Report to Congress on
An Analysis of Anti-Money Laundering Efforts Related to Human Trafficking
Section 7154(a) of the National Defense Authorization Act for Fiscal Year 2020
(Div. F., P.L. 116-92)

Pursuant to Section 7154(a) of the National Defense Authorization Act for Fiscal Year 2020 (Div. F., P.L. 116-92), the Departments of State (State) and the Treasury (Treasury), on behalf of the President's Interagency Task Force to Monitor and Combat Trafficking in Persons (PITF),[1] submit this analysis of anti-money laundering (AML) efforts of the U.S. government (USG), U.S. financial institutions,[2] and international financial institutions[3] related to human trafficking[4] (Part 1) and recommendations to strengthen the efforts of those institutions (Part 2). The report incorporates input and feedback from PITF agencies and external stakeholders, including from representatives of financial institutions and civil-society organizations, trade representatives of the financial industry, members of the U.S. Advisory Council on Human Trafficking, and consultants from the Human Trafficking Expert Consultant Network.

Human trafficking poses a grave threat to the rule of law and endangers the safety and security of citizens in the United States and around the world. In addition to its enormous human cost, human trafficking is estimated to be one of the most profitable crimes in the world.[5] Treasury's *2020 National Strategy for Combating Terrorist and Other Illicit Financing* identified money laundering linked to human trafficking as one of the most significant illicit finance threats facing the United States.[6] The illicit financial activity that human trafficking generates includes, but is not limited to, payments associated with the transport of victims and other logistics, e.g., hotels or plane tickets; collection of proceeds generated by the exploitation of trafficking victims and by the sale of goods produced through their exploitation; movement of proceeds; and bribery and corrupt dealings to facilitate trafficking.[7] The movement of funds generated by human trafficking can constitute money laundering[8] or, if designated terrorist organizations benefit, terrorist financing.[9]

Financial institutions play a critical role in identifying transactions associated with human trafficking at the transactional or teller level.[10] If financial institutions lack sufficient controls, traffickers can benefit from ready access to financial services to advance, and profit from, their enterprises. Financial institutions may face criminal penalties if they willfully fail to comply with their Bank Secrecy Act[11] (BSA) obligations, including reporting of suspicious activity related to human trafficking. As such, financial institutions should seek to report indicia of human trafficking in financial transactions or series of transactions in Suspicious Activity Reports[12] (SARs) or other appropriate methods and comply with law enforcement processes seeking to identify traffickers' assets, which can be seized, forfeited, and used toward restitution. In the case of forced labor, a predicate offense to money laundering, banks may already be providing bank accounts and unknowingly facilitating wage theft. U.S. financial institutions may also be used for U.S. dollar transactions among perpetrators and between perpetrators and victims -- for example in instances where commercial sex transactions are paid in cash between traffickers and customers, and the cash is then deposited and transferred elsewhere; or in instances where employers pay the victims of labor trafficking in agriculture or construction in cash, and the cash is deposited into other accounts. A report from Polaris, an anti-trafficking non-profit organization, includes further information on these typologies and on ways that the financial services industry can prevent and disrupt human trafficking.[13]

The USG should use and support the use of financial tools to assist victims who almost always have been harmed financially by human traffickers, such as by providing victims access to financial support services; seeking restitution, where appropriate; and repair (including for poor credit, bankruptcies, outstanding debts and collections, or fraudulent purchases in their name). It also should clarify the steps that financial institutions can take within regulatory constraints to assist victims and furnish victims with needed identification documents.

Part 1: Analysis of AML Efforts Related to Human Trafficking

A. Efforts by USG Agencies

The USG is committed to the global fight against human trafficking and employs a whole-of-government approach to address all aspects of this crime. PITF agencies working to combat money laundering and illicit finance related to human trafficking are the Departments of State, Treasury, Justice (DOJ), and Homeland Security (DHS), and the U.S. Agency for International Development (USAID). *See Annex A for additional information on agency efforts.*

- State partners with foreign governments, international organizations, other federal agencies, civil society, the private sector, and survivors of human trafficking to develop and implement effective policies, programs, and strategies to address human trafficking, a crime that is a predicate offense to money laundering. Across State, offices are engaged in various efforts focused on AML and combating illicit finance related to human trafficking.

- Treasury brings significant financial expertise to the fight against human trafficking and leverages its economic tools to target, disrupt, and counter those who facilitate and engage in human trafficking. Treasury works across all elements of the national security community – including the law enforcement, regulatory, policy, diplomatic, and intelligence communities – and with the private sector and foreign governments to identify and address the threats presented by all forms of illicit finance to the international financial system. Treasury works with international bodies, such as the Financial Action Task Force (FATF), to strengthen global AML/counter terrorist financing (CFT) standards to address these threats.

- DOJ investigates and prosecutes human trafficking and money laundering cases in order to help dismantle and disrupt trafficking networks, to deprive the traffickers of their ill-gotten gains, and to protect victims by seeking court-ordered restitution and forfeiture, which are mandatory under the law, for both domestic and foreign national victims. DOJ works with other federal agencies to combat human trafficking and with law enforcement intelligence centers to evaluate leads, investigate and prosecute cases, and provide subject-matter expertise to agents and federal prosecutors.

- DHS U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations' (HSI) financial crimes investigations specifically attack the criminal proceeds funding the operations of transnational criminal organizations; nearly every criminal case that HSI investigates has a financial nexus. HSI works closely with financial-industry partners, domestic and foreign law enforcement, regulatory agencies, NGOs, and other federal agencies to enhance cooperation and improve efforts to target illicit financial activity. DHS U.S. Secret Service (Secret Service) investigates financial and cyber fraud, including identity fraud, credit-card fraud, wire fraud, money laundering, and digital-currency scams, all of which at times can coincide with human trafficking. The Secret Service partners with other law enforcement agencies, U.S. financial institutions, and industry organizations through its network of strategically located Cyber Fraud Task Forces.

- USAID funds international anti-trafficking programs, including some with a nexus to anti-money laundering; engages in innovative private-sector partnerships; and integrates anti-trafficking activities across development sectors, applying research and evaluation and strengthening efforts in conflict and crisis-affected environments.

B. Efforts by U.S. Financial Institutions

Compliance with the BSA is essential to detecting, investigating, and deterring criminal activity, including human trafficking. The BSA imposes a range of obligations across a wide sector of financial institutions, including establishing AML programs, filing cash-transaction reports, reporting suspicious activity, and performing customer due diligence. As part of these obligations, financial institutions are expected to identify customers and monitor customer activity for unusual or suspicious transactions.

Under the BSA and its implementing regulations, certain financial institutions must report suspicious transactions relevant to a possible violation of law or regulation, including relating to human trafficking, to Treasury's Financial Crimes Enforcement Network (FinCEN). Accurate and timely suspicious activity reporting is a critical source of lead information for law enforcement investigations. These BSA obligations generally apply to a variety of financial institutions, such as money service businesses (MSBs), of which virtual currency exchangers and administrators are often a subset, depending on the services they provide.

Certain financial institutions have used FinCEN's 2014 Human Trafficking Advisory,[14] the 2018 FATF *Report on Financial Flows from Human Trafficking*,[15] Thomson Reuters Foundation's human trafficking banking toolkit,[16] and the Organization for Security and Cooperation in Europe (OSCE) *Compendium of Resources and Step-by-step Guide to Financial Investigations Into Trafficking in Human Beings*,[17] which includes risk indicators associated with human trafficking, to identify indicia of human trafficking by their customers. In other instances, some financial institutions both in the United States and abroad have studied closed human trafficking cases in order to determine whether those defendants conducted financial transactions at their banks. Major financial institutions also partner with anti-trafficking non-profits, survivors, and law enforcement with expertise in the crime in order to understand the nuances of trafficking operations and evolutions in trafficking activity in order to develop up-to-date and refined monitoring and identification programs. A number of significant money laundering cases in the United States, including those related to human trafficking, have made use of a particular provision of the USA PATRIOT Act known as Section 314(b), a special mechanism that allows financial institutions to share customer and transaction information with one another.[18]

Examples of efforts by U.S. financial institutions (*see Annex A for additional examples*):

- Numerous U.S. financial institutions participate in the work of the Liechtenstein Initiative for Finance Against Slavery and Trafficking (FAST), implementing the *FAST Blueprint*, which provides financial institutions targeted actions to combat human trafficking. The *Blueprint* draws on existing AML requirements in the *United Nations Guiding Principles on Business and Human Rights* and the *Organization for Economic Co-operation and Development Guidelines for Multinational Enterprises*.[19] These actions range from measures to strengthen AML reporting to deter, detect, and prevent human trafficking, to providing to trafficking survivors access to financial services to assist in their recovery.[20] FAST also offers free online training on combating human trafficking for AML professionals.[21] Certain financial institutions have highlighted the benefits of such banking services to survivors and have encouraged other financial institutions to provide such benefits.

- The U.S. International Development Finance Corporation[22] (DFC), the USG's development financial institution, minimizes the potential risk of human trafficking in DFC-supported projects through environmental and social due diligence, know-your-customer due diligence, and monitoring.[23] DFC agreements include contractual language that addresses Internationally Recognized Worker Rights, including protection from forced labor and forced child labor, as required in Section 1451(d)(2) of the BUILD Act of 2018. DFC-supported projects comply with the International Finance Corporation Performance Standards and are categorically prohibited from engaging in either forced labor or forced child labor.

C. Efforts by International Financial Institutions

The International Financial Institutions (IFIs) are comprised of the International Monetary Fund (IMF) and multilateral development banks (MDBs). The United States is represented on the Executive Board at the IMF and the MDBs by Executive Directors. Treasury provides insight and direction to the U.S. Executive Director and staff.

The MDBs provide assistance to developing countries and middle-income countries in order to address their growth constraints and to reduce poverty. The MDBs also provide loans to private companies that cannot obtain financing for projects with a development impact. The MDBs conduct integrity due diligence[24] on all clients in order to determine whether potential clients have any criminal background or open investigations. If those investigations identify any clients involved in money laundering efforts (related to human trafficking or not), the MDB takes appropriate steps, which could include, but are not limited to, refusing to fund the project or alerting the relevant legal authorities in the jurisdiction. After a project has been approved, if credible allegations are made about corruption or fraud in an MDB-funded project and the MDB has an Integrity Unit, it would investigate and take the necessary steps to address the allegations. Depending on the findings of the investigation, appropriate steps could include alerting the Board, determining whether the project should be suspended, or alerting the relevant legal authorities in the jurisdiction. The MDBs have identified human trafficking as a development challenge and are training their staffs to identify trafficking risks in any project, so that the project can help have a positive impact on any situations where trafficking is a risk.

The United States actively supports the IMF's robust program on AML/CFT through surveillance, conditionality in lending programs when appropriate, and assessments of countries' compliance with international standards. The IMF also has an extensive technical assistance program to help countries establish or improve oversight of the financial sector in order to address AML/CFT and broader financial integrity issues. The World Bank additionally provides advisory services to support countries undertaking national risk assessments in line with FATF requirements. This can include identifying human trafficking-related money laundering risks. The World Bank also cooperates with the United Nations Office on Drugs and Crime to support an initiative for the recovery of stolen assets (the STAR Initiative), which could be used to recover the stolen wages of victims of systematic labor trafficking.

Part 2: Recommendations to Strengthen Efforts against Money Laundering Related to Human Trafficking

Financial institutions are required to adopt a risk-based approach to their AML/CFT programs in order to identify, assess, and mitigate the money laundering, terrorist, and proliferation financing risks to which they are exposed and to take measures commensurate with those risks in order to mitigate them effectively. As with all their risks, financial institutions should assess their potential exposure to the risk of handling the proceeds of human trafficking as they engage with their clients, and, as appropriate, implement a mitigation process in line with the risk. The USG should continue to support the risk-based approach, which calls for financial institutions to make individual decisions about customers and customer types based on their specific risk characteristics, rather than denying services to broad classes of customers in an indiscriminate way. This approach preserves access for legitimate users while preventing criminal abuse of the system to the greatest extent possible.

Financial institutions should assess their illicit finance risk; continue to implement sanctions compliance, AML/CFT, and due-diligence programs; and provide training and resources to personnel in order to execute those programs effectively. To combat human trafficking more effectively, financial institutions are encouraged to develop public-private partnerships with government, anti-trafficking NGOs, and survivor leaders to inform their programs further – including by developing risk indicators for identifying customers that are human trafficking victims and perpetrators.

Given the risk-based approach to AML/CFT, U.S. financial institutions are not required to have uniform or standardized AML/CFT compliance programs, policies, or procedures, including those specific to indicia of human trafficking. For this reason, PITF agencies cannot prescribe any broadly applicable changes to financial institutions' programs suitable for broader adoption

(Section A); internal AML/CFT policies, procedures, or controls (Section B); or changes to training programs (Section C).

A. Best practices on successful anti-trafficking programs currently in place suitable for broader adoption *(see Sections B and C in Part 1 above and Annex A on current efforts of financial institutions)*

- Financial institutions that comply with their BSA obligations by filing SARs, Currency Transaction Reports (CTRs), or other filings play a key role in law enforcement's ability to combat human trafficking. Financial institutions are encouraged to utilize the checkbox[25] in the SAR form and SAR narrative keywords to report suspicious activity potentially tied to human trafficking.

- Financial institutions that have established AML programs that properly identify indicia of human trafficking, whether sex trafficking, child sex trafficking, forced labor, or forced child labor, are critical to law enforcement's efforts to combat human trafficking. Engagement with survivors of trafficking could enhance the ability of AML professionals to detect human trafficking transactions.

B. Feedback from stakeholders on recommended changes to internal policies, procedures, and controls related to human trafficking

- Financial institution processes could help identify human trafficking activity through due diligence, name screening, transaction monitoring, etc. Financial institutions have indicated that information provided by law enforcement is one of the strongest risk controls for a financial institution, as it is very difficult for financial institutions to identify human trafficking activity without additional information not readily available.

C. Recommended changes to training programs at financial institutions to equip employees better to deter and detect money laundering related to human trafficking *(see Annex B for additional recommendations)*

- Training programs at financial institutions could focus on the following: how to identify transactions, series of transactions, or patterns of activity by their customers that may be indicators of human trafficking and indicators associated with virtual assets[26] or money laundering of illicit proceeds from human trafficking; customer due diligence;[27] behavioral indicators;[28] transactional indicators;[29] and sensitization to and engagement with trafficking victims. Training could include onboarding due diligence; red flags; and how to identify an individual or corporate customer that could be involved with human trafficking activities, either as victim or perpetrator.

- Training could engage subject-matter experts from anti-trafficking NGOs and the survivor leader community. These trainings could also include how and when to intervene, how to determine whether there is a third party that has control over the victim, and whether forced criminality exists.

D. Recommended changes to expand human trafficking-related information-sharing among financial institutions, appropriate law enforcement agencies, and appropriate federal agencies *(see Annex B for additional recommendations)*

- Relevant PITF agencies could consider establishing an *ad hoc* working group, working through the Senior Policy Operating Group or another agreed-upon coordination mechanism, to increase interagency collaboration with respect to AML, sanctions, and human trafficking efforts. If established, the working group could consider ways to leverage the use of innovative technology to enable human trafficking-related information sharing among financial institutions and between such financial institutions, appropriate law enforcement agencies, and appropriate federal agencies. The working group could also consider recommendations and feedback from NGOs, the private sector, and survivors made during the consultation process.

- Multilateral bodies, regulators, law enforcement, appropriate government agencies, industry associations, and civil society could convene multi-sector discussions and develop stakeholder-specific roadmaps to outline relevant parties' roles and contributions to combat trafficking through the AML lens. These discussions across public and private stakeholders could include raising awareness and increasing understanding of typologies and how they are developed and used and contribute to the strengthening of typologies for transaction types not well covered by existing typologies, such as those relating to labor trafficking that would transit through correspondent banking relationships.

[1] The PITF is a cabinet-level entity created by the Trafficking Victims Protection Act (TVPA) of 2000 (Pub. L. No. 106-386), which consists of 20 agencies across the federal government responsible for coordinating USG-wide efforts to combat trafficking in persons. The agencies of the PITF are the Departments of State (State), Treasury (Treasury), Defense (DOD), Justice (DOJ), the Interior (DOI), Agriculture (USDA), Commerce (DOC), Labor (DOL), Health and Human Services (HHS), Transportation (DOT), Education (ED), and Homeland Security (DHS), as well as the Office of Management and Budget (OMB), the Office of the U.S. Trade Representative (USTR), the Office of the Director of National Intelligence (ODNI), the National Security Council (NSC), the Domestic Policy Council (DPC), the U.S. Agency for International Development (USAID), the Federal Bureau of Investigation (FBI), and the U.S. Equal Employment Opportunity Commission (EEOC). In the United States, the PITF and the Senior Policy Operating Group (SPOG), which consists of senior officials designated as representatives of the PITF, bring together federal departments and agencies in order to ensure a whole-of-government approach that addresses all aspects of human trafficking. PITF agencies regularly convene to advance and coordinate federal policies and collaborate with a range of stakeholders.

[2] A "financial institution" includes any person doing business in one or more of the following capacities: (1) bank (except bank credit card systems); (2) broker or dealer in securities; (3) money-services business; (4) telegraph company; (5) casino; (6) card club; (7) a person subject to supervision by any state or federal bank supervisory authority. For the regulatory definition of "financial institution," see 31 CFR 1010.100(t) (formerly 31 CFR 103.11(n)).

[3] The term "international financial institutions" means the International Monetary Fund, International Bank for Reconstruction and Development, European Bank for Reconstruction and Development, International Development Association, International Finance Corporation, Multilateral Investment Guarantee Agency, African Development Bank, African Development Fund, Asian Development Bank, Inter-American Development Bank, Bank for Economic Cooperation and Development in the Middle East and North Africa, and Inter-American Investment Corporation. (22 U.S.C. § 262r(c)).

[4] The TVPA of 2000 and its subsequent reauthorizations define "severe forms of trafficking in persons" as: (a) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or (b) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. (22 U.S.C. § 7102(11)).

[5] International Labour Organisation, *ILO Says Forced Labour Generates Annual Profits of US $150 Billion*, May 20, 2014, available at https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_243201/lang--en/index.htm.

[6] Treasury's *2020 National Illicit Finance Strategy* is available at https://home.treasury.gov/news/press-releases/sm902.

[7] FinCEN's September 2014 Advisory *Guidance Recognizing Activity that May be Associated with Human Smuggling and Human Trafficking* includes detailed information on human trafficking. FinCEN, Advisory FIN2014-A008, September 11, 2014, available at https://www.fincen.gov/sites/default/files/advisory/FIN-2014-A008.pdf.

[8] Money laundering is a crime when knowingly conducting or attempting to conduct a financial transaction with proceeds of a specified unlawful activity (SUA), pursuant to 18 U.S.C. § 1956(a)(1). Sex trafficking, forced labor, and other crimes related to trafficking in persons are considered specified unlawful activity, among others, under the relevant money laundering statutes, including promotion money laundering, concealment money laundering, international money laundering (18 U.S.C. § 1956(a) and 18 U.S.C. § 1956(b)) and the spending statute (18 U.S.C. § 1957).

[9] See *25 Keys to Unlock the Financial Chains of Human Trafficking and Modern Slavery*, July 2017, available at http://collections.unu.edu/eserv/UNU:6232/BreakingtheFinancialChains_FullBooklet_Web.pdf.

[10] FinCEN's September 2014 Advisory *Guidance Recognizing Activity that May be Associated with Human Smuggling and Human Trafficking* includes detailed information on human trafficking. FinCEN, Advisory

FIN2014-A008, September 11, 2014, available at https://www.fincen.gov/sites/default/files/advisory/FIN-2014-A008.pdf.

[11] The Currency and Foreign Transactions Reporting Act of 1970 (which legislative framework is commonly referred to as the "Bank Secrecy Act" or "BSA") requires U.S. financial institutions to assist USG agencies to detect and prevent money laundering. Specifically, the act requires financial institutions to keep records of cash purchases of negotiable instruments; to file reports of cash transactions exceeding $10,000 (daily aggregate amount); and to report suspicious activity that might signify money laundering, tax evasion, or other criminal activities. It was passed by the Congress of the United States in 1970. The BSA is sometimes referred to as an "anti-money laundering" law ("AML") or jointly as "BSA/AML." Several AML acts, including provisions in Title III of the USA PATRIOT Act of 2001, have been enacted up to the present to amend the BSA. (See 31 U.S.C. §§ 5311-5330 and 31 CFR Chapter X (formerly 31 CFR Part 103)).

[12] See, *e.g.*, 31 CFR 1020.320 - *Reports by banks of suspicious transactions*.

[13] Polaris, *On Ramps, Intersections, and Exit Routes: A Roadmap for Systems and Industries to Prevent and Disrupt Human Trafficking*, available at https://polarisproject.org/wp-content/uploads/2018/08/A-Roadmap-for-Systems-and-Industries-to-Prevent-and-Disrupt-Human-Trafficking-Financial-Industry.pdf.

[14] FinCEN's September 2014 Advisory *Guidance Recognizing Activity that May be Associated with Human Smuggling and Human Trafficking* includes detailed information on human trafficking. FinCEN, Advisory FIN2014-A008, September 11, 2014, available at https://www.fincen.gov/sites/default/files/advisory/FIN-2014-A008.pdf.

[15] FATF *Report on Financial Flows from Human Trafficking*, available at https://www.fatf-gafi.org/media/fatf/content/images/Human-Trafficking-2018.pdf.

[16] See *Banks Alliance against Trafficking* overview, available at http://www.trust.org/application/assets/genx/images/stand-alone-page-assets/banks-alliance/trf-banks-alliance.pdf.

[17] See *Compendium*, available at https://www.osce.org/secretariat/438323.

[18] See factsheet, available at https://www.fincen.gov/sites/default/files/shared/314bfactsheet.pdf.

[19] See *Guiding Principles*, available at https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf.

[20] Liechtenstein Initiative for Finance Against Slavery and Trafficking, *Unlocking Potential: A Blueprint for Mobilizing Finance Against Slavery and Trafficking* (United Nations University: New York, 2019), available at https://www.fastinitiative.org.

[21] See FAST resources, available at https://www.fastinitiative.org/resources/.

[22] While DFC is a USG agency, it is being categorized as a U.S. financial institution for purposes of this report. DFC is the USG's development financial institution.

[23] See Annex A, pages 16-17, for additional explanation of these terms.

[24] Integrity due diligence is the MDBs' process of assessing whether there is integrity risk in the project caused by the presence of the persons or entities involved in the project. Integrity risk comes from the activities or background of the persons or entities in the project that could cause negative reputational risk or financial risk to the IFC.

[25] In 2018, FinCEN updated its SAR form to include a checkbox for financial institutions to identify potential suspicious activity related to human trafficking. The update also allows law enforcement to identify potential perpetrators or enablers of human trafficking more easily.

[26] See FATF report *Virtual Assets Red Flag Indicators of Money Laundering and Terrorist Financing* at http://www.fatf-gafi.org/publications/fatfrecommendations/documents/Virtual-Assets-Red-Flag-Indicators.html. Based on more than 100 case studies collected by members of the FATF Global Network, the report highlights the most important red flag indicators that could suggest criminal behavior.

[27] See *Information on Complying with the Customer Due Diligence (CDD) Final Rule*, available at https://www.fincen.gov/resources/statutes-and-regulations/cdd-final-rule.

[28] See FinCEN's September 2014 Advisory *Guidance Recognizing Activity that May be Associated with Human Smuggling and Human Trafficking* includes detailed information on human trafficking. FinCEN, Advisory FIN2014-A008, September 11, 2014, available at https://www.fincen.gov/sites/default/files/advisory/FIN-2014-A008.pdf.

[29] See FinCEN's September 2014 Advisory *Guidance Recognizing Activity that May be Associated with Human Smuggling and Human Trafficking*, which includes detailed information on human trafficking. FinCEN, Advisory FIN2014-A008, September 11, 2014, available at https://www.fincen.gov/sites/default/files/advisory/FIN-2014-A008.pdf.