

Questions for the Record from Senator Sheldon Whitehouse
U.S. Senate Caucus on International Narcotics Control
“Chinese Money Laundering Organizations: Cleaning Cartel Cash”
Submitted on May 9, 2024

Treasury’s 2024 National Money Laundering Risk Assessment includes a section on complicit professionals and highlights three examples involving bank employees.

- 1. Has Treasury observed non-bank licensed professionals, such as accountants, lawyers, company and trust formation agents, or other professional service providers similarly complicit in money laundering schemes?**
 - a. If so, can you provide a couple examples?**

Yes, but to varying degrees. As highlighted in Treasury’s National Money Laundering Risk Assessments (NMLRAs) throughout the years, money laundering can be perpetrated by complicit insiders or professionals, who abuse their positions of trust and access across professions and corporate structures to engage in, or facilitate, illicit financial activity. Money laundering tactics can include criminals seeking out complicit professionals in non-bank sectors.

Attorneys:

Attorneys in the United States provide a wide variety of services, but they are not subject to comprehensive Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) measures. While attorneys have strong professional entry and continuing ethical requirements, these may not adequately address Money Laundering and Terrorist Financing (ML/TF) vulnerabilities. For instance, Treasury assesses that Interest on Lawyers’ Trust Accounts (IOLTA) and other lawyer trust accounts are vulnerable to abuse by complicit attorneys to launder criminal proceeds into and out of the United States.

Some complicit attorneys may also sell their services and purport to use attorney-client privilege as a shield. Banks, and the employees who communicate with the bank’s customers, may not understand the extent or applicability of the attorney-client privilege to banking transactions. As a result, they are less likely to push back against privilege claims raised by attorney customer. For instance, in 2022, an Illinois-based attorney, Hassan Abbas, defrauded victims across multiple states through a series of romance, business email compromise, and other types of scams. Abbas was ultimately sentenced to nine years in prison. The victims believed their money was being sent to close real estate transactions; but once Abbas received the funds, he sent large sums to fellow fraudsters overseas and took a cut for himself, which he used to finance a luxurious lifestyle. When questioned by financial institutions about his account activity, Abbas claimed that certain transfers were for non-existent “clients” and, in one case, he insisted that information about the wires was protected by attorney-client privilege.

There are other examples of complicit attorneys involved in money laundering. In April 2023, an attorney pled guilty to conspiring to commit money laundering to promote sanctions violations for a Russian Oligarch. Also, in August 2021, an attorney was sentenced for money

laundering, wire fraud, and bank fraud charges for a scheme involving the use of a trust account. According to the indictment, the lawyer, while serving in her official capacity providing services to clients, transferred unearned money from her client's trust account to her business and personal account where she then used the money for her own use.

Real Estate Professionals:

Because of the key role real estate professionals play in closings and settlements, this is a critical vulnerability, and real estate professionals have been found to act as both witting and unwitting participants in money laundering schemes. Currently, under FinCEN's Real Estate Geographic Targeting Order (GTO), in effect since 2016, title insurance companies involved in the all-cash purchase of residential real estate by a legal entity in select jurisdictions are required to report the legal entity's beneficial ownership information. FinCEN has utilized this tool to gather information about vulnerabilities in the non-financed market, and the Real Estate GTOs currently cover 69 counties. However, GTOs are time-limited and location-specific and remain a temporary solution to information gaps. In December 2021, the Treasury issued an advance notice of proposed rulemaking (ANPRM) to solicit public feedback on how to address the risks associated with this sector. Building on this information and public feedback, FinCEN has an NPRM in OMB review that will continue the process of addressing money laundering vulnerabilities in the residential real estate sector.

In December 2018, a California real estate broker was indicted on money laundering charges for allegedly purchasing residential real estate on behalf of individuals who sought to acquire properties to cultivate marijuana. According to the indictment, these individuals allegedly received funds from China for down payments on residential properties. Once the funds were in the United States, they were aggregated to make the down payment on a property to facilitate its ultimate purchase organized by the real estate broker. To avoid detection by financial institutions and lenders, the real estate broker is said to have used hard money lenders to arrange financing for the property purchases. In some instances, the broker allegedly used her real estate firm to provide loans to the home purchasers to ultimately ensure the transaction closed and her clients could purchase the homes.

TPPP:

As mentioned in the Third-Party Payment Processors (TPPPs or payment processors) section of the 2024 NMLRA, a review of cases over the last three years involving TPPPs revealed the most common typology of fraudulent behavior involving complicit TPPPs. As a primary gateway to the legitimate financial system, payment processors are uniquely positioned to facilitate high volumes of fraud by working together with fraudulent merchants or failing to address (or appropriately report) suspicious activity. For example, in May 2023, Steven Short was sentenced in federal court to 78 months in prison for conspiracy to commit wire and bank fraud in connection to a scheme to obtain credit card processing services for his telemarketing operation through a third-party credit card processing network. Between 2012 and 2015, Short targeted customers with outstanding credit card debt to offer services, including debt consolidation and interest-rate reduction, to generate over \$19 million in fraud proceeds. The scheme involved collaboration between Short's company and CardReady, with the latter keeping one-third of

credit card sale transactions in exchange for access to the credit card processing network and concealment of the underlying merchant.

Accountants:

A review of ML/TF risks related to licensed and unlicensed accountants reveals a lower to medium-low level of ML/TF risk largely because U.S. accountants generally provide financial record-keeping or advice services, rather than managing or holding client funds, purchasing real estate, or establishing companies. For example, even Certified Public Accountants (CPAs) do not have special access to form accounts or manage financial transactions. While accountants generally do not directly manage or custody funds on behalf of a client in the United States, there is some concern about accountants' abilities to act as financial facilitators for criminal or terrorist organizations due to their knowledge of the legal and financial system. . A criminal organization may have a "money person" that they call a "bookkeeper" or "accountant." However, this may be a person with no professional training, but who is entrusted by the criminal organization to coordinate payments throughout the criminal enterprise.

2. **Has Treasury seen evidence of accountants, lawyers, company and trust formation agents, or other professional service providers supporting CMLOs?**
 - a. **If so, can you provide a couple examples?**

Treasury has not observed reporting indicating that designated non-financial businesses and professions are supporting CMLOs in the United States on a large scale. However, professional money laundering organizations, including CMLOs, seek to exploit any AML/CFT vulnerabilities that can be identified. Treasury is keenly aware of vulnerable sectors in the United States, such as real estate, investment advisors, and attorneys. Therefore, as detailed in the 2024 Illicit Finance Strategy, Treasury is committed to reinforcing the effectiveness of the U.S. AML/CFT regime by: closing off long-standing and emerging vulnerabilities; and ensuring supervisors and law enforcement have the tools and authorities they need to deny illicit actors both the funding to carry out their harmful acts and the profits that fuel their greed.

As mentioned in the 2024 NMLRA, there are instances in which CMLOs employ insiders to open bank or casino accounts. Also, the cash-intensive nature of casinos makes the industry an attractive target for CMLOs. For example, CMLOs have accepted cash from various third parties in the United States and delivered that cash to a customer, typically a high-roller gambler from China, who could not readily access cash in the United States due to capital controls. In one case, as described in the 2022 NMLRA, members of the CMLO were introduced to customers by casino hosts, who sought to increase the gambling play of the casino's customers. By connecting cash-starved gamblers in the United States with illicit money transmitting businesses, like those operated by CMLOs, casinos increased the domestic cash play of their China-based customers. To obtain funds, for example, a gambler only needed a mobile device with remote access to a China-based bank account. As a result, CMLOs transmitted and converted electronic funds in China into hard currency in the United States, all while circumventing the obstacles imposed both by China's capital controls and the AML/CFT scrutiny imposed on U.S. financial institutions and casinos. According to public reporting, the casino hosts may receive a cut of the CMLOs' commission.

3. At many banks, professional service providers are considered to be higher risk customers. Through SAR data, does Treasury have any information on the prevalence of professional enablers in illicit financial schemes?

FinCEN reviews data filed by financial institutions under the Bank Secrecy Act (BSA), including suspicious activity reports (SARs), to identify patterns, trends, and typologies in illicit finance and other criminal activity. Among other initiatives, FinCEN analyzes BSA reporting to identify trust and company service providers (TCSPs), which may be connected to shell companies that obfuscate beneficial ownership and facilitate illicit financial activity. FinCEN has leveraged BSA reporting to identify foreign TCSPs that are most commonly associated with suspicious activity, including potential money laundering and sanctions evasion involving likely shell companies. FinCEN also analyzes BSA reporting to assess trends in suspicious activity involving TCSPs, such as the jurisdictions where these TCSPs are located. FinCEN works closely with law enforcement, the interagency, and foreign partners to support investigations related to these enablers and to address money laundering activity associated with TCSPs.

**Questions for the Record from Senator Charles E. Grassley
U.S. Senate Caucus on International Narcotics Control
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The report issued by the House Select Committee on the Strategic Competition Between the United States and the Chinese Communist Party titled “The CCP’s Role in the Fentanyl Crisis” uncovered that PRC authorities, including China’s Ministry of Public Security, have actively thwarted U.S. enforcement efforts by notifying investigation targets to enable their evasion from further detection. Moreover, PRC officials, including the PRC Ministry of Public Security (MPS) have refused to share critical information to enable U.S. enforcement efforts and have refused to pursue any fentanyl-related prosecutions of their own.

- 1. Which specific elements of the PRC government does Treasury partner within counter-narcotics enforcement efforts?**

Treasury is part of the U.S.-PRC Counternarcotics Working Group (CNWG), a critical mechanism to coordinate efforts to counter the global manufacturing and trafficking of illicit synthetic drugs, including fentanyl. This working group was a key outcome of President Biden’s and President Xi’s decision, announced at the Leaders’ Summit in November 2023, to resume bilateral cooperation on counternarcotics. Treasury also works with the People’s Bank of China (PBOC) on illicit finance efforts as our key counterpart within the PRC.

- 2. In your opinion, is the PRC a trustworthy and reliable partner nation when it comes to counter-narcotics interdiction and enforcement efforts?**

International engagement with countries involved in the supply chain of illicit precursor chemicals is a critical component of Treasury’s counternarcotics strategy. At the January 2024 meeting of the U.S.-PRC CNWG in Beijing, , Treasury pressed our PRC counterparts to investigate a group of PRC entities and individuals recently designated by Treasury for illicit fentanyl precursor production and sale, highlighting their use of virtual currency, which may also contravene the PRC’s own domestic laws. The PRC arrested one individual from the list of entities Treasury passed. Chinese authorities have stated that they will continue to evaluate the information we shared and will report back to Treasury on their findings Secretary Yellen reiterated this request during her recent trip to China in April.

- 3. Was the Administration’s November 2023 relaxation of sanctions on China’s Institute of Forensic Science, a component of the PRC’s Ministry of Public Security, which actively thwarts U.S. counter-narcotics trafficking efforts a wise policy decision?**

Cooperation with the PRC on reducing the flow of precursor chemicals and equipment to illicit synthetic drug manufacturers and traffickers has the potential to save lives. The Ministry of Public Security’s (MPS) Institute of Forensic Science(IFS), a national network of crime labs, plays a key role in the investigation and prosecution of counternarcotics crimes. IFS was delisted

from the Entity List in accordance with the End User Review Committee’s rules and procedures—and only after the PRC took substantive and tangible action to decrease the flow of precursor chemicals to the United States and signaled openness to ongoing cooperation.

For further details on the delisting of the IFS from the Entity List, I would have to refer you to the Department of Commerce, which maintains the Entity List.

- 4. The recently enacted Reforming Intelligence and Surveillance Act amended the definition of “foreign intelligence information” to include information that relates to the “international production, distribution, or financing of illicit synthetic drugs, opioids, cocaine, or other drugs driving overdose deaths, or precursors of any aforementioned.”¹ This will presumably allow our intelligence community to target foreigners for intelligence relating to international drug trafficking under traditional FISA authorities and FISA Section 702 targeting authorities.**

How will this new, expanded authority under FISA empower and/or enhance Treasury’s mission and ability to combat illicit narcotics trafficking?

Treasury welcomes any additional Intelligence Community reporting that may result from the new, expanded FISA authority. Any additional information will be useful to Treasury’s mission and ability to combat illicit narcotics trafficking, including for the Office of Foreign Assets Control (OFAC) sanctions investigations.

¹ Reforming Intelligence and Securing America Act, Pub. L. No. 118-49, H.R. 7888—32.