

Statement by

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Introduction and FinCEN's Mission

Chairman, Ranking Member, and distinguished Members of the Subcommittee, thank you for the opportunity to testify this afternoon on behalf of the Financial Crimes Enforcement Network (FinCEN). My name is Himamauli Das, and I am the Acting Director of FinCEN. I have truly appreciated the support of the Committee in the critical fight against financial crime and look forward to our continued work together.

I know that there have been several changes in the Committee's membership since I last testified in April 2022, so I want to begin by explaining FinCEN's role. FinCEN is the primary U.S. Government regulator responsible for implementing the Bank Secrecy Act (BSA) and is also the Financial Intelligence Unit (FIU) of the United States. In these roles, FinCEN's mission is to safeguard the financial system from illicit use, combat money laundering and its related crimes including terrorism, and promote national security through the strategic use of financial authorities and the collection, analysis, and dissemination of financial intelligence. Clearly, this is a broad mission.

The foundation of our work is two-fold. We receive information from financial institutions and others pursuant to the BSA — Suspicious Activity Reports (SARs), Currency Transaction Reports (CTRs), and other types of reports and financial intelligence — that assist law enforcement and the intelligence community with detecting and ultimately combating illicit financial flows. Over the years, as wrongdoers have found new ways to attempt to exploit our financial system, Congress has updated the BSA to provide law enforcement and regulatory agencies with the critical tools needed to combat money laundering and counter the financing of terrorism.

We also work to ensure that financial institutions, such as depository institutions, money services businesses, casinos, and others, maintain effective, risk-based AML/CFT compliance programs that allow them to effectively detect and report suspicious activity involving financial crime. In doing so, we work with law enforcement, the Federal functional regulators, national security agencies, and foreign counterparts to implement an effective AML/CFT regime.

Most recently, Congress modernized the AML/CFT regime by enacting the bipartisan Anti-Money Laundering Act of 2020 (AML Act), including the Corporate Transparency Act of 2020 (CTA), as part of the Fiscal Year 2021 National Defense Authorization Act. The AML Act reinforces the important role we play in national security by modernizing and empowering our enforcement regime, by introducing a new whistleblower program, and by emphasizing the need for an effective, risk-based and modern AML/CFT regime that places a focus on efficiency, the use of innovative technology, and enhanced collaboration with all stakeholders.

As a result of the CTA, FinCEN will soon add a new category of valuable information to its reporting base: beneficial ownership information. This information will allow us to identify the beneficial owners of certain types of companies doing business in the United States, and to protect our national security and our citizens from the many types of illicit activity that have historically hidden behind anonymous shell companies. We take our role in safeguarding the financial system very seriously, and although our expanding responsibilities have forced us in some cases to make challenging resource tradeoffs, our workforce is proud — as am I — of FinCEN's contributions to combating illicit finance both to protect U.S. national security and to protect American taxpayers and businesses from criminals and corrupt actors that, for example, illegally sell fentanyl and other drugs, assist the Russian government evade

sanctions and acquire sensitive technologies, commit fraud and ransomware attacks, and facilitate human trafficking and child exploitation.

I would also like to take a moment to acknowledge FinCEN's dedicated team, which includes investigators and analysts with expertise in financial crime, regulatory experts, enforcement and compliance officers, data analysts, technology experts, and all of the finance, security, management, and human resources personnel that keep FinCEN running smoothly. FinCEN staff have worked tirelessly to help ensure that Americans are protected from financial fraud and criminal activity as the scope of our mission has increased, including our efforts to support the U.S. Government and international coalition combating Russian illicit finance in the face of Russia's illegal invasion of Ukraine. I want my FinCEN colleagues to know that their work is absolutely critical to our success. I cannot overstate my personal respect and gratitude for each and every member of the FinCEN team. On a daily basis, their work, which many Americans will never know about, makes a real difference, and for that, I want to say here, thank you!

Updates on Key FinCEN Priorities

I will highlight three key areas on which we at FinCEN are focused, in addition to implementing the beneficial ownership regulatory regime and accompanying database, which I know looms large in all of our minds. Those three areas are: protecting the data that we collect; building a roadmap to enhance the AML/CFT framework; and fostering accountability through enforcement.

Data Protection

One of the greatest responsibilities we have to the American people is to diligently protect the sensitive data that the BSA requires financial institutions and others to report to FinCEN. Ensuring that Congress and the public have faith in our ability to safeguard this data is foundational to our overall efforts to protect the integrity of the financial system from abuse by illicit actors.

I know that the Committee recently heard from the Department of the Treasury's Acting Inspector General about the multi-year audit his office (OIG) has undertaken of different aspects of FinCEN's work to securely share BSA information with government partners for purposes consistent with our legal authorities. FinCEN is proactively engaging with the OIG on this audit, and we are actively working to address the concerns the OIG audit team as raised. I am pleased to report FinCEN has already implemented several measures in response to OIG feedback, in order to ensure that sensitive information is protected appropriately, both in the context of BSA information and in designing the beneficial ownership framework and associated policies and procedures prior to receiving beneficial ownership information next year.

For those who may not be aware, FinCEN provides access to authorized law enforcement and government officials at the federal, state, local, and tribal levels through a secure system known as FinCEN Query. Any government agency that wishes to access BSA information is required to execute a Memorandum of Understanding (MOU) that outlines the specific security requirements and authorized uses for accessing this information. Broadly speaking, we are updating our standard operating procedures across a number of aspects of our BSA access and information-sharing regime, and we are undertaking an extensive effort to update the MOUs that govern access.

FinCEN looks forward to seeing the OIG's draft reports, but we are not waiting for those reports to make improvements. We have already started to address specific concerns that the Inspector General identified in his testimony. We will carefully consider all of the OIG's recommendations, and we will work expeditiously to implement additional improvements to address the issues that have been identified. I am happy to answer any further questions you have about our overall efforts to secure BSA and beneficial ownership information and to ensure that our partners are using it only for authorized purposes.

Feedback Loops and the Roadmap for an Effective, Risk-Based AML/CFT Framework

Another top priority for FinCEN is the implementation of the roadmap laid out in the AML Act to make the AML/CFT framework more effective and more risk-based. This entails balancing the interests and perspectives of several stakeholder groups — private sector entities, our delegated examiners, and law enforcement and national security agencies. FinCEN is working collaboratively and constructively with financial institutions to make sure that law enforcement and national security agencies get critical financial information needed to investigate and prosecute illicit finance. In doing so, we are cognizant of the need to take into consideration the resource constraints of the private sector, and especially of small businesses. In parallel, we are working with law enforcement and national security agencies to ensure that we are instituting appropriate feedback loops that explain to financial institutions the value of their vigilance and reporting. We are also working with our delegated examiners to ensure that supervision and examinations reflect the risk-based AML/CFT programs that we are asking financial institutions to implement. This concept of strengthening feedback loops permeates the AML Act, and we agree that it is hugely important to fostering an effective and efficient AML/CFT system.

Our recently-published FinCEN Year in Review FY22 on the use of BSA information is an important first step to demonstrate how integral BSA information is to law enforcement investigations and operations. Users of our FinCEN Query system made 2.3 million queries last fiscal year; the Internal Revenue Service-Criminal Investigations unit reports that over 80% of all its investigations involve a primary suspect with a related BSA filing; and in just under a two-year period ending in July of 2022, the Department of Justice (DOJ) reports that BSA reporting supported almost 40% of active Organized Crime Drug Enforcement Task Force investigations. We stand ready to continue to work with DOJ, law enforcement and national security agencies, FinCEN's delegated examiners, and financial institutions to improve feedback loops as we gain greater data and experience.

At the same time, we are taking a pragmatic approach towards implementation of individualized financial institution outreach and feedback as called for in Section 6203 of the AML Act, and implementation continues to be a long-term goal for us as we work through information collection needs and competing priorities. We envision that implementing a meaningful level of individualized feedback will be one of the primary functions of the Office of Domestic Liaison, which will require funding for a substantial number of new positions above and beyond those dedicated to CTA implementation.

In the interim, we are nonetheless looking for ways to strengthen feedback loops — meeting with financial institutions to determine what feedback they find most useful in understanding the value of the reports they file with FinCEN and convening FinCEN Exchanges to bring financial institutions together with law enforcement and national security agencies to discuss priority threats and emerging illicit finance typologies.

A little more than half-way through the current fiscal year, we have already hosted as many FinCEN Exchanges as we did in all of Fiscal Year 2022, and we intend to host additional Exchanges before the end of the fiscal year. These Exchanges are enormously productive, and some of the key authorities that maximize the effectiveness of these Exchanges are the legal mechanisms that allow law enforcement agencies and financial institutions to share information as criminal actors move from bank to bank seeking to evade detection. For instance, Section 314(b), which allows financial institutions to exchange information with other financial institutions to detect illicit finance, is a powerful tool that financial institutions use both with FinCEN's involvement and among registered private sector entities to protect the system against illicit finance and terrorism threats.

We are also working to update the existing AML program requirements to ensure that financial institutions implement AML/CFT programs that incorporate the national AML/CFT Priorities issued in June 2021 and address the factors enumerated in Section 6101 of the Act, and that the AML/CFT programs are effective, reasonably designed, and risk-based. We recognize, of course, that publishing the priorities is merely a first step on a much longer path toward maximizing the effectiveness of the AML/CFT framework. Achieving the AML Act's goal of a strengthened, modernized, and streamlined AML/CFT framework will ultimately play out over a series of steps as we implement all the provisions of the AML Act. The measures described above, including improved data collection from law enforcement partners, the enhanced use of FinCEN Exchange, and the establishment of the Office of Domestic Liaison, will all play a role.

Beyond those steps, the AML Act also requires FinCEN to work with the Federal Financial Institutions Examination Council (FFIEC) and law enforcement agencies to establish training for Federal examiners to better align the examination process with the risk-based approach and national AML/CFT Priorities. This will help ensure examiners focus on measuring the outputs of financial institutions' AML/CFT programs and the extent to which they improve outcomes for law enforcement agencies and more effectively safeguard the national security of the United States.

At the heart of each of these lines of effort is more regular communication with stakeholders across the board and an openness to innovative approaches and pilot programs that help test these approaches. This work, in turn, will inform our ongoing efforts to comprehensively review our regulations and guidance as required by section 6216 and to modernize the reporting regime as envisioned in sections 6204 and 6205. I want to thank the Committee for its ongoing interest in the matter, as well as its support, as we consider feedback from law enforcement and national security agencies, industry, and other stakeholders.

Enforcement and Accountability

Even as we are partnering with financial institutions to strengthen the effectiveness of the system, we are also focused on our responsibility to take enforcement actions where we see violations of the BSA, and to use our authorities to hold financial institutions accountable for failing to comply with these critically important rules. Financial institutions that ignore their regulatory obligations put themselves, U.S. citizens and companies, and the entire financial system at risk. They are opening the door to all manner of threats, including Russian illicit finance, cyber-crimes and ransomware, drug or human trafficking, or other heinous crimes, and they are making it more difficult to identify wrongdoing and to follow the money to bring perpetrators of financial crimes to justice.

Recently, our Enforcement and Compliance Division has been prioritizing BSA violations identified across the virtual currency industry, and the need to take action against compliance failures there as part of our broader push to foster responsible innovation. This focus has resulted in some notable and sizable actions. For example:

- In October 2022, FinCEN imposed a \$29 million civil money penalty against Bittrex, a convertible virtual currency platform, for numerous program and reporting violations.
- The year prior, in August 2021, FinCEN imposed a \$100 million civil money penalty against BitMEX, a convertible virtual currency derivatives exchange, for extensive failures by the company to comply with its BSA obligations.

FinCEN's Enforcement and Compliance Division is small, especially considering the scale and size of the industry we regulate. As the primary regulator for AML/CFT purposes, FinCEN regulates a significant portion of the financial industry for AML/CFT purposes, including approximately 290,000 entities. However, FinCEN has only about 300 full-time employees, a small number of whom are specifically dedicated to enforcement and compliance issues, despite the breadth of FinCEN's mission.

This results in FinCEN having by far the smallest ratio of employees to regulated entities compared to all the Federal Banking Agencies and Federal Functional Regulators. Additionally, all of FinCEN's enforcement and compliance professionals are based at FinCEN's offices in the Washington, DC area, despite their nationwide scope of responsibility, whereas the Office of the Comptroller of the Currency, for example, has more than 30 regional offices and the Federal Reserve system has 12 regional banks.

Despite those challenges, we are always looking for opportunities to maximize our impact. A new, important component of our Enforcement and Compliance Division is the Office of the Whistleblower, which holds tremendous potential as a force-multiplier for the entire federal government — most notably, DOJ and the Department of the Treasury's Office of Foreign Assets Control (OFAC) — and a powerful tool for holding financial institutions to account for violations of the BSA and economic sanctions. FinCEN has made considerable progress in standing this program up and has hired key personnel to lead the Office. We are now in the process of drafting rules to implement the program in a way that encourages whistleblowers to step forward and share what they know. Thanks to Congress, we have also established the fund from which to pay out whistleblower awards. I want to express my appreciation to Congress, and the Committee in particular, for your support of the Office of the Whistleblower.

We are accepting whistleblower tips while we work towards the technological and regulatory development of a more formal tip intake and award certification system. Ultimately, FinCEN anticipates that the whistleblower office will receive numerous whistleblower tips per month, which will require FinCEN to employ resources to evaluate tips, investigate potential violations, and adjudicate whistleblower award applications following a successful enforcement action based upon whistleblower information.

Highlighting FinCEN's Successes

I also want to highlight successes our team has achieved in supporting law enforcement and national security agencies. Given our broad and growing mandate, and because much of our work is necessarily “behind the scenes” due to the sensitive information we safeguard and analyze, I could never hope to capture in a few pages all that we have accomplished since I was last before the Committee in April 2022, but I am grateful for the opportunity to call out just a few specific examples.

Countering Russian Aggression

FinCEN's data and analysis has been critical to the efforts of the U.S. Government and the multilateral Russian Elites, Proxies, and Oligarchs (REPO) Task Force to track, freeze, and seize Russian oligarch assets and prevent sanctions evasion by the Russian government. Our colleagues at OFAC have done a tremendous amount of work using their authorities to counter Russia's aggression, imposing sanctions on more than 2,500 Russia-related targets since February 2022, including approximately 2,400 individuals and entities, 115 vessels, and 19 aircraft. More than 600 of those targets are tied to Russia's military-industrial complex.¹

Behind the scenes, FinCEN's data and analysis is helping to drive many of these sanctions designations. We issued four Alerts and one Advisory alerting U.S. financial institutions to Russian sanctions evasion, export control evasion, kleptocracy, and other Russian illicit financial activity. These actions have resulted in thousands of SARs being filed with FinCEN, and such SARs play an important role in sanctions designations and law enforcement efforts to prosecute illicit activity. This includes the designation in February of 22 individuals and entities in the “Zimenkov network,” a sanctions evasion network that aided Russian and Belarusian defense procurement.²

Also in support of countering Russian aggression, FinCEN has led a group of like-minded FIUs around the globe to coordinate our activities and consider possible targets on which to share financial intelligence. We steer a standing meeting of these FIUs, share information, and provide technical support. FinCEN has also convened several FinCEN Exchanges aimed at defeating the Russian aggression.

We have also embarked on a fruitful partnership with the Department of Commerce's Bureau of Industry and Security (BIS). Last June, we issued a joint Alert to financial institutions urging increased vigilance for potential Russian and Belarusian export control evasion, and we have met jointly with BIS and the private sector several times, including through FinCEN Exchanges, to raise concerns around export control evasion that is supporting Russia's military-industrial complex. BIS Export Enforcement and FinCEN have worked together to review numerous SARs, including SARs filed specifically in response to the Alert and our meetings with industry. Nearly one-third of SARs that have been filed related to the June 2022 BIS/FinCEN Joint Alert have been actioned by BIS in some way. Here are three examples. First, they're using it to cut leads to their export enforcement agents out across the country to help

¹ See Treasury, [FACT SHEET: Disrupting and Degrading – One Year of U.S. Sanctions on Russia and Its Enablers](#), February 24, 2023.

² See OFAC, [Treasury Targets Global Sanctions Evasion Network Supporting Russia's Military-Industrial Complex](#), February 1, 2023.

predicate new investigations. Over time, a number of those investigations will likely turn into enforcement actions. Second, a number of the SARs connect to preexisting investigations and were sent to the field to help support those cases. And third, they're using information gleaned from the SARs to develop Entity List packages, which will help disrupt the ability of foreign parties who evade BIS rules to continue to get access to U.S. exports. We look forward to continuing to deepen this partnership, and our collaboration with foreign partners, to ensure that we effectively work together to combat Russian efforts to gain sensitive technologies and weapons.

Combating Ransomware Attacks

FinCEN has also provided critical support to U.S. Government-wide efforts to combat ransomware attacks. In response to the increase in number and severity of ransomware attacks against U.S. critical infrastructure since late 2020, FinCEN continues to analyze SARs to better understand the extent to which a substantial number of ransomware attacks likely emanate from, or at a minimum are connected to, actors in Russia. We have published two Financial Trend Analyses and an Advisory³ — most recently in November 2022 — to publicly disseminate our findings about the ransomware trends and typologies we have observed in BSA reporting. Based on our analysis, Russia-related ransomware variants accounted for 69% of ransomware incident value, 75% of ransomware-related incidents, and 58% of unique ransomware variants reported for incidents in the review period. All of the top five highest grossing ransomware variants are connected to Russian cyber actors. Behind the scenes, we also regularly provide law enforcement agencies and other partners with information about ransomware trends, typologies, and actors, and we work particularly closely with the Department of the Treasury's Office of Cybersecurity and Critical Infrastructure Protection to combat this threat.

In January 2023, we identified Bitzlato Limited (Bitzlato), a Hong Kong-registered, Russia-linked virtual currency exchange, as a “primary money laundering concern” in connection with Russian illicit finance. In our order, FinCEN broadly prohibited the receipt or transmittal of funds involving Bitzlato by any financial institution subject to FinCEN regulations. This was the first order issued pursuant to a new authority that Congress granted FinCEN under section 9714(a) of the Combating Russian Money Laundering Act. This authority allows us to better target entities involved in Russian illicit finance, including those like Bitzlato that engage in virtual currency transactions that may be more difficult to target using Section 311 of the USA PATRIOT Act or other authorities. Bitzlato posed a global threat by allowing Russian cybercriminals and ransomware actors to launder the proceeds of their theft and by facilitating deposits and funds transfers by Russia-affiliated ransomware groups or affiliates and transactions with Russia-connected darknet markets. Working in concert with DOJ and international authorities, we were able to meaningfully disrupt what Deputy Attorney General Lisa O. Monaco described as a “... money laundering engine that fueled a high-tech axis of cryptocrime.”

³ See FinCEN, [Ransomware Trends in Bank Secrecy Act Data Between January 2021 and June 2021](#), October 15, 2021; FinCEN, [Ransomware Trends in Bank Secrecy Act Data Between July 2021 and December 2021](#), November 21, 2022; and FinCEN, [Advisory on Ransomware and the Use of the Financial System to Facilitate Ransom Payments](#), November 8, 2021.

Combating Fentanyl Trafficking

The Department of the Treasury has long recognized the threat from money laundering linked to drug trafficking, including the trafficking of fentanyl and its precursors. We are key implementers of the President's National Drug Control Strategy (NDCS), which identifies countering illicit finance as a critical pillar to degrade and disrupt transnational criminal organizations (TCOs) that traffic illicit drugs. FinCEN supports these efforts in several important ways, including providing extensive analytic support and information-sharing to law enforcement agencies working on this critical problem set, hosting law enforcement liaisons at its facilities, and detailing or embedding its own personnel in key partner agencies, including the Drug Enforcement Administration (DEA).

I want to highlight one specific action taken to combat fentanyl trafficking in our own backyard that relied substantially on BSA reporting. In one of the cases nominated for last year's FinCEN Director's Law Enforcement Awards, a Northern Virginia Financial Initiative (NVFI) task force officer had taken notice of a BSA report during one of the task force's routine BSA reporting reviews. By working with another nearby police department and pursuing a number of investigative techniques, the NVFI officer identified a subject running an extensive pill manufacturing and drug distribution operation. Law enforcement ultimately obtained search warrants and seized and recovered more than seven kilograms of fentanyl valued at more than \$600,000, pill presses, other drug related paraphernalia, two semi-automatic assault weapons, and more than \$200,000 in cash. As a result of this investigation, which all started with a vigilant review of BSA information, five subjects were arrested and pled guilty to conspiracy to distribute fentanyl and were sentenced to a combined total of 564 months in prison. The U.S. Attorney's Office for the Eastern District of Virginia prosecuted the case.⁴

Helping to Recover Funds Stolen Through Fraud

As the Department of the Treasury's most recent National Money Laundering Risk Assessment states, "[f]raud dwarfs all other proceed-generating crimes that are laundered in or through the United States."⁵ Fraud — in all of its many permutations such as healthcare fraud, COVID-19 benefits fraud, romance scams, and cyber-enabled fraud — is one of the top issues that FinCEN identified in the first AML/CFT National Priorities issued in June 2021. It is also the top category cited in SAR filings last year, with more than 2 million fraud-related SARs filed last year alone.⁶ FinCEN works to combat fraud in a variety of ways, including by analyzing BSA information and publishing products that help financial institutions understand fraud and recognize potential red flags. Most recently, in March 2023, we published a Financial Trend Analysis about business email compromise schemes in the real estate sector,⁷ and in February 2023, we published an Alert on the nationwide surge in mail theft-related check fraud schemes targeting the U.S. mail.⁸

⁴ See FinCEN, [Compilation of Award Recipient and Nominated Cases](#), January 9, 2023.

⁵ See Treasury, [National Money Laundering Risk Assessment](#), February 2022.

⁶ See FinCEN, [SAR Stats](#).

⁷ See FinCEN, [Business Email Compromise in the Real Estate Sector: Threat Pattern and Trend Information, January 2020 to December 2021](#), March 30, 2023.

⁸ See FinCEN, [FinCEN Alert on Nationwide Surge in Mail Theft-Related Check Fraud Schemes Targeting the U.S. Mail](#), February 27, 2023.

We also partner closely with law enforcement agencies and our international partners to track, trace, and freeze the proceeds of fraud. For example, FinCEN’s Rapid Response Program (RRP) is a partnership among FinCEN, U.S. law enforcement agencies, and foreign FIUs that has been operating since 2015, helping victims of financial crime — and their financial institutions — recover funds stolen as a result of certain cyber-enabled financial crime schemes, including business email compromise. We’re tremendously proud of this program, which, since its inception, has helped to freeze more than \$1 billion for U.S. victims. Freezing assets prevents criminals from withdrawing or transferring the funds and deprives the criminals from their ill-gotten gains. It also provides enforcement authorities with time to advance investigations, including forfeiture proceedings and potential repatriation of the funds to victims. In Fiscal Year 2022 alone, we received 806 requests through the RRP that involved 44 different foreign jurisdictions and led to the freezing of \$174.2 million.

Beyond the context of the RRP, law enforcement agencies and DOJ are clearly taking notice of our work and leveraging BSA information to pursue fraud investigations, prosecutions, and convictions. In one specific case nominated for last year’s FinCEN Director’s Law Enforcement Awards, the New York County District Attorney’s Office initiated an investigation of a New York-based investment manager and several funds and entities under his ownership and control. The team discovered that the subject applied for Paycheck Protection Program (PPP) loans on behalf of his hedge fund, materially misrepresented his businesses’ industries to financial institutions and the Small Business Administration, and provided fraudulent information on loan applications along with forged supporting documentation. Information from BSA reporting allowed law enforcement to trace the flow of the fraudulently obtained PPP funds. The subject was indicted and charged with multiple felony counts and pled guilty to grand larceny, scheme to defraud, and five counts of violating the Martin Act for fraudulently obtaining over \$4.6 million from the U.S. Government and multiple investors.⁹

Combating Corruption

FinCEN has long worked to combat corruption and kleptocracy. Most recently, we have focused on understanding and addressing financial flows associated with corrupt Russian oligarchs and their proxies and bringing transparency to the ownership of legal entities that do business and purchase real estate in the United States.

The U.S. real estate market is attractive to illicit actors because it is a relatively stable store of value, it can be opaque, and there are gaps in industry regulation. For too long, the U.S. real estate market has been susceptible to being manipulated and used as a haven for the laundered proceeds of illicit activity, including corruption. Based on feedback we have received from law enforcement agencies, a wide range of illicit actors, such as corrupt officials, TCOs, white collar criminals, violent gangs, and many others, seek to launder their illicit funds through, and invest in, the U.S. real estate market. Illicit actors use opaque corporate structures and all-cash purchases of real estate to facilitate laundering the proceeds of a variety of offenses, including corruption, sanctions and tax evasion, drug trafficking, fraud,

⁹ See Department of Justice press release: [“Florida Man Pleads Guilty to Federal Charges for Fraudulently Obtaining and Laundering More than \\$4 Million in Paycheck Protection Program Loans,”](#) (October 13, 2021); and [“FinCEN Compilation of Award Recipient and Nominated Cases”](#) (January 9, 2023) at pp. 5-6.

and a host of other criminal offenses, while legitimate businesses and U.S. home buyers suffer from their misdeeds. We are working to counter these harmful activities in a variety of ways.

In just the past year, we have issued an Alert on potential commercial real estate investments by sanctioned Russian elites, oligarchs, and their proxies¹⁰ and published a Financial Trend Analysis on the financial activity of Russian oligarchs.¹¹ We have also twice renewed and expanded our domestic Geographic Targeting Orders (GTOs) on non-financed residential real estate transactions.¹² One gap in industry regulation of particular concern relates to the 20 to 30% of residential real estate purchases in the United States that are so-called “cash purchases.” Such purchases are not subject to the same level of scrutiny as a traditional mortgage-backed purchase and thus may not similarly trigger financial institutions’ AML/CFT programs or prompt SAR filings. Our Real Estate GTOs are designed to help bridge this gap and increase transparency this segment of residential real estate transactions.

Since 2016, FinCEN’s Real Estate GTOs have imposed reporting requirements on U.S. title insurance companies to report on certain non-financed residential real estate purchases by legal entities in covered jurisdictions. Implemented to support law enforcement investigations and to inform future rulemakings on the residential real estate sector, the Real Estate GTOs have been continued, in part, on the requests of law enforcement agencies that are concerned about money laundering through residential real estate and that have appreciated the tremendous value such reporting provided in other jurisdictions. This program has been an important success, contributing to the prosecution and conviction of corrupt foreign actors attempting to stash their funds in the United States, and has collected information that has helped us scope a proposal to increase transparency in the sector as a whole, on a national level.

Compliance in the Cryptocurrency Industry and Fostering Responsible Innovation

Fostering responsible innovation in the cryptocurrency industry has long been a top priority of ours. Responsible innovation, to us, means innovation that has compliance embedded in its DNA. Innovation that is executed in a way that is mindful of and helps to protect our national security interests and to protect people from harm. As Treasury Deputy Secretary Adeyemo said: “When we regulate...it’s with an eye toward trying to foster innovation that creates economic opportunity and advances U.S. financial leadership while stamping out crime, abuse, and risks. We believe these goals go hand in hand with innovation.”¹³ That means that when we see innovation that is not responsible — when we see financial institutions that fail to implement controls that are commensurate with the risks posed by the products and services they offer, or launch new products without first giving serious and ongoing consideration to the risks they may pose, or that adopt a mentality of “build first, comply later” — we take steps to

¹⁰ See FinCEN, [FinCEN Alert on Potential U.S. Commercial Real Estate Investments by Sanctioned Russian Elites, Oligarchs, and their Proxies](#), January 25, 2023.

¹¹ See FinCEN, [Trends in Bank Secrecy Act Data: Financial Activity by Russian Oligarchs in 2022](#), December 22, 2023.

¹² See FinCEN, [FinCEN Renews and Expands Real Estate Geographic Targeting Orders](#), October 26, 2022, and [FinCEN Renews and Expands Real Estate Geographic Targeting Orders](#), April 29, 2022.

¹³ See U.S. Department of the Treasury, [Remarks by Deputy Secretary of the Treasury Wally Adeyemo at LINKS Conference Presented by Chainalysis](#), November 4, 2021.

ensure that these businesses do not have the opportunity to continue to undermine trust in cryptocurrency-enabled finance and threaten national security.

As I noted earlier, in October 2022, FinCEN assessed a \$29 million civil monetary penalty against Bittrex for violations of the BSA and FinCEN's implementing regulations. This action was part of a global settlement involving OFAC and marked the first parallel enforcement action by FinCEN and OFAC involving a virtual currency exchanger. Our investigation found that, from February 2014 through December 2018, Bittrex failed to maintain an effective AML program. Bittrex's program failed to appropriately address the risks associated with the products and services it offered, including anonymity-enhanced cryptocurrencies. We also found that Bittrex conducted over 116,000 transactions valued at over \$260 million with entities and individuals located in jurisdictions subject to comprehensive OFAC sanctions, failed to file SARs on a significant number of transactions involving sanctioned jurisdictions, and, in fact, failed to file any SARs during the more than three-year period between February 2014 and March 2017.

Implementing the Corporate Transparency Act

I know members of this Subcommittee and our stakeholders remain focused on FinCEN's implementation of the CTA and its beneficial ownership reporting requirements. Let me start by saying I share that focus and determination, and no one wants to see this done right more than we do at FinCEN. For this reason, we are bringing many of the agency's resources to bear.

Timely and effective implementation of the CTA is a high priority for FinCEN, and we are investing an incredible amount of time, resources, and energy into standing up this critically important regime – all in service of combating illicit finance and corruption and helping to ensure that the United States cannot be abused as a safe-haven for illicit funds – a goal that I know is shared by this Subcommittee.

As my predecessors and I have previously mentioned in testimony, bringing greater transparency to anonymous shell companies by collecting beneficial ownership information is critical to protecting the U.S. financial system from abuse, preserving our national security, and combating illicit actors and activities that harm U.S. businesses and U.S. taxpayers.

Taking a step back for a moment, under the current system today, determining the true owner of a shell or front company in the United States requires law enforcement to undertake an arduous and labor-intensive process. It often requires human intelligence, grand jury subpoenas, search warrants, witness interviews, and assistance from our law enforcement partners overseas. What I have just described takes an enormous amount of time and effort, and requires diverting resources from other investigations and priorities to get the job done. Collecting beneficial ownership information at the time of company formation not only takes, but it also saves, time and resources.

As we work to successfully implement the CTA, we have as our objective to follow through on Secretary Yellen's commitment last month at the Summit for Democracy to "make our financial system inhospitable to corrupt actors." There have been some concerns expressed recently about FinCEN's proposed rulemaking on access to beneficial ownership information and the proposed beneficial ownership reporting form. Let me first say that FinCEN is committed to establishing a regulatory framework that ensures appropriate beneficial ownership reporting and efficient access to the database

consistent with the requirements of the CTA. The notice and comment period for rulemakings provides an important opportunity for the public and interested parties to provide feedback on proposed regulatory actions, and we appreciate the feedback we have received on these proposals.

FinCEN is carefully considering all of the comments it received on its proposals and remains committed to reaching a final regulatory framework that balances complete reporting and efficient access with ensuring the security and confidentiality of the information in the beneficial ownership database, consistent with the goals and requirements of the CTA. Although we are limited by the rulemaking process in our ability to engage on these issues in this forum, I can assure you that we are carefully considering the comments and working intensively to finalize the access rule and forms.

We made several changes to the final beneficial ownership reporting rule published on September 30, 2022, in response to the helpful comments on our proposed reporting rule. For example, we extended the timeline filing of initial reports for new entities, modified the “ownership interest” and “substantial control” definitions in the final rule to enhance clarity and facilitate better compliance by reporting companies, and we clarified the definition of “company applicant” so that it captures at most two individuals and reduced burdens on filers with respect to company applicant information. We aim to take the same thoughtful approach to comments as we finalize the access rule and forms.

FinCEN has been working incredibly hard to implement beneficial ownership requirements in a timely and effective manner – consistent with the goals of Congress as established by the CTA – to develop a beneficial ownership regime that is highly useful to law enforcement and national security agencies, while at the same time minimizing burdens on reporting companies to the greatest extent possible and ensuring the security and confidentiality of the information in the beneficial ownership database.

I am confident that our work will reflect that and that we remain on track for implementation in January. But this is a huge undertaking, and we still have several lines of effort to carry out, including:

- Putting in place the rules that govern the beneficial ownership framework – this includes finalizing our proposed access rule, publishing a proposed customer due diligence rule revision, and finalizing the related forms;
- Completing the information technology products to administer the beneficial ownership information reporting requirement, including the databases and systems to securely collect, process, store, and provide authorized access to beneficial ownership information;
- Conducting outreach to various stakeholders, including the small business community, to inform them of the beneficial ownership information reporting requirements and better understand their questions;
- Developing the infrastructure to respond to queries, to be able to conduct audit and oversight, and to provide partner agencies and financial institutions with access to the database; and
- Building on the first tranche of guidance materials issued on March 24, 2023, by publishing additional guidance documents and materials, including a Small Entity Compliance Guide, FAQs, infographics, videos, and technical job aids to ensure that the small business community and other reporting companies have the tools they need to comply with the new requirements.

This is a hugely resource-intensive process, and I’m proud of the progress that we’ve made so far, because standing up this regulatory regime and the accompanying database will truly be transformative. Throughout the process, we’ve been grateful for the special hiring authority that Congress granted to

FinCEN as part of the AML Act. We've relied on it to rapidly bring strong candidates on board to help us implement the CTA and other aspects of the AML Act. We've filled 95 positions using Direct Hire Authority since it was granted to us as part of the AML Act.

We are also extremely grateful for the \$190.1 million provided to FinCEN in the Fiscal Year 2023 omnibus and we are being good stewards of this funding. While this funding represents a \$30 million increase from Fiscal Year 2022, additional funding for FinCEN will aid in increasing staff for critical positions necessary to execute our mission, as mandated by the AML Act, that forces real world trade-offs in the work we can perform and prioritizations. The President's Fiscal Year 2024 request for FinCEN of \$228 million would provide us with the resources necessary to continue our critical mission across the board.

Conclusion

In closing, I am incredibly proud of the work accomplished by my FinCEN colleagues and am confident in the role we play to enhance the national security of the United States and promote a more transparent financial system.

Going forward, we are committed to successful implementation of the beneficial ownership rule, the whistleblower program, and the rest of our expanded mandate under the AML Act and CTA. This will require being provided the resources necessary to meet the challenges we face, and I look forward to working with this Committee and the Appropriations Committee in continued support of our people and mission.

Thank you again for the opportunity to appear before you today. I am happy to answer any questions you may have.