



# U.S. Immigration and Customs Enforcement

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STATEMENT

OF

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REGARDING A HEARING ON

*“S-1241: MODERNIZING AML LAWS TO COMBAT MONEY LAUNDERING AND TERRORIST  
FINANCING”*

BEFORE THE

U.S. SENATE  
COMMITTEE ON THE JUDICIARY

Tuesday, November 28, 2017  
226 Dirksen Senate Office Building

## Introduction

Chairman Grassley, Ranking Member Feinstein, and distinguished members of the Committee:

On behalf of the Department of Homeland Security (DHS), thank you for the opportunity to testify before you today to discuss how U.S. Immigration and Customs Enforcement (ICE), Homeland Security Investigations (HSI), the largest investigative DHS Component, is combatting the money laundering efforts of transnational criminal organizations – what we refer to as “TCOs.” ICE HSI’s primary mission is to promote homeland security and public safety through criminal and civil enforcement of federal laws governing border control, customs, trade, and immigration.

With more than 6,000 special agents working in 210 domestic offices and 50 foreign countries, HSI is uniquely positioned to combat transnational and cross-border financial crimes. HSI special agents work from the understanding that virtually all crime is financially motivated and, as such, our investigations focus on the financial aspects of transnational crime and how illicit funds are earned, moved, laundered and stored. One of our key responsibilities is to ensure that the U.S. financial system is not exploited to launder illicit funds and, as such, we work to eliminate vulnerabilities in our financial system and institutions. In Fiscal Year (FY) 2017, HSI initiated 4,059 financial crime investigations, effected 2,049 financial related criminal arrests, and seized \$467,534,795 in illicit proceeds.

Because of the nature of the transnational crimes that HSI investigates, HSI money laundering investigations focus on a very broad array of money laundering threats and vulnerabilities, with varying degrees of sophistication and challenges. The money laundering techniques that HSI faces include Bulk Cash Smuggling, Trade-Based Money Laundering, criminal exploitation of Money Services Businesses, Third-Party Money Launderers, and most recently the use of virtual currency. I will talk about each of these threats and what HSI does to counter them along with some of our challenges.

## **The Cornerstone Program**

As I mentioned, one of HSI's key responsibilities is to work with other Federal Government agencies and the U.S. financial sector to ensure that the U.S. financial system is not exploited to launder illicit funds. HSI recognizes that the financial industry is the frontline in detecting financial and money laundering crimes. HSI and other law enforcement agencies have a responsibility to partner with financial institutions and educate them about what law enforcement knows about how institutions are, or could be, exploited by money launderers. In 2003, HSI established the Cornerstone Program which serves as our national umbrella effort to engage and share criminal typologies and red flag indicators with financial institutions throughout the United States. The Cornerstone Program is aimed at anchoring HSI's Anti-Money Laundering (AML) capacity building efforts. Internationally, HSI uses the Cornerstone Program to provide capacity building through training, including cash courier interdiction training, and technical assistance to various nations to encourage compliance with international standards as recommended by the Financial Action Task Force to combat money laundering and terrorist financing. The Cornerstone Program is administered at the Headquarters level by the HSI Illicit Finance and Proceeds of Crime Unit. In FY 2017, HSI Special Agents made Cornerstone presentations to 26,624 financial sector representatives.

## **Bulk Cash Smuggling**

With some exceptions that I will speak to later, transnational crime remains, at the core, a cash business. The first challenge for any TCO is to get the cash that they have amassed in the United States back to their home country. The domestic and cross-border movement of illicit cash has been the focus of HSI, U.S. Customs and Border Protection (CBP), other Federal agencies and State and local law enforcement for decades. We continue to see Bulk Cash Smuggling as a significant threat. However, due to the vigilance of U.S. financial institutions and Bank Secrecy Act (BSA) reporting, including Currency Transaction Reports and Suspicious Activity Reports instituted in the 1980s, TCOs are limited in their ability to place their illicit funds in U.S. banks and other financial institutions.

## **The National Bulk Cash Smuggling Center**

Recognizing the threat that Bulk Cash Smuggling presents, in 2009, HSI established the National Bulk Cash Smuggling Center (BCSC) to develop investigations into the illicit domestic and cross-border movement of cash derived from criminal activity and to further support HSI financial investigations through the production of operational intelligence. The BCSC has initiated and substantially contributed to investigative leads resulting in criminal convictions and the seizure of illicit bulk currency. Through its operational expertise and the application of analytics, the BCSC supports domestic and international law enforcement agencies in their efforts to restrict the flow of criminal proceeds.

## **National Targeting Center – Investigations**

The companion to the BCSC is the National Targeting Center-Investigations (NTC-I), established by HSI and housed at CBP's National Targeting Center, to enhance and integrate HSI and CBP's focus on targeting of transnational crime. HSI's presence at the NTC supports the entire border security continuum, from CBP interdictions and HSI investigations, to the joint exploitation of intelligence. The BCSC and NTC-I work closely with CBP to target cross-border, outbound bulk cash shipments for interdiction and seizure.

## **Trade-Based Money Laundering**

As it has become more difficult for TCOs to place their illicit cash proceeds directly into U.S. banks and other financial institutions, they have been forced to resort to more complex methods to place and launder their illicit proceeds. One of the most challenging international money laundering techniques faced by U.S. law enforcement is referred to as Trade-Based Money Laundering (TBML). The foundation of TBML is the conversion of illicit cash into another commodity such as electronics, automobiles, clothing, precious metals or other merchandise, which is then exported from the U.S. to another country where the goods are sold in the local currency and the proceeds are returned to the TCO, effectively completing the laundering process and allowing the TCO to legitimize their illicit proceeds.

## **Trade Transparency Units**

HSI has learned that one of the most effective ways to detect TBML is to compare U.S. export data with the import data from the countries where TCOs import their goods. We have learned over time that trade-based money launderers also commit other violations in the TBML process, primarily Customs and other trade fraud violations, and the analysis of trade data allows us and our foreign partners to identify TBML schemes. In order to exploit this opportunity, HSI has leveraged existing bilateral Customs Mutual Assistance Agreements and established Trade Transparency Units (TTUs) that share trade data bilaterally to detect TBML and Customs fraud such as overvaluation, undervaluation, and false invoicing. To date, HSI has 16 partnerships with corresponding foreign country TTUs.

One example of how trade and financial data are beneficial to TBML investigations is Operation “Fashion Police,” a HSI-led, Organized Crime and Drug Enforcement Task Forces (OCDETF) investigation. Beginning in 2014, this investigation targeted numerous Los Angeles-based importers/exporters of Chinese textiles who accepted narcotic proceeds in payment for textiles exported to Mexico. The identification of the money laundering scheme was achieved through analysis of the trade and financial data. As a result, approximately \$140 million in assets were seized, including \$90 million in U.S. currency, the largest bulk cash seizure in U.S. history.

## **Money Services Businesses**

Abuse of Money Services Businesses (MSBs) is another method we have seen criminals use to facilitate activity or launder illicit proceeds from several areas of transnational crime that HSI investigates. For instance, MSBs are often used to facilitate the payment of smuggling fees for aliens smuggled to the U.S. and also by illegal aliens that have obtained employment in the United States to send money to their families in their home countries. HSI also sees MSBs used to facilitate payments for cyber-enabled crimes such as the on-line sale of intellectual property infringing materials, drugs and other illicit goods. In the scheme, illicit proceeds were

transported to El Paso, Texas, and deposited in Mr. Delgado's Interest on Lawyers Trust Account bank account.

In another investigation, HSI developed a corruption investigation targeting Roberto Enrique Rincon who was conducting suspicious financial transactions involving several businesses. Mr. Rincon facilitated rigged energy contracts involving Venezuela's state-owned and controlled oil company Petroleos de Venezuela S.A. (PDVSA) in order to personally enrich numerous Venezuelan public officials. These deals, some of which involved U.S.-based companies, were part of a massive bribery and kick-back scheme that began after 2010 when former President Hugo Chavez signed a decree declaring an energy emergency in Venezuela and nationalized the oil industry. To date, four PDVSA officials and six businessmen have pleaded guilty and agreed to forfeit in excess of \$80 million in U.S. currency.

## **Virtual Currency**

Many of the traditional transnational crimes that HSI investigates have begun to migrate to become "cyber-enabled," with significant parts of the crime committed over the internet, including both the "indexed" internet and the "unindexed" dark web. Transnational crimes that HSI investigates, including child exploitation, drug smuggling, intellectual property rights violations, illegal export of firearms, and money laundering now all have cyber-enabled elements to them. This transition has paralleled the growth of e-commerce, generally, and poses challenges for law enforcement, in particular HSI and CBP.

In addition to the traditional complexities posed by conducting cyber investigations, many of the illicit activities conducted in cyber-enabled crimes are paid for with virtual currency, including both centralized and decentralized convertible virtual currencies. The latter are sometimes referred to as cryptocurrencies. Virtual currencies are not issued or backed by any sovereign nation, and are distinguished from fiat currency or "real currency," which is the coin and paper money of a country that is issued and guaranteed by the country; designated as its legal tender; and circulates and is customarily used and accepted as a medium of exchange in the issuing country. HSI agents are increasingly encountering virtual currency,

including more recent, anonymity enhancing cryptocurrencies (AECs), in the course of their investigations. AECs are designed to better obfuscate transaction information and are increasingly preferred by TCOs. Some illicit virtual currency exchangers have also begun to cater to TCO actors, including through the use of “mixers” or “tumblers” that anonymize virtual currency addresses and transactions by weaving together inflows and outflows from different users, further increasing the challenge to law enforcement’s ability to tie virtual currency transactions to real world individuals.

In November 2016, HSI special agents investigated and seized \$1.2 million in cash from Utah resident Aaron Shamo, who led a Xanax and fentanyl pill production organization. Shamo sold his illicit products via the dark web, and an investigation led to the identification of his virtual currency wallet address. Through the use of Blockchain analysis tools, agents were able to identify Shamo’s Bitcoin transactions and seize bitcoins valued at approximately \$2.5 million in U.S. dollars. Shamo was indicted in December 2016 and the subject of a superseding indictment in May 2017.

In another HSI opioid smuggling investigation, Pennsylvania resident Henry Koffie was arrested in July 2017 and indicted with Distribution of a Controlled Substance Resulting in Death and Importation of a Controlled Substance. Koffie, a.k.a. NARCOBOSS, was a dark web vendor of fentanyl who filled more than 7,800 orders between July 2016 and June 2017, most of it paid for with bitcoin. HSI seized \$154,000 from Koffie’s accounts.

### **Financial Institution Integrity Initiative (F3I)**

While HSI partners with financial institutions regularly through the Cornerstone Program, we have also targeted financial institutions that fail to maintain effective money laundering programs or are willfully blind to their institutions’ facilitation of money laundering. HSI has partnered with TEOAF and the Department of Justice’s (DOJ) Money Laundering and Asset Recovery Section (MLARS) to target financial institutions where warranted.

An example of this was when HSI New York initiated and led an investigation that resulted in a deferred prosecution agreement and \$1.256 billion forfeiture against HSBC Holding plc and HSBC Bank USA N.A. (collectively, HSBC) in 2012. The investigation identified millions of dollars in illicit drug proceeds transmitted through HSBC in addition to HSBC's failure to maintain an effective Anti-Money Laundering Program and to conduct appropriate due diligence on foreign accountholders, violations of the Trading with the Enemy Act and the International Emergency Economic Powers Act. The investigation exemplified HSI's capabilities and potential with regard to financial institution investigations.

Similarly, in a 2017 HSI investigation conducted with DOJ's MLARS and four U.S. Attorney's Offices, Western Union admitted to criminal violations including willful failure to maintain an effective AML program and aiding and abetting wire fraud, and agreed to forfeit \$586 million. The investigation revealed that Western Union agents were complicit in fraud schemes targeting U.S. victims and allowed criminals to illegally structure financial transactions. The investigation also revealed that hundreds of millions of dollars were sent to China in structured transactions designed to avoid reporting requirements of the BSA by illegal immigrants to pay their human smugglers.

In April 2017, HSI formalized its relationship with MLARS and TEOAF and implemented the Financial Institution Integrity Initiative (F3I). The objective of the F3I is to identify, support, and expand significant, complex HSI criminal cases throughout the United States and abroad by investigating financial institutions, their employees, and their agents for violations of the BSA, U.S. economic sanctions and money laundering laws in coordination with MLARS.

### **Transnational Criminal Investigative Units**

HSI's money laundering efforts are also global in nature. HSI currently has 12 vetted and operational Transnational Criminal Investigative Units (TCIUs) overseas that facilitate information exchange and rapid bilateral investigations of the violations of law that are both jointly within HSI and our foreign partners' investigative purview, to include financial and



money laundering crimes. TCIUs identify targets, collect evidence, share intelligence, and facilitate the prosecution of TCOs both in-country and through the U.S. judicial system.

As an example, on November 1, 2017, based on HSI-derived information, the HSI Bogota TCIU made a bulk cash seizure of \$200,000 in U.S. currency and arrested a Mexican national, for money laundering related to bulk cash smuggling in violation of Colombian law. This Mexican national belonged to a network of couriers operating on behalf of a drug trafficking and bulk cash smuggling organization operating between Mexico, Colombia, Europe, and the United States.

### **Other Partnerships**

An essential element to HSI's financial investigative portfolio of cases is its relationship with the Department of Treasury's Financial Crimes Enforcement Network (FinCEN). HSI's access to FinCEN's data collected in accordance with FinCEN's unique enforcement authorities to detect, disrupt and deter key illicit finance threats is invaluable. HSI has also benefitted from FinCEN's authorities to implement special measures for domestic financial institutions, such as Geographic Targeting Orders (GTOs) issued under the BSA. GTOs impose additional recordkeeping or reporting requirements on domestic financial institutions or other businesses in a specific geographical area over a period of time, generally not to exceed 180 days. Some recent examples of these GTOs involved real estate transactions, TBML and Armored Car Services.

### **Conclusion**

Each criminal case that HSI investigates has a potential financial nexus. We remain committed to working towards disrupting and dismantling cross-border illicit financial activities, by both individuals and transnational organizations engaged in money laundering, fraud, and bulk cash smuggling. These criminals will continue to manipulate and exploit legitimate banking, financial, and commercial trade systems to sustain and expand their illegal operations.

HSI will continue to work aggressively to utilize its resources and ensure that money launderers and illicit actors are detected, apprehended, and brought to justice.