

FinCEN's Evolving Approach to Lurking Threats in Money Laundering and Terrorist Financing: Director Blanco's Remarks at NYU Law

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Friday, June 21, 2019

On June 12, 2019, Kenneth A. Blanco, Director of the Treasury's Financial Crimes Enforcement Network ("FinCEN"), provided [remarks](#) at the [NYU Law Program on Corporate Compliance and Enforcement](#) that underscored the agency's evolving approach to emerging threats in money laundering and terrorist financing.

His remarks specifically focused on:

- FinCEN's approach to addressing a number of emerging money-laundering threats, including the crisis in Venezuela and the rise in [business email compromise](#) ("BEC") fraud schemes;
- The agency's collaboration with Congress to address the need to collect beneficial ownership information at a company's formation; and

- FinCEN’s ongoing efforts to strengthen and modernize the anti-money laundering (“AML”) and counter-terrorism financing (“CFT”) system.

FinCEN’s Approach to Evolving Threats

Director Blanco first described the agency’s current approach to combatting emerging trends in money laundering, which includes the following:

- FinCEN processes the Suspicious Activity Reports (“SARs”) that it receives each day through the agency’s automated business rules to identify reports for its analysts to review further. This process yields about 50 matches per day and over 1,000 matches per month and, of these matches, the highest priority findings are distributed in a “Flash report” to the agency’s law enforcement and regulatory partners. These remarks are entirely consistent with the fact that Director Blanco repeatedly has emphasized the value of SARs in his public remarks (as we have [blogged](#)), perhaps in part to provide a counter-narrative to a Bank Secrecy Act (“BSA”) reform movement which questions the investigatory utility to government and the mounting [costs to the financial industry of the current SAR reporting regime](#).
- FinCEN’s Crisis Response team, which works around-the-clock to address terrorist attacks across the globe as quickly as possible, builds out a network connected to the terrorist attack down to the transactions, location, streets, houses, and cars used to perpetrate the attack.
- The agency has created a working group with the financial intelligence units of Argentina, Colombia, Mexico, and Panama to trace the illicit flow of dirty money that is leaving [Venezuela](#) through its corrupt senior political leaders (interestingly, [recent media reports](#) have described alleged illicit exports of “dirty” gold by Venezuela, performed to keep the current regime afloat).
- FinCEN recently issued [updated guidance and an advisory](#) regarding how its regulations apply to convertible virtual currencies and certain activities that financial institutions should monitor in this space.
- FinCEN collaborated with the Federal Bureau of Investigation to create a Rapid Response Program, in which law enforcement notifies the agency upon receiving complaints about BEC fraud. Director Blanco explained that this type of fraud is a growing threat to financial institutions – resulting in over \$12.5 billion in losses since 2013 – that it entails criminals misappropriating funds by deceiving financial institutions into conducting wire transactions that the criminals divert into accounts they control.
- FinCEN continues to issue [Geographic Targeting Orders](#), or GTOs, which require U.S. title insurance companies to record and report information about legal entities that make cash purchases of high-value residential real estate in specific geographic areas.

Collection of Beneficial Ownership Information

Director Blanco also addressed FinCEN’s 2018 promulgation of the [Customer Due](#)

[Diligence Rule](#), which requires financial institutions to collect the beneficial ownership information for legal entities when they open accounts with the institutions. He described this rule as “one critical step” towards combating money laundering, but emphasized that the “second critical step” needed is to collect beneficial ownership information at the corporate formation stage.

Currently, Director Blanco explained, law enforcement must expend significant resources to identify the true owner of a shell or front company. This often requires the use of human source information, grand jury subpoenas, surveillance operations, witness interviews, search warrants, and foreign legal assistance requests. Director Blanco noted that FinCEN is working with Congress to address this “serious gap.” As we have blogged on many occasions ([here](#), [here](#), [here](#), [here](#) and [here](#)), Congress indeed has been focused on expanding the collection and availability of beneficial ownership information for legal entities.

FinCEN’s Steps to Modernize its AML/CFT System

Director Blanco additionally highlighted a number of innovative approaches that the agency is taking to strengthen its AML/CFT system, including the following:

- FinCEN issued a [joint statement](#) with its Federal Banking Agency regulators to describe circumstances in which [banks can collaborate](#) in their compliance with certain BSA obligations.
- The agency recently announced an [Innovation Hours Program](#), which will provide financial technology and regulatory technology companies and financial institutions with opportunities to present their innovative products and services to FinCEN.
- FinCEN is increasing its engagement with the [BSA Advisory Group](#), which is comprised of, among others, representatives of federal law enforcement and regulatory agencies, state government agencies, and self-regulatory organizations. The group meets twice a year to discuss regulatory expectations, emerging trends in illicit finance, and potential areas for AML/CFT innovation.
- The agency has created the [FinCEN Exchange](#) for law enforcement and financial institutions to share information on certain topics in an effort to increase the number and quality of reports to the agency.

As we have [blogged](#), Director Blanco – perhaps partly in order to deflate [outside calls for reform](#) – steadily trumpets such internal reform efforts at FinCEN, such as: reviewing ways in which financial institutions can take innovative and proactive approaches to meet BSA/AML regulatory obligations; identifying better ways to communicate priorities and feedback to financial institutions, regulators, and law enforcement; and identifying concrete ways to quantify the value of financial institution reporting by undertaking a data-driven analysis of BSA reporting. Director Blanco concluded his remarks with a now-familiar theme: emphasizing FinCEN’s commitment to working with the private sector in order to address evolving threats concerning money laundering and terrorist financing.

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