

# NDAA

## Russia Illicit Finance Report



**MARCH 2023**



# Report to Congress Pursuant to Section 9714 of the Combating Russian Money Laundering Act regarding Recommendations to Better Identify, Prevent, and Combat Money Laundering Linked to Russia

## Introduction

Section 9714(b)<sup>1</sup> of the Combating Russian Money Laundering Act requires the Secretary of the Treasury to submit to Congress a report that identifies any additional regulations, statutory changes, enhanced due diligence, and reporting requirements that are necessary to better identify, prevent, and combat money laundering linked to Russia. This document is the report and addresses the four relevant regulatory areas identified by Section 9714:

1. beneficial ownership (BO) of anonymous companies;
2. customer due diligence (CDD) requirements for the real estate sector, law firms, and other trust and corporate service providers (TCSPs);
3. know-your-customer (KYC) procedures and screening for transactions involving Russian political leaders, state-owned enterprises (SOEs), and known Russian transnational organized crime (TOC) figures; and
4. a permanent solution to collecting information nationwide to track ownership of real estate.

Money laundering perpetrated by the Government of the Russian Federation (GOR), Russian SOEs, Russian organized crime, and Russian elites poses a significant threat to the national security of the United States and the integrity of the international financial system. In light of Russia's further invasion of Ukraine, we must redouble our efforts to prevent Russia from abusing the U.S. financial system to sustain its war and counter Russian sanctioned individuals and firms seeking to exploit vulnerabilities in the U.S. financial system.

The Department of the Treasury (Treasury) is taking steps that will contribute to mitigating these threats through the proposal and implementation of anti-money laundering/countering the financing of terrorism (AML/CFT) regulations, including those related to real estate and the beneficial ownership of legal entities. This report begins by providing background information on the Russian economy and Russian illicit financial activity abroad, followed by an overview of the four regulatory areas listed above and Treasury's ongoing efforts relevant to these issues.

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<sup>1</sup> Section 9714(b)(1)(A)–(D) of the National Defense Authorization Act for FY 2021 (Public Law 116-283) provides, no later than 1 year after the date of enactment of this Act, the Secretary of the Treasury shall submit to the Committees on Financial Services and Foreign Affairs of the House of Representative and the Committees on Banking, Housing and Urban Affairs and Foreign Relations of the Senate a report that shall identify any additional regulations, statutory changes, enhanced due diligence, and reporting requirements that are necessary to better identify, prevent, and combat money laundering linked to Russia, including related to—: (A) identifying the beneficial ownership of anonymous companies; (B) strengthening current, or enacting new, reporting requirements and customer due diligence requirements for the real estate sector, law firms, and other trust and corporate service providers; (C) enhanced know-your-customer procedures and screening for transactions involving Russian political leaders, Russian state-owned enterprises, and known Russian transnational organized crime figures; and (D) establishing a permanent solution to collecting information nationwide to track ownership of real estate.

## Background

### *Russian Economy and Wealth Abroad*

In 2021, Russia's gross domestic product (GDP) was \$1.78 trillion, ranking eleventh in the world. Prior to the invasion of Ukraine in February, the World Bank forecast GDP growth in 2022 of 2.4 percent; however, recent World Bank analysis now projects GDP to fall by 4.5 percent in 2022,<sup>2</sup> mainly owing to sanctions imposed by the United States and its partners and allies as a result of Russia's further unlawful invasion of Ukraine.<sup>3</sup> In 2021, Russian exports totaled approximately \$550 billion, and imports totaled approximately \$379 billion.<sup>4</sup> Russia's economy relies heavily on oil, gas, mineral, and grain exports, with raw materials comprising approximately 34 percent of total exports.<sup>5</sup>

Russia is a kleptocracy, in which President Vladimir Putin's regime allows elites and oligarchs to skim from Russia's private and public companies, benefit from reduced competition, and siphon funds from the state as part of elite patronage.<sup>6</sup> SOEs are an important feature of Russia's economy, with the Russian state owning two-thirds of the market capitalization of the Russian stock market.<sup>7</sup> SOEs dominate the energy, banking, defense, and transportation sectors, where they are shielded from competitive pressure and can be significantly subject to political control.

The Kremlin exerts significant leverage over Russian businessmen, who are often referred to as "oligarchs." The Department of Justice's (DOJ) report on Russian interference in the 2016 U.S. election contains testimony from Petr Aven, previously the head of Alfa-Bank,<sup>8</sup> detailing quarterly meetings between Putin and 50 of Russia's wealthiest oligarchs. Aven testified that "any suggestions or critiques that Putin made during these meetings were implicit directives, and that there would be consequences for Aven if he did not follow through."<sup>9</sup> These consequences usually take the form of the loss of individuals' personal wealth and privileged positions atop Russian industry. This leverage allows the Kremlin to pressure oligarchs to carry out Russian foreign policy through the funding of influence

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2 "The World Bank in Russia, Country At-A-Glance," The World Bank, <https://www.worldbank.org/en/country/russia>; IMF projection predicts a 3.4 percent fall in GDP in 2022, see "Russian Federation", International Monetary Fund, <https://www.imf.org/en/Countries/RUS>.

3 "Infographic – Impact of sanctions on the Russian economy," European Council, (Oct. 31, 2022), <https://www.consilium.europa.eu/en/infographics/impact-sanctions-russian-economy/>.

4 "World Development Indicators - Russian Federation," The World Bank, <https://databank.worldbank.org/reports.aspx?source=2&country=RUS#>.

5 World Integrated Trade Solution, "RUSSIA, Exports and Imports of Product Groups," The World Bank, <https://wits.worldbank.org/countrysnapshot/en/RUSSIA>.

6 Anders Åslund and Julia Friedlander, "Defending the United States against Russian dark money," The Atlantic Council, (Nov. 17, 2020), <https://www.atlanticcouncil.org/in-depth-research-reports/report/defending-the-united-states-against-russian-dark-money/>, 7.

7 F. Joseph Dresen, "The Role of State Corporations in the Russian Economy," The Wilson Center, <https://www.wilsoncenter.org/publication/the-role-state-corporations-the-russian-economy>.

8 U.S. Department of Justice, Special Counsel Robert S. Mueller, III, "Report on the Investigation into Russia Interference in the 2016 Presidential Election, Vol. I," <https://www.justice.gov/archives/sco/file/1373816/download>. In the report, Alfa-Bank is described as "Russia's largest commercial bank..." at B-11; Grace Dean, "2 Russian billionaires resigned from the board of one of the country's biggest banking companies a day after the EU sanctioned them," Business Insider, (Mar. 10, 2022), <https://www.businessinsider.com/russia-resign-alfa-bank-abh-eu-sanctions-ukraine-fridman-aven-2022-3>.

9 U.S. Department of Justice, Special Counsel Robert S. Mueller, III, "Report on the Investigation into Russia Interference in the 2016 Presidential Election, Vol. I," 146.

campaigns and specific investments and business opportunities that are of interest to the Russian government.

Public estimates of Russian wealth abroad are as high as \$1 trillion, one quarter of which is estimated to be connected to President Putin and his close associates.<sup>10</sup> While much of oligarchs' wealth is earned and kept in Russia, most oligarchs maintain vast global networks of shell companies, bank accounts, trusts, and other means of hiding and moving funds abroad, typically with the witting or unwitting assistance of various intermediaries, including financial proxies, charities, lawyers, TCSPs, banks, and luxury goods brokers and dealers. These vast networks intentionally span multiple jurisdictions and enable oligarchs to launder, spend, and invest their ill-gotten gains and assist the Kremlin financially in its activities abroad.

A recent Financial Trend Analysis published by the Treasury Department's Financial Crimes Enforcement Network (FinCEN) shows that these networks have been instrumental in enabling oligarchs to evade sanctions, especially around the time of Russia's February 2022 invasion of Ukraine.<sup>11</sup> Funds frequently leave Russia and transit jurisdictions such as the British Virgin Islands and the Cayman Islands – often via shell companies – before ending up in the United States or United Kingdom, where the money can be spent and invested.<sup>12</sup> In addition to the analysis provided by FinCEN's 2022 Financial Trend Analysis report, the Treasury and State Departments' June 2, 2022 designations of several Russian government officials, oligarchs, yachts, and a Kremlin-linked yacht brokerage further illustrates the fact that Russia's elites, including President Putin, rely on complex support networks to hide, move, and maintain their ill-gotten wealth and assets around the globe.<sup>13</sup>

### *Ongoing Efforts to Mitigate Illicit Finance Risks Emanating from Russia*

Money laundering linked to Russia is a significant threat to the national security of the United States, its partners, and its allies because it conceals and facilitates illicit activity on the part of oligarchs and the government of Russia, enabling the Kremlin's damaging foreign policy goals and undermining U.S. national interests, in addition to the damage done by the illicit activity itself. Improved transparency in company formation, beneficial ownership, and real estate transactions should improve the ability of financial institutions and other regulated entities to prevent and combat these threats.

The U.S. Government has made significant progress to close regulatory gaps related to the collection of beneficial ownership information and continues to examine ways to close statutory and regulatory gaps concerning real estate transactions and other financial and professional service providers who serve as gatekeepers to the U.S. financial system. This includes ongoing work to implement key statutory changes made in the Anti-Money Laundering Act of 2020 (AML Act) related to corporate transparency and real

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10 Anders Åslund and Julia Friedlander, "Defending the United States against Russian dark money," The Atlantic Council, (Nov. 17, 2020), <https://www.atlanticcouncil.org/in-depth-research-reports/report/defending-the-united-states-against-russian-dark-money/>.

11 Financial Crimes Enforcement Network, "Financial Trend Analysis - Trends in Bank Secrecy Act Data: Financial Activity by Russian Oligarchs in 2022," (Dec. 22, 2022), [https://www.fincen.gov/sites/default/files/2022-12/Financial%20Trend%20Analysis\\_Russian%20Oligarchs%20FTA%20\\_Final.pdf](https://www.fincen.gov/sites/default/files/2022-12/Financial%20Trend%20Analysis_Russian%20Oligarchs%20FTA%20_Final.pdf).

12 Anders Åslund and Julia Friedlander, "Defending the United States against Russian dark money," The Atlantic Council, (Nov. 17, 2020), <https://www.atlanticcouncil.org/in-depth-research-reports/report/defending-the-united-states-against-russian-dark-money/>.

13 U.S. Department of the Treasury, "U.S. Treasury Severs More Networks Providing Support for Putin and Russia's Elites," (Jun. 2, 2022), <https://home.treasury.gov/news/press-releases/jy0802>.

estate.<sup>14</sup> The remaining sections of this report provide an overview of the four areas of risk identified in Section 9714 and the steps the United States is taking to address them.

### ***Identifying Beneficial Ownership of Companies***

The Department of the Treasury’s 2020 National Strategy for Combating Terrorist and Other Illicit Financing (“Illicit Finance Strategy”) emphasizes that the “misuse of legal entities to hide a criminal beneficial owner or illegal source of funds continues to be a common, if not the dominant, feature of illicit finance schemes, especially those involving money laundering, predicate offences, tax evasion, and proliferation financing.”<sup>15</sup> The 2022 Illicit Finance Strategy similarly highlights this risk. Both large-scale schemes that generate substantial proceeds for perpetrators and smaller white-collar crimes routinely involve shell companies, either in the underlying criminal activity or subsequent laundering of funds.<sup>16</sup> Russia’s invasion of Ukraine in February 2022 further underscored that Russian oligarchs, SOEs, TOC groups, and government proxies routinely use shell companies to evade sanctions imposed on Russia.

The abuse of legal persons, including shell and front companies, and the anonymity these entities can confer to criminals, is not unique to money laundering linked to Russia. However, these types of entities have been used in several money laundering and sanctions evasion cases linked to Russia in the past and remain a key risk area. For example, shell companies controlled by U.S.-designated Arkady and Boris Rotenberg, Russian oligarchs sanctioned under Executive Order 13661, enabled the Rotenbergs to continue to transact via the U.S. financial system after their March 2014 designation.<sup>17</sup>

Russian oligarchs also exploit legal arrangements, such as trusts. Suleiman Abusaidovich Kerimov, an oligarch sanctioned on April 6, 2018 pursuant to Executive Order 13661, held a property interest in Heritage Trust, a Delaware-based trust company, and his nephew, Ruslan Gadzhivovich Gadzhiviev, sanctioned on March 24, 2022 under Executive Order 14024, was a beneficiary of Heritage Trust. Despite the earlier designations of Kerimov and Gadzhiviev, Heritage Trust held and managed Kerimov’s U.S.-based assets until June 2022, when OFAC issued a Notification of Blocked Property to Heritage Trust.

FinCEN includes descriptions of the use of shell company bank accounts by Russia-based money launderers, corrupt officials, and organized crime figures in its rulemakings under Section 311 of the USA PATRIOT Act. For example, FinCEN issued notices of proposed rulemakings (NPRMs) in 2015 and 2018, which found Banca Privada d’Andorra (BPA) and ABLV Bank AS (ABLV), respectively, to be “foreign financial institution[s] of primary money laundering concern.” In the BPA case, FinCEN highlighted in its notice of finding that Russian criminal organizations, via a third-party money launderer, used front

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14 The AML Act was enacted as Division F, §§ 6001-6511, of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Pub. L. 116-283 (2021).

15 U.S. Department of the Treasury, “National Strategy for Combating Terrorist and Other Illicit Financing,” (2020), <https://home.treasury.gov/system/files/136/National-Strategy-to-Counter-Illicit-Financev2.pdf>.

16 “Anti-Money Laundering Regulations for Real Estate Transactions -- A Proposed Rule by the Financial Crimes Enforcement Network on 12/08/2021,” (2021), <https://www.federalregister.gov/documents/2021/12/08/2021-26549/anti-money-laundering-regulations-for-real-estate-transactions>.

17 See U.S. Senate, Staff Report, “The Art Industry And U.S. Policies That Undermine Sanctions,” (Jul. 29, 2020), <https://www.hsgac.senate.gov/imo/media/doc/2020-07-29%20PSI%20Staff%20Report%20-%20The%20Art%20Industry%20and%20U.S.%20Policies%20that%20Undermine%20Sanctions.pdf,1-9>.

company and foundation accounts at BPA to facilitate money laundering.<sup>18</sup> In the ABLV case, FinCEN outlined examples of shell company accounts used for money laundering at ABLV, including a specific instance in which shell company accounts were used to transfer funds embezzled from a Russian bank.<sup>19</sup>

One of the ways Treasury is mitigating this risk is through the implementation of the Corporate Transparency Act (CTA), which amended the Bank Secrecy Act (BSA) to establish a new framework for the reporting, maintenance, and disclosure of beneficial ownership information (BOI) of certain legal entities in the United States.<sup>20</sup> On September 30, 2022, FinCEN issued a final rule implementing the CTA's BOI reporting provisions. The rule, which goes into effect January 1, 2024, requires certain domestic entities as well as certain foreign entities doing business in the United States to report BOI to FinCEN, both at the time of company creation and when ownership information changes. The CTA was intended to close loopholes that enable corporate structuring that obscures ultimate ownership and control. The new BOI reporting requirement will enhance the national security of the United States by making it more difficult for illicit actors, foreign and domestic, to exploit opaque legal structures to launder money, finance terrorism, and commit serious tax fraud and other crimes that undermine the integrity of the U.S. financial system.

### ***Due Diligence Requirements for Real Estate Sector, Law Firms, and Trust and Corporate Service Providers***

Russians use the real estate sector, law firms, and trust and corporate service providers (TCSPs) in the United States to facilitate sophisticated large-scale schemes to transfer and place illicit assets and launder funds. Certain entities and individuals, such as real estate agents and firms, law firms, and other TCSPs act as gatekeepers to the financial system through the services they provide to their clients. These services include the creation of legal structures that can enable clients to obscure their ownership or interest from other regulated entities, regulators, and law enforcement. This gatekeeper role can enable illicit actors to use these services to disguise the origins of funds or ownership interests in furtherance of financial crimes.<sup>21</sup> For example, Panamanian and Swiss law firms allegedly set up a series of offshore shell companies with nominee directors for the benefit of an associate of President Putin, Sergei

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18 Financial Crimes Enforcement Network. Notice of Finding That Banca Privada d'Andorra Is a Financial Institution of Primary Money Laundering Concern. 80 FR 13464. (Mar. 13, 2015), <https://www.federalregister.gov/documents/2015/03/13/2015-05911/notice-of-finding-that-banca-privada-d-andorra-is-a-financial-institution-of-primary-money-laundering>.

19 Financial Crimes Enforcement Network. Proposal of Special Measure Against ABLV Bank, AS, as a Financial Institution of Primary Money Laundering Concern. 83 FR 6986. (Feb. 16, 2018). <https://www.federalregister.gov/documents/2018/02/16/2018-03214/proposal-of-special-measure-against-ablv-bank-as-as-a-financial-institution-of-primary-money>.

20 The Corporate Transparency Act (CTA) is Title LXIV of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Public Law 116–283 (January 1, 2021) (the “NDAA”). Division F of the NDAA is the Anti-Money Laundering Act of 2020, which includes the CTA. Section 6403 of the CTA, among other things, amends the Bank Secrecy Act (BSA) by adding a new Section 5336, Beneficial Ownership Information Reporting Requirements, to Subchapter II of Chapter 53 of Title 31, United States Code.

21 Financial Action Task Force, “Money Laundering and Terrorist Financing Through the Real Estate Sector,” (Jun. 29, 2007), <https://www.fatf-gafi.org/media/fatf/documents/reports/ML%20and%20TF%20through%20the%20Real%20Estate%20Sector.pdf>, 9.

Roldugin. These shell companies were in turn used to hold and transfer billions of dollars of assets and ownership interests in Russian companies without disclosing the true parties' underlying interests or the true purpose of the transactions.<sup>22</sup>

Certain characteristics of trusts, corporate service providers, and investment advisers make them particularly vulnerable to abuse. For investment advisers, the systemic mismatch between AML obligations and the information available to those holding these obligations creates a real risk for the U.S. financial system. For instance, qualified custodians and prime brokers have AML obligations but do not know the source of wealth and identity for clients of an investment adviser they serve. Similarly, while banks are encouraged to identify all beneficiaries of trust accounts, they are not currently required to do so.<sup>23</sup> These structures limit the ability of custodians, broker-dealers, and banks in identifying suspicious activity tied to owners or beneficiaries of assets they transact. Second, business activities in the investment adviser space are segmented, bloating the number of intermediaries, crossing international borders, and increasing the distance between the actual investor and those who move the assets around. These business practices promote obfuscation of the client or investor identity and outsource compliance responsibilities to those who are operating with an incomplete picture.

A risk-based CDD program<sup>24</sup> is the cornerstone of a strong AML compliance program, which in turn is supported by recordkeeping requirements on regulated entities that enable these institutions, individuals, and businesses to collect and retain relevant data concerning their customers. When gatekeepers in key non-financial sectors do not have requirements to collect records, conduct due diligence, and/or report suspected wrongdoing, the U.S. financial system is at risk of being used for illicit purposes. As described above, the CTA helps mitigate this risk by creating requirements that will improve corporate transparency.

FinCEN has provided additional guidance to strengthen existing reporting requirements under the BSA with respect to real estate transactions. In August 2017, FinCEN issued an “Advisory to Financial Institutions and Real Estate Firms and Professionals” highlighting the risk of money laundering present in certain real estate transactions. The Advisory reminded covered financial institutions – including residential mortgage lenders and originators – of the obligation to file suspicious activity reports (SARs) and encouraged non-covered real estate professionals, such as real estate brokers, escrow agents, and title insurers, to avail themselves of the legal safe harbor to voluntarily report suspicious transactions involving real estate purchases and sales.<sup>25</sup>

In March 2022, FinCEN published an alert concerning the use of real estate and other high-value assets by sanctioned Russian elites and their family members and the importance of identifying and

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22 “Revealed: the \$2bn offshore trail that leads to Vladimir Putin,” The Guardian, (Apr. 3, 2016), <https://www.theguardian.com/news/2016/apr/03/panama-papers-money-hidden-offshore>.

23 Federal Financial Institutions Examination Council, BSA/AML Manual, “Risks Associated with Money Laundering and Terrorist Financing,” (Feb. 17, 2020), <https://bsaaml.ffiec.gov/manualRisksAssociatedWithMoneyLaunderingAndTerroristFinancing/21>.

24 Customer due diligence requirements, pursuant to 31 C.F.R. §§ 1010.210, 1020.210, 1023.210, 1024.210, 1026.210, relate to banks; brokers or dealers in securities; mutual funds; and futures commission merchants and introducing brokers in commodities. <https://www.govinfo.gov/content/pkg/FR-2016-05-11/pdf/2016-10567.pdf>.

25 Financial Crimes Enforcement Network, “Advisory to Financial Institutions and Real Estate Firms and Professionals,” (Aug. 2017), <https://www.fincen.gov/resources/advisories/fincen-advisory-fin-2017-a003>.



reporting suspicious transactions involving real estate transactions and other high value assets of sanctioned Russian actors.<sup>26</sup> In April 2022, FinCEN issued an “Advisory on Kleptocracy and Foreign Public Corruption,” which includes potential typologies of illicit schemes and the use of shell companies, offshore financial accounts, and real estate, and other high-value assets by kleptocratic regimes. The April 2022 Advisory includes several red flag indicators of kleptocracy and foreign public corruption by illicit actors and provides a reminder of the BSA obligations that require financial institutions to file a SAR to report suspicious transactions.<sup>27</sup>

In addition, FinCEN’s Real Estate Geographic Targeting Order (GTO) program currently requires title insurance companies to report beneficial ownership information of certain legal entities making non-financed residential real estate purchases above a certain dollar threshold in covered metropolitan areas. As a general matter, FinCEN expects these insurance companies to implement procedures reasonably designed to ensure compliance with the terms of the GTOs, including reasonable due diligence to determine whether they (or their subsidiaries or agents) are involved in a covered transaction and to collect and report the required information.

On December 8, 2021, FinCEN also published an advance notice of proposed rulemaking (ANPRM) on real estate.<sup>28</sup> On December 8, 2021, FinCEN also published an advance notice of proposed rulemaking (ANPRM) to solicit public comment on a potential rule to address the vulnerability of the U.S. real estate market to money laundering and other illicit activity.<sup>29</sup> Treasury is also currently assessing the money laundering risks posed by investment advisers and lawyers, as well as the commercial real estate sector and trusts – gatekeepers to the financial system and sectors that are not covered by comprehensive AML/CFT regulations. These actions will guide Treasury’s efforts to address key vulnerabilities in these sectors through future regulations.

## **Enhanced Due Diligence Procedures and Screening for High-Risk Russian Individuals and Entities**

In addition to the broadly applicable measures discussed above, the scale and consequences of the Russian threat suggest a need for additional mitigation strategies tailored to high-risk Russian individuals and entities. These supplemental procedures can address the risk emanating from Russia in a targeted way. In addition to the Alerts and Advisories described above, financial institutions should consider enhanced due diligence procedures for private banking and correspondent accounts involving foreign persons, where necessary.

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26 Financial Crimes Enforcement Network, “FinCEN Alert on Real Estate, Luxury Goods, and Other High-Value Assets Involving Russian Elites, Oligarchs and other Family Members,” (Mar. 2022), [https://www.fincen.gov/sites/default/files/2022-03/FinCEN%20Alert%20Russian%20Elites%20High%20Value%20Assets\\_508%20FINAL.pdf](https://www.fincen.gov/sites/default/files/2022-03/FinCEN%20Alert%20Russian%20Elites%20High%20Value%20Assets_508%20FINAL.pdf).

27 Financial Crimes Enforcement Network, “Advisory on Kleptocracy and Foreign Public Corruption,” (Apr. 2022) <https://www.fincen.gov/sites/default/files/advisory/2022-04-14/FinCEN%20Advisory%20Corruption%20FINAL%20508.pdf>.

28 Anti-Money Laundering Regulations for Real Estate Transactions, 86 Fed. Reg. 69589 (proposed Dec. 8, 2021) (to be codified at 31 C.F.R. chapter undefined).

29 Anti-Money Laundering Regulations for Real Estate Transactions, 86 Fed. Reg. 69589 (proposed Dec. 8, 2021) (to be codified at 31 C.F.R. chapter undefined).

## Individuals

The BSA stipulates that covered financial institutions that establish, maintain, administer, or manage a private banking account or correspondent account for a non-U.S. person should establish appropriate and, if necessary, enhanced, due diligence policies and procedures as part of their risk-based AML/CFT program.<sup>30</sup> BSA regulations for private banking accounts<sup>31</sup> provide that a financial institution shall conduct due diligence with enhanced scrutiny, when appropriate and as necessary, on certain foreign individuals identified as senior foreign political figures, which could include senior officials of an SOE.<sup>32</sup> In addition, these types of politically exposed persons (PEPs) are further subject to covered financial institutions' risk-based approaches to CDD and transaction screening. While BSA regulations do not specifically address enhanced CDD procedures and screening requirements for Russian TOC figures, covered financial institutions should consider FinCEN's Advisories and Alerts in their ongoing risk monitoring and risk-based approaches, as well as complementary OFAC compliance programs.

## State-Owned Enterprises (SOEs)

As indicated previously, SOEs can be directed by the political aims of the Kremlin, possibly including the contravention of U.S. laws or interests. Russia's four largest industries – energy, banking, defense, and transportation – are dominated by SOEs controlled by individuals with close personal ties to Putin. These SOEs operate as a mechanism of political control, allowing Putin to enrich his allies while stifling political competition.<sup>33</sup>

Under current AML/CFT regulations, covered financial institutions are required to obtain beneficial ownership information for their legal entity customers, including SOEs.<sup>34</sup> Senior executives of foreign SOEs are considered to be senior foreign political figures,<sup>35</sup> and the regulations impose additional due diligence measures that covered financial institutions must take with respect to a private banking account for which a senior foreign political figure is a nominal or beneficial owner.<sup>36</sup> Taking a risk-based approach, covered financial institutions may apply additional AML/CFT controls to include more frequent and enhanced monitoring of account activity for senior political figures' private banking accounts.

Additionally, OFAC has imposed sanctions on nearly 2,000 Russian individuals and entities, including SOEs, in response to Russia's invasion of Ukraine, corruption, and other activities. For example, in

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30 31 U.S.C. § 5318(i)(2).

31 A private banking account is defined under 31 C.F.R. § 1010.605 as an account (or any combination of accounts) maintained at a covered financial institution that: (1) Requires a minimum aggregate deposit of funds or other assets of not less than \$1,000,000; (2) Is established on behalf of or for the benefit of one or more non-U.S. persons who are direct or beneficial owners of the account; and (3) Is assigned to, or is administered or managed by, in whole or in part, an officer, employee, or agent of a covered financial institution acting as a liaison between the covered financial institution and the direct or beneficial owner of the account.

32 See 31 C.F.R. § 1010.605(p) for a definition of "senior foreign political figure". See *generally* 31 C.F.R. § 1010.620 for due diligence programs for private banking accounts. See 31 C.F.R. § 1010.620(c) for special requirements for senior foreign political figures.

33 F. Joseph Dresen, "The Role of State Corporations in the Russian Economy," [The Wilson Center, https://www.wilsoncenter.org/publication/the-role-state-corporations-the-russian-economy](https://www.wilsoncenter.org/publication/the-role-state-corporations-the-russian-economy).

34 31 C.F.R. § 1010.230.

35 31 C.F.R. § 1010.605(p)(1)(i)(c); the term senior foreign political figure includes a senior executive of a foreign government-owned commercial enterprise.

36 31 C.F.R. § 1010.620(c).

December 2022, OFAC added 18 entities related to Russia's financial services, real estate, and business support services sectors to the List of Specially Designated Nationals and Blocked Persons (SDN List).<sup>37</sup> In March 2022, FinCEN issued an alert calling on all financial institutions to identify and quickly report any activities associated with potential sanctions evasion and to perform enhanced due diligence when required under section 312 of the USA PATRIOT Act.<sup>38</sup>

## Transparency in Real Estate Ownership

### *Money Laundering in Real Estate*

The U.S. residential real estate market is vulnerable to exploitation by corrupt officials and criminals, including Russian elites and Kremlin proxies. Treasury, working with law enforcement partners, has highlighted the money laundering risks associated with the U.S. real estate market. As Treasury explained in its 2022 National Risk Assessment on Money Laundering, high-risk real estate transactions include, among others, those involving the purchase of high-value property, the use of legal entities to conceal the ultimate property owner, all-cash purchases, and the use of intermediaries who are not covered by AML obligations. In particular, Treasury found that anonymity is particularly easy to achieve if buyers do not need a mortgage loan and purchase the property in the name of a legal entity, as there is no collection of information on the true buyer and limited or no AML/CFT safeguards.<sup>39</sup> Subsequently, in the 2022 Illicit Finance Strategy, Treasury outlined its efforts to focus the U.S. AML/CFT regime on the most significant illicit finance risks, and included as one of its priorities enhancing transparency for non-financed real estate transactions.<sup>40</sup>

Between April 2015 and March 2021, Russian buyers accounted for approximately 0.8% of foreign buyers who purchased U.S. residential property, with slightly more than half of those purchases made in all cash (although the real volume of Russian purchases is unknown, as Russian owners hiding behind corporate structures would not be captured in the statistics).<sup>41</sup> Most residential real estate transactions in the United States are financed (i.e., subject to a mortgage), and AML/CFT obligations apply to the regulated financial institutions involved in lending money for property purchases. However, non-financed purchases do not necessarily involve a financial institution that is subject to AML/CFT reporting requirements. The resulting regulatory gap is considerable: approximately 19% of residential real estate purchases, with an approximate value of \$463 billion a year, are non-financed.<sup>42</sup> Illicit actors seek to launder and conceal the

37 U.S. Department of the Treasury, "Treasury Further Constrains Russia's Financial Services Sector," (Dec. 15, 2022), <https://home.treasury.gov/news/press-releases/jy1163>.

38 Financial Crimes Enforcement Network, "FinCEN Advises Increased Vigilance for Potential Russian Sanctions Evasion Attempts," (Mar. 2022), <https://www.fincen.gov/sites/default/files/2022-03/FinCEN%20Alert%20Russian%20Sanctions%20Evasion%20FINAL%20508.pdf>.

39 U.S. Department of the Treasury, "National Money Laundering Risk Assessment," (Feb. 2022), <https://home.treasury.gov/system/files/136/2022-National-Money-Laundering-Risk-Assessment.pdf>.

40 U.S. Department of the Treasury, "National Strategy for Combating Terrorist and Other Illicit Financing," (May 2022), <https://home.treasury.gov/system/files/136/2022-National-Strategy-for-Combating-Terrorist-and-Other-Illicit-Financing.pdf>, 4, 9.

41 Scholastica Cororaton, "The Impact of Russia-Ukraine Tensions on the U.S. Housing Market," National Association of Realtors, (Mar. 7, 2022), <https://www.nar.realtor/blogs/economists-outlook/the-impact-of-russia-ukraine-tensions-on-the-u-s-housing-market>.

42 For additional details on the percentage and approximate value of non-financed real estate purchases see, Anti-Money Laundering Regulations for Real Estate Transactions, 86 Fed. Reg. 69589 (proposed Dec. 8, 2021) (to be codified at 31 CFR chapter undefined). <https://www.federalregister.gov/documents/2021/12/08/2021-26549/anti-money-laundering-regulations-for-real-estate-transactions#citation-45-p69594>.

origins of their funds in a way that grows as an investment, “cleans” as much money as possible with each transaction, and allows them to enjoy the fruits of their illicit activity, while minimizing potential losses from market instability and fluctuating exchange rates. Real estate can serve those aims, especially in a relatively stable market with strong private property protections like those found in the United States.

Law enforcement actions – including open investigations, indictments, and prosecuted cases – confirm the link between Russian money laundering and other illicit activities and the purchase of U.S. real estate. For example, in 2017, DOJ settled a \$5.9 million civil money laundering and forfeiture suit filed against multiple real estate corporations alleged to have laundered proceeds of Russian tax fraud. Beginning in 2007, members and associates of a Russian criminal organization engaged in a broad pattern of money laundering to conceal the proceeds of this \$230 million scheme. In a complex series of transfers through shell corporations, funds stolen from the Russian treasury, with the help of corrupt Russian governmental officials, were moved into numerous accounts in Russia and other countries. A portion of these funds passed through several shell companies into Prevezon Holdings, Ltd., a Cyprus-based real estate corporation. Prevezon further laundered these fraud proceeds via real estate investment, including non-financed investments in multiple units of high-end commercial space and luxury apartments in Manhattan.<sup>43</sup>

As Treasury noted in the 2022 National Money Laundering Risk Assessment, the U.S. real estate market continues to be used as a vehicle for money laundering owing to the relative stability of real estate as a store of value, the opacity of the real estate market, and gaps in industry regulation. While residential real estate mortgage lenders or originators are subject to comprehensive AML/CFT regulations, real estate may be owned indirectly through nominees, legal entities such as one or more holding companies, trust arrangements, or a variety of investment vehicle types, while the lawyers, accountants, title insurance companies, escrow agents, real estate brokers, and other individuals facilitating these arrangements have minimal-to-no AML/CFT obligations.<sup>44</sup> As a result, illicit actors, including Russian elites and Kremlin proxies or those acting on their behalf, take advantage of the opportunity to mask their beneficial ownership of property and involvement in real estate transactions.

### Residential Real Estate Geographic Targeting Order

The AML/CFT vulnerabilities in the real estate sector led FinCEN to begin issuing temporary GTOs in January 2016, which it has since renewed multiple times, including most recently in October 2022.<sup>45</sup> The GTOs require title insurance companies to file reports and maintain records identifying the beneficial owners behind legal entities used to make non-financed purchases of residential real estate above a certain dollar threshold in select metropolitan areas of the United States.<sup>46</sup> Over the course of the Real

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43 U.S. Department of Justice, “Acting Manhattan U.S. Attorney Announces \$5.9 Million Settlement Of Civil Money Laundering And Forfeiture Claims Against Real Estate Corporations Alleged To Have Laundered Proceeds Of Russian Tax Fraud,” (Mar. 12, 2017), <https://www.justice.gov/usao-sdny/pr/acting-manhattan-us-attorney-announces-59-million-settlement-civil-money-laundering-and>; and U.S. Department of Justice, “Manhattan U.S. Attorney Announces Civil Forfeiture Complaint Against Real Estate Corporations Allegedly Involved In Laundering Proceeds Of Russian Tax Refund Fraud Scheme,” (Sept. 10, 2013), <https://www.justice.gov/usao-sdny/pr/manhattan-us-attorney-announces-civil-forfeiture-complaint-against-real-estate>.

44 U.S. Department of the Treasury, “National Money Laundering Risk Assessment,” (Feb. 2022), <https://home.treasury.gov/system/files/136/2022-National-Money-Laundering-Risk-Assessment.pdf>.

45 Financial Enforcement Crimes Network, “FinCEN Renews and Expands Real Estate Geographic Targeting Orders,” (Oct. 26, 2022), <https://www.fincen.gov/news/news-releases/fincen-renews-and-expands-real-estate-geographic-targeting-orders-0>.

46 See 31 U.S.C. § 5326; 86 FR 62914 (Nov. 15, 2021). FinCEN may issue such GTOs that impose additional reporting or recordkeeping requirements on financial institutions and nonfinancial trades or businesses in a geographic area for a

Estate GTO program, FinCEN has made modifications to its terms to address perceived information gaps in the data collected. This has included expanding the number of metropolitan areas covered by the GTOs, expanding the types of reportable transactions to include those involving additional monetary instruments and wire transfers,<sup>47</sup> and lowering the reporting threshold<sup>48</sup> to better understand the risks of transactions outside of the luxury market.

FinCEN understands from various law enforcement agencies that the Real Estate GTO data have been highly useful in investigations of money laundering and financial crimes, including for lead generation, prosecutions, and asset seizures. Further, data from the GTO program have been useful in highlighting an overlap between individuals identified in GTO reports and other suspected illicit activity, including activity with a Russian nexus. For example, the owner of a legal entity listed in a 2019 GTO report was identified as being affiliated with multiple Russian oligarchs and their Swiss-related businesses that had been sanctioned in 2018 for 2016 U.S. election meddling. These connections between Real Estate GTO reports and other illicit activity have allowed FinCEN and law enforcement to identify patterns of criminal activity and links between various illicit enterprises that lead to or support investigations.

Given the highly useful data the Real Estate GTO program has provided, Treasury has commenced the process to develop a permanent regulatory solution to address the real estate sector's money laundering vulnerabilities. Treasury issued an ANPRM in December 2021, which sought comment regarding the potential scope of such a proposed regulation.<sup>49</sup> This ANPRM is in line with, and supports, the United States Strategy on Countering Corruption's key pillar of "curbing illicit finance."<sup>50</sup>

Although FinCEN's Real Estate GTO program only covers the residential real estate sector and is limited to purchases by certain legal entities in certain geographic areas, Treasury recognizes that money laundering vulnerabilities exist throughout the U.S. real estate market and are not limited to any particular area, sector, or category of purchaser. As such, Treasury is exploring how other areas of the real estate market, such as commercial real estate and certain real estate purchases by natural persons, can be subject to regulatory coverage as well.

In the 2022 Illicit Finance Strategy, Treasury established benchmarks for progress with respect to bringing greater transparency to real estate transactions, setting the goal for finalization of a new rulemaking to address non-financed real estate transactions by 2024.<sup>51</sup> As a first step, FinCEN plans to issue a Notice of Proposed Rulemaking as a follow-on to its December 2022 ANPRM on real estate in the first half of 2023.

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limited period of time, if FinCEN has reasonable grounds to conclude that such requirements are necessary to carry out the purposes of the BSA or to prevent evasions thereof.

47 This expansion of the GTOs to cover wire transfers was authorized by the Countering America's Adversaries through Sanctions Act ("CAATSA"), Pub. L. 115-44 (Aug. 2, 2017) (codified at 31 U.S.C. § 5326).

48 In the City or County of Baltimore in Maryland, the reporting threshold is \$50,000.

49 See *Advance notice of proposed rulemaking*, Anti-Money Laundering Regulations for Real Estate Transactions, 86 Fed. Reg. 69589 (proposed Dec. 8, 2021) (to be codified at 31 C.F.R. chapter undefined). <https://www.federalregister.gov/documents/2021/12/08/2021-26549/anti-money-laundering-regulations-for-real-estate-transactions#citation-45-p69594>.

50 See The White House, "United States Strategy on Countering Corruption," (Dec. 6, 2021), <https://www.whitehouse.gov/wp-content/uploads/2021/12/United-States-Strategy-on-Countering-Corruption.pdf>, 5.

51 U.S. Department of the Treasury, "National Strategy for Combating Terrorist and Other Illicit Financing," (Aug. 2022), <https://home.treasury.gov/system/files/136/2022-National-Strategy-for-Combating-Terrorist-and-Other-Illicit-Financing.pdf>, 9.

## Conclusion

Money laundering linked to Russia is a significant threat to the national security of the United States, its partners, and its allies. Treasury's efforts to implement statutory changes and enact other regulatory updates to the U.S. AML/CFT regime will improve the United States' resilience against both the illicit finance threats emanating from Russia along with broader threats from other geographic areas and transnational organized crime and corruption. The statutory and regulatory updates to the U.S. AML/CFT regime described above close real and potential gaps that criminals can exploit to launder funds via the U.S. financial system.

However, as Treasury continues to work with Congress to close these gaps, illicit actors in Russia and beyond will undoubtedly identify new vulnerabilities through new technologies and/or by identifying new methods of laundering money. Treasury works to anticipate these evolutions in money laundering typologies and to close gaps in the regulatory framework before they can be exploited. Treasury uses intelligence, coordination with law enforcement, and engagement with the private sector to advance this work. The new regulations and rulemakings described above represent a historic shift in the U.S. AML/CFT regime that will close significant gaps, promote transparency for beneficial ownership and real estate, and improve the information that regulated entities collect for their customer identification and due diligence programs. Despite these improvements, the threat never remains truly static, and Treasury anticipates uncovering in the future further attempts and methods by Russian actors to abuse the U.S. financial system as the environment evolves. Treasury looks forward to continuing to work with Congress to identify additional statutory or regulatory changes that, if implemented, would further protect the U.S. financial system from money laundering linked to Russia.

