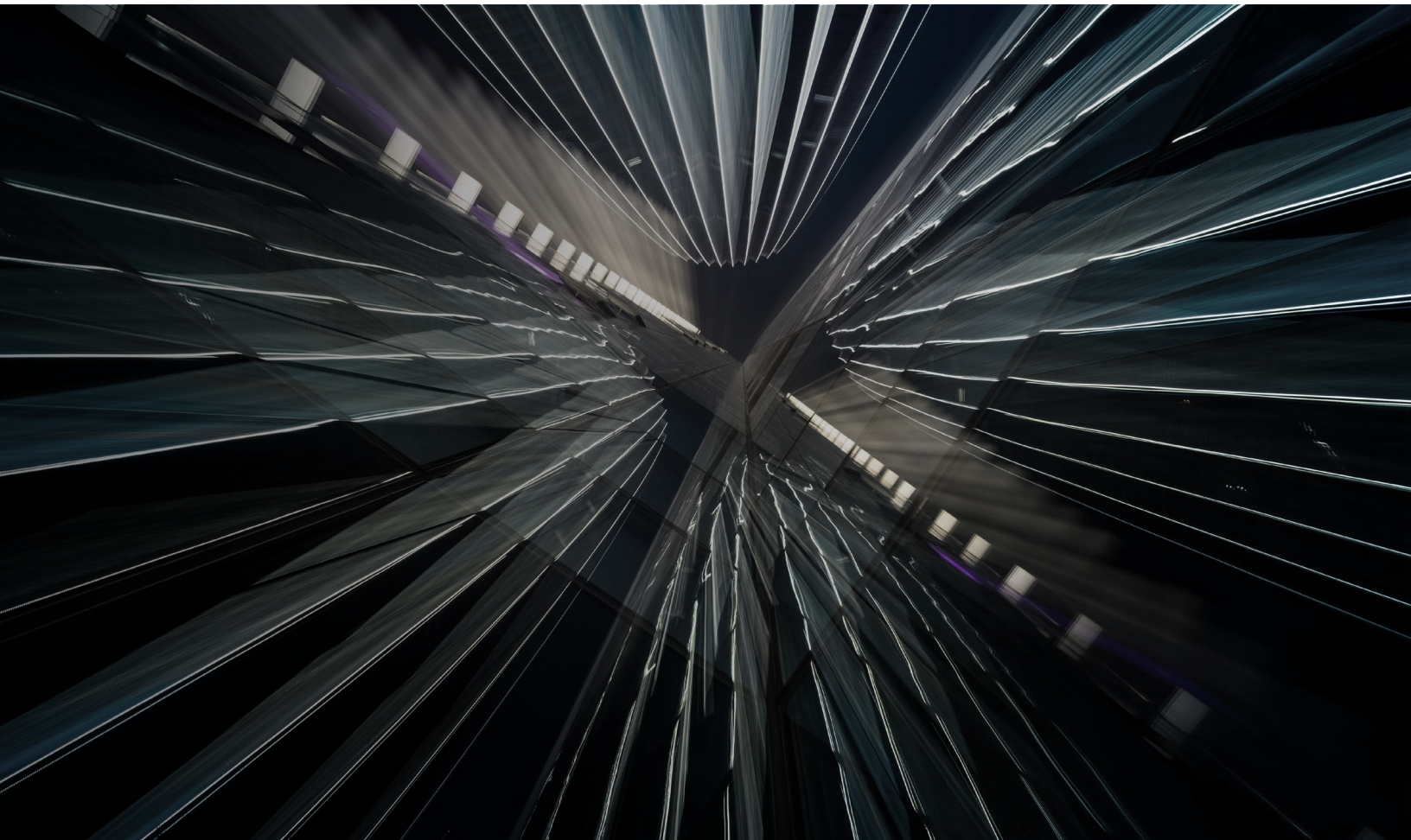


CAPCO

**FINGEN RELEASES ANTI-MONEY LAUNDERING AND
COUNTERING THE FINANCING OF TERRORISM
NATIONAL PRIORITIES: NOW WHAT?**



CONTENT

Overview.....	2
Corruption.....	3
Cybercrime, including Relevant Cybersecurity and Virtual Currency Consideration....	3
Terrorist Financing – Foreign and Domestic.....	3
Fraud.....	4
Transnational Criminal Organization (‘TCO’) Activity.....	4
Drug Trafficking Organization Activity.....	5
Human Trafficking and Smuggling.....	5
Proliferation Financing.....	6
So What?.....	7

OVERVIEW

On June 30, 2021, the Financial Crimes Enforcement Network ('FinCEN') issued its first government wide priorities for countering financial crime and terrorist financing (the 'Priorities') pursuant to the Anti-Money Laundering Act of 2020 (the 'AML Act')¹. Subsequently, FinCEN will provide [within 180 days] specific regulations regarding how banks and non-banking financial institutions subject to the Bank Secrecy Act ('BSA') should incorporate the Priorities into their risk-based AML compliance programs. The Priorities are: (1) corruption; (2) cybercrime, including relevant cybersecurity and virtual currency considerations; (3) foreign and domestic terrorist financing; (4) fraud; (5) transnational criminal organization activity; (6) drug trafficking organization activity; (7) human trafficking and human smuggling; and (8) proliferation financing.

In a separate release, federal and state financial regulators issued an interagency statement indicating their intent to revise applicable regulations to address how BSA and CFT priorities will be factored into banks' and other financial institutions' compliance programs². FinCEN also published a report titled, "A Report to Congress: Assessment of No-Action Letters in Accordance with Section 6305 of the Anti-Money Laundering Act of 2020" (the 'No-Action Letter Report') indicating its intention to create a framework for issuing no-action relief to financial institutions for certain conduct relating to BSA/AML and CFT requirements³.

This paper details the Priorities and offers guidance as to how financial institutions can consider the Priorities as implementing regulations are promulgated in the coming months.

1. See, [AML/CFT Priorities \(June 30, 2021\) \(fincen.gov\)](#).

2. See, [Statement for Banks \(June 30, 2021\) \(fincen.gov\)](#).

3. See, [FinCEN No-Action Letter Report to Congress per AMLA for ExecSec Clearance](#).

CORRUPTION

FinCEN believes corruption, both domestic and foreign, poses a significant threat to national security for its ability to undermine faith in the democratic process, to cripple the economy and to have other destabilizing effects. Accordingly, financial institutions

are asked to prioritize measures to address gaps in the U.S. financial system to prevent bad actors from laundering and/or obscuring the proceeds of their crimes.

CYBERCRIME, INCLUDING RELEVANT CYBERSECURITY AND VIRTUAL CURRENCY CONSIDERATION

FinCEN broadly characterizes “cybercrime” as “a significant illicit finance threat: the size, reach, speed, and accessibility of the U.S. financial system make covered institutions attractive targets to criminals, including terrorists and state actors. FinCEN expressed particular concern regarding the increased use of

ransomware attacks (both on financial institutions and critical US infrastructure), business email compromise (‘BEC’), and the use of a virtual asset’s innovative nature to hide illegal proceeds of a crime (including Convertible Virtual Currencies, or ‘CVCs’).

TERRORIST FINANCING – FOREIGN AND DOMESTIC

FinCEN noted that both foreign and domestic terrorism are a continued critical priority. FinCEN further stated that international terrorism continues to rely more on traditional methods of funding through banks, money service businesses (‘MSBs’) and cash couriers; however, terrorists have increased their use of digital

assets. Domestically, the largest threat is believed to come from racially or ethnically motivated violent extremists (‘RMVEs’) and anti-government extremists, which challenges the ability of law enforcement and banking communities to detect and disrupt these activities before they occur.

FRAUD

Fraud is believed to generate the bulk of illicit proceeds in the United States – including bank, consumer, health care, securities, investment, and tax fraud. Fraud schemes are increasingly internet-based, such as “romance scams,” synthetic identity theft and other types of identity fraud. Proceeds are primarily laundered through offshore accounts, accounts controlled by cyber actors

and money mules, but there are many other creative methods in use. In the Priorities, FinCEN draws particular attention to BEC, email account compromise and COVID-19-related fraud; but also highlights the threats from foreign intelligence agencies and their proxies to fund influence campaigns and conducts various types of espionage through front companies.

TRANSNATIONAL CRIMINAL ORGANIZATION (‘TCO’) ACTIVITY

TCO activity, including actions by Drug Trafficking Organizations (‘DTOs’), are considered a national priority, primarily because of their nexus with other significant illicit activities such as human trafficking, cybercrime, wildlife trafficking, smuggling, intellectual

property theft and corruption. FinCEN highlighted that TCOs will typically use professional money laundering networks that receive commissions, regardless of the predicate illicit activities.



DRUG TRAFFICKING ORGANIZATION ACTIVITY

DTO activities remain a considerable threat and continue to cause a public health emergency in the United States. FinCEN noted that DTOs are making increased use of professional money laundering services, as stated above, including trade-based money laundering ('TBML') schemes in Asia⁴. These activities include an increase in complex schemes to launder the proceeds from the

sale of narcotics by facilitating an exchange of cash proceeds from a Mexico DTO to Chinese citizens living in the U.S., including the use of couriers and/or front companies to deposit cash into the banking systems. Doing so permits DTOs to repatriate criminal proceeds into Mexico and avoid Chinese capital flight restrictions.

HUMAN TRAFFICKING AND SMUGGLING

Financial activity from human trafficking or smuggling can interact with the U.S. financial system at any point during the smuggling or trafficking process, according to FinCEN⁵. Previous advisory alerts identified that human smuggling networks use various techniques to move illegal proceeds, including cash smuggling

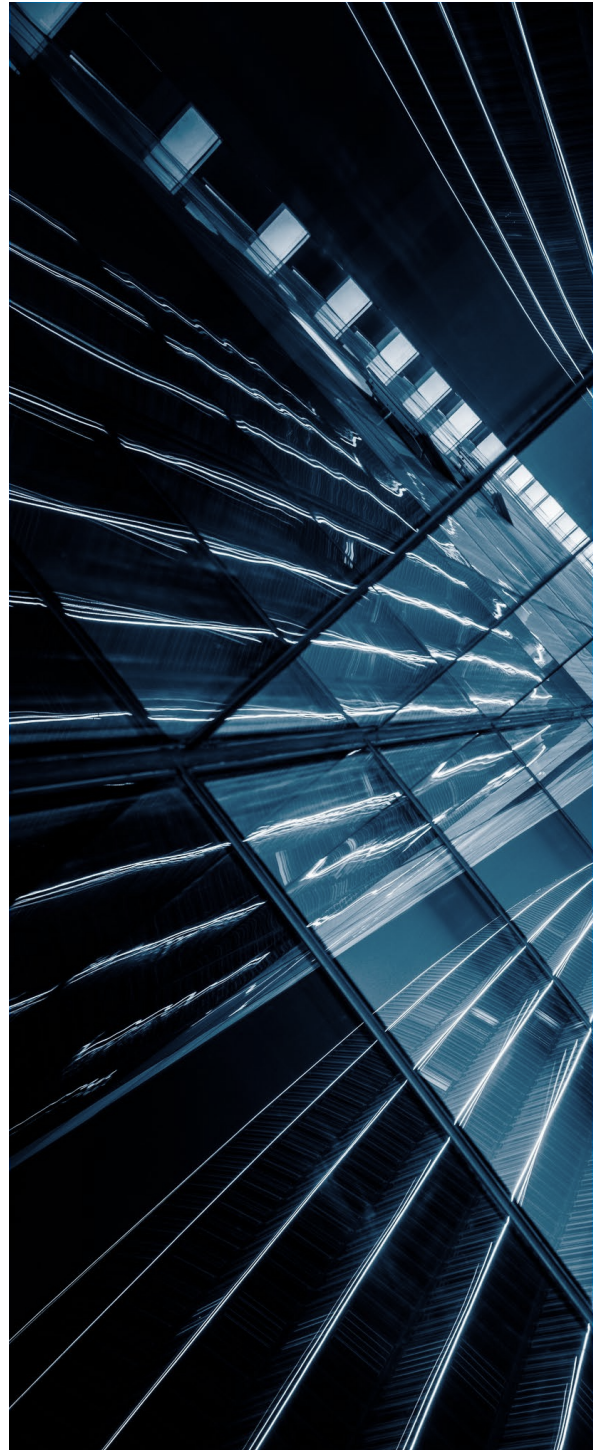
operations through professional money laundering outfits, cash smuggling, and the housing and transport of victims. Payments are often made using sophisticated TMBL techniques and funnel accounts⁶.

-
4. Trade-based money laundering involves "the illicit use of trade operations and related activities, such as disguising the proceeds of criminal activity through the use of trade transactions, including misrepresentation of the price, quantity and quality of imports or exports." See, [FinCEN Advisory – FIN-2010-A001](#) | [FinCEN.gov](#)
 5. See footnote 1. Human smuggling involves illegally transporting people who have consented to their travel into the United States. It may also include the subsequent harboring of those individuals in the United States. Although "human trafficking and human smuggling are distinct crimes, individuals who are smuggled are vulnerable to becoming victims of human trafficking."
 6. See, [FIN-2014-A008.pdf](#) ([fincen.gov](#)).

PROLIFERATION FINANCING

Proliferation networks supporting state actors, such as Iran, North Korea, and Syria, are the principal threat to illegal proliferation financing. Such support networks are known to use front companies and trade brokers to move funds into the U.S. financial system to support acquisition of weapons of mass destruction ('WMD') or other weapons-related programs designed to evade OFAC and United Nations sanctions regimes. A key vulnerability is the structure of global correspondent banking, due to its role in processing U.S. dollar transactions and involvement in cross-border transactions; however, vulnerabilities in global supply chains and maritime transportation are also significant threats.

The Priorities do not address environmental crimes – such as illegal forestry, extraction of minerals and land clearance – and the money laundering risks of these activities. The Financial Action Task Force ('FATF') recently identified in a July 2021 report that the regulatory and legal framework to prevent environmental crimes is not globally consistent, and that techniques used to disguise illicit proceeds are sophisticated and similar to those outlined in the other Priorities (e.g., use of shell and front companies, TBML schemes and the use of the formal financial sector to integrate funds)⁷.



SO WHAT?

By releasing the Priorities, FinCEN took an important first step in implementing a risk-based approach to combat financial crimes, human trafficking and terrorism. However, the Priorities are disclosed as high-level concepts, many of which are already familiar to members of the financial crimes compliance community. As a result, the biggest challenges to U.S. financial institutions will be determining how to concretely implement the Priorities into the specifics of their compliance programs.

Additionally, the real-world utility of FinCEN's No-Action framework could be hampered by other federal regulators' ability to enforce the BSA independently upon a financial institution within its jurisdiction; therefore, unless the Fed and OCC, for example, issue their own no-action relief or agree to follow FinCEN's determinations (not likely), the no-action process may be very limited indeed.

Because FinCEN believes financial institutions are “uniquely positioned” to view the types of suspicious activities highlighted in the Priorities, we hope further guidance and areas of true focus on the implementation of FinCEN's expectations come forward as regulations are drafted to address the priorities. As stated above, FinCEN has 180 days to promulgate regulations regarding the Priorities, and FinCEN has made clear that financial institutions do not have to incorporate any of the Priorities into their risk-based compliance programs until the effective date of the promulgated regulations. However, financial institutions should begin assessing impacts created by the Priorities, including those affecting products, customers, services, and geographies. Risk Assessments, Transaction Monitoring/Sanctions Alert processes and overall quality of data used for financial crime compliance are areas of critical focus.

7. See, <https://www.fatf-gafi.org/media/fatf/documents/reports/Money-Laundering-from-Environmental-Crime.pdf>.

CONTACT

Paul Mokdessi, Partner, Finance Risk
and Compliance

Paul.Mokdessi@capco.com

Spencer Schulten, Executive Director &
US Head of Financial Crimes Compliance

Spencer.Schulten@capco.com

Peter Dugas, Executive Director,
RISC Services

Peter.Dugas@capco.com

Geoffrey Lash, Principal Consultant,
RISC Services

Geoffrey.Lash@capco.com

ABOUT CAPCO

Capco is a global technology and management consultancy dedicated to the financial services industry. Our professionals combine innovative thinking with unrivalled industry knowledge to offer our clients consulting expertise, complex technology and package integration, transformation delivery, and managed services, to move their organizations forward.

Through our collaborative and efficient approach, we help our clients successfully innovate, increase revenue, manage risk and regulatory change, reduce costs, and enhance controls. We specialize primarily in banking, capital markets, wealth and asset management and insurance. We also have an energy consulting practice in the US. We serve our clients from offices in leading financial centers across the Americas, Europe, and Asia Pacific.

To learn more, visit our web site at www.capco.com, or follow us on Twitter, Facebook, YouTube, LinkedIn and Instagram.

WORLDWIDE OFFICES

APAC

Bangalore
Bangkok
Gurgaon
Hong Kong
Kuala Lumpur
Mumbai
Pune
Singapore

EUROPE

Berlin
Bratislava
Brussels
Dusseldorf
Edinburgh
Frankfurt
Geneva
London
Munich
Paris
Vienna
Warsaw
Zurich

NORTH AMERICA

Charlotte
Chicago
Dallas
Hartford
Houston
New York
Orlando
Toronto
Tysons Corner
Washington, DC

SOUTH AMERICA

São Paulo

WWW.CAPCO.COM



© 2021 The Capital Markets Company. All rights reserved.

CAPCO