

Money Laundering in Real Estate

Conference Report

Convened by the Terrorism, Transnational Crime and Corruption Center
at the Schar School of Policy and Government
of George Mason University



The word 'Traccc' is written in a large, white, sans-serif font across the bottom of a green-tinted globe. The globe shows the outlines of continents and latitude/longitude lines. The text 'Traccc' is positioned over the lower half of the globe, with the 'T' on the left and the 'c's' extending towards the right.

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About TraCCC

The Terrorism, Transnational Crime and Corruption Center (TraCCC) is the first center in the United States devoted to understanding the links among terrorism, transnational crime and corruption, and to teach, research, train and help formulate policy on these critical issues. TraCCC is a research center within the Schar School of Policy and Government at George Mason University.

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Contact TraCCC at tracc@gmu.edu or 703-993-9757

This event was hosted by three George Mason University research centers: the Terrorism, Transnational Crime and Corruption Center (TraCCC), the Center for Organizational Performance and Integrity (COPI), and the Center for Real Estate Entrepreneurship in collaboration with The National Association of REALTORS®, the Association of Certified Anti-Money Laundering Specialists (ACAMS) and the Anti-Corruption Action Network (ACAN). We want to thank all of them for their contribution to putting together the speakers and panels. We also want to thank the following individuals who played an important role in organizing the conference and this report: Dr. Louise Shelley, Judy Deane, Vincent Nicosia, Yulia Krylova, Christie DeSanctis, James Wright, Ross Delston, Ken Barden and Mike Opiela. We see this as an opening of a dialogue on money laundering in real estate. Like most complex policy issues, there is no quick fix or easy solution to this problem. It is an ongoing issue whose solution requires cooperation of multiple public and private actors.

Executive Summary

Overview of the problem

Money laundering in real estate (MLRE) constitutes a rapidly growing problem in both developed and developing countries. In the United States, this problem is especially evident in major metropolitan cities, including New York City, Miami, Los Angeles, and San Francisco. MLRE involves various techniques, such as the use of complex loans, credit finance, monetary instruments, mortgage schemes, investment institutions, and anonymous corporate entities, as well as manipulation of the appraisal or valuation of properties. The lack of beneficial ownership transparency is the most important single factor facilitating MLRE in the U.S. Often, MLRE is facilitated by non-financial professionals, including lawyers, real estate agents, sales representatives, and brokers, among others.

MLRE has many negative consequences for local communities and the national economy. They include adverse effects on asset and property prices, the dislocation of residents from and within major metropolitan areas, the threat of monetary instability due to the misallocation of resources, the loss of policy control over the real estate and building industries, accumulation of political influence by foreign politically exposed persons, and the formation of hubs for other criminal activities. MLRE also poses a national security threat by worsening instability in conflict and post-conflict countries that are particularly vulnerable to corruption, violence, organized crime, and terrorist finance. Another threat to national security relates to the export of economic criminality from kleptocratic states to democratic countries through their financial and real estate channels.

Findings in the United States

- *The New York Times* investigation found that between 2008 and 2014, about 30 percent of condos in Manhattan developments were sold either to foreign investors or shell companies.¹
- The Financial Crimes Enforcement Network (FinCEN) found that in 2017, 30 percent of all high-end purchases in major metropolitan areas (ranging from \$3,000,000 in the Borough of Manhattan, NYC to \$500,000 in Bexar County, Texas)² involved beneficial owners or purchaser representatives who were the subject of previous suspicious activity reports.³
- The Government Accountability Office found that in 2014, 26 tenant agencies, including FBI and DEA field offices, occupied high-security spaces in foreign-owned buildings,

¹ Cooper, R. (2017, November 13). How Foreign Investors Launder Their Money in New York Real Estate. *The Week*.

² Major metropolitan areas and monetary thresholds are available at:
https://www.fincen.gov/sites/default/files/shared/Title_Ins_GTO_Table.pdf

³ FinCEN. (2017). FinCEN Renews Real Estate “Geographic Targeting Orders” to Identify High-End Cash Buyers in Six Major Metropolitan Areas, available at: <https://www.fincen.gov/news/news-releases/fincen-renews-real-estate-geographic-targeting-orders-identify-high-end-cash>

which cost the U.S. government \$97 million per year.⁴ GAO could not find the beneficial owners of 36 percent of high-end buildings leased by the government.⁵

- In the 2016 U.S. Mutual Evaluation Report, the Financial Action Task Force (FATF) identified numerous vulnerabilities in the U.S. real estate sector, particularly in its high-end segment.⁶

Money laundering risks in the U.S. real estate sector

- The United States is one of the easiest places in the world to establish an anonymous company. Currently, no U.S. state collects information about beneficial owners of shell companies, which are often used as money laundering tools and fronts for sanctioned countries and individuals.
- Unlike in Canada and some other countries, real estate agents, brokers, and sales representatives are not required to file suspicious transactions reports or maintain AML/CFT compliance programs.
- According to the 2016 U.S. Mutual Evaluation Report, real estate agents are not subject to fit and proper criteria under the FATF Recommendations; not subject to due diligence and recordkeeping rules for clients; and do not have the benefit of a safe harbor for filing voluntary reports. States vary in their requirements for background checks for real estate licenses.
- Geographic Targeting Orders (GTOs) issued by FinCEN impose temporary new data collection on beneficial ownership and reporting requirements for all-cash purchases of residential real estate by corporate entities in seven metropolitan areas. However, title companies must report the names of beneficial owners only with 25 percent or greater ownership interest in a corporate entity.

Recommendations for Further Actions

STRATEGY & CONSENSUS BUILDING

- ***Advocate for legal responses to address current gaps in legislation.*** The lack of beneficial ownership transparency is the most important single factor facilitating MLRE in the U.S. Providing a legislative basis for transparency is essential for all other AML reforms as well, and beneficial ownership transparency should be at the top of the advocacy agenda.
- ***Rethink the roles of gatekeepers and information needs in countering MLRE.*** The policy dialog has mainly been about whether real estate professionals should be required to file

⁴ U.S. Government Accountability Office. (2017). Federal Real Property: GSA Should Inform Tenant Agencies When Leasing High-Security Space from Foreign Owners, p. 19, available at: <https://www.gao.gov/assets/690/681883.pdf>

⁵ U.S. Government Accountability Office. (2017). Federal Real Property: GSA Should Inform Tenant Agencies When Leasing High-Security Space from Foreign Owners, available at: <https://www.gao.gov/assets/690/681883.pdf>

⁶ The Financial Action Task Force. (2016). Mutual Evaluation Report: United States, available at: <http://www.fatf-gafi.org/publications/mutualevaluations/documents/mer-united-states-2016.html>

SARS. We need to step back, analyze the information needs for law enforcement to fight MLRE, and consider whether automated systems or other actors could better provide some or all of this information.

- ***Develop different strategies to target specific segments of the real estate market.*** Currently, the FinCEN GTOs focus on title insurance companies with respect to high-end real estate transactions. There is no mention of real estate agents. And there is evidence that low-end real estate is also targeted by money launderers. Therefore, strategies to combat this problem should be tailored to specific segments of the real estate market.
- ***Look at the Canadian experience.*** Canada also has serious MLRE problems and a market structure that is similar to that of the US, and has implemented a system whereby real estate professionals have substantial compliance obligations concerning MLRE. How is this playing out? What are the benefits and drawbacks?

RESEARCH AND TRAINING

- ***Raise awareness of the problem of MLRE and its impact in different communities.*** There is insufficient understanding of the cost of MLRE to real estate actors, local communities and the economy as a whole. Although commonly believed to be a problem mainly in high priced residential markets, MLRE also does considerable damage in some low- income communities and further research is needed to document this issue.
- ***The issue of money laundering into commercial real estate needs more attention.*** More research is needed in this area, and commercial real estate stakeholders need to be part of the dialog on MLRE
- ***Develop comprehensive mitigation plans for stakeholders.*** It is important to deconstruct the process of MLRE, identify vulnerabilities and provide guidance on red flags that can help real estate actors identify suspicious transactions and report them to authorities.
- ***Education and training of real estate professionals are critical for combating MLRE.*** Develop a tailored webinar based training program for real estate professionals, with a range of speakers including AML specialists, real estate investors, and law enforcement to ensure effective collaboration and exposure. Webinars could be combined with follow-up targeted training in high-risk markets on subjects such as detecting wire transfer fraud, and learning about new technologies and methodologies for due diligence.

NEW TECHNOLOGY AND ANALYTICS

- ***Develop human skills and strengthen tech capacities to combat MLRE.*** Criminals are constantly looking for innovative ways and new schemes of money laundering. Financial institutions and other actors should invest resources into identifying new criminal trends as early as possible.
- ***Further develop monitoring systems in the financial sector,*** including the use of artificial

intelligence. In real estate, it could take form of self-imposed industry software capable of rating transactions' risk assessments, with an automatic referral to law enforcement on high-risk purchases.

- ***Increase information sharing between government and the private sector through the development of a regulatory information system.*** This system should involve key real estate actors and gatekeepers, such as corporate formation agents, attorneys, real estate agents, title insurance companies, and other related actors.
- ***Use new analytical tools to target money launderers in innovative ways.*** It is important to develop and apply different techniques, including suspicious pattern recognition, anomaly detection, network analytics, attack path analysis, and predictive analytics.
- ***Inform law enforcement about new research and high-tech tools that are useful for investigations.*** There are informational gaps regarding new investigative techniques that need to be filled.

PUBLIC-PRIVATE PARTNERSHIPS

- ***Develop public-private partnerships (PPP) in the sphere of anti-money laundering in real estate.*** It is important to introduce legislative incentives for the development and implementation of PPP in this arena. It is also necessary to remove barriers to PPP that often exist within agencies and private organizations.
- ***Engage real estate actors in policy discussions and the implementation of specific anti-money laundering programs.*** Currently, real estate agents are not covered by the Bank Secrecy Act and are not required to file suspicious activities reports. It is important to invite their representatives to discussions about their involvement and education on anti-money laundering programs in real estate.

TACKLING THE GLOBAL DIMENSION OF MLRE

- ***Follow the money.*** Asset seizures play an important role in AML since they hurt criminals economically and disrupt their operations. It is also critically important to use the recovered assets to benefit the people who were harmed.
- ***Strengthen international cooperation in this arena.*** MLRE is a global problem involving both developed and developing countries around the world. Therefore, international cooperation is of critical importance for MLRE prevention.
- ***Address the issue of kleptocrats moving corrupt proceeds around the world.*** Illicit money often originates from contemporary kleptocratic regimes. Therefore, sanctioning of kleptocrats engaged in corruption and human rights violations should be linked with anti-money laundering in real estate.

Contents

Executive Summary	1
PANEL ONE: National and Global Impact of Money Laundering Through Real Estate (MLRE)	7
Corruption and Money Laundering Through Real Estate (Dr. Louise Shelley, TraCCC).....	7
National Security Impact of MLRE (Jodi Vittori, Transparency International Defense and Security Program)	9
Illicit Financial Flows, What They Mean for Developing Countries (Christine Clough, Acting Communications Director, Global Financial Integrity)	11
International Standards in Countering MLRE (Ross Delston, Attorney + Expert Witness).....	13
MLRE and Kleptocrats (Charles Davidson, Hudson Institute).....	15
PANEL TWO: Industry Perspective on Money Laundering through Real Estate	16
Nicholas D’Ambrosia, Principal Broker/Broker of record and Senior Vice President, Long & Foster, Chair of Maryland Real Estate Commission.....	16
Art Davis, Executive Director, American Escrow Association (AEA)	18
Steve Gottheim, Senior Counsel, American Land Title Association (ALTA).....	19
PANEL THREE: How MLRE is Facilitated in the United States	21
Techniques of Real Estate Money Laundering (Michael Opiela, CAMS)	21
Beneficial Ownership (Gary Kalman, FACT Coalition)	25
Prosecution of Cases (Clay Porter, Managing Director, Navigant)	29
PANEL FOUR: New Approaches to Countering MLRE in the United States	32
Use of Bank Wire Transfers and Bank Surveillance Programs (Les Joseph, Wells Fargo)	32
Improved Use of New Technology in Countering Money Laundering (Ted Moorman, Consultant)	33
Asset Forfeiture (Debra LaPrevotte, The Sentry)	36
CLOSING SESSION: Moving Forward (Policies and Strategies) moderated Moderators: Louise Shelley, Director of TraCCC, and David Williams, Director of COPI	38
List of recommendations.....	38
APPENDICES: Working Lunches	41
1. What Can We Learn from the Experience of FINTRAC in Canada? (Sandra Desautels, Navigant, Director Global Investigations & Compliance Practice)	41
2. Writing an Effective Suspicious Activity Report (Steve Gurdak, Washington/Baltimore High Intensity Drug Trafficking Area (HIDTA), and Ed Rodriguez, Anti-Money Laundering Consultant)..	42
3. MLRE Training Needs for the Real Estate Community (Christie DeSanctis, The National Association of REALTORS®, and James Wright, ACAMS)	43

4. How Virtual Currency Works and How It Can Be Used to Launder Money (John Roth, Chief Compliance & Ethics Officer, Bittrex)	44
5. GAO Study on the National Security Impact of Foreign Beneficial Ownership of Office Space Leased by U.S. Government Agencies (Toni Gillich, Keith Cunningham, and Robert Homan, GAO). 45	
6. Case Studies in Corruption and MLRE: Tools, Strategies, Lessons Learned (Mark Hays, Global Witness)	47
List of Reading Materials.....	49
Speaker Bios.....	51

PANEL ONE: National and Global Impact of Money Laundering Through Real Estate (MLRE)

Moderator: Charles Davidson, Executive Director, Kleptocracy Initiative, Hudson Institute

Abstract: The first session analyzes the scope and impact of money laundering in real estate (MLRE) on developing and advanced economies. It also reviews international standards in countering MLRE and current legislative gaps in the United States.

Corruption and Money Laundering Through Real Estate (Dr. Louise Shelley, TraCCC)

In my presentation, I will give you a very broad introduction to the topic of money laundering in real estate. For me this topic is a passionate interest that goes back to my childhood. I grew up in Manhattan, NYC, and it was one of the popular discussion topics of my father who owned real estate and often encountered problems with the mafia investing in real estate. However, at that time, money laundering into real estate was a municipal issue. It was the local mafia investing mostly in low-end real estate in New York. Today, money laundering in real estate is a transnational phenomenon and it focuses more on its upper-end real estate segment.

In 2010, I became acutely aware of the global nature of this problem when the World Economic Forum (WEF) set up the Global Agenda Council on Organized Crime and I was asked to be its Vice Chair. The Council Chair, Robert Wainwright, was the Director of Europol, and most members were high-level law enforcement practitioners from every continent in the world. We started our work at the Council with a discussion about the most important issues that we should focus on and we came up with two: cybercrime and money laundering into real estate. I was tasked to write a report for the Council on the latter topic based on publicly available sources. My report was released by the WEF in 2010 and its popular version was published as a book chapter in *Convergence: Illicit Networks and National Security in the Age of Globalization*.⁷ The relevance of this topic was evident everywhere we went. For example, during the World Economic Forum in Dubai, we were surrounded by money laundering into real estate originating from Afghanistan, Russia, and other countries. It was a very fertile ground to understand this problem.

Afterwards, the media picked up this story. One of the first was Michael Hudson of the International Consortium of Investigative Journalists (ICJIN)⁸ and then a group of journalists and researchers from Global Financial Integrity worked with *The New York Times* to examine some of

⁷ Shelley, L. (2013). Money Laundering into Real Estate. In M. Miklaucic & J. Brewer (Eds.), *Convergence: Illicit Networks and National Security in the Age of Globalization* (pp. 131–146). Washington, D.C.: NDU Press.

⁸ Hudson, M., Stanesco I., & Adler-Bell, S. (2014, July 3). How New York Real Estate Became Dumping Ground for the World's Dirty Money, *The Nation*, available at: <https://www.thenation.com/article/how-new-york-real-estate-became-dumping-ground-worlds-dirty-money/>

the high-end buildings in New York and trace their real owners. These buildings are often totally uninhabited, and their “ghost” presence is destroying central parts of metropolitan areas in many parts of the world. You can see such “ghost” buildings in London, New York, San Francisco, and Miami. It also occurs in developing countries, such as Columbia and Honduras. In 2016, Transparency International held its annual Anti-Corruption Conference in Panama and the city was filled with empty apartment buildings. Nowadays, money laundering into real estate is a global problem.

Unfortunately, there are very few legal cases in which individuals have had to forfeit this “dirty” money to date. For example, former Ukraine’s Prime Minister Pavlo Lazarenko used a shell company to purchase an 18,000-square-foot mansion in Marin County, California, before he fled his country in 1999, one step ahead of the prosecutors.⁹ Only after a change in Ukraine’s government, when prosecutors investigated him and there was a predicate offense did it become possible to confiscate this property. But in most parts of the world, moving “dirty” money into real estate provides a safe haven for criminals and kleptocrats.

Much of our focus is on money laundering into high-end real estate. But, organized crime has also been moving money into low-end real estate, in part to use it as safe havens for human smuggling/trafficking and drug smuggling. In our border communities, for example, in Arizona, property that was depressed financially has become a tool for drug organizations to advance their operational objectives.

Why has real estate money laundering become such a problem today and why are people noticing it? In terms of research, this problem is the most understudied topic in the international money laundering area. When I worked on the 2010 WEF report, there was only one book on this topic. At the same time, this problem has many negative consequences. It has an impact on real estate prices. It results in the dislocation of people and empties centers of major metropolitan cities. The absence of beneficial ownership transparency allows people to buy property anonymously, which facilitates money laundering. It also makes crime and corruption pay.

This is clearly a national security problem. The U.S. agency that is responsible for fighting corruption is paying money to one of the most corrupt kleptocrats whose activities were harmful to Sarawak and its native community.

The GAO has recently published an excellent report on the topic of the property owners of secure facilities in the US. It mentions the case of Taib, a kleptocrat who deforested most of Sarawak on the island of Borneo and now owns the Abraham Lincoln Building in Seattle, which hosts the local

⁹ Trindle, J. (2014, September 16). Corrupt Ukrainian Politicians have a Taste for Mansions. *Foreign Policy*.

FBI headquarters.¹⁰ This is clearly a national security problem. The U.S. agency that is responsible for fighting corruption is paying money to one of the most corrupt kleptocrats whose activities were harmful to Sarawak and its native community. We need to address this issue and allocate resources for finding its solutions. We also need to close gaps in the Patriot Act and other laws related to money laundering. Most of all, there is a need for much greater awareness of this problem.

National Security Impact of MLRE (Jodi Vittori, Transparency International Defense and Security Program)

My presentation will focus on the problem of money laundering from a military perspective. There are real national security ramifications of money laundering overall and money laundering in real estate, in particular. It is incredibly important for all sorts of terror finance, insurgent finance, criminality, and corruption. Taliban investments in real estate in Afghanistan are a case in point. One of the famous examples of money laundering in real estate by Taliban members is their investment into a gated luxurious residential community outside of Kandahar called Aino Mina, which was made after the Taliban had been identified on the United Nations blacklist. Aino Mina is owned by four members of the Karzai family and one other investor. This residential community was designed for expatriates and rich Afghans and it shows that Taliban members were able to launder their “dirty” money despite the fact that they were blacklisted by the United Nations.

There have been numerous reports showing how the Haqqani network and the Taliban used money laundering in real estate, as well as in construction and other companies to move their money around the world, particularly through Dubai, which seems to be one of their major banking sectors. This is a very real problem for the United States, with about 15,000 American troops in Afghanistan. It is also a national security issue inside the country. There are numerous examples in Miami and New York, where Russian oligarchs and criminals from other countries use the U.S. real estate market to launder their corrupt gains. The Treasury Department found that in 2017, 30 percent of all high-end purchases in six geographic areas involved a beneficial owner or purchaser representative who is also the subject of a previous suspicious activity report (SAR).¹¹ The U.S. Government Accountability Office (GAO) could not find the beneficial owners of 36 percent of high-end buildings leased by the government.¹²

¹⁰ U.S. Government Accountability Office. (2017). Federal Real Property: GSA Should Inform Tenant Agencies When Leasing High-Security Space from Foreign Owners, available at: <https://www.gao.gov/assets/690/681883.pdf>

¹¹ FinCEN. (2017). FinCEN Renews Real Estate “Geographic Targeting Orders” to Identify High-End Cash Buyers in Six Major Metropolitan Areas, available at: <https://www.fincen.gov/news/news-releases/fincen-renews-real-estate-geographic-targeting-orders-identify-high-end-cash>

¹² U.S. Government Accountability Office. (2017). Federal Real Property: GSA Should Inform Tenant Agencies When Leasing High-Security Space from Foreign Owners, available at: <https://www.gao.gov/assets/690/681883.pdf>

Money laundering is unique when it comes to real estate due to its physical location. It proves that crime can actually pay in a very visible way. To give another Afghan example, there are many huge luxurious mansions around Kabul, nicknamed “narcotecture” based on the combination of two words – narcotics and architecture. Average income per capita in Afghanistan is about \$650; yet the city is full of luxurious gold-covered mansions that often belong to warlords, senior officers in the military, or high-ranking politicians. It is visceral evidence that crime, at least in Afghanistan, actually does pay.

The average per capita income in Afghanistan is about \$650; yet, the city is full of luxurious gold-covered mansions that often belong to warlords, senior officers in the military, or high-ranking politicians. It is a very visceral way to see that crime, at least in Afghanistan, actually does pay.

Real estate also provides a physical location that can serve as a hub for activities related to terrorism, human trafficking, drug smuggling, and other crimes. Money laundering in real estate is unique in that it is so highly visible, and serves as a concrete symbol of regime corruption, sometimes destabilizing U.S. security interests overseas, when allies are involved. One of the first things people did during the Arab Spring was to march on the huge elaborate mansions of the political elite of the old regime. Money laundering in real estate is typical of authoritarian countries, such as Libya under the Gaddafi regime, Tunisia under Ben Ali and Ukraine under Yanukovich. It is politically destabilizing because people can see in their everyday lives that their governments do not act in the national interest. This destabilizing factor can be used by the opposition as a platform for mobilizing people against the regime. For example, in 2017, Russia’s anti-corruption leader Alexey Navalny launched a media campaign against Prime Minister Dmitry Medvedev accusing him of building a lavish empire of mansions, country estates, luxury yachts, an Italian vineyard and an 18th-century palace in St. Petersburg.¹³

In 2010, a huge corruption scandal broke in Afghanistan called the Kabul Bank scandal. It involved 19 key families in Afghanistan who stole \$910 million from the Kabul Bank through some “Ponzi” schemes. The scandal included the President’s and the Vice President’s families. Afghanistan’s Kabul Bank was affiliated with the government and served as a payment center for all public employees, teachers, the entire military, and internal security forces. The collapse of this bank did not only strike a blow at Afghanistan’s economy, it also put U.S. troops in a potentially very dangerous position, especially if we take into account the violence and criminality typical of conflict and post-conflict countries. At the time, the United States had around 100,000 American troops in Afghanistan versus 200,000 local troops who did not get paid because of the Kabul Bank collapse, but who were armed.

¹³ Navalny, A. (2017). Do’t Call him “Dimon,” available at” <https://fbk.info/english/english/post/304/>

Even worse, a significant part of the stolen money came from international aid. Some of the money that disappeared from the Kabul Bank was invested into real estate in Dubai and other foreign countries. And some was reinvested in real estate in Afghanistan. In 2015, *The New York Times* published a story about a building project in Kabul,¹⁴ with an investment contract worth \$100 million being signed with Khalilullah Frozi, former CEO of the Kabul Bank. Frozi was sentenced to 15 years of imprisonment for his role in defrauding the bank of nearly \$1 billion of depositors' money. His involvement in the building project raises the questions of why he was not fully serving his 15-year sentence and why the \$100 million was not confiscated after the Kabul Bank scandal. These examples demonstrate why from a national security perspective, there is an urgent need for anti-money laundering reforms.

Illicit Financial Flows, What They Mean for Developing Countries (Christine Clough, Acting Communications Director, Global Financial Integrity)

My presentation on illicit financial flows is based on reports produced by Global Financial Integrity (GFI), a Washington, D.C.-based nonprofit research and advisory organization. GFI produces high caliber analyses of illicit financial flows, advises developing countries on how to curtail these flows through effective policy recommendations, and advocates for changes in the international financial system through international financial institutions and other bodies, such as the Financial Action Task Force (FATF).

There is no internationally agreed upon definition of illicit financial flows (IFFs). GFI defines IFFs as money that is illegally earned, utilized, or transferred. GFI looks at IFFs specifically from the developing countries' perspective in terms of how illicit financial flows are undermining efforts to grow these economies in a way that benefits the larger population, rather than the political and economic elites. GFI annual reports analyze both inflows and outflows of illicit financial flows for developing countries. The illicit inflows should be analyzed separately from illicit outflows because they are not part of the legitimate financial system and are also incredibly harmful for the economy.

In 2014, illicit financial outflows were estimated at \$620-\$970 billion, while inflows ranged between \$1.4 trillion and \$2.5 trillion.

According to the GFI's most recent report, in 2014, illicit financial outflows were estimated at \$620-\$970 billion, while inflows ranged between \$1.4 trillion and \$2.5 trillion.¹⁵ In a ten-year period between 2005 and 2014, an average of 87 percent of illicit financial outflows was due to

¹⁴ Mashal, M. (2015, November 4). Afghan Businessman Convicted in Kabul Bank Fraud Is Still Free to Make Money. *The New York Times*.

¹⁵ Global Financial Integrity. (2017). *Illicit Financial Flows to and from Developing Countries: 2005-2014*, p.vii, Washington, D.C., available at: http://www.gfintegrity.org/wp-content/uploads/2017/05/GFI-IFF-Report-2017_final.pdf

the fraudulent misinvoicing of trade.¹⁶ Total IFFs likely grew at an average rate of between 8.5 percent and 10.1 percent a year over this ten-year period.¹⁷

The movement of IFFs requires a much more sophisticated system than cash transfers. The shadow financial system is comprised of secrecy jurisdictions, including those in the United States, particularly in Delaware, Wyoming, and Nevada, among others. Currently, no U.S. state requires information collection about beneficial owners. Secrecy jurisdictions allow money launderers to create and use anonymous companies, anonymous trusts, and fake anonymous foundations, with the aid of corporate formation agents and bankers who knowingly or unknowingly help them move illicit proceeds.

GFI also focuses on transnational crime. In March 2017, GFI released a report “*Transnational Crime and the Developing World*,” which found that the annual retail value of 11 different transnational crimes is an average of \$1.6 trillion to \$2.2 trillion annually.¹⁸ This is another way to see how much illicit money is moving around the world. Much of this illicit flow hits the U.S. real estate market, which remains an attractive haven for money launderers from other countries. The GFI’s study evaluates the overall size of criminal markets in 11 categories: the trafficking of drugs, arms, humans, human organs, cultural property; counterfeiting, illegal wildlife crime, illegal fishing, illegal logging, illegal mining, and crude oil theft. In 2014, the most valuable sector based on the GFI’s estimates was counterfeiting, while among natural resources crimes, the most valuable was illegal logging. Neither of these issues is high on the public radar screen; yet, they represent areas that urgently require public awareness.

GFI defines money laundering as a process of disguising the proceeds of crime and integrating it into the legitimate financial system, including tax evasion. A predicate offence is a crime that is a component of a more serious criminal offence. This term is often used in reference to money laundering. What qualifies as a predicate offence varies from country to country. In some countries, almost any crime qualifies, while other countries have a very specific list. The latter is the case in the United States, where predicate offenses need to be identified individually.

Notorious examples of IFFs which ended up in real estate include the former President of Equatorial Guinea Teodoro Obiang Nguema Mbasogo and his son, who had to give up a lot of property in the United States and France.¹⁹ One of the properties was a very expensive home in Malibu, California, which was seized through civil proceedings, rather than criminal proceedings.

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Global Financial Integrity. (2017). *Transnational Crime Transnational Crime and the Developing World*, p. xi, Washington, D.C., available at: http://www.gfintegrity.org/wp-content/uploads/2017/03/Transnational_Crime-final.pdf

¹⁹ “Son of Equatorial Guinea’s president is convicted of corruption in France” (2017, October 27). *The Guardian*, available at: <https://www.theguardian.com/world/2017/oct/27/son-of-equatorial-guineas-president-convicted-of-corruption-in-france>

Another example is the former ruling family of Gabon. According to Transparency International, the Bongo family from Gabon owned at least 39 properties in France, most of them in expensive Paris districts worth hundreds of millions of euros.²⁰ Many of these cases are resolved through civil forfeiture rather than criminal proceedings because it is often difficult to prove corruption when it occurs in another country.

In dealing with the problem of IFFs, GFI recommends focusing on the shadow financial system that is helping to move illicit money out of developing countries into other developing countries or advanced economies, like the United States. One of the most critical tools at the national and global levels is beneficial ownership transparency, which would allow the public to know the real person who owns and controls a company. Currently, it is not required by the U.S. law. Also, GFI recommends enhancing country reporting, trade transparency and the automatic exchange of tax information.

International Standards in Countering MLRE (Ross Delston, Attorney + Expert Witness)

The Financial Action Task Force (FATF) is an intergovernmental body established in 1989 to set international standards and promote effective implementation of measures to combat money laundering, terrorist financing and other threats. Currently, it includes 35-member countries, including the US, UK, Canada, China, India, Japan, Mexico, Russia, and South Africa. It also has two regional bodies: the European Commission and Gulf Co-operation Council. According to the FATF, the real estate sector is one of the biggest weaknesses of the U.S. Anti-Money Laundering/Countering the Financing of Terrorism and Proliferation (AML/CFT) regime.²¹

The FATF 40 Recommendations set out a comprehensive and consistent framework of international standards on AML/CFT.²² The original recommendations were developed in 1990 and then revised in 1996, 2001 (special recommendations on terrorism financing added), 2003 and 2012 (updated in 2018). These standards apply to governments, financial institutions and designated non-financial businesses and professions (DNFBPs), which include real estate agents “when they are involved in transactions for their client concerning the buying and selling of real estate” (Recommendation 22).²³ Twelve of the FATF 40 Recommendations, cover real estate agents. Other DNFBPs are attorneys, notaries and accountants when engaged in a commercial transaction for a client, gambling casinos, and dealers in precious metals/stones.²⁴

²⁰ Transparency International. (2008). Transparency International (France) Lodges a Civil Party Petition in Stolen Assets Case, available at: https://www.transparency.org/news/pressrelease/20081201_transparency_international_france_lodges_a_civil_party_petition

²¹ The Financial Action Task Force. (2016). Mutual Evaluation Report: United States, available at: <http://www.fatf-gafi.org/publications/mutualevaluations/documents/mer-united-states-2016.html>

²² The Financial Action Task Force. (2018). The FATF Recommendations, available at: <http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202012.pdf>

²³ Ibid., p. 17.

²⁴ Ibid., p. 17-18.

According to FATF Recommendation 10, financial institutions should be required to undertake customer due diligence (CDD), which includes identifying the customer and verifying that customer's identity; identifying the beneficial owner of LLCs; understanding and, as appropriate, obtaining information on the purpose and intended nature of the business relationship; and conducting ongoing CDD to ensure that transactions are consistent with the institution's knowledge of the customer.²⁵ However, even if U.S. real estate agents were covered by the Bank Secrecy Act and required to have anti-money laundering (AML) programs and to file SARs, under the customer due diligence rule issued by the Financial Crimes Enforcement Network (FinCEN), they would not be required to determine the ultimate beneficial owner of the companies that they deal with.

Furthermore, according to FATF Recommendation 12, financial institutions should be required to undertake enhanced due diligence in relation to domestic and foreign politically exposed persons (PEPs), including taking reasonable measures to establish a source of wealth and source of funds.²⁶ In 2012, the FATF also added domestic PEPs to Recommendation 12. Other measures include internal controls, such as written policies and procedures, designation of AML compliance officers, training and independent audit. It also includes reporting suspicious transactions called STRs or Suspicious Transaction Reports (similar to SARs in the United States).

In addition, Recommendation 28 states that countries should ensure that financial institutions are subject to adequate regulation and supervision, which may be done by government regulators or self-regulatory bodies, such as the Financial Industry Regulatory Authority (FINRA) or state bar associations. In the United States, if real estate agents were subject to AML programs, they would be examined by the Internal Revenue Service.

The FATF conducts peer reviews of each member (called Mutual Evaluations) on an ongoing basis to assess levels of implementation of the FATF Recommendations. In the 2016 Mutual Evaluation Report (MER) of the U.S., FATF identified numerous vulnerabilities in the real estate sector, particularly in its high-end segment. As noted by the MER, real estate agents in the United States are not subject to fit and proper criteria under the FATF Recommendations. They are not always required to have a criminal background check. In addition, they are not subject to CDD and recordkeeping rules for clients. Finally, they are not required to file STRs/SARs and do not have the benefit of a safe harbor for filing voluntary reports. The MER also states: "In addition, particularly at the high-end of the market, purchasers often use legal persons [i.e., LLCs] to hold real estate and the opaqueness of legal persons ... is a vulnerability which can be exploited by illicit actors." These vulnerabilities should require immediate attention from U.S. government

²⁵ The Financial Action Task Force. (2018). The FATF Recommendations, p. 12, available at: <http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202012.pdf>

²⁶ The Financial Action Task Force. (2018). The FATF Recommendations, p. 14, available at: <http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202012.pdf>

policy makers.

MLRE and Kleptocrats (Charles Davidson, Hudson Institute)

MLRE is becoming more and more recognized as a national security threat, and as a tool used by “bad actors,” to hide their “dirty” money all over the world, as we have seen in the example of Dubai mentioned earlier.

I will focus on another example, London, and why it matters for the United States. Four years ago when these issues were starting to get public attention, Hudson Institute together with the Henry Jackson Society organized bus tours in London, highlighting mansions belonging to foreign kleptocrats. Now, most people in the United Kingdom are aware of this problem. There is a strong opposition movement to money laundering and its enablers in London headed by young activists, influential journalists, such as Ben Judah and Luke Harding, and there are many members of parliament who have been pushing back on this issue.

An important aspect of MLRE in London is a huge percentage of real estate right in the heart of the city owned by anonymous companies with a strong representation of kleptocrats. One of the negative consequences of this high concentration of kleptocratic wealth: It comes with political influence hostile to liberty and democracy. How does this affect the United States? In cities like New York, we can see many residential towers that were recently built in Midtown, and 70-80 percent of them are owned anonymously. We don't always know who these people are. This is an increasing phenomenon in the United States, particularly in areas of Geographic Targeting Orders, such as New York, Miami, Los Angeles, and San Francisco, where the concentration of MLRE is greater than in other cities.

Real estate is a particularly problematic area; yet, it is not very difficult to reform. If we look at real estate as a class of assets, it seems relatively neutral in terms of interactions with the economy on a daily basis. This might be one of the reasons of why we have a delayed reaction in terms of countermeasures to MLRE. However, political threats from all this stealth wealth are considerable, and beneficial ownership legislation and other AML reforms would be good policy.

PANEL TWO: Industry Perspective on Money Laundering through Real Estate

Organized by National Association of REALTORS®

Moderator: Christie DeSanctis, Government Affairs, National Association of REALTORS®

Abstract: This session provides the real estate sector perspective on MLRE, focusing on the potential role of various actors in a real estate sales transaction, ethical guidance, and professional requirement concerns.

Nicholas D'Ambrosia, Principal Broker/Broker of record and Senior Vice President, Long & Foster, Chair of Maryland Real Estate Commission

Every state in the U.S. has different requirements for getting a real estate license. Each state's pre-licensing education course topics and hours vary across the country. For example, some states require a 30-hour education course and a state sponsored national test to obtain a real estate license. Other states have the requirement of 400-500 hours of pre-licensing education before sitting for a state licensing exam. The exam itself includes federal real estate law, real estate principles, and state-specific law questions. After receiving a license, real estate agents must work under a supervising broker responsible for agent actions who has taken additional education and license requirements in compliance with state laws. The broker and agent relationship varies, but often buyers and sellers work closely with real estate agents, while brokerages would handle earnest money deposits and establish escrow accounts.

The Association of Real Estate License Law Officials (ARELLO) estimates that there are about 2.5 million active real estate licensees in the United States.²⁷ Out of those 2.5 million licensees, about 1.3 million are REALTORS®. All real estate licensees are regulated by the states, but only members of the National Association of REALTORS® (NAR) who subscribe to a strict Code of Ethics first adopted in 1913 can identify as REALTORS®. The NAR Code of Ethics was one of the first codifications of ethical duties adopted by any business group. The NAR Code of Ethics ensures that consumers are served by requiring REALTORS® to cooperate with each other in furthering clients' best interests.²⁸

State laws determine standards and continuing requirements for real estate licensees. The main duty of state real estate commissions with oversight over licensees is to protect the public and to make sure that all parties are treated fairly and honestly. The Code of Ethics of the National

²⁷ The National Association of REALTORS®. (2017). Quick Real Estate Statistics, available at <https://www.nar.realtor/research-and-statistics/quick-real-estate-statistics>

²⁸ The National Association of REALTORS®. (2017). The Code of Ethics, available at <https://www.nar.realtor/about-nar/governing-documents/the-code-of-ethics>

Association of REALTORS® also states REALTORS® obligation to treat all parties honestly (Article 1).

In terms of anti-money laundering programs, it is important to take into account that licensees have a limited area of expertise. Their main duties are to establish a relationship with buyers and sellers to determine their desires in regards to the real estate transaction, such as purchasing or selling a residential or commercial property. Before a property search begins for a buyer, the agent, in consultation and with guidance from a lender or mortgage broker, will determine the consumers' financial capability through a prequalification or preapproval, or by proof of funds for an all-cash transaction. Real estate agents and brokers are also limited in terms of additional information they can ask about their clients. The Fair Housing Act, for example, prevents discrimination in housing based on protected classes; in Washington, D.C., there are 23 classes protected from unfair treatment based on their race, color, creed, national origin, among other things. Once buyers identify the property and are ready to make an offer, there are a number of other players involved in the transaction from contract to closing, including the loan officer, mortgage lender, title company, escrow agent, appraiser, attorneys, insurance agents, and home inspectors.

NAR works closely with federal regulators, including the Department of Treasury and the Financial Crimes Enforcement Network (FinCEN), to educate members about their responsibilities to combat money laundering. NAR provides continuing education to members and guidance on red flags to increase real estate professionals' awareness, knowledge, and understanding of the potential money laundering risks surrounding real estate and enable them to identify practical measures to mitigate such risks.²⁹ This guidance is also distributed by many real estate offices to their agents.

According to the National Association of REALTORS®, approximately 23 percent of residential real estate sales transactions were all-cash in 2017.³⁰ The use of LLCs and all-cash transactions to buy properties may be considered a red flag in terms of money laundering. However, it is important to note that there are many legitimate reasons of why people want to use anonymous companies to buy real estate. As far as all-cash transactions are concerned, before a property search begins, there needs to be a proof of funds, which could be determined from bank statements, investment account statements, or and letters from attorneys or CPAs. In addition, foreign investors who cannot receive loans from U.S. banks often transfer their funds to some financial entity within the United States. In such cases, real estate agencies are not able to determine whether the source of their money is legitimate or not, and, therefore, this responsibility lies on U.S. financial institutions.

²⁹ The National Association of REALTORS®. Anti-Money Laundering Guidelines for Real Estate Professionals, available at <http://narfocus.com/billdatabase/clientfiles/172/4/1695.pdf>.

³⁰ The National Association of REALTORS®. (2017). All-Cash Sales: 23 Percent of Residential Sales in January 2017, available at: <http://economistsoutlook.blogs.realtor.org/2017/03/02/all-cash-sales-23-percent-of-residential-sales-in-january-2017/>

Art Davis, Executive Director, American Escrow Association (AEA)

I would like to start by explaining some of the duties and responsibilities of escrow holder agents in the United States. Escrow agents are not part of title insurance companies, nor are they part of independent title agencies. In their operations, they follow escrow instructions, which are written directions stating their duties, as well as the duties of other parties. For example, the California standard residential purchase agreement has initial instructions for escrow agents.³¹ On top of that, after World War II, supplemental escrow instructions were developed, which represent a bilateral contract involving the buyer, the seller, and the escrow agent that lays the foundation for the fiduciary relationship under the California Supreme Court Law.

On the East Coast, there are a lot of seller finance transactions where the person selling the house lends the buyer the money for the purchase. The buyer and seller execute a promissory note providing an interest rate, repayment schedule, and consequences of defaulting on obligations. These can be unrecorded contractual relationships that are not in the public records. Escrow agents serve as intermediaries structuring transactions, for example, by providing title insurance and recorded documents as opposed to documents signed only between the parties.

In cases where purchases are made in the name of LLCs, escrow agents look at operating agreements to identify a person who is legally authorized to sign documents. However, they are not concerned with beneficial owners per se. There are many legitimate reasons to use LLCs in real estate transactions. For example, the use of LLCs allows for a greater level of flexibility in terms of legal protections, structures, capital and so on. Also, it represents one of the most flexible approaches for foreign individuals. For example, in the case of LLCs, foreign individuals with U.S. property can easily transfer the ownership using the nominee.

One of the red flags related to MLRE is all-cash transactions. However, it is noteworthy that they do not require real currency, but increasingly involve cashier's checks. Settlement agents ensure that all funds involved in real estate transactions are "good funds." If there is wire fraud or some missing buyer's money, the responsibility lies on settlement agents. For example, in Southern California, the state has direct access to their trust accounts. If there is a negative balance for transactions, they will close them down in 24 hours. This example shows how tightly some states regulate this area. As far as the reporting is concerned, there are various requirements, including Form 1099S, which is an Internal Revenue Service Form on Proceeds from Real Estate Transactions collecting the information about the name, tax ID number, address and gross proceeds of the seller; Sec. 6050I of the Internal Revenue Code related to cash received in trade or business; and Title 31 requirements of the United States Code, which outlines the role of the money and finance in the United States Code.

³¹ California Association of Realtors. (2017). California Residential Purchase Agreement and Joint Escrow Instructions, available at: https://weissman-realestate.com/wp-content/uploads/2017/09/Residential-Purchase-Agreement-RPA_SAMPLE.pdf

Title 31 was codified in 1982. At that time, the Treasury considered including attorneys as covered agents under those rules and later it was extended to court clerks for bail bond. However, settlement agents were not covered under Title 31. In the 1990s, the U.S. legislation added structured transactions on the trader business side under Title 26.³² This type of regulation is normally called a legislative regulation for two reasons. One is the requirement for notice and opportunities to comment on proposed acts. Another reason is that Congress delegated to the Treasury Department the ability to make policy decisions. Treasury did not include settlement agents as subjects to additional reporting. Currently, reporting by settlement agents is limited to filing Form 8300, which provides FinCEN with useful information about transactions in terms of anti-money laundering. Yet, the introduction of additional reporting rules for settlement agents, who are often several steps away from the money source, could be challenging in real estate transactions.

Steve Gottheim, Senior Counsel, American Land Title Association (ALTA)

After signing contracts between buyers and sellers, real estate transactions are transferred to the American Land Title Association (ALTA). ALTA represents 6,300 title insurance agents and companies, ranging from small, one-county operations, to large national title insurers in the United States. They are responsible for the process of investigating the public records. Unlike in most European countries, in the United States, the government has almost no role in the sale and eventual ownership of real estate in the country. All transactions with real estate are private contracts, and transfers may or may not be recorded publicly. Unlike in the United Kingdom, where this process is mandatory, in the United States, it is a permissive process and the investigatory work is done by private companies.

Title insurers are the only professionals in the real estate community who have money laundering requirements through Geographic Targeting Orders (GTOs) that were renewed for the last time on March 20, 2018. As part of this process, when transactions fit the thresholds set in GTOs for the covered metropolitan areas, title insurance companies start working with real estate professionals representing buyers to collect the required information. In 2017, after the adoption of the Countering America's Adversaries Through Sanctions Act, the Geographic Targeting Orders were expanded to include wire transfers in addition to currency, cashier's checks, certified checks, traveler's checks, personal checks, business checks, or money orders in any form. Prior to that, there were very few transactions being reported in any of the areas covered by GTOs. The first and second rounds of the GTOs produced from 60 to 80 total transactions reported. Out of them, 30 percent of transactions involved either a beneficial owner or some representative linked to previous SARs. With the addition of wire transfers, the amount of reportable transactions increased

³² In addition to being published in various volumes of the United States Statutes at Large, the Internal Revenue Code is separately published as Title 26 of the United States Code. Of the 50 enacted titles, the Internal Revenue Code is the only volume that has been published in the form of a separate code.

significantly.

The typical title insurance process starts with the public records tracing the property's history, its owners, sales, and pieces of property rights that were given away. This investigation provides buyers with the information of what they will be able to do with their properties. The investigative process also includes the tax and court records. Once this information is collected, it gives title professionals an understanding of what they will be able to insure and cover in their policies issued to buyers. The other question is how new buyers want to hold the title to property and whether or not it will be placed into trusts or LLCs. Over the last few years, the use of LLCs has become more common in real estate transactions for a number of reasons. First, LLCs make it easier to transfer the property to another person. Second, privacy concerns play an important role, especially in certain areas like California, where celebrities do not want their ownership of real estate to be known to the public. Privacy concerns also apply to law enforcement and first responders. In areas that are not covered by GTOs, the primary concern of title professionals is to understand corporate documents involved in the formation of LLCs in order to define who is allowed to sign documents on behalf of these LLCs.

Another important concept that requires attention is "good funds." There are about 25 states in the United States that have "good funds" statutes. "Good funds" are a made-up concept in the law describing the funds guaranteed to be available upon demand. Each state statute sets forth the forms of payment that qualify as "good funds" in that particular state. Typically, acceptable good funds include cashier's checks, certified checks, a bank check drawn upon a federally insured bank, saving and loan, or credit union, checks from a government agency or municipality, and wire transfers where verification of receipt has been established. At a real estate closing, or settlement, purchasers have to have fully collected funds. The simplest way to do this is wire transfers. In the United States, almost all of the money in any real estate transactions is coming through the banking system. Therefore, most investigatory work remains within the banking system.

PANEL THREE: How MLRE is Facilitated in the United States

Moderator: Barbara Keller, BIK Consulting LLC

Abstract: This panel is devoted to an analysis of schemes used to launder money through real estate and red flags which can alert public and private actors to dig deeper in specific situations. The panel also focuses on strategies and recent legislative responses to mitigate MLRE in the United States.

Techniques of Real Estate Money Laundering (Michael Opiela, CAMS)

MLRE is done for many reasons. First, it is a prestige investment. Second, it can be carried out in a single transaction and it is easy to convert to cash. Third, it can appreciate and generate rental income. Fourth, this sector has less regulatory oversight. Finally, it can facilitate other money laundering schemes, which is particularly relevant to the purchase of resorts, shopping centers, and other commercial properties. In this context, suspicious transactions are those transactions that do not make sense based on a real estate agent's familiarity or other professional's familiarity with the real estate industry and normal business practices.

Be aware of the possibility of relationships between the sellers and buyers of a property who may be colluding to create a paper trail.

Be aware of the possibility of relationships between the sellers and buyers of a property who may be colluding to create a paper trail. The following schemes involving MLRE can involve both buyers and sellers.

1. The use of cash

- Cash used for a deposit or full payment on the purchase of real estate.
- Cash used for a deposit and then withdrawn, with a request for a refund check.
- Cash provided under the table in certain transactions.
- Cash used in new construction or renovations.

This scheme is the focus of FinCEN's Geographic Targeting Orders for metropolitan areas, but in addition to cash, it covers transactions without regular bank financing, which include wire transfers, checks, and monetary instruments.³³

2. The use of shell corporations

³³ For lists of suspicious transactions used in all money laundering schemes see, Federal Financial Institutions Examination Council's Bank Secrecy Act/Anti-Money Laundering Examination Manual, Appendix F: "Red Flags," available at: https://www.ffeec.gov/bsa_aml_infobase/pages_manual/olm_106.htm

The use of shell corporations is very common in MLRE. Illicit funds are deposited into shell corporations and moved out in ways that disguise their origin. Often these schemes involve numerous corporations, companies and trusts and include other sophisticated schemes, such as transactions designed to hide the movement of illicit funds.

3. Mortgages

The use of a regular loan or mortgage is a preferred safe mode where the launderer applies for a mortgage, obtains it, buys the property and settles the mortgage after a short time. Obtaining the mortgage is not a red flag per se, but settling a large newly obtained mortgage could raise suspicions. Criminals can also use complex loans or other obscure means of finance, instead of loans from regular financial institutions.

4. Loan back schemes

These schemes allow criminals to borrow their own illicit funds. These funds are placed in offshore companies which then make a loan to some front man for the purchase of real estate (usually such transactions contain numerous other red flags). Other illicit funds are used to make monthly loan payments. Apart from laundering money, some of the benefits of these schemes include obtaining a valuable real estate asset, which can appreciate, and obtaining rental income, which could be commingled with illicit funds for more money laundering.

5. Indirect payment

This scheme includes the use of a third party to buy the real estate on behalf of money launderers. For example, criminal X gives cash to Y who buys the property under Y's name although the ultimate owner will be X who makes all the decisions about the property.

6. Successive sales

Criminals may further confuse the audit trail by reselling property in quick succession. Often, it is sold at a higher value either to related or acquainted third parties. This gives an appearance of seemingly legitimate profits while the criminal maintains ultimate control over the property.

7. Under valuation

This scheme involves recording the property value on a sale contract which is less than the actual purchase price. The difference between the contract price of the property and its true worth is paid secretly by the purchaser to the seller using illicit funds. The criminal (purchaser) is able to claim the amount disclosed in the contract as legitimate. If the property were sold at the market or higher value, the apparent profits would serve to legitimize the illicit funds.

8. Funding construction and renovation

After purchase, criminals can use illicit proceeds in cash to convert the property to multiple units. Criminals also use illicit proceeds to fund the expenses of constructing or renovating a property.

Overbuilt properties can be a front for fake “cash generating businesses.”

9. Leasing

In an effort to legitimize funds, criminals provide the tenant with illicit funds to cover rent payments either partially or in full. For example, criminal X rents his property to A for \$10,000 per month. Criminal X agrees with A that X will secretly give A \$10,000 to be paid monthly.

10. Purchase of real estate for illicit use

Criminals can purchase real estate for the purpose of using it for housing criminals, growing cannabis, trafficking drugs and persons, and facilitating other money laundering schemes. The proceeds of these activities enable criminals to purchase more real estate.

Red flags are potentially suspicious activities. They may alert us to possible money laundering and terrorist financing schemes. Red flags mean something needs to be questioned or otherwise validated by other parties involved in the transaction, such as real estate agents, attorneys or appraisers.

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Red flags are actions that raise suspicions about the behavior and motivation of the client. They may also be about other parties to the transaction and about the transaction itself, including how the real estate is financed. The presence of a single red flag or even multiple red flags does not necessarily mean that the purchasers or sellers are engaging in money laundering.

1. Red flags in agent-client relationships

Red flags can surface when examining the agent-client relationship. The following questions help identify suspicious activities: How was the client introduced to the agent? Are there other regulated parties, financial institutions or lawyers involved in the sale? What is the method of communication, face to face, phone or email?

2. Red flags related to clients

In this case, red flags might include situations where the purchase amount is not consistent with the client’s income, or where the client has few concerns about the property’s location, condition, quality, price or final inspection. Furthermore, red flags include situations where the address of the client is unknown, false or represents a correspondence address (e.g., “care of” address). Other red flags are related to the property purchased in the name of a nominee, requests for speedy transactions without any reason, links of clients to criminal activity or their connections with criminals.

3. Red flags related to the use of third-party funds

Examples are sales where clients use third-party funds to purchase property where it does not make sense (i.e., a third party is not a parent, sibling, etc.) or sales where clients use several different sources of funds without any logical explanation.

4. Red flags related to overseas ownership

Real estate transactions which are conducted for non-citizens who live in other countries should be carefully examined. This is especially the case for those individuals who do not plan to reside in their home, but have identified another resident to occupy it.

5. Red flags related to legal entities

In this case, red flags include clients represented by a newly created legal entity or a legal entity domiciled in a tax haven or high-risk country; as well as the contribution of real estate to the shared capital of a company without a registered address or permanent establishment open to the public.

6. Red flags related to linked persons

In this case, red flags include various transactions involving the same party; transactions carried out by groups of legal persons who may be related (e.g., through family ties); clients sharing the same nationality as the legal person, its owners, or representatives; clients sharing an address or telephone number; clients or representatives having a common owner or attorney; and entities with similar names.

7. Red flags related to settlement behavior

In this case, red flags include unwillingness of the client to put his or her name on the document that would connect them to the property; requests that the transaction be structured to hide the identity of the true client; a last minute substitute of the purchasing partner's name; and a title for the property in name of a third party.

8. Red flags related to changes

In this case, red flags include unexplained last minute changes in financial arrangements of the transaction; introduction of unknown parties at a late stage of transactions (e.g., arrangements made between purchasers); and transactions where purchaser immediately goes into insolvency after the transaction.

Situations where red flags are intentionally ignored by real estate actors are described as willful blindness. In a broad sense, willful blindness is a situation in which a person seeks to avoid civil or criminal liability by intentionally keeping himself or herself unaware of facts for fear of discovering that the property is criminally derived. This can occur when a person's ignorance of a fact is solely because of a conscious avoidance of the truth.

Actors who can help identify money laundering in the real estate sector include real estate agents, banks, mortgage companies, investment companies, escrow agents, settlement attorneys, title companies, notaries, and appraisers. However, since different countries have very different practices in conducting real estate transactions, certain professionals may be key in one country but not in another.

FinCEN Form 8300 is required for any cash purchase over \$10,000. The importance of real estate agents in identifying money laundering is explained by the fact that they cover all transactions. They also have the best knowledge of the client and a good understanding of normal and suspicious real estate transactions. In this respect, real estate agents represent a large group to regulate in terms of anti-money laundering.

Beneficial Ownership (Gary Kalman, FACT Coalition)

The Financial Accountability and Corporate Transparency (FACT) Coalition is a non-partisan alliance of more than 100 state, national, and international organizations that addresses the challenges of a global economy and promotes policies to combat the harmful impacts of corrupt financial practices. One of the things that the FACT Coalition focuses on is anonymous shell companies that serve as a vehicle for purchasing properties and hiding the identity of final owners.

In the United States, it is easy to form an anonymous company. You simply go online and fill out a form, and you do not have to identify who owns the company, instead you could list corporate formation agents. After the release of the Panama papers, one of the journalists went into a Delaware corporate formation firm and set up a company in the name of her cat Suki.³⁴ While this story is amusing, the consequences are actually very serious. For example, there is a two-storied building in Wilmington, Delaware, that houses 285,000 companies, which serves as an indicator of certain nefarious activities. This is why identifying the beneficial owners of these companies is critically important.

We were literally giving the money to buy the bullets that were being shot at our troops.

In most states, it takes less information to set up a company than it does to get a library card. No state in the United States collects actual beneficial ownership information. A 2014 report, by academics from the University of Texas-Austin, Brigham Young University, and Griffiths University, found that the United States is the easiest place in the world to establish an anonymous company.³⁵ The researchers sent out thousands of inquiries to corporate formation agents in over

³⁴ Del Toro, N. (2016) Watch How Easy It is to Start an Anonymous Shell Company for Your Cat, available at: <https://fusion.tv/story/287187/delaware-cats-shell-company/>

³⁵ Findley, M., et al. (2014). Global Shell Games: Experiments in Transnational Relations, Crime, and Terrorism. Cambridge University Press, p. 74, available at: <http://bit.ly/2uTLptQ>

180 countries with details that should have raised red flags for the recipients. As one example, an agent in Florida responded in an email that “Your stated purpose could well be a front for funding terrorism ... if you wanted a functioning and useful Florida corporation you’d need someone here to put their name on it, set up bank accounts, etc. I wouldn’t even consider doing that for less than 5k a month...”³⁶

The 2016 revelations in the Panama Papers drew a clear picture of the dangers of legal loopholes. A single staff person working for the Panamanian law firm Mossack Fonseca served as the director of more than 10,000 companies.³⁷ This fact points to the importance of the definition of beneficial owners. For example, there are concerns about the definition of beneficial owners in the Customer Due Diligence rule issued by the U.S. Department of the Treasury that only requires identification of beneficial owners with a 25 percent or greater ownership interest. The FACT Coalition has always fought for a fairly broad, encompassing, and strong definition. Such a definition was adopted by the U.S. Senate in the National Defense Authorization Act for Fiscal Year 2018. It defines a beneficial owner “as each natural person who directly or indirectly exercises substantial control over a corporation or limited liability company through ownership interests, voting rights, agreement or otherwise; or has a substantial interest in or receives substantial economic benefits from the assets of a corporation or limited liability company.”

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Anonymous companies have been implicated in a number of specific nefarious activities. *Global Witness* published a whole series of reports uncovering various schemes. They found incidents of human trafficking involving anonymous companies. For example, a Moldovan gang used anonymous companies from Kansas, Missouri and Ohio to trick victims from overseas in a \$6 million-dollar human trafficking scheme.³⁸ In Afghanistan, where the U.S. government relied on contractors and subcontractors on the ground, some companies were anonymously owned through intermediaries by the Taliban.³⁹ We were literally giving the money to buy the bullets that were being shot at our troops. This is a very serious problem. Thus Viktor Bout, a notorious international arms dealer, was using anonymous companies in Delaware, Texas and Florida to fund arms trafficking schemes around the world.

³⁶ *Ibid.*, 98.

³⁷ Johnson, T. (2016, May 10). Did this Panama Papers housekeeper really direct a North Korean arms deal? McClatchy, available at: <http://www.mcclatchydc.com/news/nation-world/national/article76635047.html>

³⁸ *Global Witness*. (2014). The Great Rip Off: Anonymous Company and the Threat to American Interests, available at: <https://www.globalwitness.org/en/campaigns/corruption-and-money-laundering/great-rip-off/>

³⁹ *Special Inspector General for Afghanistan Reconstruction*. (2013). Contracting with the Enemy: DOD Has Limited Assurance that Contractors with Links to Enemy Groups are Identified and their Contracts Terminated, available at: <https://www.sigar.mil/pdf/audits/2013-04-10audit-13-6.pdf>

Another cause for concern is that counterfeit goods are often marketed through anonymous companies. For example, in 2016, four men were charged with racketeering, money laundering and conspiracy for illegally selling counterfeit Denver Broncos NFL sports merchandise through shell companies set up in Colorado.⁴⁰

Finally, a 2017 GAO report raised awareness about another national threat that anonymous companies pose to the United States. Namely, according to the report, “GSA’s lease of space for the FBI field office in Seattle may be an example of GSA leasing high-security space from a beneficial owner who is a politically exposed person.”⁴¹ The GAO review found that the FBI field office in Seattle is ultimately owned by the Taib family involved in corruption scandals in Malaysia.⁴² This is yet another reason to address the problem of money laundering in real estate.⁴³

There is sufficient evidence that this problem is growing all over the world. According to Transparency International, 91 percent of foreign owned properties in London were registered in secrecy jurisdictions.⁴⁴ In 2017, Transparency International assessed 14 new landmark London developments, worth at least £1.6 billion. They found that “4 in 10 of the homes in these developments have been sold to investors from high corruption risk countries or those hiding behind anonymous companies.”⁴⁵ In Manhattan, eight blocks between Lenox Hill and Central Park are nearly 40 percent unoccupied on a daily basis, and on the Upper East Side, more than a quarter of the properties are owned but vacant.⁴⁶ A similar situation is observed in San Francisco and in Miami.⁴⁷ A 2016 story in *The Miami Herald* about the impact of offshore money on the local housing market found that, “the boom also sent home prices soaring beyond the reach of many working- and middle-class families. Locals trying to buy homes with mortgages can’t compete with foreign buyers flush with cash and willing to pay the list price or more.”⁴⁸

⁴⁰ U.S. Immigration and Customs Enforcement. (2016). 4 Colorado Men Charged in Counterfeit Denver Broncos Merchandise Scheme, available at: <https://www.ice.gov/news/releases/4-charged-counterfeit-denver-broncos-merchandise-scheme>

⁴¹ U.S. Government Accountability Office. (2017). Federal Real Property: GSA Should Inform Tenant Agencies When Leasing High-Security Space from Foreign Owners, available at: <https://www.gao.gov/assets/690/681883.pdf>

⁴² Ibid.

⁴³ This issue was also raised by Dr. Louise Shelley, see p. 10.

⁴⁴ Transparency International. (2016). London Property: A Top Destination for Money Launderers, p. 8, available at: <http://www.transparency.org.uk/publications/london-property-tr-ti-uk/#.WrarFH35DEM>

⁴⁵ Transparency International. (2017). Faulty Towers: Understanding the Impact of Overseas Corruption on the London Property Market, available at: <http://www.transparency.org.uk/publications/faulty-towers-understanding-the-impact-of-overseas-corruption-on-the-london-property-market/>

⁴⁶ Lawler, J. (2017, March 27). Money Laundering is Shaping US Cities. *Washington Examiner*.

⁴⁷ FACT Coalition. (2018). Testimony to Senate Judiciary Committee on TITLE Act S. 1454, available at: https://thefactcoalition.org/testimony-to-senate-judiciary-committee-on-title-act-s-1454/?utm_medium=resources/incorporation-transparency

⁴⁸ Nehamas, N. (2016, April 3). How Secret Offshore Money Helps Fuel Miami’s Luxury Real-Estate Boom. *The Miami Herald*.

In efforts to reclaim laundered money, we are currently “a decimal point away from total failure.”

John Cassara, former U.S. Treasury Special Agent

In a report written for the FACT Coalition, John Cassara, a former U.S. Treasury Special Agent, noted that in efforts to reclaim laundered money, we are currently “a decimal point away from total failure.”⁴⁹ His analysis is based on estimates that globally we catch only about 0.1 percent of laundered money. While kleptocrats and other criminal enterprises have updated their tools for the 21st century by utilizing anonymous companies, we are too slow to update our laws to catch them.

Progress on Beneficial Ownership Transparency

Since the Panama papers and the Paradise Papers exposed serious issues related to the use of anonymous companies, there has been a heightened interest and awareness of this problem. As a result, calls for public policy changes are growing. Now, we have a window of opportunity for the Corporate Transparency Act in Congress. The entire financial sector in the United States, including large banks, small banks and credit unions, has signed and sent letters in support of the bill, which changed the nature of the debate.⁵⁰ Banks reported that they spend \$8 billion dollars a year in annual compliance costs. If there was a public registry of beneficial owners, this would help them with their compliance costs.

In addition to traditional support from the law enforcement community, the bill has recently gained supporters from small business groups, which are seeing increasing numbers of anonymous shell companies bidding on contracts and set-aside programs for government contracting. Anonymous companies can always underbid real companies because the former do not actually intend to fulfill the contract. Large businesses and multinational companies are also concerned about their supply chains. Furthermore, in a letter, the National Association of Realtors supported congressional action requiring the collection of beneficial ownership information.

In a separate but related effort, FinCEN has recently renewed its pilot project to collect beneficial ownership information in certain real estate deals in Bexar County (TX), Honolulu (HI), Miami-Dade & Palm Beach County (FL), San Diego, Los Angeles, San Francisco, San Mateo, Santa Clara (CA) and NYC. On March 20, 2018, FinCEN extended GTOs through September 16, 2018. GTOs require all title insurers to acquire and report beneficial ownership information from transactions

⁴⁹ Cassara, J. (2017, August 23). Countering International Money Laundering, available at: <https://thefactcoalition.org/wp-content/uploads/2017/08/Countering-International-Money-Laundering-Report-August-2017-FINAL.pdf>

⁵⁰ The FACT Coalition Joined 43 Organizations to Send a Letter to Reps. Maloney, King, Royce, Waters, and Moore Supporting the Corporate Transparency Act, which will Enable Law Enforcement to Effectively and Efficiently Conduct Investigations. (2017, June 28), available at: https://thefactcoalition.org/joint-letter-from-44-organizations-supporting-the-corporate-transparency-act-h-r-3089/?utm_medium=policy-analysis/letters-to-congress

meeting certain criteria in seven metropolitan areas for high cash finance. In 2017, GTOs were also extended to include wire transfers.

“Too often, funding for national and international crime is facilitated through anonymous businesses and corporations. The United States must do more to cut off the ability of criminal enterprises to launder money through anonymous shell companies.”

Steve Pearce, Chair of the Terrorism and Illicit Finance Subcommittee

The Corporate Transparency Act has bipartisan support and, even more important, support from the leadership in Congress. According to Steve Pearce, Chair of the Terrorism and Illicit Finance Subcommittee: “Too often, funding for national and international crime is facilitated through anonymous businesses and corporations. The United States must do more to cut off the ability of criminal enterprises to launder money through anonymous shell companies.”⁵¹ Mike Crapo, Chairman of the Senate Banking Committee, expressed a similar opinion during the hearing on *Combating Money Laundering and Other Forms of Illicit Finance*, by indicating that “getting this right, saves lives. Period. This is a bi-partisan issue. This is both an American and global issue.”⁵² This is a first-step foundational reform that needs to pass. Without it, it is impossible to stop money laundering in the world.

Prosecution of Cases (Clay Porter, Managing Director, Navigant)

The Justice Department’s (DOJ) pursuit of MLRE comes through two broad overlapping categories of asset forfeiture (asset recovery) and criminal prosecution. Sometimes the case can start out as a criminal investigation and then move into asset recovery. In some instances, the DOJ uses *the Kleptocracy Asset Recovery Initiative* to forfeit the proceeds of corruption by foreign officials and, where appropriate, to use recovered assets to benefit the people who were harmed. For example, recently, the DOJ announced the filing of civil forfeiture complaints seeking the forfeiture and recovery of approximately \$540 million in assets associated with an international conspiracy to launder funds misappropriated from a Malaysian sovereign wealth fund.⁵³ As the DOJ’s press release states: “the members of the conspiracy – which included officials at 1MDB, their relatives and other associates – diverted more than \$4.5 billion in 1MDB funds. Using fraudulent documents and representations, the co-conspirators allegedly laundered the funds

⁵¹ Clark, C. (2017, July 1). Pearce Statement on the Corporate Transparency Act. *Los Alamos Daily Post*, available at: <https://www.ladailypost.com/content/pearce-statement-corporate-transparency-act-1>

⁵² U.S. Senator Mike Crapo of Idaho (2018, January 17). Crapo Convenes Hearing on Reforming and Strengthening Bank Secrecy Act Enforcement, available at: <https://www.crapo.senate.gov/media/newsreleases/crapo-convenes-hearing-on-reforming-and-strengthening-bank-secrecy-act-enforcement>

⁵³ Department of Justice. (2017). U.S. Seeks to Recover Approximately \$540 Million Obtained from Corruption Involving Malaysian Sovereign Wealth Fund, available at: <https://www.justice.gov/opa/pr/us-seeks-recover-approximately-540-million-obtained-corruption-involving-malaysian-sovereign>

through a series of complex transactions and shell companies with bank accounts located in the U.S. and abroad.”⁵⁴

Shell corporations are used to commit all kinds of crimes. They can also act as a front for sanctioned countries or persons. For example, in June 2017, Joon H. Kim, the Acting United States Attorney for the Southern District of New York, announced that “a federal jury ... found the 36-story office building at 650 Fifth Avenue, worth at least \$500 million, and other real property and bank accounts forfeitable to the United States as proceeds of violations of the Iran sanctions and property involved in laundering the proceeds of those sanctions violations.”⁵⁵ This is a seminal case that really sets a precedent for the U.S. government to use all available tools to look for corrupt proceeds.

Illicit funds often end up in the real estate market. To address this problem, FinCEN issued Geographic Targeting Orders (GTOs) to cover specific geographic areas whose real estate attracts investors from all over the world. These areas are the ones that have seen the greatest influx of corrupt money coming to the United States from overseas.

It is worth mentioning some of the complexities related to MLRE, such as capital flight. Sometimes, investigators can identify red flags related to moving money through shell corporations to buy real estate. But if this money can be traced to individuals who are simply moving their legally acquired capital from other countries, like Venezuela, where they believe it may not be safe, it is not a specified unlawful activity. Moreover, it might constitute a common practice in such countries to move out massive amounts of money in this way. The government might not be able to do anything about it unless there is additional legislation covering such issues as capital flight.

It is also noteworthy that on the criminal side, it is not likely that a real estate developer or a real estate agent is going to be prosecuted for money laundering. The DOJ has to prove that the agent or developer knew it was “dirty” money, which is difficult to do. The doctrine of willful blindness raises legal issues concerning objective evidence that constitutes knowledge. When prosecutors are making their decisions to use willful blindness, they might not have all the evidence they need for a direct criminal *mens rea*. In such cases, the government often uses civil forfeiture.

In terms of investigation, MLRE is similar to any other case. It often starts with a tip coming, from a newspaper article in the *Wall Street Journal*, *Moneylaunders.com* or some blog. The GTOs also proved to be valuable in providing tips since they allowed the government to access information about real estate transactions that had not been available previously. For example, if

⁵⁴ Ibid.

⁵⁵ Department of Justice. (2017). Acting Manhattan U.S. Attorney Announces Historic Jury Verdict Finding Forfeiture of Midtown Office Building and Other Properties, available at: <https://www.justice.gov/usao-sdny/pr/acting-manhattan-us-attorney-announces-historic-jury-verdict-finding-forfeiture-midtown>

a GTO shows a cash purchase through limited liability companies, the FBI can check if purchasers or their representatives were subjects of previous SARs filed by financial institutions. Even one SAR related to the information in GTOs can open up a huge investigation.

Most money laundering schemes in real estate involve anonymous shell corporations. The government often have serious challenges in tracking down the money through those shell corporations due to limited human resources. This is why it is important to develop public-private partnerships with financial institutions, real estate actors, and all participants involved in shell corporations' transactions. Without such partnerships, government agencies are not able to collect all necessary information to launch and proceed with MLRE investigations. Currently, FinCEN has a set of various programs for public-private partnerships and special programs for information exchange. However, there is a need for more cooperation in a more centralized way to facilitate information sharing between the government and industry on topics related to anti-money laundering and other financial crime issues.

In this respect, banks, the government, and real estate agents should talk to each other freely. In 2017, the Clearing House (TCH) released a report that analyzes the current effectiveness of the AML/CFT regime and proposes a series of reforms to remedy certain gaps in this sphere.⁵⁶ For example, the TCH report recommends that FinCEN should propose a safe harbor rule allowing financial institutions to innovate in a Financial Intelligence Unit (FIU) “sandbox” without fear of examiner sanction.⁵⁷ FinCEN has already developed some initiatives to facilitate more effective information sharing between the government and financial institutions. The FBI Money Laundering Unit in the Criminal Investigative Division is also very active in that space in terms of innovative techniques and support for public-private partnerships.

The TCH report recommends that FinCEN should propose a safe harbor rule allowing financial institutions to innovate in a Financial Intelligence Unit (FIU) “sandbox” without fear of examiner sanction

⁵⁶ The Clearing House. (2017). A New Paradigm: Redesigning the U.S. AML/CFT Framework to Protect National Security and Aid Law Enforcement, available at: <https://www.congress.gov/115/crpt/hrpt404/CRPT-115hrpt404.pdf>

⁵⁷ Ibid., p. 5.

PANEL FOUR: New Approaches to Countering MLRE in the United States

Moderator: Dennis Lormel, DML Associates, LLC

Abstract: This panel is devoted to discussion of proactive approaches that could be used by regulatory agencies, law enforcement, the financial industry, and the real estate sector to counter money laundering. The panel specifically focuses on the development of public-private partnerships between these sectors.

Use of Bank Wire Transfers and Bank Surveillance Programs (Les Joseph, Wells Fargo)

The financial sector plays a critical role in anti-money laundering. The Bank Secrecy Act of 1970 (BSA) requires financial institutions in the United States to provide certain kinds of information to the government in order to assist government agencies to detect and prevent money laundering. In particular, the act requires financial institutions to keep records and file currency transaction reports (CTR) of cash transactions of more than \$10,000, as well as to file suspicious activity reports (SAR) to alert law enforcement when the bank detects suspicious activity.

Banks can play a significant role in addressing MLRE. As stated above, banks are required to file SARs when they identify suspicious activity occurring in or through the bank. However, banks can also supplement their SAR-filing responsibilities by setting up an intelligence group that can collect and analyze information both from inside the bank and from outside or public sources. In the case of international financial institutions, intelligence groups can learn a tremendous amount from their team members located around the world, and put together intelligence reports to keep all members informed of new money laundering typologies in order to stay ahead of them.

Since banks are on the frontline of money laundering, they are often able to see and identify possible money laundering trends before the government. A good example is a trend identified a few years ago by Wells Fargo related to large amounts of money coming from Turkey being sent to the United States and other parts of the world. Wells Fargo was concerned about this activity, and initiated discussions on this issue with several government agencies. Information like this can be very valuable to the government, and indicates the importance of public-private partnerships in the financial sector that goes far beyond the filing of SARs.

In this context, the mitigation of MLRE is enhanced by the development of public-private partnerships in the area of information exchange between government agencies and financial institutions. This process should be mutually beneficial, with government agencies sharing information with banks, and financial institutions providing information to the government as discussed above. Financial records can help law enforcement trace activities related to MLRE or any other crimes that they are investigating. To be able to stay ahead of new criminal trends, public

and private actors should work together to solve this common problem. In terms of proactive approaches to MLRE, it is critically important to build sustainable partnerships between various industries.

Many investigations by financial institutions involve money laundering through real estate either incidentally or directly. There are different sources of information about such cases. For example, one large investigation involving real estate was initiated by a Wells Fargo investigator based on an article in *The Miami Herald* about a condo flip. In other cases, bank employees may file referrals when they detect unusual activity.

Obviously, if illicit activities involve their customers, banks have a better chance of detecting such activities because they have extensive information about their customers. However, large international banks also have correspondent banking relationships with thousands of financial institutions around the world. This is why a significant number of transactions do not necessarily involve banks' direct customers. In such cases, U.S. financial institutions also monitor correspondent bank networks, which include foreign banks that use the U.S. bank to transact operations in U.S. currency on behalf of their customers. U.S. financial institutions are required to apply due diligence to correspondent accounts maintained for foreign financial institutions.

Many purchases of high-end real estate involve money coming from other parts of the world, often transferred from shell companies to banks' customers who might be an attorney, a title company or a real estate agency. Since large international banks handle thousands of wires transfers every day, there would probably be nothing unusual about such a transaction that would trigger an alert. This is why real estate agents, attorneys, title companies and other actors who are involved in real estate transactions should be subject to anti-money laundering requirements similar to banks. In the context of MLRE, the best information sources are often those actors who are directly involved in setting up corporate entities or facilitating real estate transactions. Although banks have substantial responsibilities related to anti-money laundering, they need assistance from other private actors involved in real estate transactions in order to more effectively address this threat.

Improved Use of New Technology in Countering Money Laundering (Ted Moorman, Consultant)

This presentation is devoted to recommendations related to the development of a regulatory information system in the area of money laundering in real estate. It starts with the following question: what is the minimum amount of information that potential real estate buyers need to reveal to regulatory bodies? In other words, what is the information quantity and who are the minimum number of parties to whom this information needs to be revealed? I will focus mostly on the quantity question of how much information should be revealed. Because the current AML system has been criticized for its inability to prevent illegal money from coming into the system

as opposed to detection or seizure, my focus is on preventing money laundering in real estate. If money is to be prevented from being laundered in real estate, it must be stopped at the entry gate. This raises the question of who the gatekeepers are. In a real estate transaction, it could be corporate formation agents, attorneys, real estate agents, title insurance companies, and other related actors.

Regulations need to define both incentives and disincentives for those gatekeepers, as well as the consequences of ignoring money laundering in real estate. The reasons why gatekeepers may wish to ignore money laundering include a reduction in their clients' privacy when anonymity is forfeited and significant resources necessary for compliance with reporting requirements. For example, if a gatekeeper complies with reporting requirements, it could result in fewer earnings from individuals who wish to remain anonymous for legal or illegal reasons. Also, compliance resources could be spent on more lucrative activities, for example, generating more business. In addition, compliant gatekeepers who frequently encounter possible money launderers or suspicious activities could be subject to increased regulatory scrutiny.

As for the gatekeepers' incentives to be vigilant in preventing money laundering, compliance gives them a chance to serve a broader population, not just their clientele. In this case, they remain on the right side of the law and maintain a good reputation. If the compliance burden is small and a high level of privacy is maintained, the benefits of compliance might outweigh potential penalties for alternative behavior. Gatekeepers can help maintain an economy that rewards hard work and legitimate ingenuity by keeping "dirty" money out of the economic system. For many gatekeepers, their business models are based on a steady flow of real estate transactions. They would be less prone to disruption from inflated real estate prices if laundered money is kept out of the system. Finally, they would have fewer interactions with criminals.

In this context, a first recommendation is to establish a regulatory information system for money laundering in real estate that considers privacy, efficiency, security, and justice. What information might regulatory bodies use to prevent money laundering? Before answering this question, it is worth noting that regulatory agencies include both government agencies and self-regulatory organizations funded by their members. Self-regulatory organizations would liaise with a government agency. For example, the Financial Industry Regulatory Authority, Inc. (FINRA) liaises with the Securities and Exchange Commission. The identification of the minimum sufficient set of information needed by these regulatory bodies to prevent MLRE depends on where most criminal activity occurs. For example, if an illegitimate real estate transaction is more likely to use cash, to be above a certain price threshold, to involve politically exposed persons or anonymous legal structures, and to avoid recognized investors or recognized ongoing businesses, then those transactions need to be submitted to further scrutiny.

The responsibility to collect information about such transactions can be shared by the regulatory body, the gatekeeper and the potential buyers. For example, for cash transactions at high prices, the gatekeeper could ask the client to enter information into a database, with a set of questions

related to legal entities or natural persons behind these purchases. The regulatory body would verify the legitimacy of the legal entity or natural person, and the gatekeeper would be notified to proceed with the transaction or ask for additional information, such as a proof of legitimate source of funds. In this regard, a compliance investigation would be aligned with a normal sequence of a real estate transaction. Reporting transactions would be assigned a unique identifier placed on documents, such as tax filings. If law enforcement discovers suspicious activities associated with the property, the unique identifier would facilitate further information verification.

For most reported transactions, the collected information would include only the identity of the individual or legal structure buying the property, the five-digit zip code and the date of information submission. This constitutes a low information quantity. If it is shared only between the individual and the regulatory body, it would also constitute potentially low-information access. The gatekeeper would not submit any information and would not need to view any information. Information submission by the client to the regulatory body would be an important entry gate to the transaction, and once buyers submit their information, the gatekeepers would merely receive confirmation that the required information was entered and submitted. This approach could help curb money laundering in real estate.

A second recommendation is to provide gatekeepers with incentives to prevent money laundering in real estate. Those gatekeepers who provide additional information leading to the prevention, detection or seizure of illicit money could be rewarded by money awards, recognition, a lower regulatory burden, safe-harbor provisions and other protections similar to those provided to financial institutions. It is important to ensure that a high level of privacy is maintained for information submitted by gatekeepers and as much feedback as possible is provided to them about their activities.

A third recommendation is to make it possible for gatekeepers to understand clients' risks and interact with data on potential real estate money launderers. This recommendation requires the existence and maintenance of an electronically stored and computationally analyzable graph database for criminals, threat actors, and politically exposed persons. For those gatekeepers who submitted additional information on real estate transactions, an entity risk score for their clients should be provided, and the gatekeepers should be able to understand how that score is both constructed and affected.

A fourth recommendation is to use standardized reporting and formatting of data related to money laundering in real estate, that allows gatekeepers to anonymously submit additional information. For example, it could allow gatekeepers to enter additional information for a simple checkbox or dropdown interface that would generate a risk score in a transaction. In addition, an option could be provided for text entry. It could be further analyzed through natural language processing. The collected information could be subjected to further analysis, useful for the prevention, detection and seizure, of illicit money. The standardization will enable computational efficiency; text entries

need to be machine readable and human readable. Natural language processing and automated methods can assist in populating existing fields and then suggesting new fields.

The last recommendation is to use data science to effectively analyze information related to money laundering in real estate. It is important to explore the capabilities of data science to prevent, detect and seize money laundering in real estate through suspicious pattern recognition, anomaly detection, network analytics, attack path analysis, and predictive analytics. The focus of these analytical techniques should be on providing warnings and risk measurement well in advance of a transaction closing. Relevant regulatory bodies need to be equipped with data scientists and data scientific software necessary for this task. The experience and the results from this data analysis need to be shared across all regulatory bodies involved in preventing money laundering in real estate.

Asset Forfeiture (Debra LaPrevotte, The Sentry)

Billions of dollars are laundered every year in real estate. The destinations of choice include the United States, Australia, the United Kingdom, and the United Arab Emirates. The first three countries have excellent asset forfeiture laws. Money laundering can be defined as any attempt to hide, disguise or conceal the true nature, origin or intent of money or assets. Registering a property in the name of a straw buyer or a family member is one method of money laundering. Most forfeiture laws allow for the seizure of an asset purchased with the proceeds of criminal activity and/or property involved in a money laundering transaction.

In terms of civil forfeiture versus criminal forfeiture in the United States, the former can cover anything: a car, house, horse, cash, bank account, yacht or aircraft. It does not matter who bought the house, what matters is whether the proceeds are derived from criminal conduct. Criminal forfeiture implies that if the defendant is found guilty, the asset is forfeited at sentencing as part of his punishment. However, criminal forfeiture is often problematic. If the defendant is found not guilty, the property cannot be seized.

There are many cases where illicit actors abuse their power and position to accumulate significant wealth that is then laundered through real estate with the aid of offshore jurisdictions. Just to give one example, it is alleged that between 2011 and 2015, Nigerian businessmen Kolawole Akanni Aluko and Olajide Omokore conspired to pay bribes to Nigeria's former Minister for Petroleum Resources, Diezani Alison-Madueke, who oversaw Nigeria's state-owned oil company. In return for these improper benefits, Alison-Madueke used her influence to steer lucrative oil contracts to companies owned by Aluko and Omokore. According to the Department of Justice, "the proceeds of those illicitly awarded contracts were then laundered in and through the U.S. and used to purchase various assets subject to seizure and forfeiture, including a \$50 million condominium located in one of Manhattan's most expensive buildings – 157 W. 57th Street – and the Galactica

Star, an \$80 million yacht.”⁵⁸ The Department of Justice filed a civil complaint seeking the forfeiture and recovery of approximately \$144 million in assets that are allegedly the proceeds of foreign corruption offenses and were laundered in the United States.⁵⁹

Another example is Nguema Obiang, the son of Equatorial Guinea’s President Teodoro Obiang Nguema Mbasogo, who received an official government salary of less than \$100,000 but amassed more than \$300 million worth of assets through corruption and money laundering. In 2014, the Department of Justice reached a settlement of its civil forfeiture cases against assets in the United States owned by Nguema Obiang that he purchased with the proceeds of corruption. Under the terms of the settlement, Nguema Obiang must sell a \$30 million mansion located in Malibu, California, a Ferrari automobile and various items of Michael Jackson memorabilia purchased with the proceeds of corruption.⁶⁰

Such cases often require a delayed approach to forfeiture of real estate by law enforcement in order to minimize the costs associated with maintenance of seized properties. For example, in the case of real estate purchases, if a property is for sale, instead of seizing properties, law enforcement often let it proceed to sale and seizes the proceeds from their sale. In corruption cases, the US works with foreign partners to ensure that recovered funds are returned to the victim country with extreme transparency. For example, in the case of Kazakhstan, the United States filed a settlement agreement, which incorporates a series of international agreements authorizing the release of the recovered funds to the BOTA Foundation, a new Kazakh foundation required to be independent of the government. In a criminal case, the funds are returned to the financial victims of a crime. In drug cases, the United States keeps the money.

The Financial Action Task Force sets international standards in the fight against money laundering and terrorist financing. In 2018, FATF revised its 40 Recommendations. The Recommendations are used by more than 180 governments to combat money laundering. In terms of strengthening forfeiture laws, the Department of Justice has resident legal advisors (RLAs) at many of the embassies. Their job is to assist with the development of strong laws. NGOs and civil society can also assist in pushing for better forfeiture and anti-corruption laws. Finally, an important actor in this arena is the Basel Institute on Governance, which is an independent not-for-profit competence center working around the world with the public and private sectors to counter corruption and other financial crimes and to improve the quality of governance.

⁵⁸ Department of Justice. (2017). Department of Justice Seeks to Recover Over \$100 Million Obtained From Corruption in the Nigerian Oil Industry, available at: <https://www.justice.gov/opa/pr/departments-justice-seeks-recover-over-100-million-obtained-corruption-nigerian-oil-industry>

⁵⁹ Ibid.

⁶⁰ Department of Justice. (2014). Second Vice President of Equatorial Guinea Agrees to Relinquish More Than \$30 Million of Assets Purchased with Corruption Proceeds, available at: <https://www.justice.gov/opa/pr/second-vice-president-equatorial-guinea-agrees-relinquish-more-30-million-assets-purchased>

CLOSING SESSION: Moving Forward (Policies and Strategies) moderated Moderators: Louise Shelley, Director of TraCCC, and David Williams, Director of COPI

Abstract: This concluding panel is devoted to brainstorming new strategies and policy recommendations for government, law enforcement, private, and nonprofit actors on how to work together to mitigate money laundering in real estate.

List of recommendations

STRATEGY & CONSENSUS BUILDING

- ***Advocate for legal responses to address current gaps in legislation.*** The lack of beneficial ownership transparency is the most important single factor facilitating MLRE in the U.S. Providing a legislative basis for transparency is essential for all other AML reforms as well, and beneficial ownership transparency should be at the top of the advocacy agenda.
- ***Rethink the roles of gatekeepers and information needs in countering MLRE.*** The policy dialog has mainly been about whether real estate professionals should be required to file SARs. We need to step back, analyze the information needs for law enforcement to fight MLRE, and consider whether automated systems or other actors could better provide some or all of this information.
- ***Develop different strategies to target specific segments of the real estate market.*** Currently, the FinCEN GTOs focus on title insurance companies with respect to high-end real estate transactions. There is no mention of real estate agents. And there is evidence that low-end real estate is also targeted by money launderers. Therefore, strategies to combat this problem should be tailored to specific segments of the real estate market.
- ***Look at the Canadian experience.*** Canada also has serious MLRE problems and a market structure that is similar to that of the US, and has implemented a system whereby real estate professionals have substantial compliance obligations concerning MLRE. How is this playing out? What are the benefits and drawbacks?

RESEARCH AND TRAINING

- ***Raise awareness of the problem of MLRE and its impact in different communities.*** There is insufficient understanding of the cost of MLRE to real estate actors, local communities and the economy as a whole. Although commonly believed to be a problem mainly in high priced residential markets, MLRE also does considerable damage in some low- income communities and further research is needed to document this issue.

- ***The issue of money laundering into commercial real estate needs more attention.*** More research is needed in this area, and commercial real estate stakeholders need to be part of the dialog on MLRE
- ***Develop comprehensive mitigation plans for stakeholders.*** It is important to deconstruct the process of MLRE, identify vulnerabilities and provide guidance on red flags that can help real estate actors identify suspicious transactions and report them to authorities.
- ***Education and training of real estate professionals are critical for combating MLRE.*** Develop a tailored webinar based training program for real estate professionals, with a range of speakers including AML specialists, real estate investors, and law enforcement to ensure effective collaboration and exposure. Webinars could be combined with follow-up targeted training in high-risk markets on subjects such as detecting wire transfer fraud, and learning about new technologies and methodologies for due diligence.

NEW TECHNOLOGY AND ANALYTICS

- ***Develop human skills and strengthen tech capacities to combat MLRE.*** Criminals are constantly looking for innovative ways and new schemes of money laundering. Financial institutions and other actors should invest resources into identifying new criminal trends as early as possible.
- ***Further develop monitoring systems in the financial sector,*** including the use of artificial intelligence. In real estate, it could take form of self-imposed industry software capable of rating transactions' risk assessments, with an automatic referral to law enforcement on high-risk purchases.
- ***Increase information sharing between government and the private sector through the development of a regulatory information system.*** This system should involve key real estate actors and gatekeepers, such as corporate formation agents, attorneys, real estate agents, title insurance companies, and other related actors.
- ***Use new analytical tools to target money launderers in innovative ways.*** It is important to develop and apply different techniques, including suspicious pattern recognition, anomaly detection, network analytics, attack path analysis, and predictive analytics.
- ***Inform law enforcement about new research and high-tech tools that are useful for investigations.*** There are informational gaps regarding new investigative techniques that need to be filled.

PUBLIC-PRIVATE PARTNERSHIPS

- ***Develop public-private partnerships (PPP) in the sphere of anti-money laundering in real estate.*** It is important to introduce legislative incentives for the development and implementation of PPP in this arena. It is also necessary to remove barriers to PPP that often exist within agencies and private organizations.

- ***Engage real estate actors in policy discussions and the implementation of specific anti-money laundering programs.*** Currently, real estate agents are not covered by the Bank Secrecy Act and are not required to file suspicious activities reports. It is important to invite their representatives to discussions about their involvement and education on anti-money laundering programs in real estate.

TACKLING THE GLOBAL DIMENSION OF MLRE

- ***Follow the money.*** Asset seizures play an important role in AML since they hurt criminals economically and disrupt their operations. It is also critically important to use the recovered assets to benefit the people who were harmed.
- ***Strengthen international cooperation in this arena.*** MLRE is a global problem involving both developed and developing countries around the world. Therefore, international cooperation is of critical importance for MLRE prevention.
- ***Address the issue of kleptocrats moving corrupt proceeds around the world.*** Illicit money often originates from contemporary kleptocratic regimes. Therefore, sanctioning of kleptocrats engaged in corruption and human rights violations should be linked with anti-money laundering in real estate.

APPENDICES: Working Lunches

1. What Can We Learn from the Experience of FINTRAC in Canada? (Sandra Desautels, Navigant, Director Global Investigations & Compliance Practice)

The Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) is Canada's financial intelligence unit. Its mandate is to facilitate the detection, prevention and deterrence of money laundering and the financing of terrorist activities, while ensuring the protection of personal information under its control.

Financial entities in Canada must fulfill specific obligations under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA) and associated Regulations to help combat money laundering and terrorist financing.⁶¹ The legislation also covers real estate developers, real estate brokers and sales representatives. Under the PCMLTFA, their specific obligations include implementing a comprehensive and effective compliance program. Real estate brokers, sales representatives, and real estate developers must implement the following steps:

- Appoint a compliance officer responsible for the implementation and oversight of the compliance program;
- Develop and apply written compliance policies and procedures that are kept up to date and approved by a senior officer;
- Apply and document a risk assessment, including mitigation measures and strategies;
- Develop and maintain a written training program for employees; and
- Review the compliance program (policies and procedures, risk assessment and training program) every two years for the purpose of testing its effectiveness.

Real estate brokers, sales representative, and real estate developers must verify the identity of clients for certain activities and transactions covered by the PCMLTFR. They are also required to complete reports about certain transactions and property and submit them to FINTRAC, including suspicious transaction reports (STRs), large cash transaction reports (LCTRs), and terrorist property. Finally, real estate developers, brokers and sales representatives are required to keep certain transaction and client identification records.

FINTRAC is responsible for receiving and reviewing reports (STRs and LCTRs), conducting examinations, issuing administrative monetary penalties for non-compliance, and referring matters to law enforcement domestically and internationally. FINTRAC also provides clarification and guidance on issues that impact the ability of reporting entities to maintain a strong compliance regime. For example, in 2016, FINTRAC issued a special report on *Indicators of Money Laundering in Financial Transactions Related to Real Estate*.⁶² This report contains a list of

⁶¹ Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA) is available at <http://laws-lois.justice.gc.ca/eng/acts/P-24.501/>

⁶² FINTRAC. (2016). Operational Brief: Indicators of Money Laundering in Financial Transactions Related to Real Estate, available at: <http://www.fintrac-canafe.gc.ca/guidance-directives/overview-apercu/operation/real-eng.pdf>

indicators that are intended to assist reporting entities involved in real estate transactions to meet their obligations to report suspicious transactions related to the commission or attempted commission of a money laundering or terrorist activity financing offence. The report also provides real cases as illustrations of how these indicators might help raise suspicions in residential real estate.⁶³ An advantage of the case studies provided by FINTRAC relates to the fact that they help reporting entities find their own risks and vulnerabilities associated with exploitation for money laundering and terrorist activity financing, and implement the necessary mitigation measures and strategies.

2. Writing an Effective Suspicious Activity Report (Steve Gurdak, Washington/Baltimore High Intensity Drug Trafficking Area (HIDTA), and Ed Rodriguez, Anti-Money Laundering Consultant)

A suspicious activity report (SAR) is a mechanism for the U.S. financial industry to report suspicious financial activities to federal, state, and local law enforcement. This is required by Bank Secrecy Act (BSA) laws in the United States and regulated by the U.S. Department of the Treasury Financial Crimes Enforcement Network (FinCEN). In addition, FinCEN regulates the filing of Currency Transaction Reports (CTRs), which are mandatory declarations that all financial institutions (FIs) must file when their customers transact more than \$10,000 in currency. SARs are highly sensitive and confidential. These reports, and their supporting materials can be used as investigative leads but cannot be disclosed. A subpoena, or other legal process, is needed for these materials to be used as actual evidence.

Since crime is generally motivated by financial gain, it is important to investigate criminal activity from a financial and business mindset. However, many law enforcement officers traditionally operate with a “public safety” mindset. This means that officers are often more concerned with preventing the actual criminal activity and removing the offending individuals than concentrating on the illicit financial flows. This disconnect between policing and the financial industry makes the SAR reporting process very important. It is the financial institutions, not law enforcement, who have visibility into financial flows. Also, financial institutions know when their customers conduct financial activity that is out of pattern.

It is important for SAR filers to understand the financial crimes investigation process. One strategy for investigating financial crimes is examining “money laundering in reverse,” accounting for the suspect’s overall financial activity. For example, it can be useful to examine how a suspect pays for his or her necessities, such as food or shelter. In one investigation, a drug dealer asked customers to pay for drugs with checks leaving the payee blank. The dealer paid his utility bills by writing in the electric and water company as the payee on his customers’ checks. SARs generally report when a customer has transactions that are not normal.

⁶³ Ibid., pp. 7-9.

In terms of money laundering techniques “structuring” or “smurfing” is one of the most commonly observed activities. Structuring is purposely splitting up or making multiple cash transactions of \$10,000.00 or less to avoid the CTR reporting requirement. Structuring is a criminal offense and when detected requires the filing of a SAR. Despite being common, enforcement of structuring violations varies by jurisdiction.

In the U.S., financial institutions and other entities regulated by FinCEN are required to file SARs. This includes financial institutions, money services businesses (MSBs), and casinos. SARs are filed online through the FinCEN portal. The financial institution fills out the name of the institution, the amount of money involved, and the names of the entity or individual involved in the suspicious financial transaction. The reporter also selects standard descriptors of the suspicious activity. Some examples are insider trading, structuring, money laundering, terrorism financing, or corruption. The reporting institution can select multiple descriptors. Furthermore, the filer must report the RSSD number, which is a unique identifier assigned to financial institutions by the American Banking Association. The section titled “Cumulative Amount of Money” is only applicable if the SAR is reporting continuing activity from a previous SAR filing.

One of the most important components of a SAR is its narrative section. This is an open entry field for the financial institution to describe the suspicious activity in detail. The filer should explain why the activity is out of pattern for this customer in layman’s terms. It is also helpful for the filer to think about how this activity could lead to a criminal investigation. This is important because law enforcement agencies have limited resources, and generally pursue investigations that will lead to successful prosecutions. Also, the wording is very important because law enforcement agencies do not have the time to review every single SAR. Therefore, the agencies run queries based on key words relating to their investigation. For example, it is possible that someone investigating human trafficking might query the FinCEN portal for “prostitution.” One common mistake that SAR filers make is to list out every single financial transaction in the narrative section. This can be listed in a separate spreadsheet.

3. MLRE Training Needs for the Real Estate Community (Christie DeSanctis, The National Association of REALTORS®, and James Wright, ACAMS)

Tailored training

Tailored training is becoming increasingly important for realtors and other members of the real estate community including, appraisers, insurers and attorneys and escrow agents who frequently do not have access to all the information they need, and do not always know what to do with the information they have, when they do have it. The National Association of REALTORS® has published a guide for its members, Anti-money Laundering Guidelines for Real Estate Professionals and provided webinars on the subject. However, session attendees believe training needs to be tailored differently for realtors in different markets, because some operate in situations where there is a high risk of coming into contact with a money laundering transaction, and others

operate in areas where the risk is quite low. An example of a high-risk situation would be a real estate transaction taking place in an area covered by Geographic Targeting Orders (GTOs), which require title insurance companies to reveal the beneficial owner associated with shell companies that are purchasing property.⁶⁴ There is concern that realtors may not have the knowledge necessary to act according to such money laundering situations. From a law enforcement perspective, there are concerns that many such cases go unnoticed if realtors do not have the knowledge to recognize and report them. Another concern is that even realtors who recognize incidents of money laundering may not recognize what steps they should take when they encounter possible instances of MLRE.

Education and Methods

There are a number of potentially successful methods for tailored training. One possibility would be to use webinar-based training, with a range of speakers including anti-money laundering specialists, real estate investors, and law enforcement to ensure effective collaboration and exposure. These webinars could be combined with follow-up targeted training in high-risk markets, such as in Florida and New York where money laundering through real estate is especially prevalent. This training should also discuss the methodology on due diligence for real estate agents and associated personnel. Webinars and targeted training should also address subjects such as emerging technologies which create new hurdles for realtors, including identifying the required information related to clients during transactions and detecting wire transfer fraud. Training, whether administered by webinars or other vehicles should also include trainings involving commercial real estate, which presents its own challenges to members of the real estate community.

4. How Virtual Currency Works and How It Can Be Used to Launder Money (John Roth, Chief Compliance & Ethics Officer, Bittrex)

Bittrex is a United States-based cryptocurrency exchange headquartered in Seattle, Washington. The company was founded in 2013 by Bill Shihara and two business partners, all of whom previously worked as security professionals at Microsoft.

What makes cryptocurrencies unique is that they are incorruptible and immutable. Bitcoin and other virtual currencies are payments for building a blockchain, which is a continuously growing list of records, called blocks, linked and secured using cryptography. Blockchain transactions are transparent, meaning anyone can view these transactions online. For example, the website *blockchain.info* contains a tree chart that shows the full chain of transactions. This is drastically different from transactions made via wire transfers or international banks where obtaining such

⁶⁴ NAR 2012, Anti-money Laundering Guidelines for Real Estate Professionals, available at: <https://www.nar.realtor/articles/anti-money-laundering-guidelines-for-real-estate-professionals>

⁶⁵ FinCEN (2017). FinCEN Renews Real Estate ‘Geographic Targeting Orders’ to Identify High-End Cash Buyers in Six Major Metropolitan Areas, available at: <https://www.fincen.gov/news/news-releases/fincen-renews-real-estate-geographic-targeting-orders-identify-high-end-cash>.

information would be difficult and time consuming. There are also significant differences between tokens which indicate units of value issued by private entities. Mostly, they involve variations in the speed of the coin, which represents a payment for the block. It is noteworthy that these transactions are much slower than credit cards. Ultimately, the value of the token is correlated to the value of the blockchain.

Cryptocurrency exchanges, such as Bittrex, are not insured. Once a digital wallet is lost, it is impossible to recover it. Cryptocurrencies represent a new area for policy makers and regulators, including the IRS, which considers these currencies as property. One particular challenge relates to the difficulty in accurate reporting because cryptocurrencies can only be tracked if being cashed out or spent. Despite regulatory gaps in this area, United States-based exchanges, including Bittrex, are subject to the same processes as banks and other financial institutions. This means that law enforcement can freeze or seize assets of suspicious or bad actors. To prevent money laundering, Bittrex and other United States-based exchanges use positive customer identification and risk ratings, asking who their customers are and how much their transaction volumes are. The use of blockchain or smart contracts can drastically improve the reliability of decentralized peer-to-peer transactions. Through the use of computer protocol, these self-executing contracts facilitate, verify, and automatically enforce digital contracts, allowing for more transparent and credible exchange of assets, while also avoiding the necessity of intermediaries or brokers.

5. GAO Study on the National Security Impact of Foreign Beneficial Ownership of Office Space Leased by U.S. Government Agencies (Toni Gillich, Keith Cunningham, and Robert Homan, GAO)

The Government Accountability Office (GAO) is the audit and investigative arm of Congress. Recently, the organization conducted a report on the ownership of buildings leased by the federal government.⁶⁵ The importance of this report is underlined by the fact that since 2008, the federal government has increasingly moved to lease more buildings. Currently, the General Services Administration (GSA) leases over 51 percent of the total rentable square footage it occupies, as well as nearly 82 percent of its total assets. At the same time, foreign investment in U.S. commercial real estate has also increased. The report focuses on the following questions:

- What is known about foreign ownership of the GSA high-security leased spaces?
- What potential risks are posed by such foreign ownership?
- What policies and procedures are in place regarding GSA's leasing of high-security leased space?

The first step the GAO took to determine ownership was to inquire with the GSA. However, the agency was unable to produce the information. Afterwards, the GSA considered commercial data sources and eventually agreed to use the services of Real Capital Analytics (RCA). Other study

⁶⁵ U.S. Government Accountability Office. (2017). Federal Real Property: GSA Should Inform Tenant Agencies When Leasing High-Security Space from Foreign Owners, available at: <https://www.gao.gov/assets/690/681883.pdf>

methods included visiting three high-security sites and conducting interviews with real estate stakeholders, building owners and relevant federal officers. When working with RCA, they narrowed the search to the most sensitive agencies, including the Internal Revenue Service, the Social Security Administration and the Secret Service. When evaluating this subgroup, the GAO was unable to determine the ownership of 36 percent of the high-risk leases. 26 tenant agencies occupy high-security spaces in foreign-owned buildings. Collectively, these properties have a total square footage of 3.3 million and cost the U.S. government \$97 million per year. Examples include six FBI field offices, three DEA field offices and two Social Security offices.

One of the ongoing challenges that facilitate this trend is that the GSA is more focused on ensuring that lessors have sufficient funds than on the source of the funds themselves. Furthermore, many of the property owners are limited liability corporations, which have fewer reporting requirements than publicly traded corporations. Due to the secretive nature of many of the owners, the business entity names often reveal little information about the actual ownership. According to security experts, the risks associated with foreign ownership of office space leased by U.S. government agencies include espionage, unauthorized access, cyber intrusions, money laundering, and potential damages to the government's reputation. The lack of information about the actual ownership also limits the capacity for complete threat assessments. Furthermore, the hidden beneficial ownership raises the risk of money laundering associated with the property.

Regarding the definition of beneficial ownership, the GAO defines the term as "the person who ultimately owns and controls a company." However, other organizations have different definitions. It should also be noted that the GSA is not required to identify beneficial ownership, but accepts that such information is valuable when leasing property. Since the passage of the National Defense Authorization Act for Fiscal Year 2013, companies must disclose information on any parent, subsidiary, or successor entities to the company, otherwise known as immediate or highest level owners. This may include foreign ownership (which is not a disqualifying factor). However, this information is self-reported and may not necessarily reflect the beneficial owner.

As security risks vary depending on the level and type of foreign ownership, one of the proposed mitigation tactics is limiting it to passive ownership. Background checks of the building staff can also be useful in mitigating risk. Moreover, the government can select the building management firm. The GAO recommends that the GSA should determine whether or not the beneficial owner of a high-security leased space is a foreign entity. In that case, it would then recommend that it inform potential tenants of the possible need for security mitigation. Further legislation could potentially strengthen protections in this area.

The GAO's *Framework for Managing Fraud Risks in Federal Programs and the Fraud Reduction and Data Analytics Act* of 2015 both set up fundamental principles in this sphere. The former provides leading practices to ensure the continued improvements in this fight against financial and

non-financial fraud, including fraud risk related to national security. These leading practices call for federal program managers to (1) commit to combatting fraud by creating a conducive organizational structure and culture, (2) regularly assessing fraud risks and creating a risk profile; (3) designing and implementing a strategy to mitigate assessed risk and collaborating to ensure effective implementation, and (4) evaluating outcomes using a risk-based approach. The latter requires the Office of Management and Budget to issue guidelines for government agencies on establishing controls related to their fraud risk. Furthermore, among other things, it requires agencies to incorporate practices from the GAO's fraud risk framework into their financial and administrative controls.

6. Case Studies in Corruption and MLRE: Tools, Strategies, Lessons Learned (Mark Hays, Global Witness)

Global Witness is an independent not-for-profit organization that works to break the links between natural resource exploitation, conflict, poverty, corruption, and human rights abuses worldwide. In recent years, Global Witness has increasingly focused on financial gatekeepers and shell companies that allow criminals and corrupt officials to launder money around the world. Global Witness' advocacy focuses on changing the international systems which make corruption and money laundering possible.

Global Witness conducts investigations into money laundering and corruption. For example, the 2015 documentary "From Russia with Cash" shines light on how "dirty" money can get into London's elite property market.⁶⁶ Another investigation shows how shell companies are used to hide drug money in real estate.⁶⁷ Money laundering in real estate is an extremely complicated problem that requires extensive education and training of professionals in law enforcement, the financial sector and real estate on how to unravel financial schemes used by criminals. Often, these schemes involve various jurisdictions. For example, in the United Kingdom, most money-laundering schemes include individuals with multiple properties in various jurisdictions, which makes it harder to identify beneficial owners.

Global Witness is calling for international public registries of the owners of companies, land and real estate, visa bans for corrupt politicians, better regulation of banks and lawyers and strict enforcement of anti-money laundering laws. To prevent the movement of "dirty" money from kleptocracies, the current guidance on PEPS (politically exposed persons) needs to be enhanced through to a broader definition that includes in-laws, former business partners, and close friends. Another solution is risk assessment based on scores assigned to persons involved in real estate transactions, similarly to credit ratings. For example, Thomson Reuters World Check serves as a "know-your-customer" screening tool for the world's largest banks and financial institutions,

⁶⁶ The documentary is available at: <https://www.globalwitness.org/en/blog/russia-cash-global-witness-new-documentary-suspect-funds-london-property/>

⁶⁷ Global Witness (2017). *Narco-a-Lago: Money Laundering at the Trump Ocean Club Panama*, available at: <https://www.globalwitness.org/search/?campaign=9>

corporations, law enforcement, and government and intelligence agencies. It enables regulatory compliance with AML/CFT legislation.⁶⁸

The problem is further complicated by private interests of real estate agents who are rewarded for sales. In the documentary “From Russia with Cash,” an undercover investigative journalist posing as a corrupt Russian politician and his girlfriend viewed five mansions in central London with prices ranging from £3 million to £15 million. Despite the fact that the potential buyer revealed the corrupt origin of the money, the real estate agent discussed how to engage in this transaction. This documentary points to the necessity of better standards within the industry and better incentives for real estate agents to report suspicious transactions. In some countries, for example, Jamaica and Canada, real estate agents have to report transactions when purchases are made with large amounts of cash. In the United States, there is no reporting requirement for real estate agents, which raises the question of what they can do in the situation where they are not authorized to file SARs. In this case, the AML enforcement system would benefit from establishing some routines or procedures for real estate agents to report money laundering.

Finally, large-scale corruption often involves government officials in kleptocratic regimes who never prosecute themselves or their cronies. A good example is the 1MDB case, which is one of the world’s largest financial scandals. In a civil complaint the U.S. Justice Department accused Jho Low, a financier, and ‘Malaysian Official 1’ (widely reported to be the Malaysian Prime Minister), and their associates of embezzling \$3.5 billion from 1 Malaysia Development Berhad (1MDB), a state investment fund. Money was laundered with the aid of anonymous shell companies and offshore bank accounts through the purchase of real estate in the United States and United Kingdom, a luxury jet, works of art by Van Gogh and Monet, and the production of the *Wolf of Wall Street* film.⁶⁹ Several hundred million dollars were moved through lawyer-client accounts, indicating a gap in the due diligence process. In 2016, Global Witness published a report on the role of lawyers in money laundering in the United States.⁷⁰ Money laundering schemes also involve other intermediaries, including financial institutions, correspondent banks, title companies and other real estate actors. This suggests a need to find some common ground to incentivize all these actors from various sectors to identify suspicious activities and report them to the appropriate authorities.

⁶⁸ Thomson Reuters (2015). Thomson Reuters World-Check, available at: <https://financial.thomsonreuters.com/content/dam/openweb/documents/pdf/governance-risk-compliance/fact-sheet/world-check-risk-screening-fact-sheet.pdf>

⁶⁹ Global Witness (2016). The 1MDB Scandal Should Be Addressed by an International Criminal Tribunal, available at: <https://www.globalwitness.org/en/blog/1mdb-scandal-international-criminal-tribunal-fight-against-grand-corruption/>

⁷⁰ Global Witness (2016). Lowering the Bar: How American Lawyers Told Us How to Funnel Suspect Funds into the United States, available at: https://www.globalwitness.org/documents/18208/Lowering_the_Bar.pdf

List of Reading Materials

1. FinCEN History of Anti-money Laundering in the US
<https://www.fincen.gov/history-anti-money-laundering-laws>
2. Financial Action Task Force (FATF) 40 Recommendations
<http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202012.pdf>
3. The FATF Mutual Evaluation Report of the US (2016)
<http://www.fatf-gafi.org/publications/mutualevaluations/documents/mer-united-states-2016.html>
4. Economic Impacts of Money Laundering
<http://people.exeter.ac.uk/watupman/undergrad/rtb/effects2.htm>
5. FATF Report - Money Laundering through Real Estate
<http://www.fatf-gafi.org/publications/methodsandtrends/documents/moneylaunderingandterroristfinancingthroughtherealestatesector.html>
6. Anti-Money Laundering Guidelines for Real Estate Professionals
<https://www.nar.realtor/articles/anti-money-laundering-guidelines-for-real-estate-professionals>
7. FinCEN Rule Making
<https://www.fincen.gov/resources/statutes-regulations/federal-register-notices/pending-rulemakings>
8. Compliance: FinCEN's Money Laundering Advisory
<http://news.cuna.org/articles/112782-compliance-fincen-real-estate-money-laundering-advisory>
9. Fact Sheet for FinCEN's GTO
<https://www.alta.org/media/pdf/fincen/fact-sheet-fincen-gto.pdf>
10. FinCEN's Frequently Asked questions on Money Laundering
<https://www.fincen.gov/frequently-asked-questions>
11. ABA Banking Journal - FinCEN Expands GTOs
<https://bankingjournal.aba.com/2016/07/fincen-expands-scope-of-geographic-targeting-orders/>
12. FinCEN Targets Shell Companies
<https://www.fincen.gov/news/news-releases/fincen-targets-shell-companies-purchasing-luxury-properties-seven-major>
13. Government Expands Crack Down on Money laundering in Real Estate
<https://www.cnbc.com/2017/08/24/a-third-of-luxe-real-estate-deals-involve-suspicious-activity.html>
14. How Foreign Investors Launder their Money in New York Real Estate
<http://theweek.com/articles/736313/how-foreign-investors-launder-money-new-york-real-estate>

15. Canada's FINTRAC Record Keeping requirements for the real estate sector
<http://www.fintrac-canafe.gc.ca/guidance-directives/recordkeeping-document/record/real-eng.asp>
16. Money Laundering through Real Estate
<http://www.corporatecomplianceinsights.com/money-laundering-schemes-in-real-estate/>
17. Risk Based guidelines for Money Laundering through Real Estate
<https://www.nar.realtor/sites/default/files/presentations/2012/2012-legal-seminar-anti-money-laundering-guidelines-2012-10-16.pdf>
18. Money Laundering GTO Risks in Real Estate
https://www.fincen.gov/sites/default/files/advisory/2017-08-22/Risk%20in%20Real%20Estate%20Advisory_FINAL%20508%20Tuesday%2028002%29.pdf
19. OFAC Compliance in Commercial Leasing Transactions
<http://www.nreionline.com/blog/ofac-compliance-commercial-leasing-transactions>
20. What is Anti money Laundering Software
<http://searchfinancialsecurity.techtarget.com/definition/anti-money-laundering-software-AML>
21. The Stolen Asset Recovery Initiative (StAR)
<https://star.worldbank.org/star/>
22. Corruption Threatens National Security ... And what we can do about it
<https://www.linkedin.com/pulse/corruption-threatens-national-security-what-we-can-do-jack-gaines/>
23. Money Laundering for 21st Century Authoritarianism: Western Enablement of Kleptocracy
<https://s3.amazonaws.com/media.hudson.org/files/publications/MoneyLaunderingKI.pdf>
24. From Russia With Cash
<https://www.youtube.com/watch?v=attzGI1Jgmc>
25. Advisory to Financial Institutions and Real Estate Firms and Professionals
<https://www.fincen.gov/resources/advisories/fincen-advisory-fin-2017-a003>
26. Lifestyles of the Rich and Infamous: Confronting Dirty Money in US Real Estate
<http://hir.harvard.edu/article/?a=14491>
27. Money Laundering into Real Estate, Chapter 8 – *Convergence: Illicit Networks and National Security in the Age of Globalization* by Dr. Louise Shelley
<http://inss.ndu.edu/Portals/68/Documents/Books/convergence.pdf>

Speaker Bios

Jodi Vittori

Jodi Vittori is an expert on the linkages of corruption, state fragility, illicit finance, and US national security. Dr. Vittori is a US defense industry expert with the British Chapter of Transparency International. She is also an adjunct professor at Georgetown University and the National Defense University, where she lectures on political economy, economic development, corruption, transnational crime, terrorist finance, and irregular warfare. From 2013 to 2017, she was a Senior Policy Adviser for the non-governmental organization Global Witness, where she managed educational and advocacy activities to raise awareness of linkages between corruption and national security. Prior to joining Global Witness, Dr. Vittori served in the U.S. Air Force, obtaining the rank of Lieutenant Colonel; her overseas service included Afghanistan, Iraq, South Korea, Bosnia-Herzegovina, Saudi Arabia and Bahrain, and she was assigned to NATO's only counter-corruption task force. She is the author of the book *Terrorist Financing and Resourcing* and a co-author of the handbook *Corruption Threats and International Missions: Practical Guidance for Leaders*.

Christine Clough

Christine Clough is a Program Manager at Global Financial Integrity (GFI). Her work at GFI focuses on research projects, events, and the Policy Advisory Program; at present she also serves as GFI's Acting Communications Director. Christine has represented GFI on the UNCAC Civil Society Coalition Coordinating Committee since 2013. Prior to joining GFI, Christine was employed most recently at the U.S. Small Business Administration's Office of Advocacy, working with Congress, Federal agencies, and the White House to advocate for the needs and critical role of small business in the U.S. economy. Christine also has experience working on terrorism and homeland security at think-tanks in Washington, DC.

Christine has a BA in International Relations and Economics from Connecticut College and an MA in Security Studies from Georgetown University.

Ross Delston

Ross S. Delston, CAMS, is an independent Washington, DC-based attorney, expert witness, and former banking regulator (FDIC). He has specialized in Bank Secrecy Act (BSA)/anti-money laundering (BSA/AML) issues for over 17 years. He has also been an expert witness in numerous civil cases involving BSA/AML issues such as red flags, geographic risk and fraud, and has been a testifying expert on behalf of the U.S. Attorney's Office (SDNY) in *U.S. v. Prevezon*, a civil forfeiture case involving New York real estate purchased from the proceeds of an alleged Russian fraud. Ross has also been a consultant to the IMF since 1997 and in that capacity has participated in the AML/CFT assessments of nine offshore financial centers, including Bermuda, Jersey, Guernsey, the Isle of Man, and St. Vincent and the Grenadines.

Ross has been quoted on AML issues in the New York Times, Washington Post, Wall Street Journal, New Yorker, Bloomberg, the Nikkei (Japan) and the Hindu Business Line (India). He has spoken on AML and banking issues at conferences throughout the world, including Accra, Belgrade, Chennai, Chisinau, Colombo, Dalian, Kathmandu, Minsk, Niamey, Phnom Penh, Skopje and Zagreb.

Christie DeSanctis

Christie DeSanctis manages the federal business issues regulatory policy portfolio for the National Association of REALTORS® Advocacy Group. These issues range from anti-money laundering concerns and health care reform initiatives to consumer finance laws matters including the *Real Estate Settlement Procedures Act* and the Know Before You Owe mortgage disclosure rule. In addition to maintaining key relationships with government agencies and industry stakeholders, Christie staffs a governing policy committee that develops new advocacy positions and a regulatory issues forum that highlights real estate related actions by the Administration for NAR.

Prior to joining NAR in June 2016, Christie worked for the U.S. House of Representatives Committee on Education and the Workforce and the U.S. Senate Committee on Small Business and Entrepreneurship on employer benefits and workforce protections matters. She received her J.D. from the University of Maine School of Law, dual B.S. degrees from Virginia Tech, and is admitted to the state bar of Virginia.

Steve Gottheim

Steve is counsel for the American Land Title Association. In that role he is the association's chief corporate counsel providing strategic legal advice to the association's leadership, executive staff and various departments and programs. Additionally, Steve serves as the head of public policy development for the association. He is a recognized authority on the topics of consumer financial laws including RESPA, TILA and Gramm-Leach-Bliley, the ALTA Title Insurance & Settlement Company Best Practices and market conditions in the title insurance and settlement service industry.

Previously Steve worked as legal fellow for former Senator Chris Dodd (D-CT) on the Senate Banking Committee during the passage of the Emergency Economic Stabilization Act of 2008 (TARP), and a small community based lender. He is a graduate of the University of Maryland College Park and the University Of Maryland School Of Law.

J. Nicholas D'Ambrosia

Nick is Broker of Record and Senior Vice-President of Education and Licensing for all Long & Foster Real Estate Companies, the largest privately owned real estate company in the world, where he strives to bring the BEST tools and practices to all L&F agents and managers which enables them to be the BEST equipped practitioners in the business.

Nick has served on the Maryland Real Estate Commission for over 13 years. He is serving his 11th year as chair.

The 45-year real estate veteran's career includes 5 years as vice president of operations for Coldwell Banker NRT for the Mid-Atlantic region, 6 years as senior vice president for Coldwell Banker Stevens Real Estate and 16 years as senior vice president and general manager of Coldwell Banker Nyman Realty, three of the largest real estate companies in the country according to Real Trends magazine.

Art Davis

Art has represented escrow settlement providers and other clients in Washington DC since 1992. His representation has covered numerous regulatory, legislative and judicial matters at the federal level that affect, or could affect, these interests. As well, Art has worked in collaboration with many lender, title, and REALTOR[®] organizations located in the Washington D.C. area to affect and minimize the impact of federal legislation and regulations on small business. He has represented clients before the U.S. Congress and numerous agencies including HUD, CFPB, Treasury, FinCEN, IRS, Commerce, State, and the FTC.

Art began his career at a major international accounting firm. He then spent 5 years at the U.S. Treasury Department working on federal tax regulations and rulings. Since 1992 he has served a wide variety of clients as a private consultant-advisor with his primary work being to represent the American Escrow Association. He has spoken to numerous groups and organizations on a wide variety of federal regulatory and other technical topics.

Sandra Desautels

Sandra Desautels is a Director in Navigant's Global Investigations and Compliance practice. For over 25 years, Sandra has been leading investigations and conducting independent reviews. She has assisted multinational corporations and private companies with global presence with internal investigations, fraud vulnerability assessments and internal controls testing.

Her investigations were primarily conducted under legal privilege and required the coordination of multiple subject matter specialists. Sandra's law enforcement experience has been an asset when helping client law firms with investigations and related activities.

Sandra has lived and worked in multiple countries. Her fluency in Spanish, French, Portuguese and Italian have assisted clients with varying investigative and compliance needs throughout Latin America, Europe and Asia.

Steve Gurdak

Steve Gurdak is the group supervisor of Washington Baltimore HIDTA's NVFI. The initiative is a national model for the use of Bank Secrecy Act (BSA) information, to include SARs, in the

initiation of investigations. Steve has over 30 years of police experience with an impressive list of awards and commendations. He has specialized in money laundering investigations since 1995, and is a Certified Anti-Money Laundering Specialist (CAMS) through the Association of Certified Anti-Money Laundering Specialist (ACAMS). Steve regularly trains new detectives in general investigative skills and financial investigation basics through courses he help develop. He has also written a number of articles, done webinars and various presentations on financial investigations.

Ed Rodriguez

Edward Rodriguez has been a very active member of the Anti-Money Laundering (AML) community beginning with his 25-year career as a Special Agent and Supervisor Special Agent with the Internal Revenue Service (IRS). During his tenure as a supervisor, he led three different task forces involving major investigations whereby SARS were utilized uncover income tax evasion and money laundering cases. During his tenure with Criminal investigation, Mr. Rodriguez continued overseeing the IRS's national money laundering program at the IRS headquarters in Washington, DC. He continued working within the Department of Justice (DOJ) at the OCDETF Fusion Center in efforts to produce investigative reports by analyzing the information obtained under the Bank Secrecy Act (BSA).

Edward Rodriguez's wide-ranging experience in the compliance sphere has made him a well sought after asset to organizations across many different industries and levels. Some of his many professional certifications include Certified Anti-Money Laundering Specialist (CAMS), Certified Fraud Specialist (CFS), Certified Financial Crimes Investigator (CFCI), and Certified Specialist for Asset Recovery (CSAR). Mr. Rodriguez has been published numerous times, has presented at various professional conferences, and has received many professional and personal achievements.

James Wright

James Wright is a Banking and Anti-money Laundering Expert with over 40 years of experience in housing finance, banking, community development and ant-money laundering. For the past 20 years he has traveled to 28 countries advising central banks, commercial banks, securities firms and financial intelligence units on both prudential regulations and inspection programs to prevent and detecting money laundering. In this capacity he has been employed by The World Bank, Asian Development Bank, USAID, The US Department of Treasury, Office of Technical Assistance and a number of international consulting firms. Prior to his international work, he was employed by the US Treasury's Office of the Comptroller of the Currency where he held positions of bank examiner and economic development specialist. Some of the most noteworthy positions which he has held are Chief of Party at the National Bank of Romania and banking adviser to four Central Asian countries.

Mr. Wright has published a number of articles on the subject of money laundering through real estate and frequently teaches on the subject to both bankers and law enforcement.

He is a Board member of the ACAMS US Capital Chapter, located in Washington DC.

John Roth

John Roth is Chief Compliance Officer at Bittrex, one of the largest digital currency exchanges based in the United States, with over 3 million customers, over 200 different digital currencies and tokens listed, and daily transaction volume often in excess of a billion dollars.

Prior to joining Bittrex, John was the Inspector General for the Department of Homeland Security, having been appointed by the President to that role in March 2014. John brings a deep background in money laundering and terror financing investigations and prosecutions, have worked in the Department of Justice in a variety of operational and policy roles, including heading the Department's primary money laundering prosecution and policy office and serving as the Department's liaison to the Financial Action Task Force. John also wrote the seminal treatise on terrorist financing during his time as team leader on the 9/11 Commission.

Keith Cunningham

Keith B. Cunningham is an Assistant Director of physical infrastructure issues at the United States Government Accountability Office (GAO), the investigative and audit arm of the U.S. Congress. Mr. Cunningham has developed a broad expertise in real property policy and management issues during his 20 years at GAO—having led the work for more than 35 GAO reports and testimony statements. Mr. Cunningham's recent work on federal real property includes reports on various issues related to property ownership, realignment, leasing, disposal, and financing. Prior to government service, Mr. Cunningham directed research on worldwide military base closure and reuse efforts for the Bonn International Center for Conversion in Germany and Business Executives for National Security. Mr. Cunningham holds a Masters of Policy Studies from Johns Hopkins University and a BS in Social Science from Miami University, Ohio.

Robert Homan

Bob Homan is a Senior Analyst with the physical infrastructure team at the U.S. Government Accountability Office (GAO), the investigative and audit arm of the U.S. Congress. Mr. Homan has been the analyst-in-charge for numerous GAO reports, including the 2017 report on foreign-owned GSA leased property. He holds a Master's in Journalism from the University of Missouri and a BS in Political Science from Illinois State University.

Mark Hays

Mark Hays is Campaign Leader for Global Witness' Anti-Money Laundering Campaign. In this role Mark leads Global Witness' campaign efforts to end the secrecy surrounding company ownership in the U.S. and around the world, as well fostering greater accountability for the financial institutions and professionals that facilitate illicit financial activity. Through this work, Mark has developed expertise on a wide range of cases of crime and corruption involving

anonymous shell companies both in the U.S. and abroad, and has provided media commentary in major news outlets that helps media connect international stories involving shell companies with U.S. relevant stories and context.

Prior to this, Mark conducted advocacy, research and campaign development for a wide range of environmental and social change organizations, including Oxfam America, The Sierra Club, Public Citizen, Greenpeace, NAACP, and others. His work has helped these organizations develop bold and strategic campaign strategies to engage a wide variety of stakeholders – including business – in transformative environmental and social change efforts.

Mark is also Board President of UPSTREAM, a U.S.-based environmental organization dedicated to creating a healthy, sustainable, and equitable society by addressing the root causes of waste and advocating for more sustainable products and packaging throughout the global economy.

Barbara Keller

Barbara I. Keller, CAMS, CFCS, CAFP, is an independent anti-money laundering/financial crime consultant and Principal with BIKConsulting LLC. Ms. Keller retired from federal service in August 2013. Since retiring, in addition to consulting, she has also conducted training workshops for financial intelligence units and central bankers on anti-money laundering (AML) compliance in Tanzania, Tunisia, and Uganda, under the auspices of the Financial Services Volunteer Corps.

Ms. Keller spent the last four years of her federal career in a senior executive position at the Financial Crimes Enforcement Network, FinCEN, where she oversaw the activities of the compliance and enforcement offices. She worked closely with regulatory and law enforcement agencies and the financial industry to improve compliance with U.S. AML laws among financial institutions. Ms. Keller joined FinCEN in after 26 years with the U.S. Government Accountability Office (GAO). As an assistant director, she managed many assignments dealing with AML compliance and enforcement, and interagency cooperation and coordination.

Ms. Keller is a Certified Anti-Money Laundering Specialist, a Certified Financial Crimes Specialist, and a Certified AML and Fraud Professional. She is on the board of directors of the US Capital Chapter of ACAMS.

Gary Kalman

Gary Kalman is the executive director of the Financial Accountability and Corporate Transparency (FACT) Coalition, an alliance of more than 100 state, national and international organizations combatting the harmful impacts of corrupt financial practices. Prior to joining FACT, Gary was the executive vice president of the Center for Responsible Lending, where he oversaw the organization's federal policy and legislative work to counter predatory lending. As director of the federal legislative office for the U.S. Public Interest Research Group, he was a founding member of Americans for Financial Reform and a leading voice for congressional ethics and lobbying

reform having sat on a bipartisan ethics reform task force convened by the Speaker of the House. He has taught advocacy and development at LaSalle University's Nonprofit Center in Philadelphia.

Gary is a recipient of the New Executives Fund Award from the Open Society Institute. He has testified before Congress on several occasions, most recently in February 2018 before the Senate Judiciary Committee on corporate transparency. He and his work have appeared in The New York Times, The Washington Post, Wall Street Journal, USA Today, Fox News, MSNBC and elsewhere.

Michael Opiela

Michael is an independent consultant in the Anti-Money Laundering field (AML), specializing in Suspicious Activity Report (SAR) analysis and review of AML policies and procedures. He has over thirty years' experience in bank regulation, financial analysis, financial investigations, capital market surveillance and treasury services. He has attained the Certified Anti-Money Laundering Specialist (CAMS) designation awarded by the Association of Certified Anti-Money Laundering Specialists (ACAMS).

Prior to starting his own consulting firm in 2016, Michael worked at the Office of the Comptroller of the Currency (OCC), the federal bureau responsible for examining and regulating the national banking system, where he served as a bank examiner. He managed the OCC's SAR data mart consisting of downloaded SAR records from the Financial Crimes Enforcement Network (FinCEN). He successfully led the effort to make this system a more efficacious tool for field examiners and increased the user-base, doubling its size in one year. His experience as a field examiner included performing examinations of the safety and soundness of national banks, adequacy of capital, soundness of lending practices and compliance with consumer and AML regulations.

Dennis Lormel

Mr. Lormel retired from the FBI following 28 years of service. During his distinguished career, Mr. Lormel amassed extensive major case experience. Immediately following the terrorist attacks of September 2001, Mr. Lormel formulated, established and directed the FBI's comprehensive terrorist financing initiative. He developed and implemented a variety of proactive and progressive investigative methodologies. These efforts evolved into the formation of a formal Section within the Counterterrorism Division of the FBI, known as The Terrorist Financing Operations Section. Mr. Lormel currently provides consulting services related to terrorist financing, money laundering and financial crimes. He was presented with the 2010 Association of Anti-Money Laundering Specialists Volunteer of the Year Award and currently serves as a member of the ACAMS Advisory Board.

Les Joseph

Lester Joseph is a Senior Vice-President at Wells Fargo & Company, and is the Manager of the Global Financial Crimes Intelligence Group. The primary mission of this Group is to provide intelligence on money laundering activity and financial crime trends to all parts of the company. Les joined Wells Fargo as the International Investigations Manager in the Financial Intelligence Unit in March 2010.

Prior to joining Wells Fargo, Les worked for the U.S. Department of Justice from 1984 to February 2010. From 2002-2010, he was the Principal Deputy Chief of the Asset Forfeiture and Money Laundering Section (AFMLS). He was a Deputy Chief in the Section since October 1991. During his tenure in AFMLS, the Section played a major role in several noteworthy money laundering investigations and prosecutions involving major financial institutions.

Les began his career with the Department of Justice in 1984 as a Trial Attorney in the Organized Crime and Racketeering Section. From 1981-1984, Les served as an Assistant State's Attorney in Cook County (Chicago), Illinois. He received his J.D. from The John Marshall Law School in Chicago and his B.A. from the University of Michigan.

Kevin Bell

Kevin Bell is a Senior Enforcement Specialist at the Financial Crimes Enforcement Network (FinCEN), where he has led FinCEN's efforts to better understand the money laundering risks in U.S. residential real estate through issuing Geographic Targeting Orders. Kevin wrote an article published in the Harvard International Review on FinCEN's views on real estate money laundering in January 2017. He also manages a portfolio of international money laundering issues, including Sub-Saharan Africa, South Asia, and virtual currencies. Prior to coming to FinCEN as a Presidential Management Fellow in 2015, Kevin worked in Afghanistan for 2.5 years, first as an infantry officer and later while managing strategic communications grants for a small development company. While in Afghanistan he founded a salsa club, where he taught salsa dancing from 2013-14. Kevin has an MA in Near Eastern Studies from Princeton University, and a BA in Spanish from Davidson College. He is also an evening student at the George Mason University Antonin Scalia Law School.

Ted Moorman

Ted C. Moorman has a Ph.D. in finance and has published peer-reviewed articles in a number of prestigious academic finance journals. He has written on topics ranging from portfolio optimization and trading strategies to corporate governance and foreign exchange. In a recent article accepted for publication in the Journal of Financial Crime, he interviews fifteen experts on kleptocracy from a variety of fields. Dr. Moorman provides a general framework for understanding illicit financial systems and contends that kleptocracy is the most devastating financial crime. Combining his subject matter expertise on data analytics and illicit financial systems, he focuses

on using analytics to attack global illicit financial networks. At a recent symposium, Dr. Moorman responded to the National Security Strategy of the United States and National Security Presidential Memorandum #7 by offering six recommendations for using data science to address the threat of kleptocratic regimes for national security.

Debra LaPrevotte

Debra LaPrevotte is the Senior Investigator for The Sentry. The Sentry seeks to disrupt and ultimately dismantle the network of perpetrators, facilitators, and enablers who fund and profit from Africa's deadliest conflicts. Debra is currently investigating violent kleptocracy in Sudan, South Sudan, Congo (DRC), Central African Republic and Somalia. She focuses on investigating greed that fuels war crimes and atrocities.

Prior to joining The Sentry, Debra retired after 20 years with the Federal Bureau of Investigation (FBI). Debra served as a Supervisory Special Agent on the International Corruption Unit at FBI Headquarters. Debra was instrumental in initiating the FBI's Kleptocracy program and seized more than \$1 billion dollars from foreign corrupt officials. Debra has spent the past 16 years working international corruption investigations. Debra is also a Forensic Scientist and spent several years on the FBI's Evidence Response Team Unit at the FBI Lab. Prior to her FBI career, Debra worked for the Department of Defense for five years.

Debra has an undergraduate degree from George Mason University and a Masters degree in Forensic Science from George Washington University, and is certified as an Anti-Money Laundering Specialist (ACAMS)

David Williams

Currently serves as a Distinguished Professor at the Schar School of Policy and Government at George Mason University in Arlington, Virginia. He joined the faculty there in March 2016. He is also the Director of the Center for Organizational Performance and Integrity (COPI) at George Mason University. COPI provides executive education in the areas of leadership in government and data analytics. Williams has served as IG for five federal agencies. Before joining the faculty at George Mason University Williams served as the Inspector General (IG) for the U.S. Postal Service. In July 2011, Williams was appointed by the White House to serve as Vice Chair on the Government Accountability and Transparency Board. In February 2015, the Administration also appointed Williams to the Inter-Agency Advisory Committee that will establish government-wide financial data standards for the purpose of promoting transparency, facilitating better decision making, and improving operational efficiency.

tracc@gmu.edu