

# Remarks by Assistant Secretary for Terrorist Financing and Financial Crimes Elizabeth Rosenberg at the Association of Certified Anti-Money Laundering Specialists Assembly Conference

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## INTRO

Good morning and thank you Kieran, and thank you to ACAMS for having me here virtually to speak to you today. I'm honored by the invitation, and I wish I could have joined you all in person.

My name is Elizabeth Rosenberg, and I am the Assistant Secretary for Terrorist Financing and Financial Crimes at the U.S. Department of the Treasury. My office, the Office of Terrorist Financing and Financial Crimes, or TFFC, is part of Treasury's larger Office of Terrorism and Financial Intelligence, which includes FinCEN, OFAC, an intelligence office, and an asset forfeiture office. TFFC develops and coordinates AML/CFT and sanctions policy across the Department, and the broader U.S. Government.

I've been the Assistant Secretary since December 2021, shortly before Russia's invasion of Ukraine. The first few months of that invasion, and of the international sanctions and financial controls imposed in response, underscored the importance of closing some of the longstanding challenges that we collectively face in keeping the U.S. AML-CFT regime current and strong. It also caused me to rethink what effectiveness means in the financial compliance space.

All of you working in AML/CFT compliance support our national security mission when you detect and unravel ongoing illicit activity. I'm very grateful for the work you all in compliance do daily. Today I want to talk about the road ahead to mitigating gaps in our existing AML/CFT regime. Then, I'll turn to Russia—a core priority for U.S. AML and sanctions policy. What I want to impart to you today is that these issues are deeply linked. We cannot effectively wage the sanctions campaigns of today—against large and interlinked

international economies—if we cannot effectively close the AML gaps in our own financial system.

## THE GAPS

Historically, the U.S. has had one of the most effective AML/CFT regimes in the world. But we are far from perfect, and we will always strive to harden our system against those who seek to misuse our institutions, gatekeepers, and payments platforms. In particular, in our mutual evaluation in 2016, the FATF determined that the U.S. has major regulatory gaps related to beneficial ownership, real estate, investment advisors, and non-financial gatekeepers like lawyers and trusts. Many of the issues the FATF identified align with the findings of my office's Money Laundering Risk Assessment, the last version of which was published in February 2022.

Addressing these deficiencies is a core technical priority. Specifically, TFI has been working hard to close the legal and regulatory gaps that illicit actors exploit to anonymously access the U.S. financial system, to obfuscate and launder illicit proceeds through real estate and institutions that lack clear AML/CFT obligations.

On beneficial ownership risks, we continue to prioritize the implementation of the Corporate Transparency Act (the CTA), which requires certain U.S. and foreign companies to disclose to FinCEN information about persons who own or control a company. It also requires FinCEN to build a non-public, central registry of this information and authorizes FinCEN to disclose this information to authorized government authorities and financial institutions, subject to effective safeguards and controls.

Beginning on January 1, 2024, many companies in the United States will have to begin reporting information about their beneficial owners, i.e., the individuals who ultimately own or control the company, and their company applicants.

We recognize that the Beneficial Ownership Information reporting requirements—and FinCEN itself—will be new to many businesses across the country, so we are conducting outreach to various stakeholders, including the small business community, and developing guidance materials to inform companies of their reporting obligations. As part of this effort, FinCEN published on its website an initial set of guidance materials, including frequently asked questions and videos. FinCEN also recently published a Small Entity Compliance Guide to describe the requirements in more detail and in a simple, easy-to-read manner. This should help lessen the burden on small businesses and help make this nation-wide registry a success.

In parallel, FinCEN is working to finalize the Access Rule to establish who may request and receive Beneficial Ownership Information, how recipients may use it, and how they must secure it. In December, FinCEN issued a Notice of Proposed Rulemaking (NPRM) for the Access Rule. Because we're in an ongoing rulemaking process, I won't be able to discuss the substance of this rule today, but I look forward to discussing it in the future.

With respect to real estate, Treasury has already promulgated comprehensive AML/CFT regulations for residential mortgage lenders and originators, as well as government-sponsored housing entities, covering 76% of the \$43.4 trillion residential real estate market.

The remaining portion of the U.S. real estate market not subject to comprehensive AML/CFT regulation includes non-financed residential real estate transactions and certain commercial real estate transactions. We assess this segment makes up approximately \$20 trillion. We are working to close this gap and considering rules to enhance transparency in the real estate sector.

Starting in 2016, FinCEN issued a Geographic Targeting Order, which was renewed multiple times, to impose reporting requirements for certain non-financed residential transactions and to better understand associated risks. In December 2021, FinCEN also published an Advanced Notice of Proposed Rulemaking seeking comment on potential systemic solutions to address the illicit finance risks in the real estate sector, and is working diligently to issue a proposed rule this year for consideration and public comment.

The BSA requires banks and many parts of the financial sector to guard against illicit finance risks. However, corrupt actors continue to exploit vulnerabilities with a number of professions and sectors outside the scope of the BSA to launder their illicit proceeds. These include investment advisers, as well as lawyers, accountants, and other professionals. We are conducting risk assessments on each of these sectors and considering possible policy options.

In conjunction with these rulemakings and risk assessments, we are also prioritizing our upcoming mutual evaluation by the FATF, which is scheduled for finalization by 2026. It will reflect the state of our current AML/CFT system and its compliance with the FATF standards, as well as its overall systemic effectiveness.

Ultimately, as I noted previously, the U.S. has work to do on its own AML/CFT regime—we're aware of this, openly acknowledge it, and believe we can accomplish that work.

## **EFFECTIVENESS AND WHY IT IS IMPORTANT**

Now I'd like to take a step back and talk about the theory, and practice, of effectiveness because the real success of AML/CFT regimes is about more than identifying and plugging gaps. Our collective actions to detect, deter, and disrupt illicit finance depend upon having in place dynamic, practical, effective AML/CFT and targeted financial sanctions regimes.

Effectiveness means that jurisdictions have legal, supervisory, and enforcement regimes that identify and prevent illicit finance from flowing through the financial systems; that financial institutions have programs in place that are well-designed to identify, report, and prevent illicit finance; and that resources are aligned both in governments and in financial institutions to address the highest risks. Effectiveness also means we specifically seek for, and find, financial crimes, not just build compliance systems.

What I'm describing requires both financial institutions and governments to put in place a truly risk-based approach. This is easier said than done. It is an area of tension for many countries, including the United States, where many financial institutions often say our regime is geared towards technical compliance, rather than being risk-based and outcomes-focused. Also, that risk-based approach invites the uncomfortable necessity of breaking us out of our traditional way of doing things to evolve more innovative and novel approaches.

In some ways, the regulation is the easy part (though I promise you it doesn't feel easy from within government). The next and much harder step is to get to a place where supervisors more fully recognize that financial institutions should have flexibility to utilize their resources appropriately to go after illicit financial risks. And to a place where financial institutions proactively put forward creative strategies to find and mitigate illicit activity.

One thing this all means is that governments need to actively encourage financial institutions to become "outcomes focused," and to embrace approaches that are in line with threats posed and technology available to counter them in the 21st century.

Even as TFI pursues its regulatory and sanctions agendas, I want you to know that we are engaging, with supervisors and with the private sector, on the long-term project of defining effectiveness, and incentivizing it.

## **RUSSIA AND SANCTIONS EVASION**

I want to turn, now, to address the other dominant priority facing TFI and our nation's national security broadly. Since Russia's brutal and unprovoked invasion of Ukraine in 2022, an estimated 500,000 Ukrainian soldiers have died or been injured in the battlefield, 6.3 million Ukrainians have fled their country. The entire world, and especially the global south, has been

subjected to higher and more volatile food prices, and households worldwide are suffering higher energy costs.

As President Biden said last month at the United Nations, the reason the United States and our G7 partners have taken a firm stand against Russia's action is that if we do not stand up to aggression today and deter other would-be aggressors, no country can feel that its sovereignty and territory are secure.

Since Russia's invasion of Ukraine, the U.S., with our G7 partners, has taken unprecedented action to curb Russia's ability to wage war. The U.S. has sanctioned over 2,500 Russia-related targets and over 80 percent of Russia's banking sector by assets. We have also worked with our international partners through the Russian Elites, Proxies, and Oligarchs (REPO) Task Force to block or freeze tens of billions of dollars' worth of sanctioned Russians' assets. And we have implemented a novel price cap on Russian oil and petroleum products, to deprive the Kremlin of the key source of revenue it uses to fund its war.

We know that these measures are working. President Putin himself and his Ministers have observed that our sanctions are having a significant impact on the Russian economy. Our targeting of Russia's financial sector and revenue generators are forcing tough choices as the government tries to spend its way out of crisis and burns through its fiscal buffers. We continue to see unsustainable redirection of state spending to Russia's security sector, at the cost of its civilian economy and future economic production or growth. This is due in large part to our coalition's campaign of sustained financial pressure.

At the same time, Russia and its proxies have adapted and continue to gain access to the international financial system to finance the Russian war machine and procure certain key parts and equipment. In the United States, the Departments of Justice, Commerce, and Treasury have publicly highlighted common methods by which Russian actors are able to evade sanctions. Methods that we have identified include the use of third-party intermediaries or transshipment points to circumvent restrictions, the disguised involvement of designated nationals, and other efforts designed to hide the types of dual use goods being shipped to an end point in Russia.

Treasury and our partners have, for months, focused on specific HS codes, or the Harmonized System codes, that identify controlled items traded across jurisdictions that are of key importance to Russia's war effort. The Department of Commerce has published a list of 45 of these priority codes on its website to assist institutions in identifying the potential shipment of dual use goods.

One point I want to emphasize about our Russia campaign is that we are not going to let up. On the contrary, there are many measures available to us to continue both combatting Russian attempts at circumvention and increasing the pressure generally. None of these steps are easy—and as always, we will take them deliberately, seeking to minimize any collateral harm that might occur to our own economic interests, those of our allies, and impacts on the global south. But no one should think that we are anywhere near the end of our energy or creativity on this problem set.

But more generally, and related to how I began today, what I want to leave you with is that is that the two areas of highest priority for my office—sanctions to advance the foreign policy goals of the U.S., and the strengthening of the U.S.'s own AML/CFT regime—are deeply linked. While governments certainly play a role in enforcing sanctions evasion activity, financial institutions are essential to ensuring that they have their intended effect. Some of you will have noticed the enforcement action OFAC took against a Latvian bank this summer when a Latvian bank, dealing in dollars, processed transactions violating U.S. sanctions on Crimea. The Department of Justice also recently filed a criminal complaint against a Russian national for, among other charges, money laundering offenses through U.S. financial institutions. An effective, up-to-date AML regime will help institutions identify the money laundering that aids Russian efforts and exposes Kremlin-aligned funds, such as the \$1 billion Treasury blocked in a Delaware-based trust last year.

Indeed, as our efforts focus on depriving Russia and its military industrial complex, effective AML/CFT and sanctions policy programs at financial institutions are central to the success of those efforts. It is vital that financial institutions put into place policies and systems to monitor, screen, and analyze trade and customs data to understand the underlying controlled goods their clients trade and correspondents facilitate. Failure to do so, and the continued siloing of AML/CFT and sanctions departments at some financial institutions, can lead to financial institutions unwittingly, or inadvertently, processing payments for controlled goods and involving designated entities.

Adopting a proactive approach with regards to this issue will ultimately allow financial institutions to identify Russian sanctions evasion and procurement activities involving sensitive goods that are of interest to the Russian military complex.

It is my hope that you all will keep in mind the issues I highlighted today as you continue today's discussion on anti-money laundering and other illicit finance issues.

It is our joint responsibility to actively ensure that the American and international financial systems are protected from abuse and exploitation.

To close, I would like to thank you for the invitation to speak today, for your efforts to make our financial systems safer, and for your dedication to this important work.

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