



GLOBAL FINANCIAL INTEGRITY

## United States Senate

### Caucus on International Narcotics Control

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Prepared Testimony of Lakshmi Kumar

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Global Financial Integrity

Chairman Whitehouse, Co-Chair Grassley, and other members of the caucus, it is a privilege to testify before you today on the critical subject of the schemes utilized by cartels and other criminal actors to traffic narcotics and launder their illicit proceeds in a manner that is detrimental to the national security of the United States and the everyday well-being of U.S. citizens. I am immensely grateful for the invitation and the opportunity to join this esteemed panel.

I am here on behalf of Global Financial Integrity (GFI), a Washington, DC-based think tank focused on illicit financial flows, corruption, illicit trade, and money laundering. Through high-caliber analyses and fact-based advocacy, GFI works with partners to increase transparency in the global financial and trade system and find policy solutions address the harms inflicted by crimes including narcotics trafficking the value that financial transparency and anti-money laundering can play in acting as an effective deterrent.

GFI has worked tirelessly for a decade advocating and promoting the importance of beneficial ownership and financial transparency measures in addressing protecting the U.S. financial system from the negative impacts of illicit and criminal activities including narcotics trafficking. GFI's following publications may be of particular interest to this caucus:

- [Narcotics Proceeds in the Western Hemisphere: Analysis of Narcotics related Illicit Financial Flows Between the United States, Mexico and Colombia](#)
- [Financial Crime in Latin America and the Caribbean: Understanding Country Challenges and Designing Effective Technical Responses](#)

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- [Acres of Money Laundering: Why U.S. Real Estate is a Kleptocrat's Dream](#)
- [Private Investments, Public Harm: How the Opacity of the Massive U.S. Private Investment Industry Fuels Corruption and Threatens National Security](#)
- [The Future of Beneficial Ownership in the United States: Trade, Transportation, and National Security Implications](#)

## **Main Methodologies Used to Traffic Narcotics**

GFI in 2021 conducted a full review and analysis of financial crimes activity across all 33 countries in the Latin America and Caribbean (LAC) region and on the issue of narcotics trafficking identified the following methods through research and expert interview. Full details of the findings are enclosed in the report itself.<sup>1</sup>

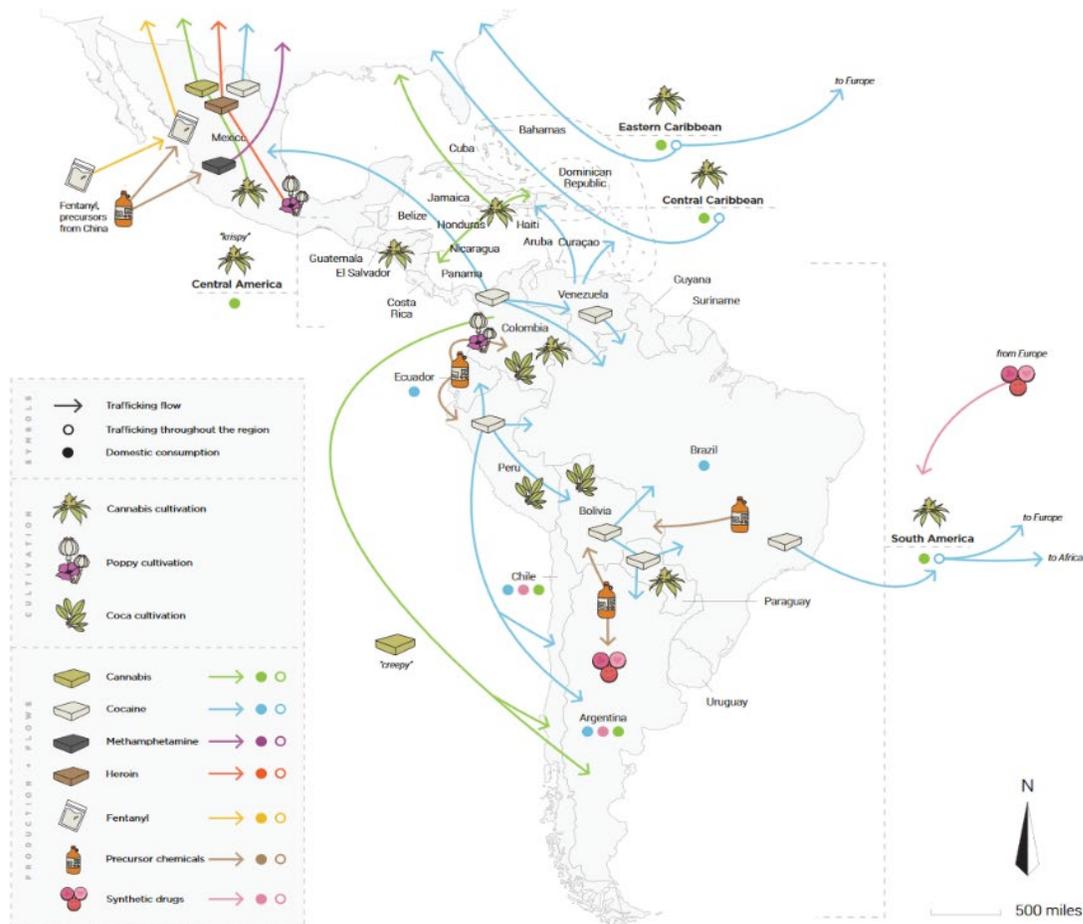
GFI found that “The use of cargo containers and international trade to move cocaine is very popular throughout the LAC region as well as to final destination markets. Not only do containers allow traffickers to hide the narcotics in the chaos that is international trade, but they are also able to ship significant quantities. One expert from Costa Rica noted that, in regard to cocaine trafficking through the country, in the past they used to talk about kilos of cocaine, but now, due to trafficking via containers, they’re talking about tons. Countries have seized cocaine commingled with and/or disguised as charcoal, furniture, pineapples, and bananas, among other goods. In some countries, such as Belize, the use of private planes is the primary method used to traffic drugs north from Colombia and Venezuela; the planes are also used to smuggle cash. Other countries such as Peru previously saw air as a popular transit mode, however airbridge interdiction programs frequently pushed traffickers towards maritime routes. One expert noted that with the reduction of commercial flights as well as closures of land border crossings during the pandemic, DTOs began to rely more on the use of small planes to transport drugs inter- and intra-regionally. The fishing sector as well as fishing vessels are another common method for smuggling drugs. Major Mexican DTOs, including the Sinaloa Cartel and CJNG, are reportedly working with local gangs in southern Mexican states, who, posing as fishing cooperatives, retrieve large shipments of cocaine from Colombia and Ecuador that have been left far out at sea, primarily in the Pacific Ocean but also in the Caribbean. Illegal, unreported, and unregulated fishing has allegedly pushed Peruvian fishermen into smuggling, where, according to an expert, they can earn as much as three months’ fishing pay for transporting one kilo of cocaine. A Peruvian expert stated that the cocaine is moved from the countryside via land and by river using small boats to small fishing ports; the drugs are transferred from one boat to another, and finally to the “mothership” located perhaps 200 miles from shore. “Narco-sub” have been a common method of moving drugs from Colombia and its neighboring countries to Central America and the U.S. Overall, COVID-19 did not have a remarkable impact on drug trafficking in the region. One expert noted that while the price of coca leaf in Peru and Colombia collapsed, because there was a sufficient stockpile of cocaine, including in Ecuador and Guatemala, there were no spikes in prices down the supply chain. They reported there was such a significant backlog of warehoused cocaine that it was rotting because it wasn’t being moved fast enough. Additionally, while access to formal transit such as commercial flights, maritime shipping,

<sup>1</sup> [Financial Crime in Latin America and the Caribbean: Understanding Country Challenges and Designing Effective Technical Responses](#)

<https://secureservercdn.net/50.62.198.97/34n.8bd.myftpupload.com/wp-content/uploads/2021/10/GFI-LAC-Financial-Crime-Report.pdf?time=1646167254>

and legal border crossings may have been interrupted and/or delayed, informal transit using private planes, vessels and informal border crossings were not significantly affected.”<sup>2</sup>

**Graphic 1: Primary Drug Jurisdictions and Routes in Latin America and the Caribbean<sup>3</sup>**



**Main Methodologies to Launder Proceeds**

-Bulk Cash Smuggling and Trade Based Money Laundering

<sup>2</sup> [Financial Crime in Latin America and the Caribbean: Understanding Country Challenges and Designing Effective Technical Responses](https://secureservercdn.net/50.62.198.97/34n.8bd.myftpupload.com/wp-content/uploads/2021/10/GFI-LAC-Financial-Crime-Report.pdf?time=1646167254), pgs 138-139  
<https://secureservercdn.net/50.62.198.97/34n.8bd.myftpupload.com/wp-content/uploads/2021/10/GFI-LAC-Financial-Crime-Report.pdf?time=1646167254>

<sup>3</sup> Ibid p.140

GFI in a research analysis conducted for Congress analyzed the question of the main methodologies utilized to shift narcotics proceeds from one jurisdiction to another. The information below is from the main report and detailed information including estimates of the market is found within the report. “From a review of GFI interviews and sources, bulk-cash smuggling and trade-based money laundering (TBML) emerged as the two primary methods used to shift drug proceeds from one jurisdiction to another. Bulk-cash smuggling, which involves the physical transportation of large amounts of cash, often across international borders, is used because the “physical transportation of cash distances the criminal proceeds from the predicate offense that generated them, and breaks audit trails.” Eventually, the cash will likely be converted into local currency and/or deposited into a financial institution. At this point, countries will have an opportunity to control, supervise and limit the transaction through currency reports or foreign exchange limits. However, the robustness and effectiveness of these controls vary by institution and by country. Among the expert interviews conducted and open-source reports analyzed, there is some debate as to the prevalence of bulk-cash smuggling along the US-Mexico border, with differences in perspectives between the United States and Mexico. According to a recent report by the US Department of the Treasury, “bulk-cash smuggling into and out of the United States remains one of the predominant ways that Mexican drug cartels move illicit drug proceeds across the US southwest border.” This concern with bulk-cash smuggling is echoed in other US government documents and appears in references to Colombia as well. However, Mexico’s 2016 National Risk Assessment states that there has been a “significant decrease in the flow of US dollars in cash within the financial sector since June 2010, when restrictions were put in place...therefore, it must be concluded that bulk-cash smuggling along Mexico’s northern border has a LOW probability rate.” This view was echoed in expert interviews conducted by GFI with Mexican sources for this report. Mexico’s 2010 restrictions most notably capped the monthly deposit limit for US dollars at US\$4,000 for individual account holders at financial institutions and substantially reduced cash currency exchange for non-account holders, capped at US\$1,500 per month. At the same time, there have been fewer reports of bulk-cash seizures along the US-Mexico border. However, US government and US experts remain concerned with the prevalence of bulk-cash smuggling, noting that the decrease in seizures “does not necessarily mean that there is less bulk-cash transiting the border,” especially as its final destination may be a country other than Mexico. Another primary system used is TBML, occurring when proceeds from an illicit activity are disguised as legitimate international trade transactions as a way to move funds across borders and/or launder them into the formal economy. Many of the methods used in TBML fall within what is known as trade misinvoicing: over- or under-invoicing shipments, falsely duplicating shipments or invoices, or falsely declaring the contents, or quality of a shipment. This process is used by illicit actors to move money or value under the pretext of legitimate trade transactions. It is very difficult for financial institutions, or traditional law enforcement agencies, to detect the problem, as it occurs through ports, and not through the financial system. Moreover, only 20 percent of international trade involves trade financing, where financial institutions (FIs) would 1) be aware that the payment/transaction was related to trade and 2) have the opportunity to review the associated trade documents. The majority of international trade (80 percent) is conducted through open-account transactions, where FIs see a transaction (i.e., payment), but do not necessarily know that it is related to a trade transaction, nor receive supporting documentation.”<sup>4</sup>

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<sup>4</sup> [Narcotics Proceeds in the Western Hemisphere: Analysis of Narcotics related Illicit Financial Flows Between the United States, Mexico and Colombia](#)

<https://secureservercdn.net/50.62.198.97/34n.8bd.myftpupload.com/wp-content/uploads/2020/09/GFI-WHDPC-Narcotics-IFF-Final-pdf.pdf?time=1646167437>

**Table 1: Methods Used and Prevalence, According to Expert Interviews and Official Sources<sup>5</sup>**

Overall	US Perspective: by US Experts and US Official Sources	LAC Perspective: By Mexican and Colombian Experts and Official Sources
<ul style="list-style-type: none"> <li>Bulk-cash smuggling (18%)</li> <li>TBML (18%)</li> </ul>	<ul style="list-style-type: none"> <li>Bulk-cash smuggling (24%)</li> <li>TBML (24%)</li> </ul>	<ul style="list-style-type: none"> <li>TBML (13%)</li> <li>Real estate (13%)</li> </ul>
<ul style="list-style-type: none"> <li>Funnel accounts (9%)</li> <li>Real estate (7%)</li> </ul>	<ul style="list-style-type: none"> <li>Funnel accounts (12%)</li> </ul>	<ul style="list-style-type: none"> <li>Bulk cash smuggling (10%)</li> <li>Corporate structures (10%)</li> </ul>
<ul style="list-style-type: none"> <li>Corporate structures (6%)</li> <li>Banking system, Including correspondent banking (4%)</li> </ul>	<ul style="list-style-type: none"> <li>Professional, third party launderers (6%)</li> <li>Real estate (6%)</li> <li>Structured bank deposits (6%)</li> </ul>	<ul style="list-style-type: none"> <li>Bad gatekeepers (7%)</li> <li>Banking system, including correspondent banking (7%)</li> <li>Car sales (7%)</li> <li>Non-financial institutions (7%)</li> </ul>

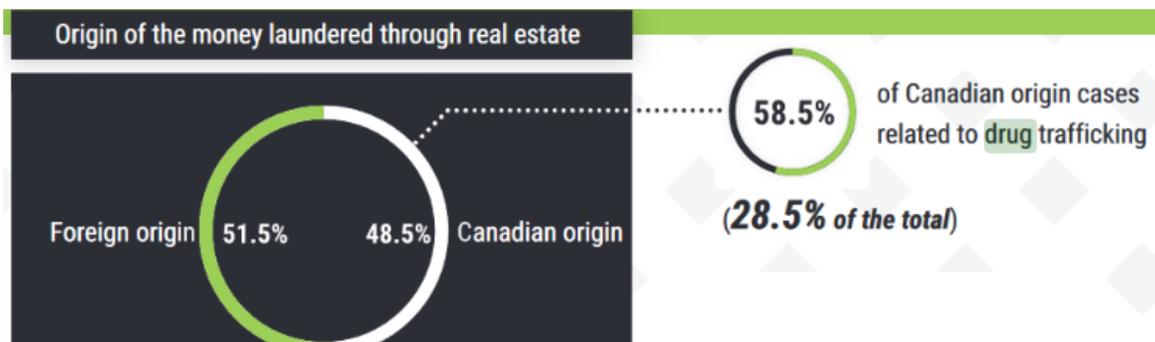
Source: Mapping of methodologies as mentioned in expert interviews (13) with Global Financial Integrity and in publicly available official reports (11) from the United States, Colombia, Mexico and the Organization of American States.

### -Real Estate

GFI in 2021 analyzed the scale of money laundering the U.S. real estate sector based on reported cases over a 5-year report. GFI's analysis found that at a minimum, from cases reported in the last five years, more than US\$2.3 billion has been laundered through U.S real estate, including millions more through other alternate assets like art, jewelry, and yachts. The cases and the report exposed the underbelly of professional money laundering networks, where the very individuals who are meant to safeguard the financial system instead are given carte blanche over laws and ethical codes, to help corrupt politicians, businessmen, drug traffickers, war criminals, and kleptocrats hide their ill-gotten wealth in real estate. GFI's study which covered cases in the U.S., U.K., and Canada also found that in Canada 58.5% of all Canadian origin cases of real estate money laundering derived their proceeds from drug trafficking.<sup>6</sup>

<sup>5</sup> [Narcotics Proceeds in the Western Hemisphere: Analysis of Narcotics related Illicit Financial Flows Between the United States, Mexico and Colombia](https://securerusercontent.com/wp-content/uploads/2020/09/GFI-WHDPC-Narcotics-IFF-Final-pdf.pdf?time=1646167437)

<sup>6</sup> Acres of Money Laundering: Why U.S. Real Estate is a Kleptocrats Dream  
<https://securerusercontent.com/wp-content/uploads/2021/08/Acres-of-Money-Laundering-2021.pdf?time=1628772631>



In the U.S. as well, there are several high-profile cases of proceeds tied to cartels or drug trafficking being laundered through real estate. These examples do not comprise the entire universe of cases but are noteworthy to show the ease through which it is easy for criminal actors associated or benefits from drug trafficking to hide and grow their money in real estate.

Case 1: Former Veracruz governor Javier Duarte, who in 2016 was accused of embezzling US\$26 million as well as fostering ties with drug cartels, acquired approximately 90 properties in Mexico, Spain, and the U.S. between 2006 and 2014. To purchase real estate in the U.S., Duarte used lawyers and business associates as front men to set up a complex network of shell companies in Texas, Delaware, and Florida. 35 His empire included commercial buildings in Florida, a US\$7.6 million Miami mansion purchased all-cash, and around 30 Miami homes that were sold and bought several times to conceal the origin of the money and ownership of the property. He also owns properties in locations not covered by the GTOs, including Scottsdale, AZ and Houston, TX.<sup>7</sup>

Case 2: In 2021, former governor of Tamaulipas Tomas Yarrington pled guilty to laundering drug cartel bribes through Texas real estate, including in non-GTO areas like Port Isobel and South Padre Island. Between 1998 and 2012, he used shell companies registered in the names of associates to secure millions of dollars in loans to purchase these properties as well as to pay for maintenance and repair fees.<sup>8</sup>

Case 3: While accused of taking bribes from El Chapo's Sinaloa Cartel, Mexico's former security minister Genaro Luna Garcia acquired a US\$3.3 million home in Golden Beach, FL, a commercial property in Aventura, FL, various condos worth US\$5 million, a luxury yacht as well as a permanent residence between 2012 and 2013. The LLCs used to purchase the properties were registered under the names of his lawyer and business associates.<sup>9</sup>

Case 4: The leader of an international money laundering and narcotics trafficking organization allegedly used a Las Vegas real estate broker to launder some of the US\$250 million in drug money from Mexican drug cartels in 2015 and 2016. Together they recruited people to act as 'administrators' of shell companies that were used to acquire Las Vegas residential properties. After the purchase, the homes were renovated and resold – leaving a clean profit.<sup>10</sup>

<sup>7</sup> Ibid at p.30

<sup>8</sup> Ibid at p.31

<sup>9</sup> Ibid.

<sup>10</sup> Ibid at p.49

Case 5: Sefira Capital LLC, a Florida-based boutique investment company, raised over US\$100 million in capital to invest in real estate projects. From 2016 to 2019, Sefira and its subsidiaries, which own high-end commercial and residential real estate, received millions of dollars in criminal proceeds from drug trafficking organizations that was laundered through the Black-Market Peso Exchange. As part of its undercover investigations, the Drug Enforcement Administration (DEA) transferred narcotics proceeds worth millions between 2018 and 2019 at the instruction of money-laundering brokers. In these and other similar investments, Sefira accepted the funds without inquiring as to the source of ownership of these accounts or funds. Likewise, Sefira ignored discrepancies between the purported investment amount and the actual amount Sefira received, and between the identities of the investors and the entities sending the investments to Sefira.<sup>11</sup>

## **Recommendations**

Congress can play a meaningful role in delivering those resources by taking the following steps.

### **A. Strengthen Beneficial Ownership:**

- i. FinCEN should continue to prioritize the implementation of the Corporate Transparency Act and the creation of a robust beneficial ownership registry.
- ii. Collecting beneficial ownership information should be extended to all legal forms and arrangements including trusts and to assets such as art, real estate, aircrafts, and boats that are owned through a foreign or domestic legal entity/ arrangement.
- iii. The U.S. should champion the establishment of effective beneficial ownership registries internationally including prioritizing the creation of beneficial ownership registers for states that act as high-risk source and transit countries for narcotics trafficking and laundering.
- iv. The U.S. should (allowing for an appropriate time for implementation) ban any cargo or container ship, tanker or fishing vehicle from entering any U.S. port without first providing beneficial ownership information to Customs and Border Protection

### **B. FinCEN:**

- i. Ensure that FinCEN has the requisite budget necessary to meet the illicit financial flow challenges facing the U.S. trade and financial system.
- ii. Create within FinCEN a National Anti-Money Laundering Academy (NALMA) to establish a credentialed cadre of financial intelligence professionals in the U.S. government, law enforcement, among federal and state prosecutors, and financial institution compliance officers
- iii. Create in FinCEN a National Anti-Money Laundering Data Center (NALDC) for advanced data collection, synthesis, analysis, and distribution to law enforcement for AML activity.
- iv. Establish a “Manhattan Project” to identify, develop and operationalize state of the art technologies needed to fulfil the technology needs of a NALDC.

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<sup>11</sup> Ibid at p.56

### C. Address Trade-based Money Laundering:

- i. Establish within FinCEN a permanent “TBML Team” solely focused on studying and identifying TBML threats and conveying that information to appropriate law enforcement.
- ii. Advocate for international standards to be created and implemented on TBML similar to AML/CFT. Current FATF 40 recommendations are not fit for purpose to address TBML schemes and only apply to AML.
- iii. Require the exchange of trade transaction information between partner countries in a mutually compatible data format. Expand this subsequently to also include the beneficial ownership information of either party to the trade transaction.
- iv. Conduct awareness raising and outreach programs on the vulnerabilities of TBML to sanctions evasion and create a relevant set of red flag indicators highlighting the risks of free zones and vulnerable sectors like oil, gold, dual use technologies etc.

### D. Create Comprehensive Regulations to Address Money Laundering in the Real estate sector:

GFI recommends that any proposed rule should at a minimum remedy the shortcomings of the GTOs and include the following elements:

- i. A permanent and nationwide regime;
- ii. No monetary reporting threshold for transactions;  
Application to both legal entities and natural persons;
- iii. A cascading reporting obligation covering title companies, escrow agents, attorneys and real estate agents;
- iv. A requirement to submit key information on both the buyer and seller, including on beneficial ownership as defined under the Corporate Transparency Act, source of funds, and PEP identification.

To strengthen this proposed rule, GFI recommends that FinCEN takes the following key issues in consideration.

- i. **A cascading reporting rule accounts for evasion tactics by money launderers:** Each U.S. state has its own laws and customs regulating the real estate sector. A rule that would only cover one type of real estate professional would therefore provide money launderers with an easy evasion tactic to exploit. Instead, FinCEN should adopt a reporting obligation for multiple real estate professionals in a cascading order to ensure the requirement falls on at least one U.S.-based entity involved in the transaction.
- ii. **The rule should cover changes of ownership that occur without a sale:** The current real estate GTO defines ‘Covered Transaction’ only as purchases of residential real property by a legal entity. However, numerous cases of real estate money laundering simply involve the transfer of ownership or creation of equitable interest in the property without an actual sale. FinCEN should expand the types of

transactions covered under any new rule to include direct/indirect transfers of ownership or creation of equitable interest in the property.

- iii. **The rule should cover transactions by trusts:** An increasing proportion of housing is now owned by legal entities and arrangements, including trusts. In cities like LA, 23% of rental units are owned by trusts. The GTOs failed to address the ownership risks associated with trusts, and both foreign and some domestic family trusts are excluded from the purview of the Corporate Transparency Act. Yet these types of legal arrangements are used by PEPs to purchase real estate. GFI therefore recommends that transactions by all different classes of legal entities and legal arrangements be included in any prospective rule.
- iv. **FinCEN should provide a usable definition of ‘residential’ and ‘commercial’ real estate:** Under the GTOs, FinCEN clarified the term ‘residential real property’ to mean ‘property designed principally for the occupancy of from one to four families.’ However, there appears to be a fair amount of confusion within the industry as to what is covered by this classification. For instance, it is unclear if the purchase by a corporate entity of 100 ‘one to four family’ property units within one building should be treated as residential or commercial. FinCEN should clarify and restrict the definition of ‘residential real estate’ to cover only individual purchases of residential property. Commercial real estate, on the other hand, should cover properties acquired with the purpose of generating income, including the (mass) acquisition of apartments, nursing homes and student dwellings.
- v. **FinCEN should not limit its focus to ‘non-financed’ transactions:** The GTOs currently are restricted to all-cash transactions. FinCEN is now looking to regulate ‘non-financed transactions’, but GFI recommends that this term is not simply treated as a synonym for ‘all-cash’ transactions. Financing of real estate transactions does not only happen through conventional mortgages provided by BSA-regulated financial institutions. It also includes financing provided by private lenders, foreign financial institutions, online marketplaces like Zillow, private equity and many more which are not subject to AML/CFT requirements. Therefore, FinCEN should define the term ‘non-financed’ to include financing mechanisms that are not subject to robust due diligence and reporting mechanisms.

## E. Gatekeeper Regulation

- i. Pooled Investment vehicles: FinCEN should issue rules that require investment advisers to carry out customer due diligence including enhanced customer due diligence on all prospective investors.
- ii. Require gatekeeper professions including accountants, lawyers, real estate agents to meet the reporting requirements of the Bank Secrecy Act more fully. For lawyers, these CDD requirements can be limited to transactions that do not breach attorney-client privilege.