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Financial Crime Issues: Global Illicit Drug Proceeds

Introduction

Revenues generated through illicit drug trafficking account for a large proportion of transnational organized crime proceeds, and curbing the global circulation of such illicit financial flows remains a challenge. “Following the money” is one of several counternarcotics policy options leveraged by authorities, including the U.S. government, to disrupt and dismantle drug trafficking organizations both domestically and abroad.

Scope of the Problem

Drug trafficking-related financial transactions occur at all stages of the illicit supply chain, connecting drug source activities to retail markets in consumer countries. Before traffickers can use such ill-gotten wealth as if it were legitimately acquired, drug proceeds must undergo a process of laundering, which typically involves three key steps: (1) *placement*, in which illicit funds are introduced into the financial system; (2) *layering*, in which illicit funds undergo various techniques to hide the true origins of the funds; and (3) *integration*, at which point illicit funds appear to be legitimate.

According to the United Nations (U.N.), illicit drug proceeds available each year for money laundering through the international financial system may range between 0.4% and 0.6% of global gross domestic product (between \$232 billion and \$348 billion in 2009).

Some of the more common laundering methods employed by drug traffickers involve

- bulk cash smuggling and currency exchange;
- structuring deposits and withdrawals, including the use of nominees and funnel accounts;
- trade-based money laundering (TBML), including through the so-called Black Market Peso Exchange; and
- laundering through real estate, front companies, and the exploitation of offshore financial services.

Despite the sheer magnitude of drug-related illicit financial flows, experts view the effectiveness of global efforts to seize and freeze laundered drug proceeds to be limited.

Congressional Foreign Policy Responses

Through legislation that was first enacted several decades ago, Congress has identified the restriction of drug-related money laundering as a U.S. foreign policy priority and authorized foreign and technical assistance to support international anti-money laundering capacity building. Congress has also mandated annual reporting on major money laundering countries, authorized targeted financial sanctions on designated foreign narcotics traffickers, and established other financial regulatory tools to curb money laundering related to drug-trafficking.

U.S. Policy Statement

Pursuant to Section 481 of the Foreign Assistance Act of 1961, as amended (FAA; 22 U.S.C. 2291), it is U.S. policy to address the “unparalleled transnational threat” of drug trafficking and to ensure that foreign countries adopt measures to combat money laundering and cooperate internationally on “narcotics money laundering investigations, prosecutions, and related forfeiture actions.”

Foreign Assistance

In support of U.S. foreign policy objectives, Section 481 of the FAA authorizes the President, “notwithstanding any other provision of law,” to provide assistance to foreign countries and international organizations to combat drugs or for other anticrime purposes. Such funds, which Congress provides through annual Department of State and Foreign Operations appropriations for International Narcotics Control and Law Enforcement, are primarily administered by the U.S. Department of State’s Bureau for International Narcotics and Law Enforcement Affairs (INL).

Technical Assistance

Section 129 to the FAA (22 U.S.C. 2151aa) additionally authorizes the Secretary of the Treasury to conduct training and technical assistance abroad in support of global financial law enforcement and anticorruption measures, among other requirements. Related efforts are currently conducted by Treasury’s Office of Technical Assistance (OTA). Congress provides funds for such assistance to Treasury in annual Financial Services and General Government appropriations.

Reporting Requirement

Section 489 of the FAA (22 U.S.C. 2291h) requires the State Department to submit to Congress an annual *International Narcotics Control Strategy Report* (INCSR), which, for nearly three decades, has addressed the laundering of illicit drug proceeds. Among other provisions, current law requires the INCSR to summarize “on a country-by-country basis” how U.S. agencies are “pursuing a common strategy with respect to achieving international cooperation against money laundering and ... with respect to major money laundering countries.”

Major Money Laundering Country, Defined

Section 481(e) of the FAA (22 U.S.C. 2291(e)) defines “major money laundering country” to mean “a country whose financial institutions engage in currency transactions involving significant amounts of proceeds from international narcotics trafficking.”

INL issued the 2017 INCSR in March, which identified 88 foreign “major money laundering countries,” 22 of which were designated by President Donald J. Trump on

September 13, 2017, as major illicit drug producing or drug-transit countries, known as the “drug majors.”

The Drug Majors for FY2018

Afghanistan, The Bahamas, Belize, Bolivia, Burma, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, India, Jamaica, Laos, Mexico, Nicaragua, Pakistan, Panama, Peru, and Venezuela

Targeted Financial Sanctions

Since the 1990s, Treasury has been authorized to block the property and interests in property under U.S. jurisdiction of significant foreign narcotics traffickers and their organizations. Such authority is provided pursuant to Executive Order 12978 (1995), which addressed the unusual and extraordinary threat posed by drug trafficking centered in Colombia, and the Foreign Narcotics Kingpin Designation Act (P.L. 106-120, as amended; 21 U.S.C. 1901 et seq.), which authorized designations without geographic limits. Unless authorized or exempted, U.S. persons are prohibited from engaging in transactions with listed persons or entities. Violations may result in civil and criminal penalties. More than 2,300 individuals and entities are currently subject to sanctions pursuant to these authorities. Financial institutions have also been fined and subject to prosecution as a result of their violations.

Sanctioned Drug Kingpin Organizations

Revolutionary Armed Forces of Colombia (FARC), United Self-Defense Forces of Colombia (AUC), United Wa State Army, Arellano Felix Org., Amezcua Contreras Org., Dawood Ibrahim Org., Gulf Cartel, Beltran Leyva Org., 'Ndrangheta Org., Kurdistan Workers' Party (PKK), La Familia Michoacana, Los Zetas, Sinaloa Cartel, Haji Juma Khan Org., Joumaa Money Laundering/Drug Trafficking Org., Meza Flores Drug Trafficking Org., Los Caballeros Templarios, Los Cachiros, Los Urabeños, Shining Path (SL), Los Valles Drug Trafficking Org., Hassan Drug Trafficking Org., Laredo Drug Trafficking Org., Waked Money Laundering Org., Ruelas Torres Drug Trafficking Org., Flores Drug Trafficking Org.

Other Financial Regulatory Tools

Regulations that address money laundering derive from the Bank Secrecy Act (BSA) of 1970, as amended (31 U.S.C. 5311 et seq.), and require financial institutions to monitor and report suspicious financial activity to U.S. authorities. As part of this anti-money laundering regulatory regime, the Treasury Department may require heightened scrutiny of financial activity, including through the following:

Geographic Targeting Orders (GTOs). 31 U.S.C. 5326 authorizes Treasury to impose recordkeeping and reporting requirements on domestic financial institutions and nonfinancial businesses in a particular geographic area to facilitate law enforcement detection of criminal activity. Several recent GTOs have been used to further combat the laundering of illicit drug proceeds, particularly through real

estate transactions in New York City and select major metropolitan areas in south Florida, California, and Texas.

Section 311 Special Measures. 31 U.S.C. 5318A (known as Section 311 of Title III of the USA PATRIOT Act, P.L. 107-56) authorizes Treasury to impose certain regulatory restrictions, known as “special measures,” upon finding that a foreign jurisdiction, financial institution, class of transactions, or type of account is of “primary money laundering concern.” Among those currently subject to special measures, several were listed for reported involvement in drug trafficking-related money laundering.

Policy Considerations

In its 2015 *National Money Laundering Risk Assessment* study, the Treasury Department emphasizes that the success of U.S. anti-money laundering efforts depends on cooperation with foreign banks, regulators, and law enforcement authorities. Where such cooperation and financial transparency are not present, Treasury concludes that criminals “will route transactions through jurisdictions where they can obscure the financial trail with the help of corrupt officials or weak regulation and enforcement.”

Despite numerous U.S. counternarcotics policy initiatives to support foreign governments in detecting and thwarting money laundering, efforts to rid the international financial system of illicit drug proceeds are complicated by a combination of factors, including

- global demand for illicit drugs;
- corruption that undermines law enforcement;
- global movement of goods, people, and wealth that outstrips authorities’ resources to detect smuggling;
- political obstacles to bilateral or international cooperation on drug and financial crime matters;
- uneven global capabilities, resources, information, and legal tools to reveal, deter, and prosecute the laundering of illicit drug proceeds; and
- evolving technological innovations that can contribute to a dynamic transnational criminal environment.

Congressional Outlook

Congress has long maintained an interest in both counternarcotics and anti-money laundering, particularly through regular oversight and appropriations. As part of its continuing interest in such matters, the 115th Congress may seek to evaluate the effectiveness of existing foreign policy approaches, including the public identification of major money laundering countries and kingpins as well as providing foreign aid. Congress may also consider whether current efforts respond to emerging cyber-related drug and money laundering trends.

For further analysis, see CRS Report R44776, *Anti-Money Laundering: An Overview for Congress* and CRS Report R44541, *Trade-Based Money Laundering: Overview and Policy Issues*.

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