

Treasury Department publishes national strategy for combating terrorist and other illicit financing

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The United States Treasury Department's national strategy provides priorities and supporting actions to guide U.S. regulatory efforts to address the most significant illicit finance threats and risks to the U.S. financial system.

On May 13, 2022, the United States Department of the Treasury (the Treasury Department) published the 2022 National Strategy for Combating Terrorist and Other Illicit Financing (the 2022 Strategy), which provides measures to increase transparency in the U.S. financial system and strengthen the U.S. anti-money laundering/countering the financing of terrorism (AML/CFT) framework. Built upon the Treasury Department's 2020 Strategy, the 2022 Strategy addresses the risks identified in the 2022 National Money Laundering, Terrorist Financing, and Proliferation Financing risk assessments and considers the unique challenges resulting from changes to the illicit finance risk environment and major deficiencies in the U.S. AML/CFT regime.¹ Illicit finance risks include threats related to fraud, drug trafficking, cybercrime, professional money laundering, corruption, human trafficking and terrorist financing. In addition, according to the 2022 Strategy, the most significant vulnerabilities to the U.S. financial system include compliance deficiencies at regulated institutions, the misuse of legal entities, non-financed real estate transactions, and virtual assets and cash transactions.

While the 2022 Strategy does not impose additional regulatory requirements, financial institutions should ensure that their AML/CFT compliance programs take into account the threats and vulnerabilities identified within the 2022 Strategy and the National Risk Assessments and, to the extent necessary, implement internal controls to address such risks.

Priorities to combat illicit finance threats

According to the Treasury Department, “[t]he overall goal of the 2022 Strategy is to encourage continued efforts to modernize the U.S. AML/CFT regime so that the public and private sectors can effectively focus resources against the most significant illicit finance risks.” To accomplish this goal, the 2022 Strategy is organized around four priorities: (1) increase transparency and close the legal and regulatory gaps in the U.S. AML/CFT framework (Priority 1); (2) make the U.S. AML/CFT regulatory framework for financial institutions more efficient and effective (Priority 2); (3) enhance the operational effectiveness of law enforcement and other U.S. government agencies in combating illicit finance (Priority 3); and (4) enable the benefits of technological innovation while mitigating risks (Priority 4).

The 2022 Strategy provides 14 supporting actions that will help advance the Strategy's four priorities. Moreover, the Treasury Department and other relevant U.S. government stakeholders intend to implement the supporting actions by the release of the 2024 Strategy.

Priority 1 – Increase transparency and close the legal and regulatory gaps in

the U.S. AML/CFT framework

According to the 2022 Strategy, increasing transparency in financial services will, among other things, help prevent illicit actors from distorting markets, accelerating the rise in costs of real estate and goods, stealing money and facilitating state-supported corruption. To accomplish Priority 1, the 2022 Strategy provides the following supporting actions:

- **Supporting Action 1. *Implement the Corporate Transparency Act and Improve Law Enforcement Access to Beneficial Ownership Information.*** According to the 2022 Strategy, “[a]ddressing the gap in collection of [beneficial ownership information] at the time of entity formation is the most important AML/CFT regulatory action for the U.S. government.” The lack of uniform requirements to report beneficial ownership information at the time of entity formation (and changes in ownership) hinders (1) law enforcement’s ability to efficiently investigate entities created and used to hide beneficial ownership; and (2) regulators’ ability to mitigate the associated risks.
- **Supporting Action 2. *Bring Transparency to Real Estate Transactions.*** In December 2021, the Financial Crimes Enforcement Network (FinCEN) issued a proposed rule aimed at increasing the transparency of the domestic real estate market, focusing specifically on gathering feedback on how FinCEN could apply AML/CFT requirements to non-financed real estate transactions. FinCEN’s initial view is that a nationwide rule is necessary to fully address the money laundering risks in the real estate market.
- **Supporting Action 3. *Assess the Need for Additional Action on Sectors Not Subject to Comprehensive AML/CFT Measures.*** According to the 2022 Strategy, certain financial intermediaries and gatekeepers—specifically investment advisers advising private investment funds, attorneys and Trust or Company Service Providers (TCSPs)—are not covered by comprehensive and uniform AML/CFT compliance requirements, and thus face varying levels of exposure to illicit finance risks. Accordingly, the Treasury Department will consider how trusts and TCSPs may facilitate illicit finance activity, review the role of attorneys in a range of illicit finance activities, and determine whether targeted or comprehensive AML/CFT requirements are necessary for investment advisers.
- **Supporting Action 4. *Consider Updates to the Regulatory Requirements and Supervisory Framework for Virtual Asset Activities.*** According to the 2022 Strategy, “[t]he U.S. AML/CFT regulatory framework must continue to adapt to foster responsible innovation and protect [the U.S.] financial system from emerging risks” related to virtual asset-related activity, in addition to risks associated with new payment products and services. To continue adapting to the expanded ways in which criminals are leveraging new technologies and market structures, the 2022 Strategy states that the Treasury Department will continue to take action on the measures described in Section 7 of Executive Order 14067 “Ensuring Responsible Development of Digital Assets,” which the White House issued on March 9, 2022.

Priority 2 – Make the U.S. AML/CFT regulatory framework for financial institutions more efficient and effective

The 2022 Strategy recognizes that an effective AML/CFT regulatory regime allows financial institutions to focus compliance resources on high-risk customers and activities, and provide timely and efficient information to law enforcement, which is tasked with identifying and stopping illicit activity. To accomplish Priority 2, the 2022 Strategy provides the following supporting actions:

- **Supporting Action 5. *Assess Opportunities to Update Reporting Requirements and Thresholds.*** For banks and financial institutions to continue delivering valuable, actionable information to law enforcement, the U.S. government and private sector will continue searching for ways to update and modernize the existing AML/CFT reporting requirements for banks and other financial institutions. The 2022 Strategy lists possible updates that include changes to suspicious activity reporting requirements, and exploring whether certain Suspicious Activity Reports or Currency Transaction Reports can be streamlined and automated.

Supporting Action 6. *Enhance Risk-Focused Supervision.* The 2022 Strategy underscores the value of FinCEN and

- the federal functional regulators adjusting regulatory requirements and enhancing financial institution supervision processes to ensure that regulated institutions focus their resources on high-risk customers. For example, FinCEN issued a proposed rule on AML program effectiveness, which was followed by the issuance of the AML/CFT National Priorities.² The 2022 Strategy notes that the forthcoming rules that will guide the integration of the AML/CFT National Priorities into AML/CFT compliance programs will help “strengthen the supervisory regime and assist examiners and institutions in prioritizing their resources to keep illicit proceeds out of the U.S. financial system and combat criminal activity.”
- **Supporting Action 7. *Appropriately Resource AML/CFT Supervision for Certain Non-Bank Financial Institutions.*** The 2022 Strategy recognizes that a lack of supervisory resources and subsequent lag in supervision, remediation and enforcement actions can delay the benefits of regulatory enhancements. In addition, the existence of virtual asset-related risks have shifted federal attention and resources away from traditional money services businesses (MSBs). Therefore, the 2022 Strategy reinforces that regulators like FinCEN and the IRS’s Small Business/Self-Employed Division³ need to be appropriately resourced for supervisory and enforcement actions for high-risk industries, and the limited MSB supervision regime would benefit from the efficiencies gained from state-to-federal and state-to-state supervisory cooperation.

Priority 3 – Enhance the operational effectiveness of law enforcement and other U.S. government agencies in combating illicit finance

Recognizing that illicit actors exploit weak AML/CFT legal frameworks and the lack of international cooperation around AML/CFT regulation, the 2022 Strategy reinforces the importance of promoting corporate and financial transparency and strengthening the international AML/CFT regime. To accomplish Priority 3, the 2022 Strategy provides the following supporting actions:

- **Supporting Action 8. *Regularly Update and Communicate Illicit Finance Risks and AML/CFT National Priorities.*** The 2022 Strategy emphasizes that a shared understanding between the public and private sectors on what the most significant illicit finance risks are (nationally, regionally, and within certain sectors) is fundamental to applying a risk-based approach to AML/CFT. Accordingly, the 2022 Strategy states that the Treasury Department will “ensur[e] that the AML/CFT National Priorities are kept up to date” and that financial institutions incorporating the National Priorities into their AML/CFT progress is critical to supporting an effective AML/CFT regulatory regime.
- **Supporting Action 9. *Prioritize Targeted Measures and Interagency Coordination to Disrupt Illicit Finance Activity.*** The 2022 Strategy states that “[c]riminal investigations and prosecutions for money laundering and related financial crimes remain a centerpiece of U.S. AML/CFT efforts.” Moreover, the 2022 Strategy confirms that the U.S. government will continue to implement the recommendations of the Treasury Department’s 2021 Sanctions Review, and will pursue asset recovery operations to deprive criminals of their ill-gotten gains.
- **Supporting Action 10. *Expand and Enhance Public-Private Information Sharing.*** The 2022 Strategy confirms that the U.S. government will continue to develop relationships and engagement with domestic and international private sector entities to expand their participation in efforts to counter illicit finance. For example, the 2022 Strategy states that “including select [money service businesses] providing virtual asset services in FinCEN’s 314(a) program may generate additional opportunities for engagement with the private sector.”
- **Supporting Action 11. *Strengthen the Implementation of Global AML/CFT Standards.*** Given the increased integration of the international financial system, the U.S. government intends to: (1) take an active leadership role at the Financial Action Task Force to ensure it remains able to address emerging illicit finance risks and challenges; (2) build partner governments’ capacity to combat corruption; (3) leverage its ongoing information sharing efforts with foreign governments to better facilitate their actions against illicit finance networks; and (4) identify ways to combine financial technology solutions with policy and regulatory efforts to improve the effectiveness of private sector AML/CFT programs.

Priority 4 – Enable the benefits of technological innovation while mitigating risks

The 2022 Strategy acknowledges that innovation in financial technology, the implementation of trustworthy digital identity solutions, and the accessibility and security of the financial system each play a critical role in supporting financial inclusion. To accomplish Priority 4, the 2022 Strategy provides the following supporting actions:

- **Supporting Action 12. *Use Technology to Improve Private Sector AML/CFT Compliance.*** The Treasury Department is working to identify ways of combining financial technology solutions with policy and regulatory reform efforts to integrate technology within the U.S. AML/CFT regime, to include the development and adoption of digital identity infrastructure and solutions.
- **Supporting Action 13. *Continue to Enhance Use of AI and Data Analytics in Government Efforts to Combat Illicit Finance.*** The 2022 Strategy highlights the need for the U.S. government to invest in technology and training to assist investigators, analysts, and regulators better use virtual asset-related data to combat illicit activity.
- **Supporting Action 14. *Support U.S. Leadership in Financial and Payments Technology.*** The 2022 Strategy acknowledges that the United States must promote innovative domestic payment systems that are transparent, efficient and supportive of innovation. In addition, the 2022 Strategy notes that the U.S. government is committed to maintaining its status as a leader in developing new markets and applying new technology to banking, payments and other financial activities in a more inclusive and efficient manner.

Financial institutions should consider using the 2022 Strategy to increase their understanding of the current illicit finance landscape and inform their risk mitigation strategies.

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¹ We discuss the National Risk Assessments in the linked [client update](#).

² We discuss the AML/CFT National Priorities in the linked [client update](#).

³ IRS Small Business/Self-Employed Division is in charge of reviewing non-bank financial institutions for AML/CFT compliance