

U.S. DEPARTMENT OF THE TREASURY

Press Center



Remarks by Acting Under Secretary Adam Szubin at the ABA/ ABA Money Laundering Enforcement Conference

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WASHINGTON - Thank you, Rob, for your kind introduction and thank you to the American Bankers Association and American Bar Association for inviting me to speak today. I recognize many of you from last year's Conference, and it is a pleasure to be back again this year.

I would like to focus my remarks today on de-risking—an issue we discussed at length at last year's Conference and one that remains a key priority for the U.S. Department of the Treasury. In fact, Treasury has devoted a great deal of time and attention over the past few years to better understanding the issue and developing appropriate responses.

I will first take a moment to provide an overview of how we have come to understand the issue and our efforts thus far to address de-risking as well as improve financial transparency, and then I will focus on what you—the private sector—can do to ensure a risk based approach to your correspondent banking relationships.

Importance of Financial Access and Financial Transparency

The U.S. financial system is essential to proper functioning of the global economy and correspondent banking relationships, in particular, are critical for ensuring that resources flow within and across economies to facilitate trade, foster economic growth, and provide access to financial services. Though some have pointed to the current regulatory environment as working at cross purposes with financial inclusion, we at Treasury firmly believe that expanding access to the financial system and protecting it from illicit activity are mutually reinforcing goals that can and must be addressed simultaneously.

That is why we are working across our government to develop appropriate policy responses that facilitate financial access to the regulated financial sector, enhancing financial transparency and accessibility, with the end result being a safe and reliable financial system that is protected from abuse by illicit actors. Addressing losses in correspondent banking relationships has been central to our work on this front, and I would like to spend some time today discussing both what we have come to learn over the course of our lengthy engagement on this topic, as well as some of the steps we have taken to address the issue.

De-risking: definition, scope, and drivers

The term “de-risking” has come to mean different things to different people, and is not consistently used by various stakeholders. We prefer to focus the term more precisely on what we view as problematic, which are reports of financial institutions indiscriminately terminating or restricting broad classes of customer relationships without a careful assessment of the risks and the tools available to manage and mitigate those risks. This type of activity is not in line with U.S. regulatory expectations or with global standards.

Treasury has been focused on this issue for some time now, and over the course of our engagement we have come to understand that some sectors and jurisdictions are affected more than others, but overall, there is no evidence to suggest a global systemic impact. For example, last year the World Bank undertook a survey that found that small jurisdictions with significant offshore banking activities were disproportionately affected. Given what we have come to understand about some of the reasons why some global banks are reassessing their business relationships, this is not entirely surprising.

These reasons include that correspondent banking is a low-margin business in a global banking environment that has seen many multinational banks reassess their global strategic footprint, cut costs, and reallocate capital. Heightened prudential standards following the global financial crisis have also had an effect on banks' decisions, with more rigorous capital adequacy and liquidity requirements precipitating shifts away from some emerging markets in favor of shoring up core businesses.

Finally, there are often very real concerns about the risks presented by anti-money laundering and countering the financing of terrorism (AML/CFT) compliance. While “regulatory risk” and fear of fines has been cited by some, the core issue here relates to poor and uneven implementation of global AML/CFT standards—either by individual foreign banks or by jurisdictions as a whole. The fact is that some countries lag in the effective implementation of global AML/CFT standards and have not taken the necessary steps to implement the proper legal, regulatory, and supervisory frameworks to adequately counter illicit finance.

U.S. Government Efforts to Address De-risking and Improve Financial Transparency

So what is the U.S. government doing about it?

Ongoing Engagement

First, we are engaging extensively with the private sector, including ABA members, as well as with foreign jurisdictions, MSBs, non-profit organizations, and a number of other key stakeholders to ensure we are always up-to-date on the scope and scale of the issue, as new developments arise.

We are also working to foster dialogue, exchange information, and identify solutions through a series of bilateral and regional dialogues focusing on correspondent banking. Over the last few years, we have engaged in a number of these public-private dialogues in countries and regions affected by de-risking, such as the Middle East and the Caribbean. These events bring together U.S. regulators, policymakers, and private sector institutions to engage with foreign counterparts to foster frank conversations about our cross-border relationships, including any challenges that might exist. They have provided opportunities for countries and banks to hear directly from correspondent banks and regulators regarding their approach to decision-making, supervision, and enforcement. Finally, the dialogues present opportunities to help develop a shared understanding of how global AML/CFT standards should be implemented, so that jurisdictions with gaps in their domestic frameworks may better position themselves to address these deficiencies.

Outside of the Treasury-led dialogues, we also work closely with international bodies such as the Financial Action Task Force, or the FATF, and the Financial Stability Board (FSB), as well as with international financial institutions such as the World Bank and International Monetary Fund (IMF). Our work with these organizations ranges from developing more robust data collection and analysis on correspondent banking trends to helping to further clarify global AML/CFT standards, as well as improve their implementation across jurisdictions.

Clarifying Expectations and Standards

We believe that we cannot address this complex issue by relaxing the prudential requirements that have made our financial system more stable or the AML/CFT rules that have made it safer. Rather, we must ensure that the global standards in place are well understood and implemented consistently and effectively, and in doing so we will enhance financial transparency and subsequently improve financial access.

The United States maintains an effective AML/CFT regime, which rests on principles of clear requirements, strong and effective supervision, and proportional enforcement. While we believe our standards and expectations are clearly described in regulation and guidance, Treasury is working to further clarify both global standards and U.S. supervisory and enforcement expectations with respect to AML/CFT and sanctions in the area of correspondent banking.

As part of that effort, this past August Treasury and all of the U.S. banking regulators issued a “Joint Fact Sheet on Foreign Correspondent Banking” that highlights the efforts of U.S. authorities to implement a fair and effective regulatory regime and clarifies further the U.S. government’s approach to supervision and enforcement. The Fact Sheet describes the expectations of U.S. regulators, the supervisory examination process, and the use of enforcement actions.

Notably, the Fact Sheet highlights that about 95 percent of AML/CFT and sanctions compliance deficiencies identified by Federal Banking Agencies are resolved through cautionary letters or other guidance by the regulators to the institution’s management without the need for a public enforcement action or penalty. In addition, over 95 percent of OFAC sanctions investigations are closed with administrative actions that do not rise to the level of a monetary penalty or other public enforcement response. The rare cases of large monetary penalties or settlements for AML/CFT and sanctions violations have generally involved a sustained pattern of reckless or willful behavior over a period of multiple years and a failure by the banks’ senior management to respond to warning signs that their actions were illegal. Further, the Fact Sheet dispels certain myths about U.S. supervisory expectations, including that there is a general expectation for banks to conduct due diligence on the individual customers of foreign financial institutions, (a practice that has been referred to as “Know Your Customer’s Customer,” or “KYCC”), which is not the case.

The Office of the Comptroller of the Currency (OCC) also issued guidance in early October that articulates OCC’s expectations for banks to re-evaluate risk in their foreign correspondent banking relationships. The guidance does not create any new supervisory expectations, but rather reiterates OCC’s current expectation that banks assess these risks as part of their on-going risk management and due diligence practices, and also provides “best practices” for banks to consider when conducting their reevaluations.

These include: i) communicating clearly recommendations for foreign correspondent account closure to appropriate levels of management; ii) considering the potential for adverse international financial inclusion impacts on customers or regions in deciding to close accounts; iii) communicating with customers while determining whether to end a relationship; iv) providing adequate time for customers to open new accounts prior to termination; and v) maintaining clear records of the bases for account terminations.

It is clear that many banks already follow these best practices. We hope the guidance contributes positively to how banks approach their correspondent banking relationships and promotes constructive engagement between correspondent and respondent banks, including on the importance of following the risk-based approach.

We are also working to advance our efforts to help further clarify how global standards are understood and implemented internationally. For example, Treasury has worked through the FATF to help shape the organization’s recent work on correspondent banking, most notably the FATF’s October guidance paper on correspondent banking. This guidance clarifies that the FATF Recommendations do not require correspondent financial institutions to know their customer’s customer. This guidance was developed in collaboration with the private sector. We believe this guidance will be helpful in clarifying the application of the FATF standards in the context of correspondent banking relationships.

Offering Technical Assistance

Treasury continues to work with countries to improve their AML/CFT and prudential regimes through technical assistance. Treasury’s Office of Technical Assistance offers technical assistance to roughly 18 countries, including a number of countries impacted by de-risking. Their work focuses on

supporting collaborative efforts that improve the capacity of Financial Intelligence Units, financial and non-financial sector supervision, and enforcement authorities in countries with a demonstrated willingness to improve their supervisory and AML/CFT frameworks.

Treasury has also urged, at the highest levels, the World Bank and the IMF to increase their technical assistance efforts and funding for the jurisdictions most acutely affected by de-risking. This is important because both organizations' work in this area relies heavily on donor-supported trust funds, which are principally limited to work in low-income countries – while de-risking also affects middle and upper-middle income countries, such as those in the Caribbean.

Removing Barriers to Communication

In closing, I want to share with you a success story in which collaborative efforts to address de-risking concerns, improve information sharing, and help correspondent banks comply with their domestic obligations prompted positive reform with respect to AML/CFT implementation, and financial inclusion and financial transparency efforts.

Last year, we learned from banks that Mexican privacy regulations were impeding the ability of U.S. banks to obtain the necessary transaction information from their Mexican counterparts necessary for U.S. banks to comply with U.S. AML obligations, which in turn was impacting correspondent relationships between financial institutions in the United States and Mexico. To address the issue, U.S. and Mexico government officials and senior compliance officers of major U.S. and Mexican banks initiated an information-sharing effort to revise Mexican information-sharing regulations to allow Mexican banks to more readily share important transaction information with their U.S. correspondent banks. The change, prompted initially by concerns of de-risking, puts U.S. financial institutions in a better position to determine whether cross-border transactions are suspicious. Moreover, it strengthens Mexico's financial system and supports our collective efforts to improve financial inclusion and financial transparency.

Role of the Private Sector

Those are some of the efforts we have underway to address de-risking concerns and enhance financial transparency, and now I'd like to highlight some of the positive steps the private sector can take to augment these efforts.

As I mentioned previously, Treasury engages regularly with industry and we understand that the perception that banks are taking an indiscriminate approach to terminating, restricting, or denying services across entire sectors is inaccurate and overblown and not, in fact, what most institutions are doing in terms of best practices. While the U.S. government cannot instruct the private sector on who to bank, we encourage you to continue to take the time and effort to assess your controls and the risks presented by individual clients and where you cannot manage effectively that risk make conscientious decisions.

Conclusion

As I noted at the beginning of my remarks, we have a shared responsibility to expand access to the financial system while protecting it from illicit activity, and to ensure that our collective efforts result in a well-functioning, transparent, resilient, safe, and sound financial system.

While there have been a number of improvements in AML/CFT controls and regimes over the last few years, it is essential that countries and their financial institutions work to improve and effectively implement and enforce their AML/CFT regimes and controls. We have seen that, with the necessary political will, countries and financial institutions can address concerns about deficiencies in their AML/CFT compliance and enforcement regimes, thus building the confidence that global financial institutions have in them.

Clearly, many challenges remain, and as we strive towards a global financial system that is inclusive, safe, and transparent, your help remains critical. I look forward to your views on how we can continue to further our objectives, including how we can work together to improve implementation of and adherence to global AML/CFT standards.

Thank you for your attention this afternoon, and for your time and dedication to these issues.

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