Banking and Finance Law Daily Wrap Up, BANK SECRECY ACT—Anti-money laundering, counter terrorist financing efforts awarded passing grades, (Jun. 15, 2015)

Banking and Finance Law Daily Wrap Up

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According to two assessments published by the Treasury Department, the U.S. government has made it substantially more difficult for terrorist organizations to raise and move money through the U.S. financial system, and the U.S. framework for anti-money laundering and counter terrorist financing has effectively narrowed many of the most significant vulnerabilities. The "National Money Laundering Risk Assessment" (NMLRA) and the "National Terrorist Financing Risk Assessment" (NTFRA) are intended to be used by financial institutions and other stakeholders to inform their compliance with the Bank Secrecy Act and sanctions laws.

"Today's assessments underscore our dedication to better understand and address the risk of illicit finance," said Adam J. Szubin, Acting Under Secretary for Terrorism and Financial Intelligence. "This comprehensive review will better inform the U.S. Government and our private sector partners about how to further safeguard and strengthen the U.S. economy and national security."

Money laundering. The NMLRA identifies the money laundering risks that are of priority concern to the United States, and uses terminology and methodology from the Financial Action Task Force (FATF), the international standard-setting body for anti-money laundering and counter-terrorist financing safeguards. The assessment focuses on "threats (the predicate crimes associated with money laundering), vulnerabilities (the opportunities that facilitate money laundering), consequences (the impact of a vulnerability), and risks (the synthesis of threat, vulnerability and consequence)." The NMLRA builds and expands on a previous Treasury money laundering report issued in 2005.

According to Treasury, the NMLRA finds that the United States has "effectively kept pace with innovation." As a result, money launderers must use costly and burdensome methods to hide their identities from financial institutions in order to open and maintain accounts. These include, but are not limited to, using cash, other monetary instruments, shell companies, and conducting transactions below customer identification thresholds.

The report also finds that the U.S. framework for anti-money laundering and counter terrorist financing "effectively narrows many of the most significant vulnerabilities that money launderers seek to exploit through a core set of tools." Those tools include: targeted financial sanctions, law enforcement investigations and prosecutions, regulatory preventive measures, and by working to enhance international standards.

Terrorist financing. The first of its kind, the NTFRA provides an "unprecedented" review of the terrorist financing risks to the U.S. financial system. Treasury reports that since the Sept. 11, 2001, terrorist attacks, the U.S. government has made it substantially more difficult for terrorist organizations to raise and move money through the U.S. financial system. Treasury, which leads the financial and regulatory effort to combat terrorist financing, employs targeted financial sanctions, formulates systemic safeguards, and seeks to increase financial transparency to make accessing the U.S. financial system more difficult and risky for terrorists and their facilitators.

As a result of these efforts, Treasury reports a decrease in the use of the U.S financial system for terrorist financing-related transactions. Terrorists are forced into more expensive and less efficient methods to facilitate terrorist financing, such as cash smuggling, which are more vulnerable to disruption and exposure. The U.S. government is also closely monitoring several emerging terrorist financing threats and vulnerabilities, including

the use of cybercrime and identity theft schemes, as well as the use of new payment systems to move and place funds.

However, in spite of these efforts, the assessment warns that the wealth and resources of the United States will continue to make it an attractive target for a wide range of terrorist organizations seeking to fund their activities. Additionally, the volume and diversity of international financial transactions that flow through the U.S. financial system expose the United States to risks that other jurisdictions may not face.

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