

Banking and Finance Law Daily Wrap Up, CRIMES AND OFFENSES— Treasury sanctions virtual currency mixer for laundering cybercrime proceeds, (Aug. 24, 2022)

Banking and Finance Law Daily Wrap Up

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By George M. Gullo, J.D.

The Department of the Treasury's Office of Foreign Assets Control sanctioned virtual currency mixer Tornado Cash, which has laundered more than \$7 billion worth of virtual currency garnered from proceeds of cybercrimes.

The Department of the Treasury's Office of Foreign Assets Control [announced](#) it has imposed [sanctions](#) on Tornado Cash, a virtual currency mixer that launders the proceeds of cybercrimes. Tornado Cash operates on the Ethereum blockchain and indiscriminately facilitates anonymous transactions by obfuscating their origin, destination, and counterparties. Tornado receives a variety of transactions and then mixes them together before transmitting them to their individual recipients. While the purported purpose is to increase privacy, illicit actors use mixers to launder funds, especially those stolen during significant heists.

Obfuscate proceeds. OFAC determined that, since its creation in 2019, Tornado Cash has laundered more than \$7 billion worth of virtual currency garnered from proceeds of cybercrimes, including:

- \$455 million stolen by the Lazarus Group, a Democratic People's Republic of Korea state-sponsored hacking group;
- \$96 million of malicious cyber actors' funds derived from the June 24, 2022, "Harmony Bridge Heist"; and
- \$7.8 million from the August 2, 2022, "Nomad Heist."

Material assistance. OFAC asserts that Tornado Cash has materially assisted and provided financial, material, or technological support for cyber-enabled activity originating outside the United States that constitutes a significant threat to the national security, foreign policy, and financial stability of the U.S. OFAC determined that Tornado caused a significant misappropriation of funds, trade secrets, personal identifiers, or financial information for commercial or competitive advantage or private financial gain.

Repeated failures. In the announcement, Under Secretary of the Treasury for Terrorism and Financial Intelligence, Brian E. Nelson, stated that "Tornado Cash has repeatedly failed to impose effective controls designed to stop it from laundering funds for malicious cyber actors on a regular basis and without basic measures to address its risks. Treasury will continue to aggressively pursue actions against mixers that launder virtual currency for criminals and those who assist them."

Privacy concerns. However, in a letter to Secretary of the Treasury, Janet Yellen, Representative Tom Ember ([R-MN](#)) expressed concern regarding the "unprecedented sanctioning of Tornado Cash." Ember [noted](#) that "growing adoption of decentralized technology will certainly raise new challenges for OFAC. Nonetheless, technology is neutral and the expectation of privacy is normal."

Treasury's authority. Treasury uses its authorities against malicious cyber actors in concert with other U.S. departments and agencies, as well as foreign partners, to expose, disrupt, and hold accountable perpetrators that enable criminals to profit from cybercrime and other illicit activity. OFAC has taken this action pursuant to Executive Order 13694, as amended, and follows OFAC's May 6, 2022 designation of virtual currency mixer Blender.io (Blender).

Companies: Tornado Cash

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