

September 9, 2015

Testimony before the U.S. House of Representatives Financial Services Committee

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Chairman Fitzpatrick, Vice-Chairman Pittenger, Ranking Member Lynch, and distinguished members of the Task Force to Investigate Terrorism Financing, thank you for the opportunity to testify before you today on U.S. efforts to stop the financing of terrorism. Particularly given the evolving and complex nature of the global financial system, the dynamic nature of terrorist threats and the growing diffusion and autonomy of terrorist cells internationally, a whole-of-government approach is needed to combat terrorism. Stemming the flow of terrorist financing is a critical part of this effort. I applaud the work of this Task Force to address this threat and strategies to protect the integrity of our financial system from such abuse.

While serving in the Treasury Department, I had the honor of working with dedicated, creative and diligent public servants on policy initiatives and diplomatic engagement to counter the financing of terrorism (CFT). We worked closely with colleagues at the Departments of State, Justice, Homeland Security, and Defense, as well as with skilled analysts in the Intelligence Community and law enforcement agencies. Our coordination occurred in regular interagency meetings, as well as in interagency fusion and threat finance cells, and was supported by interagency liaisons and detailees among federal agencies.

We also worked closely with our counterparts in a variety of foreign countries. Treasury officials working to combat terrorist financing have traveled extensively to engage in “financial diplomacy” around the world.¹ By engaging counterpart policymakers and regulators, central bank governors, major financial institutions, and other financial sector stakeholders in high-risk jurisdictions, they have explained terrorist financing risks and painstakingly built an international, coordinated effort to combat such risks. This collective effort reflects the belief that broad, interagency and international efforts are required to counter terrorist threats. Diplomacy, foreign and technical assistance, sanctions, financial oversight and regulatory policy, intelligence sharing, legal enforcement actions, military strikes, and other security activities are all part of the strategy to combat terrorism and its financing.

I will focus my remarks today on three areas of policy critical to CFT efforts. They are 1) efforts to strengthen financial system integrity and transparency; 2) the United States’ offensive strategy for targeting terrorist financing; and 3) initiatives for multi-lateralizing this work with counterparts abroad.

Strengthening Financial System Integrity and Transparency

¹ “Treasury Concludes Three Weeks of Global Engagement with Governments, Private Sector on Iran,” U.S. Department of the Treasury, press

Some of the most important defenses against both terrorist financing and indeed the conduct and facilitation of terrorism generally, are rigorous know-your-customer (KYC) practices, particularly in the corporate formation process, and rigorous customer due diligence (CDD) practices. Without such practices financial institutions can fall victim to abuse and become wittingly or unwittingly involved in the provision of material support to criminals and terrorists. This results in reputational harm and expensive enforcement actions. But with robust KYC and CDD measures in place, financial institutions can detect and arrest terrorist-linked financial flows and suspicious activity. Financial policy makers and regulators, along with the law enforcement community, together have responsibility for making sure that requirements for such safeguards in the U.S. financial system are strong and upheld.

Suspicious activity reporting by banks and other financial institutions is often produced as a result of rigorous KYC and CDD practices. Along with intelligence reporting and analysis on financial movements by terrorist-linked entities, this body of information is critical in our government's efforts to stem terrorist financing and activity. It may be used by the Treasury Department for sanctions designations, by law enforcement investigators in bringing cases against terrorists and criminals, and by our Department of Defense in understanding and countering these threats abroad.

This Task Force heard testimony from Cyrus Vance in June, making clear that it is far too easy to form a shell company in the United States through which terrorism supporters and criminals can conceal and carry out their illicit activity.² And you may also be aware of similar views expressed by others, including former Under Secretary of Treasury David Cohen, who said that it is "untenable" for the United States to tolerate the risk posed by shell companies in our financial system and has called repeatedly for tougher due diligence and beneficial ownership data gathering requirements.³ The existence of shell companies is a weak link in our efforts to combat the financing of terrorism, and to combat criminal activity broadly. Addressing such deficiencies is an urgent priority to strengthen and increase the resiliency of our financial system to such threats. It will also bring the United States into better standing in the international community, addressing a failing international technical evaluators pointed out publicly almost a decade ago.⁴

The first step in strengthening the U.S. financial system's resilience to abuse by illicit activity is tougher KYC and CDD programs. The Treasury Department and others in the administration are working on new policy in these areas, finalizing a new rule on the conduct of CDD. They are also working with Congress to strengthen information disclosure requirements about beneficial owners in the corporate formation process as part of the FY2016 budget, a critical step that would improve sanctions enforcement and identification of criminals and terrorists and may be useful in identifying the source of malicious

² Cyrus R. Vance, Jr., New York County District Attorney, "Written Testimony of New York County District Attorney Cyrus R. Vance, Jr. Before the U.S. House of Representatives Task Force to Investigate Terrorism Finance," Statement to the Task Force to Investigate Terrorism Finance, U.S. House of Representatives, June 24, 2015, 2-3, <http://financialservices.house.gov/uploadedfiles/hhrg-114-ba00-wstate-cvance-20150624.pdf>.

³ U.S. Department of Treasury, Under Secretary for Terrorism and Financial Intelligence David S. Cohen, "Remarks of Under Secretary Cohen at the ABA/ABA Money Laundering Enforcement Conference" (ABA/ABA Money Laundering Enforcement Conference, Washington, November 11, 2014), <http://www.treasury.gov/press-center/press-releases/Pages/jl2692.aspx>.

⁴ Financial Action Task Force, "Third Mutual Evaluation Report on Anti-Money Laundering and Combating the Financing of Terrorism: United States of America" (FATF, June 2006), <http://www.fatf-gafi.org/media/fatf/documents/reports/mer/MER%20US%20full.pdf>.

cyber activity as well. This effort will also extend anti-money laundering (AML) and CFT requirements to corporate formation agents.

Other areas of the administration's work with Congress to strengthen the integrity of the financial system include clarifying rules for suspicious activity reporting by financial institutions to give the institutions greater comfort and incentive to be forthcoming about reporting concerning activity. And the Treasury Department is also working with partners in the administration considering the extension of AML/CFT requirements to more unregulated financial entities, including investment advisors and real estate agents, the appropriate methods for requirement of reporting on new digital currency use. Treasury is also coordinating with law enforcement agencies and the states to urge greater attention at the local level to the collection and verification of beneficial ownership data for legal entities. These are all steps in the right direction, but require direct support from policymakers, such as the legislators on this task force, who understand the national security urgency of such new measures and can help bring them, and other efforts, to fruition.

Robust information sharing on terrorist financing is another crucial area of effort to CFT and protecting the financial system. Though information-sharing challenges exist at many levels, one significant challenge in this arena is the barrier that national data privacy laws present, preventing the sharing of data across borders even within one multinational financial institution. When such laws make it difficult for different divisions within the same bank, for example, to exchange information on customers or beneficial ownership data, it can make it difficult to identify sanctions evasion or criminal activity. In turn, these barriers hamper the sharing of investigative leads, suspicious activity reports (SARs), and forensic accounting data with government authorities. Such information would help government authorities track the source of terrorist networks, identify deep-pocket donors, charities, and facilitators, and spot sanctions evasion. The barriers to information sharing also hinder the work of government officials in identifying more nodes in terrorist networks and links between terrorist groups and criminal enterprises. If customer information were more easily shared across national jurisdictions, it would better help financial institutions and government authorities to understand emerging methodologies in raising and moving illicit money, including transactions in digital currency, and the scope of tools that can be employed to counter such new strategies.

The interests of the public and private sector are very closely aligned when it comes to preventing terrorist abuse of the financial system. All parties can benefit when they share information. In fact, when they do so voluntarily and in the spirit of cooperative efforts to combat a common enemy, it can lead to better outcomes for financial inclusion and protect legitimate financial activity. High-risk financial flows or institutions for terrorist financing, including remittances and money transmitters, must be carefully policed for illicit financial activity and simultaneously protected for law-abiding people who have few other choices for conducting banking activity. Excellent information sharing between the public and private sector directly contributes to both of these goals.

There is also an important role for non-governmental, non-commercial institutions and civil society organizations in information sharing relevant to terrorist financing. Charities, community organizations,

even arts and cultural associations, may have knowledge of terrorist funds movements. For example, knowledge of Syrian and Iraqi antiquities stolen and sold on the black market by ISIS, or wildlife stolen and trafficked in Africa, or sales of counterfeit goods by Hezbollah, may be usefully shared by civil society groups with authorities.⁵ Creating secure, consistent channels for outreach between these groups and government is the challenge, however, particularly when terrorist methodologies evolve and spread quickly with use of the Internet.

To be sure, sharing information related to terrorist use of the financial system, particularly between government and the private sector, is challenging. There are myriad civil liberties concerns and financial inclusion challenges. And when the flow of information is from the private sector to government, there are also considerations associated with protecting proprietary information and products, intellectual property, and competition. Nevertheless, all parties have an interest in understanding and countering emerging and evolving terrorist threats and how they may use the financial system. External advisory boards for federal agencies, regular industry outreach by financial policymakers and regulators, and the establishment and maintenance of advisory relationships with outside experts holding security clearances can all help to promote public sector-private sector information sharing. And to facilitate better law enforcement and compliance on international CFT matters, policymakers must urgently contemplate new strategies for facilitating the flow of SARs and beneficial ownership data across national borders.

Expanding Offensive Activities to Target Terrorist Financing

Another area in which the United States can do more to counter the financing of terrorism is sanctions designations. By more aggressively targeting terrorist financiers and facilitators, including couriers, banks, exchange houses and other entities that may be engaged in financial or material support for terrorism, U.S. authorities will make it more difficult for such people to conduct their activities. Crucially, to the extent that such designations can make public the methods used by terrorists and their supporters to provide financial and material support, they will help the private sector not only to bar entry to terrorists but also to know the illicit strategies by which they abuse the financial system and legitimate businesses. With the dispersion and autonomy of terrorist cells globally, it is challenging for banks and regulators, to say nothing of commercial entities that do not have access to classified intelligence, to keep pace with the evolving tactics terrorists use to raise money. These tactics increasingly extend far beyond traditional donor activities to other diverse criminal enterprises, such as extortion, taxation, and counterfeiting, among others.

Particularly in the near and medium term, as Iran receives economic benefits from the lifting of sanctions under the nuclear accord it signed in July with the P5+1, this state sponsor of terror will have more funds to apply to its terrorist proxies in the region. The U.S. Treasury Department estimates that about \$50 billion of Iran's foreign exchange reserves to be unfrozen under the accord will be immediately accessible

⁵ Matthew Levitt, "Hezbollah: Party of Fraud," *Foreign Affairs*, July 27, 2011, <https://www.foreignaffairs.com/articles/2011-07-27/hezbollah-party-fraud>.

to Iran.⁶ Iran will have to dedicate these reserves to defending its currency and to its most pressing economic needs. Nevertheless, Iran presumably will be able to send more money to its terrorist proxies in the region, even as an economic windfall under the nuclear deal may emerge slowly.⁷

Any marginal additional amount of Iranian funding for terrorism is too much. The United States must take an aggressive posture to combat expanding terrorist threats originating in the volatile Middle East, elsewhere in the world, and of course at home. This will demand a robust and coordinated effort, as I described previously. The Treasury Department has sanctioned around 50 Iranian-linked entities under terrorism authorities since the start of the interim nuclear agreement,⁸ and Treasury Secretary Jacob Lew has pledged to aggressively enforce terrorism sanctions on Iran going forward.⁹ Congress should hold the administration accountable on this pledge, demanding highest-level administration commitment to expand counterterrorism and CFT activities. This is most crucial in the area of gathering and analyzing intelligence on proliferating terrorist threats, issuing from Iran and elsewhere. Congress should also allocate additional resources to the Treasury and State Departments for enforcing the growing number of new sanctions authorities, to the Defense Department to launch covert actions or other security measures, and to law enforcement for expanded focus on investigations and prosecutions of any citizen who would support terrorism threatening our homeland.

Additional near-term steps that Congress should take to improve our country's capabilities and drive to combat terrorist financing include the creation of new sanctions, in coordination with the administration, to combat the Iranian terrorist threat. Some argue that launching new counterterrorism financial sanctions now will undermine the nuclear deal, giving Iran cause to believe that the United States is acting in bad faith and imposing sanctions removed under the nuclear deal under a new guise. This could occur. But policymakers can minimize this effect by carefully constructing new authorities that focus pointedly on Iran's support for terrorism and that are not tied to implementation or performance of the nuclear deal.

New sanctions authorities should specifically address the malign effect of Iran's sponsorship of terrorism on regional stability and demand a rigorous new focus on exposing and punishing support for terrorism by IRGC entities and individuals. By expanding the sanctions focus on IRGC entities, U.S. policymakers may help to put off-limits to responsible international investors in Iran those firms in Iran's construction, telecommunications, and airline sectors, among others, that are tainted with association to the IRGC. Congress could also call upon the Financial Crimes Enforcement Network (FINCEN) to revise the 2011

⁶ Adam Szubin, U.S. Department of Treasury, Acting Under Secretary of Treasury for Terrorism and Financial Intelligence, "Written Testimony of Adam J. Szubin, Acting Under Secretary of Treasury for Terrorism and Financial Intelligence United States Senate Committee on Banking, Housing, And Urban Affairs," Statement to the Committee on Banking, Housing and Urban Affairs, U.S. Senate, August 5, 2015, <http://www.treasury.gov/press-center/press-releases/Pages/jl0144.aspx>.

⁷ Patrick Clawson, "Iran's 'Frozen' Assets: Exaggeration on Both Sides of the Debate," The Washington Institute for Near East Policy, September 1, 2015, <http://www.washingtoninstitute.org/policy-analysis/view/irans-frozen-assets-exaggeration-on-both-sides-of-the-debate>.

⁸ U.S. Department of Treasury, "Specially Designated Nationals List," <http://www.treasury.gov/ofac/downloads/ctrylst.txt>.

⁹ Jacob J. Lew, U.S. Department of Treasury, Secretary of Treasury, "Testimony of Treasury Secretary Jacob J. Lew before the Senate Foreign Relations Committee on the Iran Nuclear Agreement," Committee on Foreign Relations, U.S. Senate, July 23, 2015, <http://www.treasury.gov/press-center/press-releases/Pages/jl0129.aspx>.

regulatory action it proposed under section 311 of the USA PATRIOT Act targeting Iran.¹⁰ FINCEN should elevate concerns about Iran's support for terrorism in a new notice of proposed rulemaking. Such actions will, in practice, affirm existing legal authorities that regulators can already use to target terrorist financing. Nevertheless, they can add more specificity and scope to current counterterrorism sanctions authorities and signal a serious, renewed focus on combatting such threats. This will be important as an indication to terrorists as well as to U.S. allies, who should act in parallel to the United States to expose and constrain Iran's support for terrorism.

International Engagement to Expand Effectiveness in the Targeting of Terrorist Financing

A critical counterpart to new domestic policies and authorities for CFT are new measures to coordinate with foreign counterparts on this threat. Indeed, this is one of the oldest and most robust areas of activity of the Treasury Department's division of Terrorism and Financial Intelligence. Former Under Secretary Stuart Levey, the first leader of this division, traveled extensively to foreign banks and regulators to discuss the threat of illicit finance and the need to eradicate it from the formal financial sector.¹¹ Additionally, the Treasury Department, and the U.S. government broadly, have been long-time supporters of, and leaders within, the Financial Action Task Force (FATF), the global body that sets international standards for AML and CFT safeguards and works for their international application. This organization is significantly responsible for helping foreign countries to put in place the policy and legal framework for CFT, and crafting strategies to actively combat it within their jurisdictions.

U.S. officials should renew and expand their efforts to build capacity among foreign governments to identify, investigate and go after terrorist financing. Our government should help partners to strengthen their financial systems and make them more resilient to abuse by terrorists. This includes helping counterpart policymakers to strengthen their KYC and CDD requirements. Additionally, it includes the encouragement of greater electronic financial activity, instead of cash-based economic activity that is more easily used by criminals and terrorists to move money. It also includes helping partners to strengthen laws that criminalize the financing of terrorism or support foreign fighters and terrorist activities. Kuwait, which only recently criminalized the financing of terrorism, one of the last countries to do so,¹² can do much more to act on these new authorities and combat terrorism in its jurisdiction. And Kuwait is hardly alone as a state in need of much greater action in this arena.

When the United States' foreign partners are more capable of combatting terrorism financing, they make much stronger partners in investigating international terrorist financing, sharing information in a secure manner, and collaborating with us in the targeting of terrorist financiers and facilitators with sanctions and law enforcement actions. When terrorist groups raise money largely from criminal and terrorist

¹⁰ U.S. Department of Treasury, "Financial Crimes Enforcement Network; Amendment to the Bank Secrecy Act Regulations - Imposition of Special Measure Against the Islamic Republic of Iran as a Jurisdiction of Primary Money Laundering Concern," November 28, 2011, <http://www.gpo.gov/fdsys/pkg/FR-2011-11-28/pdf/2011-30331.pdf>.

¹¹ Rachel L. Loeffler, "Bank Shots: How The Financial System Can Isolate Rogues," *Foreign Affairs*, March/April 2009, <https://www.foreignaffairs.com/articles/north-korea/2009-03-01/bank-shots>.

¹² Celina B. Realuyo, "Combating Terrorist Financing in the Gulf: Significant Progress but Risks Remain," (The Arab Gulf States Institute in Washington, January 26, 2015), 6.

enterprises within their own territory, a notable practice of ISIS,¹³ U.S. authorities have limited means to combat illicit money flows. We are reliant on the capabilities and political will of partners to combat such threats, and must also resort to physical means to destroy some of their revenue-generating assets. With ISIS, coordination with foreign counterpart law enforcement bodies, such as Interpol and Europol; local financial regulatory and law enforcement authorities, in Turkey, for example; as well as the private sector, can collectively help to hinder the flow of financial support for the organization outside of its territory. Security cooperation with Turkey, including the ability to use airbases there, and coordinating bombing strikes on ISIS nodes with other security partners, can help to target and destroy ISIS' criminal money-making enterprises.

Given the difficulty in sharing financial data, including SARs, across national boundaries, a new policy initiative to establish greater information flow across jurisdictions is a major priority. This will require legislative change in foreign jurisdictions, which can be bolstered and encouraged by FATF, as well as through diplomacy by U.S. administration officials and financial services leaders in Congress. U.S. financial services sector policymakers could also consider a safe harbor framework between the U.S. and partner financial jurisdictions to facilitate the flow of customer banking information that will directly support efforts to identify and counter illicit finance threats. A good goal for cross-border information sharing would be to significantly ease the transfer of beneficial ownership data of customers between banks with correspondent relationships in different jurisdictions. This will help U.S. banks, and indeed responsible multinational institutions more broadly, to know which customers they should take on, who may be evading sanctions, and which transactions to flag in reporting to regulators. Additionally, it will help them make more informed decisions to manage business in high-risk jurisdictions or with high-risk classes of customers, including money services businesses.

Furthermore, the \$5 billion Counterterrorism Partnership Fund, established last year, is an excellent mechanism to support U.S. investment in foreign partners to combat terrorist financing. No money was allocated to this fund in the 2015 budget, but money dedicated to the Defense and State Departments under this fund for the 2016 budget year could go a long way to support U.S. core counterterrorism interests, including countering terrorist safe havens, countering the flows of foreign fighters, as well as attacking Iran's support for terrorism, including through proxy groups in the Middle East.

Conclusion

Congress has an important role to play in countering the diverse, proliferating and increasingly diffuse terrorist threats confronting our country. Legislators should lead the effort to close some of the most concerning gaps in our CFT policy and regulatory architecture, particularly when it comes to the issue of CDD and collection and sharing of beneficial ownership data. They should also rigorously oversee the aggressive implementation and enforcement of targeted measures to attack terrorist financing nodes, one of the most critical tools in our national security kit. Engaging in these activities will ensure that the

¹³ Matthew Levitt, "The Islamic State's Backdoor Financing," The Washington Institute of Near East Policy, March 24, 2015, <http://www.washingtoninstitute.org/policy-analysis/view/the-islamic-states-backdoor-banking>.

**CONGRESSIONAL
TESTIMONY**

**Could America Do More? An Examination of
U.S. Efforts to Stop the Financing of Terror**
Prepared Statement of Elizabeth Rosenberg



**Center for a
New American
Security**

United States is a clear leader in protecting the global financial system from illicit activity and advance vital counterterrorism efforts for the security of our homeland.

Thank you for the opportunity to testify today. I look forward to answering any questions you may have for me.

Biography

Elizabeth Rosenberg
Senior Fellow and Director, Energy, Economics and Security Program, Center for a New American Security



Elizabeth Rosenberg is a Senior Fellow and Director of the Energy, Economics and Security Program at the Center for a New American Security. In this capacity, she publishes and speaks on the national security and foreign policy implications of energy market shifts and the environmental effects of climate change. She has testified before Congress on energy issues and been quoted widely by leading media outlets in the United States and Europe.

From May 2009 through September 2013, Ms. Rosenberg served as a Senior Advisor at the U.S. Department of the Treasury, to the Assistant Secretary for Terrorist Financing and Financial Crimes, and then to the Under Secretary for Terrorism and Financial Intelligence. In these senior roles she helped to develop and implement financial and energy sanctions. Key initiatives she helped to oversee include the tightening of global sanctions on Iran, the launching of new, comprehensive sanctions against Libya and Syria and modification of Burma sanctions in step with normalization of diplomatic relations. She also helped to formulate anti-money laundering and counter-terrorist financing policy and oversee financial regulatory enforcement activities.

From 2005 to 2009 Ms. Rosenberg was an energy policy correspondent at Argus Media in Washington D.C., analyzing U.S and Middle Eastern energy policy, regulation and trading. She spoke and published extensively on OPEC, strategic reserves, energy sanctions and national security policy, oil and natural gas investment and production, and renewable fuels.

Ms. Rosenberg studied energy subsidy reform and Arabic during a 2004-2005 fellowship in Cairo, Egypt. She was an editor of the Arab Studies Journal from 2002-2005 and researched and wrote on Middle Eastern politics at the Council on Foreign Relations in 2003. She received an MA in Near Eastern Studies from New York University and a BA in Politics and Religion from Oberlin College.