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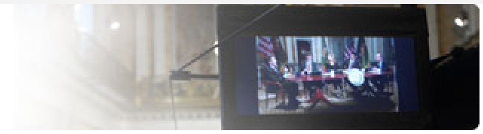

Remarks By Acting Under Secretary Adam Szubin At The ABA/ABA Money Laundering Enforcement Conference

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Introduction

Thank you, Rob, for the kind introduction. And thank you to the American Bankers Association and the American Bar Association for inviting me here. I have attended this gathering a number of times, but this is my first appearance here in my current capacity. It is wonderful to be back.

Before I turn to my main topic today, I want to begin with a brief word on the horrific recent attacks in Paris. As President Obama said yesterday in Turkey, "we stand in solidarity with [France] in hunting down the perpetrators of this crime and bringing them to justice." I hope my remarks today will shed some light on the work the Department of the Treasury is doing as part of the broader U.S. government efforts to keep our country and allies safe.

We all share a common goal: safeguarding the international financial system from abuse. And I would like to say thank you, and recognize that your hard work has helped us advance the national security interests of the United States.

Today, I'd like to focus my remarks on "de-risking" – an issue that has come up more and more often in our world over the past few years. Now, different people mean different things when they use the term "de-risking" – an ambiguity I aim to help clear up today. But the term is typically applied in the context of cross-border financial relationships, and a supposed push by financial institutions to indiscriminately terminate, restrict, or deny services in these areas.

I'll begin by briefly outlining Treasury's views on the importance of these types of cross-border financial relationships. Then I'll come to de-risking – what it means, the extent to which we see it happening, and our approach to de-risking going forward.

The Importance of Cross-Border Banking

Today more than ever, our financial system is deeply connected with those of other countries around the world. We achieve that connectivity, in large part, through correspondent banking. The United States has a special role to play here, and a special responsibility, because of the centrality and indispensability of the U.S. financial system and the U.S. dollar.

Correspondent banking is the lifeblood of global commerce. Healthy correspondent banking relationships are essential: They facilitate trade, foster economic growth, and provide access to financial services.

Money service businesses, or MSBs, are similarly crucial. They provide vital financial access, particularly to developing countries and underserved populations – whether as a means for guest workers to remit payments to family back home or as a simple way to cash a paycheck.

Just as important, MSBs can also enhance financial transparency. That's because MSBs, like banks, file hundreds of thousands of suspicious activity reports and currency transaction reports annually, and they hold records that are valuable to law enforcement. The information we glean from these reports and records makes it harder for illicit actors to disguise themselves in the legitimate economy – and easier for us, as regulators, to protect the financial system from abuse.

The importance of these types of cross-border relationships makes it especially important to bring together representatives from the public and private sectors at events like these: to share experiences, talk about trends, and discuss potential challenges.

De-Risking: What We Know

Now I'd like to turn to de-risking.

What is de-risking? I have heard the term used in many different ways, so let me be clear: When I use the term "de-risking," I am talking about instances in which a financial institution seeks to avoid perceived regulatory risk by indiscriminately terminating, restricting, or denying services to broad classes of clients, without case-by-case analysis or consideration of mitigation options. As I've mentioned, this is typically discussed in the cross-border context, but the term may be applied in the context of some domestic financial relationships as well.

The negative effects ascribed to de-risking are by now quite familiar. We hear that de-risking is pushing people out of the regulated financial system, preventing countries from accessing the dollar, depressing global trade flows, or straining global development.

I want to emphasize that Treasury takes assertions of de-risking seriously, and we are working hard to identify and address the factors that lead U.S. banks to terminate relationships. We believe that most risks can and should be managed, not simply avoided altogether.

We continue to investigate the scope of the problem. Are some institutions indiscriminately denying access to broad classes of clients due to fears of regulatory enforcement? Is there a market effect that's playing out, where correspondent banking may be consolidating into the hands of a smaller set of banks? Or are we transitioning to a new equilibrium in which U.S. and foreign financial institutions have all strengthened their controls and cross-border relationships are both stable and deep?

Since my predecessor posed questions about de-risking in this forum last year, we have worked hard to find answers. Let me tell you what we've learned so far.

First, Treasury has been coordinating closely with the World Bank, the Financial Stability Board (FSB), the Financial Action Task Force (FATF), and the G-20 as they conduct surveys of industry on potential de-risking. This multilateral engagement has allowed us to collect valuable and reliable data – which had been sorely lacking in this discussion.

The survey findings indicate that the drop in correspondent banking varies significantly by region. Small jurisdictions with significant offshore banking activities appear to be the most affected, but some large and mid-size economies in Asia and Europe also are reporting declines in their correspondent banking relationships. It is important to note, also, that the survey findings indicate that a significant majority of affected banks were able to find alternative relationships. For MSBs, the findings suggest that de-risking is decreasing the ability of money remitters to access banking services in certain G-20 jurisdictions to varying degrees. Overall, though, the surveys revealed no evidence of a threat to global financial stability.

I would caution that, even after these initial surveys, we don't have a complete picture quite yet. We still need more and better data to help us measure changes in the correspondent banking environment, and to better understand the extent to which de-risking is happening and why. I would encourage all governments and financial institutions to continue to participate actively in these studies. We need sound, comprehensive data before deciding broad financial and regulatory policy.

As we work to gather that data, we do not dismiss concerns about reduced access to the U.S. financial system. Rather, we recognize that reduced access could impede the flow of money for a family member in need or the movement of vital goods. I affirm to you all that we in the Treasury Department remain committed to working on these problems.

That's why, two weeks ago, Treasury organized a dialogue at the Federal Reserve Bank of New York with Gulf Cooperation Council (GCC) countries to discuss trends in illicit finance, correspondent banking, and de-risking. That's why, just before that, I met with central bank governors in the Gulf to discuss correspondent banking, and Secretary Lew convened a meeting on de-risking with representatives from 13 U.S. financial institutions, including some of our largest banks and MSBs. That's why we have been in close contact with our counterparts in Latin America. And that's why, earlier this year, we hosted a roundtable with more than 100 industry and government stakeholders concerning MSB access to financial services.

All of these discussions addressed the importance of opening and maintaining cross-border banking relationships – and included candid exchanges on de-risking. What we've learned through this dialogue comports with the data we've received from the international surveys conducted thus far. Banks have told us that they are reassessing their exposure to risks related to cross-border banking. But those same banks emphasized that they were largely doing so on a case-by-case basis – not across broad categories of clients. And, while we heard reports that fear of perceived regulatory risk was driving some banks' decision-making, banks also cited other factors, such as lack of profitability, evolving business strategy, and reputational risk.

We now know that some jurisdictions and groups of people are being denied financial access, or at least facing higher costs of doing business. Of course, when people bring us concerns about these issues, we work with them to identify and address the underlying causes so that they can preserve their access to the U.S. financial system. But we don't yet see evidence of systemic retrenchment – and even if we truly are seeing some consolidation, we have not yet identified its scope or impacts.

Addressing De-Risking: Moving Forward

The dialogues we've held recently have enabled representatives of the private and public sector to better understand the nuances of the cross-border banking relationships that connect our markets. We remain committed to continued cooperation and dialogue on these issues, with a view to enhancing the implementation and effectiveness of AML/CFT measures across the globe. I can tell you that, as one next step, my office will convene a public-private dialogue with Central American jurisdictions next month.

In the meantime, given the frequent invocation of AML/CFT standards and enforcement cases as negative drivers of de-risking, I think it is appropriate to speak about how I see the state of affairs with respect to global AML/CFT standards – and what institutions and jurisdictions can do and are doing to enhance their standing on this front.

Our AML/CFT Standards: A Risk-Based Approach

During the past 15 years, we all have dedicated significant energy to develop the right international AML/CFT standards and to implement an effective regulatory and supervisory regime here in the United States. We believe that the standards we now have in place facilitate cross-border relationships that are safe, convenient and efficient. So we will not dilute or roll back our AML/CFT standards, despite calls from some quarters to do so. And we will not stop taking action to enforce those standards when justified.

What do these standards require? Let me be clear: Under both the FATF's international standards and our own domestic standards, regulators expect financial institutions to establish and implement policies and programs that are reasonably designed. We tell financial institutions to take a reasonable risk-based approach that addresses illicit finance risk on a client-by-client basis. That means that we require institutions to be vigilant as they identify potential risks that different clients present, and to design and implement effective AML/CFT programs that assess and address those risks.

None of this means zero tolerance, zero failure, or zero risk. The United States has never advocated a standard of perfection. Such an environment would inhibit capital flows and financial access. It would promote neither efficiency nor transparency.

We know that financial institutions, like humans in general, are not infallible. Infallibility was not the problem in the major bank enforcement actions over the past decade – the problem in these institutions was rampant and willful violation of the law. I invite everyone to read these enforcement actions, if you haven't already. Those actions were not taken for one-off mistakes or singular slip-ups; rather this was egregious activity that was knowingly carried out over long periods of time.

So: We believe our risk-based AML/CFT standards are the right ones – for correspondent banking, MSBs, and really all cross-border financial services. Our risk-based approach is a road map for financial institutions seeking to evaluate and manage risk, not an off-ramp for financial institutions seeking to avoid it. The key, at this point, is to help financial institutions navigate that road map.

Effective Implementation: Improving Guidance, Supervision, and Information-Sharing

We can do that by focusing on improving guidance and supervision, and by working with foreign governments to improve their implementation of AML/CFT safeguards.

Our overriding goal is to make money flows ever more transparent. One way to accomplish this is to make sure that transactions are covered by appropriate AML/CFT measures, not just here, but around the world. We want you to be comfortable working with financial institutions the world over, and to have confidence that these institutions are well run, rigorously supervised and worthy of your trust.

To that end, we have engaged with the private sector and foreign governments to improve the clarity and consistency of our guidance – to effectively communicate what our AML/CFT regime requires and does not require.

For example, last November, FinCEN issued a statement on providing banking services to MSBs. FinCEN's statement emphasized that banks should assess the risks posed by individual MSB customers on a case-by-case basis, and reinforced that banks should not, and need not, engage in the wholesale termination of customer accounts without individualized risk analysis.

We have also seen statements in the last year from the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), and the FATF – all issued to clarify the risk-based approach and caution against wholesale de-risking.

Internationally, the FATF has valuable work streams under way related to MSBs, correspondent banking, and financial inclusion. Treasury strongly supports the FATF's work streams, which have helped clarify expectations for governments and financial institutions as to the effective identification and management of high-risk customers. One result was FATF's statement on de-risking in October 2014, which emphasized that FATF's risk-based standards do not "imply a 'zero failure' approach."

The Financial Stability Board also has taken up de-risking. It is working to improve data, promote consistent compliance with AML/CFT regulations in emerging markets and developing economies, and to identify ways to make compliance more cost effective.

Bilaterally, we have worked with our international partners to improve information sharing, because smooth cross-border information flows can help correspondent banks comply with their domestic obligations. Our partners have shown great commitment and creativity in this regard. For example, we learned from banks that Mexican privacy regulations were impeding the ability of U.S. banks to obtain necessary transaction information from their Mexican counterparts. This was impacting correspondent relationships between financial institutions in our two countries. To their great credit, Mexican authorities promptly adjusted their regulations to correct the problem.

Now, I also know that certain jurisdictions remain high risk. Where jurisdictions are struggling to provide stable and inclusive financial services, we and our international partners are here to help. Treasury's Office of Technical Assistance currently works with seventeen countries in Africa, Southeast Asia, Latin America and the Caribbean, and the Middle East to help them improve their compliance with global standards. But the reality is that sometimes governments and institutions lack capacity or even resist making changes. We cannot force jurisdictions to improve their AML/CFT regimes, and we cannot strengthen the procedures of private foreign commercial institutions for them.

When it comes to relationships in these high-risk areas, if after a careful, case-by-case risk assessment a financial institution decides that it is unable to manage the risk associated with a particular institution and decides to terminate the relationship, that institution is doing the right thing. That is not "de-risking." It is an appropriate approach.

And, we have seen the termination of customer relationships by financial institutions – or even just the threat of termination – spur jurisdictions and institutions to step up their AML/CFT rules and practices. In some cases, financial institutions at the wrong end of the relationship acknowledged previously insufficient controls and made improvements.

But, perhaps even more importantly, we are seeing that U.S. banks are ready and willing to re-consider account terminations or limitations when shown that the foreign customer has made positive AML/CFT changes – in procedure and in implementation. When improvements are made and relationships are re-established, both the transparency and the inclusiveness of the international financial system are well served.

Enhanced transparency is really the story of the AML/CFT world since I began my work at Treasury over a decade ago. Thanks to the work of our partners around the world – and the FATF in particular – we have seen great progress. Through the FATF, we have managed to adopt and implement global AML/CFT standards that take into careful account the interaction between transparency and inclusion.

Yes, some financial institutions remain risk averse due to a number of factors, not just involving AML/CFT. But I can say that our AML/CFT standards and implementation are much better today than five years ago. Our markets remain closely connected. Working together, we have promoted an international financial system that can support both inclusiveness and transparency. And I am confident that, with the hard work and dedication brought to bear by so many of you here today, we will see increasing gains in transparency and inclusion going forward.

Conclusion

Your input is and will remain critical as we formulate policy approaches. So I'd like to thank you for your attention this afternoon, and for your time and dedication to these issues.

We continue to work toward an international financial system that is as inclusive and safe as possible. We cannot do that without your help – and we look forward to working with you in the months and years ahead.

Thank you again for hosting me this afternoon.

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