law enforcement together to facilitate greater information sharing between the public and private sectors. In close coordination with law enforcement, it provides information to support specific matters through Section 314(a) of the USA PATRIOT Act and other authorities in order to provide financial institutions with broader typologies to help them identify illicit activity. These types of exchanges enable the private sector to better identify risks and provide FinCEN and law enforcement with critical information to disrupt money laundering and other financial crimes.

FinCEN will continue to develop new ways to provide feedback to financial institutions on the value and benefit of their reporting. We want financial institutions to focus on developing information that will be highly valuable to government. To be fair, financial institutions don't

always know what we need. We have to tell them, and we have to tell them what we need in a way that allows financial institutions to re-prioritize resources in the most effective manner. I welcome further dialogue with the Committee, law enforcement, industry, and any other stakeholders on this subject.

Conclusion

I would like to thank the Committee for its efforts on this important matter. Combatting money laundering and illicit finance threats secures our financial system, keeps our nation safe and prosperous, and protects our communities and families from harm. Working together to improve our AML/CFT regime is vitally important. I look forward to your questions.