

U.S. DEPARTMENT OF THE TREASURY

Press Center

Remarks by Deputy Assistant Secretary Jennifer Fowler at the SIFMA Anti-Money Laundering & Financial Crimes Conference

4/6/2016

As Prepared for Delivery

NEW YORK - Hello, everyone. It is a great pleasure to be here this morning to address such a distinguished group of AML/CFT experts and securities industry professionals. I would like to thank SIFMA for inviting me to speak here today, and also for all the important work it does to promote awareness of, and provide input on, AML/CFT issues.

The financial services industry—including the firms represented by SIFMA and each of you—plays an invaluable role in our efforts to protect the U.S. financial system from illicit finance threats, and your role has only grown in recent years. From sanctions implementation to combating terrorist financing, the work we do in the Office of Terrorism and Financial Intelligence reminds us daily that our success is dependent on a close partnership between the public and private sectors. The efforts of one cannot succeed without the support and vigilance of the other.

So, I want to spend a few minutes this morning illustrating how the complementary efforts of the Treasury Department and the financial industry have been, and will continue to be, crucial—not only to safeguarding our financial system, but also to our national security, as a whole.

Progress made in strengthening the U.S. AML/CFT framework

As many of you know, the United States is currently undergoing an assessment of its AML/CFT framework by the Financial Action Task Force (FATF), a mandatory peer review conducted periodically of all member countries known as a “mutual evaluation.” Since the last time our AML/CFT regime was assessed in 2006, the FATF has changed the way it assesses countries. Today, FATF is focusing not only on technical compliance with the FATF standards by member countries and their financial institutions, but more importantly, it is evaluating how effectively those standards are implemented. FATF’s intent is to go beyond ensuring that a country’s laws and regulations meet standards, and to assess whether a country and its financial institutions are able to disrupt illicit finance.

As you might imagine, preparing for our first FATF mutual evaluation in 10 years is a massive undertaking. We have provided our assessment team with over 1,000 pages of information related to our AML/CFT regime, essential documentation demonstrating the reasons we believe it is so effective. We also organized a three-week visit by the assessment team to the United States in February, ensuring that the assessors met with dozens of U.S. government and private sector representatives involved in the fight against illicit finance in the United States. Our final mutual evaluation report—essentially, our report card—will be discussed at the FATF plenary this October and published in December.

But more daunting than organizing the logistics of the assessment was the task of evaluating our own system in preparation for presenting our case to our assessors. We had to be honest with ourselves about our AML/CFT regime’s failings, but I am happy to say that we also found significant strengths in our system that demonstrate that our efforts – and your efforts – have been worthwhile.

We were the first country in the world to put in place anti-money laundering regulations with the passage of the Bank Secrecy Act in 1970, and since then, the U.S. has remained vigilant in addressing financial crime. We have increased, as necessary, and in line with the risks we face, the tools and authorities required to deter, disrupt, and dismantle organizations that facilitate money laundering, terrorist financing, and the financing of weapons of mass destruction proliferation. Today, there are more than 1,000 prosecutions in the United States each year for money laundering and related violations. Money laundering in the United States is sometimes more severely punished than the underlying crime.

It is not possible to talk about America’s commitment to AML/CFT without acknowledging the impact of the September 11 terrorist attacks. This watershed event fundamentally changed AML/CFT policy in America, not only because we overhauled how U.S. government agencies are organized to combat terrorism, but also because we were forced to take a hard look at our overall strategy to disrupt and dismantle the financial networks of terrorist organizations and other illicit actors. This meant gathering better financial information related to terrorist organizations and other criminal elements, and to this end, enlisting the crucial support of financial institutions to report suspicious activity.

Almost 15 years later, combating illicit finance is a component of each and every U.S. national security strategy, with industry front and center in our efforts. Disrupting illicit financial networks is stated as an explicit objective in some of the administration’s most important policy documents, ranging from the National Drug Control Strategy to the National Security Strategy.

While these national strategies demonstrate the importance that combating illicit finance commands for U.S. national security, implementing these strategies depends on having a full picture of the risks and vulnerabilities present at a national level. That is why Treasury has published two national risk assessments in the last year—one on terrorist financing and one focused on money laundering.

We developed these risk assessments by reviewing 5,000 federal money laundering indictments and 230 terrorism-related indictments, information published by federal agencies and Congressional and White House sources, as well as an analysis of reports filed by financial institutions under the Bank Secrecy Act. And while we found that the United States has kept pace with innovation, effectively forcing money launderers to rely on the same costly and burdensome methods they have in previous years, we continue to have deficiencies in our system related to the misuse of legal entities, which I will talk about later.

Our terrorist financing risk assessment concluded that our efforts over the past 15 years have pushed terrorist financing out of the banking sector and into other methods, such as cash smuggling. Our review also noted a growing trend among terrorist facilitators of directly soliciting individuals for funds, either under the auspices of humanitarian causes or with the explicit purpose of supporting terrorism. In order to address these risks, the U.S. has developed a range of authorities to prosecute offenders and target complicit jurisdictions and institutions that is second to none. In the last five years, law enforcement has successfully

disrupted more than 100 potential terrorist attacks, in no small part due to critical financial intelligence provided by the private sector and analyzed and disseminated by government agencies.

In addition to money laundering and terrorist financing, the U.S. has been a trailblazer on measures to combat WMD proliferation financing, creating authorities for targeted financial sanctions, stepping up collection efforts to identify proliferators, and designating hundreds of individuals and entities for supporting or facilitating WMD proliferation. Each designation under proliferation-related targeted financial sanctions serves as a starting point to unravel the support networks that enable these entities to function. We have authorities and capacity to address sanctions evasion that are unparalleled by other countries.

Our sanctions programs are an area where we have had to be most innovative, and where private sector efforts have been so impactful. As Secretary Lew noted just one week ago at the Carnegie Endowment, "Today's economic tools are sophisticated and potent—but they are not the answer to every threat we face. When used thoughtfully and in concert with other tools of national power, they can protect our financial system and apply substantial pressure against our most troubling national security threats." Tough sanctions on Iran brought Tehran to the negotiating table and ushered in a historic agreement to curb the country's nuclear program, while targeted sanctions on North Korea continue to isolate governing elites in Pyongyang and increase the costs of continued belligerence.

Not long ago, conventional wisdom dismissed sanctions as blunt, ineffective instruments. The old model was a country-wide embargo, which provided little flexibility to mitigate disproportionate costs on innocent civilians. In recent years, we have moved towards more targeted sanctions, which are informed by financial intelligence, strategically designed, and implemented with our public and private partners to focus pressure on bad actors, while limiting collateral impact.

While these targeted sanctions represented a vast improvement over the old, embargo-style measures, we have continued to work to improve them to make them even more precise and flexible. Most recently, we have been able to develop what are termed "sectoral" sanctions to focus on specific critical aspects of a target economy—finance, energy, defense, and so on—and then impose sanctions short of blocking specific entities in those sectors. These sanctions are intended to disrupt the areas where the targets are most vulnerable and exposed to the United States, while minimizing disruptions to the "plumbing" of the international financial system.

The securities industry has played an invaluable role in sanctions implementation, as well as in the robust implementation of AML/CFT requirements more broadly. Broker-dealers participate in FinCEN's Bank Secrecy Act Advisory Group, or BSAAG, providing valuable feedback on Treasury's implementation of the BSA, information that informs policy recommendations presented directly to Secretary Lew. Another important example of proactive engagement and knowledge-sharing around AML/CFT standards comes from SIFMA itself: the association maintains an AML Compliance Resource Center to assist members in understanding money laundering and terrorist financing risks and vulnerabilities specific to the securities industry and helps to clarify AML/CFT obligations for members. By linking together regulator guidance with a number of original publications—including SIFMA's Guidance for Deterring Money Laundering and Terrorist Financing Activity and the Suggested Practices for Customer Identification Programs—SIFMA members have demonstrated a desire not just to be well informed about risks and obligations, but to contribute actively to the discussion of best practices that will ultimately protect our financial system from abuse.

Each of the areas I just highlighted, from risk assessments to sanctions programs, reinforces that the partnership between our government and financial sector is what makes our AML/CFT regime so strong and effective. Our collaboration helps protect the U.S. financial system and strengthens our national security immeasurably.

Promoting Financial Transparency

So now that I have focused on our collective strengths in combating illicit finance, I would like to turn to some areas where I believe we can do better. Specifically, I want to discuss our efforts to augment financial transparency in the United States by pursuing two essential, interconnected initiatives. First, we must seek to clarify and strengthen customer due diligence, or CDD, requirements for financial institutions. Second, we must ensure that companies know and disclose their ultimate, or beneficial, owners to the government at the time of company formation. Clarifying industry's obligations on both of these fronts will help address a significant vulnerability in our AML/CFT framework—the potential for the misuse of legal entities to carry out financial crimes—and in the process protect our financial system and strengthen our national security.

Ultimately, we believe that part of the solution lies in a clearer customer due diligence regulatory requirement, including an express obligation to collect **beneficial ownership** information. With reliable **beneficial ownership** information in hand, financial institutions—including broker-dealers and mutual funds—will all benefit from knowing who the ultimate owners of companies holding accounts with them are, and our financial system will be safer for it. **Beneficial ownership** information not only will help protect your firms against the risk of involvement in illicit finance, it will also provide more useful information to law enforcement to pursue those who are engaged in money laundering, sanctions and tax evasion, proliferation finance, and terrorist financing.

As you are no doubt well aware, however, the process of amending regulations can be a challenging one. The process to codify our domestic CDD requirements began several years ago, and has incorporated the viewpoints of a diverse array of stakeholders from across government, law enforcement, and industry. Industry engagement has been key to the evolution of Treasury's thinking on how clarifying and strengthening CDD requirements, including **beneficial ownership** identification and verification requirements, would most effectively support financial institutions in managing risk and would assist law enforcement in pursuing illicit actors, while minimizing burdens on industry. This has been a six-year undertaking where we have worked to address industry feedback every step of the way, including most recently when FinCEN published a regulatory impact assessment to better estimate the costs and benefits of the rule after receiving comments from industry that the proposed rule had underestimated the costs of implementation. We received a great deal of thoughtful comments in response to the 2012 Advance Notice of Proposed Rulemaking, the 2014 NPRM, and most recently, the regulatory impact assessment. After analyzing all of these comments, my hope is that Treasury will be in a position to send a final rule to the Office of Management and Budget for its review in the very near future.

However, imposing **beneficial ownership** obligations on financial institutions to help them manage risk and work more effectively with law enforcement is only one part of addressing the misuse of companies by money launderers. Requiring that companies know and disclose their beneficial owners to the government at the time of company formation is another, equally important measure, and one that requires legislative action. As many of you well know, there is currently no state requirement to identify and disclose **beneficial ownership** information when a legal entity is created.

Although this is a longstanding weakness in the U.S. AML/CFT regime, the consequences of the misuse of legal entities to hide **beneficial ownership** has been highlighted by this week's news. This weakness in our system can only be resolved with swift congressional action in the form of meaningful company formation legislation. It will be important for any **beneficial ownership** legislation to provide that all legal entities disclose adequate and accurate **beneficial ownership** information at the time of creation, and to include requirements for regular updating of information and penalties for failure to comply, among other things. The Treasury Department, and the administration as a whole, are both deeply committed to working with Congress and all stakeholders to find a practical solution; one which balances all interests while providing law enforcement with ready access to this vital information.

Conclusion

In closing, I would like to thank you once again for inviting me here to speak with you about Treasury's ongoing efforts to combat threats to the integrity of the financial system. The challenges that lie ahead are complex and the issues are serious, but I am reassured by the dedication and intelligence that is brought to

8/26/2016

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these tasks by each of you. I can assure you that Treasury stands ready to continue working with you as we chart this path forward, and that I am enormously optimistic that we will continue to make steady progress together.

Thank you.

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