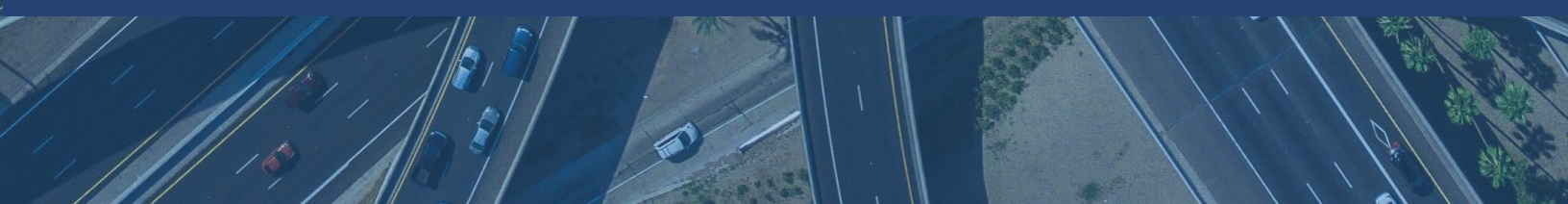




**Narcotics Proceeds in the Western Hemisphere:
Analysis of Narcotics Related Illicit Financial Flows between
the United States, Mexico, and Colombia**

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Executive Summary

In this report, Global Financial Integrity (GFI) presents an analysis of narcotics-related illicit financial flows between the United States and the major narcotics production and transit countries of Mexico and Colombia. The report was commissioned by the Western Hemisphere Drug Policy Commission as part of its mandate to evaluate US drug policies and programs in Latin America and the Caribbean, assess current efforts to reduce the illicit drug supply and address the harms associated with trafficking and drug abuse.

A variety of strategies can and have been used to address drug trafficking in the Western Hemisphere, from manual and aerial crop eradication, to interdiction, illicit crop substitution and other alternate development approaches. While existing strategies have resulted in temporary disruptions to narcotics cultivation and trafficking, they have not been successful in addressing these issues in a comprehensive, lasting manner. At the same time, history has shown that many of these policies have had unintended consequences and caused harm to people, their communities and the environment in very profound ways.

Financial strategies from the anti-money laundering and counter financing of terrorism (AML/CFT) toolkit offer a different lens to view and address the problem of drug trafficking. In this report, GFI argues that AML/CFT is underutilized in current US and regional counter-narcotics efforts and needs to be reprioritized. Effectively responding to the challenges of drug trafficking and transnational organized crime will require a multi-pronged, multi-stakeholder and multi-disciplinary effort that includes AML/CFT, as well as a more comprehensive approach to drug policies that encompasses human rights, public health and development.

The Scope of Narcotics-Related Illicit Financial Flows

While estimating the financial value of illicit activities is methodologically challenging, GFI conducted a comprehensive review of available data and created its own estimates, drawing on a variety of methodologies, to approximate the scale of this issue. The different methodologies utilized indicate that the value of narcotics-related illicit financial flows affecting the United States, Mexico and Colombia is between US\$42.3 billion and US\$121.6 billion a year. The wide range reflects the difficulty of providing a quantitative data point for illicit financial activity, which by its very definition is hidden. The best estimate would be the midpoint of US\$80-90 billion a year in narcotics-related illicit financial flows.

Methods Used to Launder Narcotics Proceeds

This report draws on interviews conducted with experts familiar with the US, Mexican and Colombian contexts. An effort was made to include a variety of perspectives that represent current and former government officials, the financial sector, academics, researchers and civil society groups.

From these interviews and other publicly-available sources, this report identifies bulk-cash smuggling and trade-based money laundering (TBML) as the two primary methods used to shift drug proceeds from one jurisdiction to another. Bulk-cash smuggling involves the physical transportation of large amounts of cash, whereas TBML involves disguising illicit proceeds as legitimate international trade transactions in order to move them across borders and/or launder them into the formal economy.

This report also analyzes the role of facilitators, such as unscrupulous “gatekeepers” who neglect professional and legal responsibilities by allowing dirty money to enter the international financial system. In addition, it highlights the role of corrupt officials, a common thread in narcotics-related money laundering, who both facilitate narcotics-related illicit financial flows, as well as stymie law enforcement efforts.

Policy Recommendations

This report analyzes current efforts by Mexico, Colombia and the United States to address narcotics-related illicit financial flows through prevention, supervision, reporting, investigation and prosecution. Due to the sheer number of illicit groups involved and their tremendous ingenuity and creativity, it is important to consider big-picture, systemic solutions at the policy level. Moreover, viewing the issue of drug trafficking through a financial crime lens opens up a number of policy options, many of which are currently underutilized. Based on the severity of the need, as well as the effectiveness and feasibility of the policy solution, the following recommendations should be prioritized, with a note that while efforts by all countries are important, US strategies received more coverage in this report since it was prepared for a US Congressional Commission:

United States

- To address the role of anonymous companies in financial crimes, the US should enact legislation requiring the collection of information on the real people, or “beneficial owners” behind corporations, LLCs and other similar entities at the time of registration;
- Given the prevalence of TBML and bulk-cash smuggling as ways to launder narcotics proceeds, the US should require beneficial ownership information for all companies involved in cross-border trade, as well as for speedboats and aircraft;
- As unscrupulous “gatekeepers” are a common thread in narcotics-related money laundering, the US should require lawyers, accountants and corporate formation agents to carry out AML/CFT requirements, such as customer due diligence;
- To face the challenge of TBML, the US should strengthen Trade Transparency Units (TTUs), allowing for real-time exchange of information on a pilot basis with trusted partners to examine the impact on enforcement.

Mexico

- Mexico should re-evaluate how AML/CFT is working for non-financial businesses, a sector that is currently very vulnerable, ensuring that the current approach is effective and appropriate;
- Given the overlap between official corruption and drug-trafficking in Mexico, the US should welcome opportunities to work with Mexico on anti-corruption efforts;
- While Mexico, unlike the United States, has certain beneficial ownership requirements, it is important to strengthen their implementation, especially with regards to verification of the information that is reported;
- Because financial crime investigations and prosecutions remain low, it is important for Mexico to strengthen inter-agency coordination and information flow on AML cases, from reporting to investigation, prosecution and conviction.

Colombia

- As in Mexico, Colombian non-financial businesses are vulnerable; in this regard, Colombia should re-evaluate how AML/CFT is working for non-financial businesses and ensure that the current approach is effective and appropriate;
- Colombia should create an inter-agency working group to address TBML and clarify agency responsibilities;
- Like Mexico, Colombia has struggled in achieving money laundering convictions; in this regard, it is important to conduct a thorough, internal review to understand why convictions on money laundering charges are so low;
- In light of the role of anonymous companies in drug trafficking and money laundering, Colombia should take steps to improve verification of beneficial ownership information, particularly during corporate formation.



Photo: Linus Nilsson - Unsplash

Introduction

This report presents an analysis by Global Financial Integrity (GFI) of narcotics-related money laundering between the United States and the major narcotics production and transit countries of Mexico and Colombia. The report was commissioned by the Western Hemisphere Drug Policy Commission as part of its mandate to evaluate US drug policies and programs in Latin America and the Caribbean, assess current efforts to reduce the illicit drug supply, and address the harms associated with trafficking and drug abuse. These issues clearly have profound and wide-ranging implications on matters from health and human security, to governance and economic development.

Through this report, GFI is pleased to contribute to a better understanding of the financial implications of drug trafficking, which represents one of the largest and most lucrative illicit markets in the world.¹ The report also outlines policy solutions to tackle narcotics proceeds.

A variety of strategies can and have been used to address drug trafficking in the Western Hemisphere, from manual and aerial crop eradication, to interdiction, illicit crop substitution and other alternate development approaches. While existing strategies have resulted in temporary disruptions to narcotics cultivation and trafficking, they have not been successful in addressing these issues in a comprehensive, lasting manner. At the same time, history has shown that many of these policies have had unintended consequences and caused harm to people, their communities and the environment in very profound ways.²

Financial strategies from the anti-money laundering and counter financing of terrorism (AML/CFT) toolkit offer a different lens to view and address the problem. AML/CFT is underutilized in current US and regional counter-narcotics efforts and needs to be reprioritized within anti-narcotics strategies, especially since it is an approach that inflicts less human and environmental harm. Moreover, the motivations for drug trafficking are fundamentally financial in nature. As GFI's Founding President Raymond Baker has argued, "the fight against transnational crime needs to be redirected to combatting the money that the crimes generate."³

That said, the financial approach is not a panacea. Effectively responding to the challenges of drug trafficking and transnational organized crime will require a multi-pronged, multi-stakeholder and multi-disciplinary effort that includes AML/CFT, as well as a more comprehensive perspective on drug policies that encompasses human rights, public health and development.⁴ Moreover, the challenge will be utilizing AML/CFT in a dynamic, flexible way that responds to evolving challenges and threats. In addition, AML/CFT strategies must be leveraged carefully to avoid unintended economic consequences, such as financial exclusion of certain sectors and countries,⁵ which can harm economies while also exacerbating illicit financial flows. Finally, some financial crime investigation techniques, such as those that engage with drug trafficking organizations or participate in undercover financial transactions in order to gain evidence, can present very serious risks that must be carefully weighed and managed.⁶ Yet even with these caveats and considerations, AML/CFT offers a different lens to view the problem of narcotics trafficking, and presents underutilized strategies that can be effectively employed.

This report begins by assessing the scope of the problem. As requested by the Western Hemisphere Drug Policy Commission, it provides an estimate of the value of narcotics-related illicit financial flows, focusing on narcotics trafficking and money laundering in the United States with narcotics originating from Mexico and Colombia. It also analyzes the methods used to launder drug money or assets, as well as the main actors involved in this process. The second half of the report analyzes policy efforts by Mexico, Colombia and the United States to address the issue through prevention, supervision, reporting, investigations and prosecution. Due to the sheer number of illicit groups involved and their tremendous ingenuity and

creativity, it is important to consider big-picture, systemic solutions that strengthen policies. In this spirit, the report concludes with a discussion of policy recommendations for the United States, Mexico and Colombia. While efforts by all countries are important, US strategies received more coverage in this report because it was prepared for a US Congressional Commission.



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Estimating the Value of Narcotics-Related Illicit Financial Flows

Previous estimates on the global value of narcotics-related illicit financial flows have drawn heavily from a now 15-year old report by the United Nations Office on Drugs and Crime (UNODC), which found that the annual value of the “global illicit drug market” was US\$322 billion as of 2003. Of this, they estimated that US\$151 billion came from drug trafficking within the Western Hemisphere.⁷ This figure has been widely cited by governments⁸ and multilateral organizations⁹ and remains an important point of reference, despite the considerable amount of time passed since its publication. In 2017, GFI published a more recent analysis, finding that global retail value of drug trafficking was in the range of US\$426 billion-US\$652 billion annually. This figure has become another important point of reference,¹⁰ though the breakdowns it provides are by type of illicit activity, rather than by geographic region.¹¹

The following table presents an overview of existing estimates on the value of narcotics-related illicit financial flows in the Western Hemisphere, which generally range between US\$64 billion-US\$151 billion a year. In many cases, these ranges are both too large and too outdated to be of use.¹² As María Dolores González Sepúlveda, author of the most recent Mexican National Risk Assessment, noted in a recent interview, “no estimate is entirely satisfactory. Ultimately, whether the real value is at the high end, or the low end of these ranges, either way it is unacceptable and must be addressed.”¹³

Table 1: Estimates of the Illicit Financial Flows of Narcotics Trafficking

Annual value	Description	Source	Date
Global estimates			
US\$322 billion worldwide	Retail drug markets were estimated at US\$322 billion worldwide and US\$151 billion in the Americas. ¹⁴	UNODC World Drug Report, citing 2003 data estimates	2005
US\$426 to \$652 billion worldwide	Estimated annual value of the retail value of drug trafficking worldwide. ¹⁵	Global Financial Integrity	2017
US and Regional Estimates			
US\$151 billion in Americas	Retail drug markets were estimated at US\$151 billion in the Americas. ¹⁶	UNODC World Drug Report, citing 2003 data estimates	2005
US\$100 billion for US consumption	“Drug users in the United States spend on the order of \$100 billion annually on cocaine, heroin, marijuana, and meth.” ¹⁷	RAND for the US White House Office of National Drug Control Policy (ONDCP)	2014
US\$64 billion in the US	“Drug trafficking is a cash business generating an estimated \$64 billion annually from U.S. sales.” ¹⁸	US National Money Laundering Risk Assessment, Citing UNODC 2011, Citing ONDCP 2001 ¹⁹	2015
US\$300 billion	“About \$300 billion is generated annually in illicit proceeds. Fraud and drug trafficking offenses generate most of those proceeds.” ²⁰	US National Money Laundering Risk Assessment, Citing UNODC 2011, with UNODC World Drug Report 2003 data ²¹	2015
US\$100 billion in the US	“Given these dynamics, the 2018 NMLRA is using \$100 billion figure as a rough estimate of illicit drug proceeds in the US.” ²²	2018 National Money Laundering Risk Assessment	2018
Specific substances or corridors			
US\$18 - US\$39 billion, wholesale	“NDIC estimates indicate that Mexican and Colombian DTOs generate, remove, and launder between \$18 billion and \$39 billion in wholesale drug proceeds annually, a large portion of which is believed to be bulk-smuggled out of the United States at the Southwest Border.” ²³	National Drug Intelligence Center – National Drug Threat Assessment 2009	2008
US\$19-US\$29 billion	“An extraordinary amount of cash travels annually from the United States into Mexico to fuel the operations of the increasingly violent and brazen criminal enterprises involved in drug trafficking.” ²⁴	Department of Homeland Security - Bi-National Criminal Proceeds Study	2010
US\$38 billion	Cocaine from the Andean Region to North America, annual value at destination ²⁵	UNODC report on Illicit Financial Flows	2011
US\$6 billion to \$39 billion	“It is difficult to estimate accurately how much money the Mexican Drug Trafficking Organizations earn... estimates range from a low of \$6 billion to a high of \$39 billion.” ²⁶	United States National Money Laundering Risk Assessment	2015
US\$50 Billion	Yearly value of all types of money laundering in Mexico ²⁷	Director of the Mexican Financial Intelligence Unit	2020

Current Estimates by Global Financial Integrity

Estimating the financial value of illicit activities is both challenging and methodologically problematic. It involves complex calculations starting from estimates and fractions of an unknown whole. Exact figures may provide a false sense of precision. By the same token, ranges are often too large as to be truly useful. To quote an interview conducted with Daniel Mauricio Rico, a Colombian expert on illicit economies, “if you’re asking for the dollar amount, you’re asking the wrong question. The right question to ask is: how easy would it be for bad actors to find loopholes in the current system?”²⁸

While there is truth in this statement, sometimes a rough approximation of the size of the problem can motivate policy discussions aimed at closing these loopholes. (For a full discussion of legal, regulatory and sectoral vulnerabilities, see the policy analysis section of this report beginning on page 29). In this spirit, and in response to the Western Hemisphere Drug Policy Commission’s request, GFI undertook an analysis of the scope of narcotics-related illicit financial flows, examining narcotics trafficking and money laundering in the United States with narcotics originating from Mexico and Colombia.

GFI’s analysis shows that, while some data points are available, gaps in information make this type of estimate very challenging. For example, pricing data is challenging, as prices vary substantially depending on the location and quality of the product. By the same token, average usage data is problematic since many of the surveys available include only very addicted populations, and relatively small numbers of participants. Moreover, not all drug proceeds will be laundered; some may be used to pay for operating costs. Finally, the data available on pricing and usage is not always current, and the Covid-19 pandemic may impact drug trafficking and financial flows in ways that this report cannot capture. Given these methodological limitations, the estimates included in this report should be used to indicate that narcotics trafficking is a profitable business, generating very substantial illicit financial flows.

Illicit financial flows (IFFs) are illegal movements of money or capital from one country to another. GFI classifies this movement as an illicit flow when funds are illegally earned, transferred and/or utilized across an international border. Narcotics-related illicit financial flows are a subset of IFFs. They include the money or assets that are moved across borders to pay for wholesale narcotics, which cover the costs of other production inputs, such as labor, transportation or raw materials.

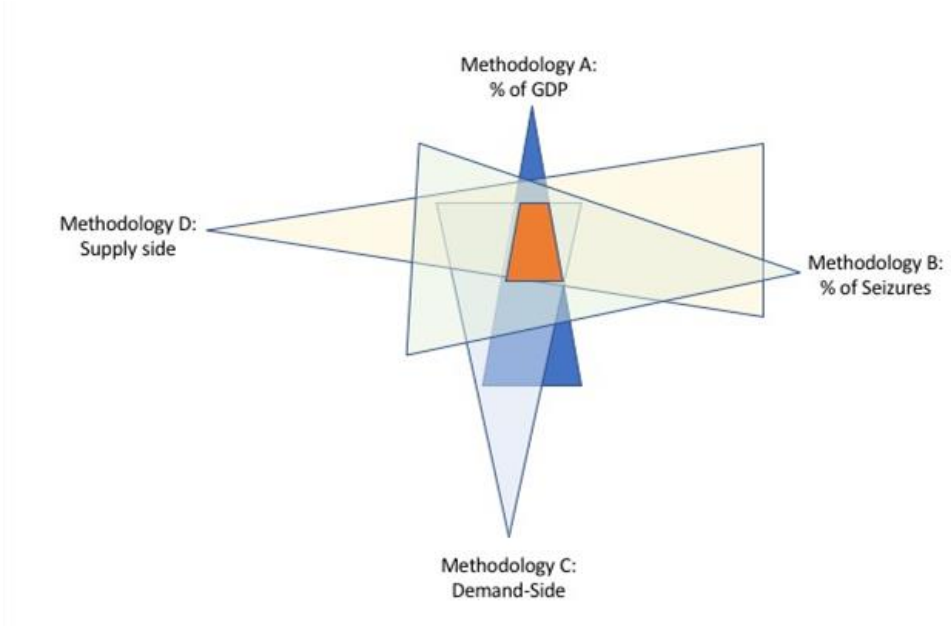
For the purposes of this report, GFI uses the term *narcotics-related illicit financial flows*, which is loosely equivalent to narcotics proceeds, with the caveat that IFFs are by definition cross-border, whereas narcotics proceeds often move cross-border, but may also remain in-country. This definitional nuance comes into play with regards to drug pricing. GFI’s estimates use wholesale drug prices, which can be understood in general terms as the price at the US border. These wholesale prices serve as a proxy for the value of narcotics-related illicit financial flows moving across international borders.²⁹ The retail price of narcotics, on the other hand, is higher, because it includes US-based drug trafficking activities, the financial proceeds of which in large part remain within the United States.

The scope of this data analysis is limited in several ways. The report does not attempt to address all types of narcotics. GFI analyzed five specific substances: cocaine, heroin, marijuana, methamphetamine and fentanyl. The data analysis presented here is based on a simplified assumption that drugs are pure or close to pure when they cross the United States-Mexico border and are subsequently diluted;³⁰ the reality is much more complex. Geographically, this analysis focuses on the United States, Mexico and Colombia and does not include other parts of Latin America, despite the importance of other countries and regions, most notably Central America. Moreover, it does not address the retail value of narcotics as they are sold in cities and towns throughout the United States at higher costs than the wholesale value. Additionally, the report uses a somewhat simplified assumption that narcotics move from Mexico and Colombia to the United States and that payment for the wholesale product moves in the opposite direction. However, the

reality is more complex, as some proceeds from wholesale drug trafficking may stay within the United States, or pass to other jurisdictions, such as Central American countries, rather than returning to Mexico and/or Colombia.

GFI analyzed narcotics-related illicit financial flows from four perspectives, as outlined in Graphic 1, honing in on areas where ranges and estimates overlap:

Graphic 1: Visualization of Methodologies (for conceptual purposes – not to scale)



The different methodologies utilized indicate that the value of narcotics-related illicit financial flows affecting the United States, Mexico and Colombia is between US\$42.3 billion and US\$121.6 billion a year. The wide range reflects the difficult of providing a quantitative data point for illicit financial activity, which is by its very definition hidden. The best estimate would be the midpoint of US\$80 billion-US\$90 billion a year.

Table 2: Summary of Methodologies and Findings

Methodology	Value in US\$/Year
Percent of GDP estimate:	US\$121.6 billion/year
Seizure data estimate:	US\$83.8 billion/year
Demand side estimate:	US\$82.2 billion/year
Supply side estimate:	US\$42.3 billion/year

The following sections explain how we arrive at these estimates. They also discuss some of the inherent methodological challenges and weaknesses regarding these sorts of calculations.

Methodology A: By Percentage of GDP

The United Nations Office on Drugs and Crime (UNODC) has estimated that drug proceeds amount to 0.4 to 0.7 percent of GDP globally.³¹ While the scope of the present study is not global, it does include countries of cultivation, transshipment and consumption of illicit drugs. If the UNODC methodology is applied to the combined GDP of the United States, Mexico and Colombia, the result is an average of US\$121.6 billion a year in narcotics-related illicit financial flows, that is to say, for narcotics trafficking and money laundering in the United States with narcotics originating from Mexico and Colombia.

Table 3: Estimating the Value of Cross-Border, Narcotics-Related Illicit Financial Flows in Mexico, Colombia and the United States (Annual) Using a Percentage of GDP Methodology

	Drugs as % GDP	Combined GDP of US, Mexico and Colombia (2018, USD)	Est. Annual Value of drug trafficking (USD)
High range	0.7	US\$22.1 trillion	US\$154.7 billion
Low range	0.4		US\$88.4 billion
Midpoint: US\$121.6 billion			

Source: For ranges, UNODC.³² For GDP, World Bank Data, 2018. The total values are rounded.

In the case of Colombia, government sources estimated money laundering was roughly equivalent to 5.4 percent of GDP in 2017.³³ Considering that Colombia's GDP was US\$311.8 billion that year,³⁴ this would mean the value of money laundering in the Colombian economy alone was nearly US\$17 billion. A World Bank study conducted around the same time came to similar conclusions, at 4.7 percent of Colombian GDP.³⁵ It is important to note that in the Colombian case, drug proceeds represent a very sizable portion of this amount, despite not being the only source of illicit income that is ultimately laundered.

In the case of Mexico, a government source has estimated that money laundering amounts to US\$50 billion a year, which includes drug proceeds, as well as other types of criminal proceeds.³⁶

Methodology B: Percentage of Seizures

Law enforcement agencies have estimated that interdictions represent between five and ten³⁷ percent of drugs arriving in the United States.³⁸ Starting from the amount of drugs seized as five to ten percent of the total, it is possible to calculate backwards. However, this methodology has several limitations. Not all drug seizures are conducted along the border and not all drugs coming into the United States fall into the categories for which there is available data (cocaine, heroin, marijuana, methamphetamine and fentanyl). Moreover, the five to ten percent figure is a rough estimate at best, as the total flow of drugs that go undetected is unknowable.

Table 4: Estimating the Volume of Narcotics-Related Illicit Financial Flows– Seizures Methodology

Category	Description	Cocaine	Heroin	Marijuana	Meth	Fentanyl
Average Seizures ³⁹	Total Seizures in Kg (Average, FY17-19)	130,164	2,684	437,938	65,833	1,185
Origin of narcotics <small>40 41 42 43</small>	Est % from Mexico + Colombia ⁴⁴	89%	90%	90%	65%	10%
	Estimated Seizures from MX, COL in Kg	115,846	2,416	394,144	42,792	119
Inbound Seizures	Est. % of Seizures that are US-Inbound ⁴⁵	90%	90%	50%	90%	90%
	Est. Total Inbound Seizures in Kg	104,262	2,174	197,072	38,512	107

Sources: See footnotes within table. The estimated production value figures are rounded.

The data from Table 4 is only what is interdicted, but it is well known that more illicit narcotics manage to pass across borders undetected. Using the data from Table 4, it is possible to calculate the total estimated flow of illicit narcotics, assuming that five to ten percent are apprehended by law enforcement. In Table 5 below, for example, the 104,262 kilograms of cocaine that are seized would represent five percent of a total flow of 2,085,234 kilograms.

Table 5: Estimating the Value of Narcotics-Related Illicit Financial Flows (Annual) – Seizures Methodology

	Cocaine	Heroin	Marijuana	Meth	Fentanyl
Total Product Seized in Kg	104,262	2,174	197,072	38,512	107
Total Flow if 5% Interdicted, Kg ⁴⁶	2,085,234	43,482	3,941,440	770,248	2,134
Total Flow if 10% 10% Interdicted, Kg ⁴⁷	1,042,617	21,741	1,970,720	385,124	1,067
US Wholesale Price (Kg), 2016 Average, USD	28,000 ⁴⁸	53,333 ⁴⁹	2000 ⁵⁰	56,000 ⁵¹	4,000 ⁵²
Value of Total Flow if 5% Interdicted, USD	58.4 billion	2.3 billion	7.9 billion	43.1 billion	8.5 million
Value of Total Flow if 10% Interdicted, USD	29.2 billion	1.2 billion	3.9 billion	21.6 billion	4.3 million
Scenario 1, Total: US\$111.7 billion and Scenario 2, Total: US\$55.9 billion					
Midpoint: US\$83.8 billion					

Sources: See footnotes within table. The estimated production value figures are rounded.

This methodology provides a midpoint of US\$83.8 billion for narcotics-related illicit financial flows, that is to say, for narcotics trafficking and money laundering in the United States with narcotics originating from Mexico and Colombia

Methodology C: Demand Side

An additional methodology looks at the quantity of drugs that are being consumed. One difficulty with demand-side estimates is that they are typically based on survey data of self-reported⁵³ drug use, which not unsurprisingly, respondents tend to underreport.⁵⁴ To avoid this issue, GFI used data from routine urine analysis tests requested by primary care physicians in the United States from 2013-2019.⁵⁵ While less likely to underreport, this source does present a challenge in terms of the length of time drugs stay in the body. For this reason, it should be assumed that these percentages reflect habitual and frequent users, and may not capture all infrequent users. Another considerable challenge with this methodology is the limited availability and quality of data regarding frequent users' average consumption amounts.⁵⁶

Table 6: Estimating the Value of Narcotics-Related Illicit Financial Flows (Annual) – Consumer Side Methodology

	US Population, Ages 15 to 85 ⁵⁷	260,670,747
Cocaine	Number of Users, Urine Sample Data (@ 3.89% Population ⁵⁸)	10,140,092
	Average Annual Usage per Consumer (g) ⁵⁹	41
	Total Annual Usage for All Consumers (kg)	415,744
	Estimated Percentage from Mexico and Colombia is 89% ⁶⁰	370,012
	Average Wholesale Price per Kg ⁶¹	\$28,000
	Total Estimated USD/Year - Wholesale	US\$10.4 billion
Heroin	Number of users, Urine Sample Data (@1.36% Population ⁶²)	3,545,122
	Average Annual Usage per Consumer (g) ⁶³	146.00
	Total Annual Usage for All Consumers (kg)	517,588
	Estimated Percentage from Mexico and Colombia is 90% ⁶⁴	465,829
	Average Wholesale Price per Kg ⁶⁵	US\$53,333
	Total Estimated USD/Year - Wholesale	US\$24.8 billion
Marijuana	Number of Users, Survey Data (Past Year) ^{66 67}	26,733,000
	Average Annual Usage per Consumer (g)	36.9
	Total Annual Usage for All Consumers (kg) ⁶⁸	986,448
	Estimated Percentage from Mexico and Colombia is 90% ⁶⁹	887,803
	Average Wholesale Price per Kg ⁷⁰	\$2000
	Total Estimated Value USD – Wholesale ⁷¹	US\$1.8 billion
Methamphetamine	Number of Users, Urine Sample Data (2.38% ⁷²)	6,203,964
	Average Annual Usage per Consumer (g) ⁷³	200.00
	Total Annual Usage for All Consumers (kg)	1,240,793
	Estimated Percentage from Mexico and Colombia is 65% ⁷⁴	806,515
	Average Wholesale Price per Kg ⁷⁵	\$56,000
	Total Estimated USD/Year - Wholesale	US\$45.2 billion
Fentanyl	Number of users, Urine Sample Data (@ 1.28%) ^{76 77}	3,336,586
	Average Annual Usage per Consumer (kg) ⁷⁸	0.00365
	Total Annual Usage for all Consumers (kg)	12,179
	Estimated Percentage from Mexico and Colombia is 10% ⁷⁹	1,218
	Average Wholesale Price per Kg ⁸⁰	\$4,000
	Total Estimated USD/Year– Wholesale	US\$4.9 million
Total: US\$82.2 billion		

Sources: See footnotes within table. The estimated production value figures are rounded.

Using a demand-side methodology, the best estimate for narcotics trafficking and money laundering in the United States with narcotics originating from Mexico and Colombia would be US\$82.2 billion.

Methodology D: Supply Side

A supply side methodology can be used to calculate the estimated production of illicit crops or substances in Colombia and Mexico. The general logic is that cultivation minus seizures will equal the supply reaching the United States. However, recent dynamics such as the decline in heroin use,⁸¹ the rise of fentanyl and the partial legalization of marijuana in certain jurisdictions make this type of analysis particularly challenging. As a result, the estimate below is likely incomplete.

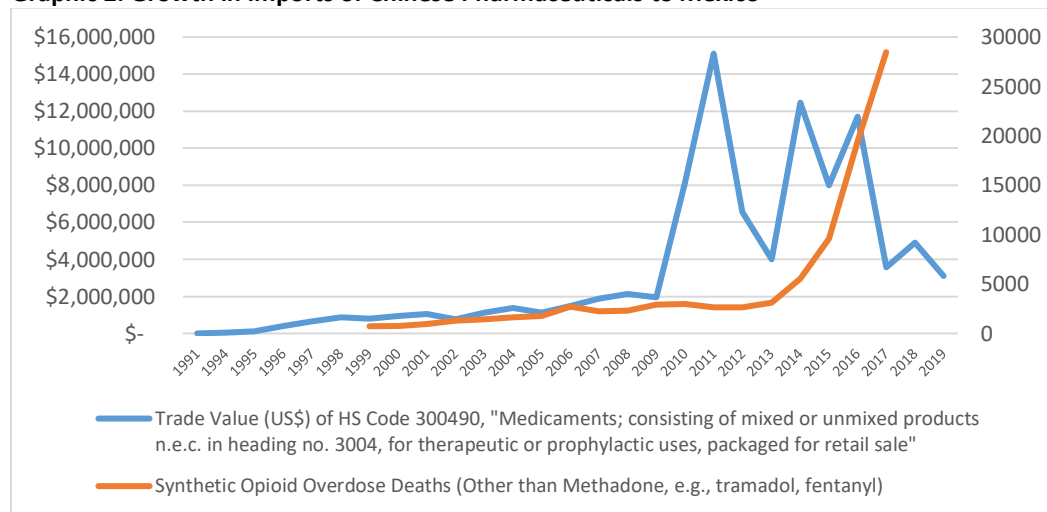
Table 7: Estimating the Value of Narcotics-Related Illicit Financial Flows - Supply Side

Substance and Source Country	Est. Production		Going to US		Seizures (kg) by country		Production Minus Seizures (KG)	Price per KG, USD	Est. Production Value, 2018, USD Wholesale
	Metric Tons	KG	%	KG	US ⁸² - Ave.	Panama & Costa Rica ⁸³			
Cocaine - Colombia	1,379 ⁸⁴	1,379,000	85	1,172,150	130,164	92,457	949,529	28,000 ⁸⁵	26.6 billion
Heroin - Mexico	106 ⁸⁶	106,000	90	95,400	2,684	-	92,716	53,333 ⁸⁷	4.9 billion
Heroin - Colombia	1.5 ⁸⁸	1,500	75	1,125	-	-	1,125	53,333 ⁸⁹	60 million
Marijuana - Mexico	6,650 ⁹⁰	6,650,000	90	5,985,000	437,938	-	5,547,062	2000 ⁹¹	11.1 billion
Total: US\$42.3 billion									

Sources: See footnotes within table. The estimated production value figures are rounded.

Though not easily calculated, the chemical precursors used to make synthetic drugs should also be considered. Many of these precursors come to Mexico from China and increasingly India.⁹² For example, in 2017, a year in which overdoses from fentanyl in the United States skyrocketed,⁹³ Mexican imports of Chinese pharmaceuticals grew by 36 percent and organic chemicals by 14 percent.⁹⁴ Additionally, in 2018, Mexican imports of Indian pharmaceuticals grew 56 percent.⁹⁵ While not all chemical and pharmaceutical products exported from China and India to Mexico are used to engineer synthetic drugs, there is cause for concern in the rapid growth rate of such imports.

Graphic 2: Growth in Imports of Chinese Pharmaceuticals to Mexico



Source: For trade data, UN Comtrade, accessed April 2020, for HS Code 300490. For Overdoses, Kaiser Family Foundation data, accessed April 2020. Available at: <https://www.kff.org/other/state-indicator/opioid-overdose-deaths-by-type-of-opioid/?currentTimeframe=0&sortModel=%7B%22colid%22:%22Location%22,%22sort%22:%22asc%22%7D>



Main Frameworks and Actors in Narcotics-Related Illicit Financial Flows

The process for laundering narcotics proceeds in the Western Hemisphere functions similarly to other types of asset laundering. Money laundering, which should be understood as the “processing of criminal proceeds to disguise their illegal origin,”⁹⁶ generally includes three steps. The first, *placement*, involves putting the money somewhere, such as a bank account. The second, *layering*, comprises a series of processes and movements to obfuscate the origin of the money. The third step, *integration*, encompasses inserting these funds into the legitimate economy, which could occur through commerce, or the purchase of luxury goods and real estate, for example. Though money laundering is the most common term used, a more accurate technical term would be asset laundering, as not all criminal proceeds exist in the form of money. Assets can include gold, precious stones, exotic animals and a wide range of other valuable commodities. They can also include digital assets, which have value and are similarly used to launder criminal proceeds in the digital world and dark web.

The Role of Corruption

In the Western Hemisphere, as is the case in other parts of the world, corrupt officials are a common thread in narcotics-related money laundering. In the case of both Mexico and Colombia, corruption is prevalent and highly entrenched. As one measure of the extent of the problem, Transparency International’s Corruption Perception Index ranks Mexico as 130 out of 198 countries surveyed, and Colombia as 96.⁹⁷ At the same time, the United States has faced its own corruption challenges. All of these must be carefully addressed as part of a policy response (See Chapter 8).

While corruption is sometimes perceived to remain within the realm of the purely political – money in politics, or unfair public procurement, for example – the reality is that it often involves interaction with organized crime groups and drug trafficking. In this regard, corruption facilitates the movement of drugs and their proceeds, and also stymies counter-narcotics and AML/CFT efforts.

Honduras, which is a major transshipment point for cocaine from Central America headed to Mexico and the United States, offers a prime example. In 2020, US federal prosecutors announced charges, stating “former national police chief Juan Carlos Bonilla oversaw the shipment of tons of cocaine on behalf of (President) Hernández and his brother Tony, a Honduran ex-congressman convicted in US court last year of trafficking cocaine.”⁹⁸ Guatemala, another transshipment point for narcotics and narcotics proceeds, offers another example. In 2020, US federal prosecutors announced charges against the former Minister of Economy for allegedly moving US\$10 million in narcotics proceeds in suitcases and bags. According to the charges, some of the funds were allegedly used for political purposes in Guatemala, while others were routed to unspecified South American countries.⁹⁹

Understanding Money Laundering in Relation to Financing of Terrorism

Though money laundering and terrorist financing often appear side by side in the so-called “AML/CFT requirements,” from a technical perspective they are very different.¹⁰⁰ Money laundering often involves very large amounts of money, whereas terrorism financing requires frighteningly little. Consider, for example, that the 9/11 plot is reported to have cost Al Qaeda less than US\$500,000 to carry out, a comparatively small amount of money in relation to its tremendous human and economic toll.¹⁰¹ Moreover, the motivations behind money laundering and terrorism financing are quite different: the

former seeks to hide the illicit origins of money through a “laundering” process, whereas the latter seeks to channel funds to a specific group towards advancing acts of terrorism.

Criminal organizations, including both drug trafficking organizations and terrorist organizations, may use a combination of dirty and clean money to finance their licit-illicit activities. For example, a worker may use his honest salary to purchase a truck that will later be used to transport narcotics, or a wealthy businessperson may choose to donate part of their legitimate profits to a terrorist organization; the initial funding source is clean, but the end use is criminal. At the same time, both drug trafficking organizations and terrorist organizations may also “reinvest” dirty money to further fund their activities. This is one of the reasons terrorist groups sometimes engage in drug trafficking as a means to diversify their sources of income.

While this report focuses primarily on the laundering of narcotics proceeds, it is important to address terrorism financing as well. The presence of foreign terrorist cells, specifically Hezbollah, in Latin America has been a source of concern for US elected officials.¹⁰² While a detailed investigation of this issue lies beyond the scope of this report, suffice it to say that isolated incidents have occurred which have demonstrated limited Hezbollah involvement in the region, such as the 2007 arrest of Chekri Mahmoud Harb in Colombia,¹⁰³ but they are not commonplace. Because terrorist groups do not require large amounts of money to operate and can carry out devastating acts of violence with very little resources, it makes more sense that Middle-Eastern terrorist organizations would seek sources of funding closer to their home base, rather than in distant Latin American countries. Moreover, the current evidence does not suggest that Mexican or Colombian drug trafficking organizations ideologically support Middle Eastern terrorist organizations. Latin American trade with Iran, concerning to the US for geopolitical reasons, should not be interpreted as a direct Hezbollah presence in the region,¹⁰⁴ and nor should the presence of Lebanese diaspora communities in Latin America draw an automatic terrorism connection.

Caryn Hollis, who formerly served as Deputy Assistant Secretary of Defense for Counternarcotics and Global Threats at the US Department of Defense and one of the experts consulted for this report, noted that this is a complex and controversial issue. She commented that she is “watching with great concern Iran’s influence in Venezuela.” However, she also stated that “while there is clearly a drugs and financial pipeline between Latin America and the Middle East, the specific role of Hezbollah is less clear.”¹⁰⁵

For Colombia, the threat of narcotics proceeds supporting home-grown terrorist groups is more substantial, though it depends on which groups are designated as such. It is no secret that the Revolutionary Armed Forces of Colombia (FARC) was engaged in drug trafficking as a way to fund its operations. However, following the Colombian peace process and the incorporation of FARC as a political party in Colombia, the context has changed. Colombia has since removed FARC from its list of designated terrorist organizations and subsequently re-added the FARC Dissidents,¹⁰⁶ a small group that either refused to disarm or subsequently resumed arms, and which engages in illicit activities due to their profitability. However, the United States has maintained FARC’s original designation,¹⁰⁷ resulting in an unsynchronized approach between the two countries.

Perhaps the most serious concern in terms of narcotics trafficking and terrorism financing in the region is the National Liberation Army (Ejército Nacional de Liberación, ELN) of Colombia. The ELN is designated a terrorist organization by United States, Colombia and other international bodies such as the European Union. Despite its relatively small membership, the ELN’s violent operating methods, cross-border activities in Venezuela and eagerness to fill the power vacuum left from FARC disarmament, should all be cause for concern. The recent capture of “Doña Ana,” reportedly a top figure managing the ELN’s finances

and drug proceeds by US and Colombian officials may provide additional insight into the exact financial pathways that are being used¹⁰⁸ to move illicit proceeds from narcotics, gold and other sources.

Main Actors Involved

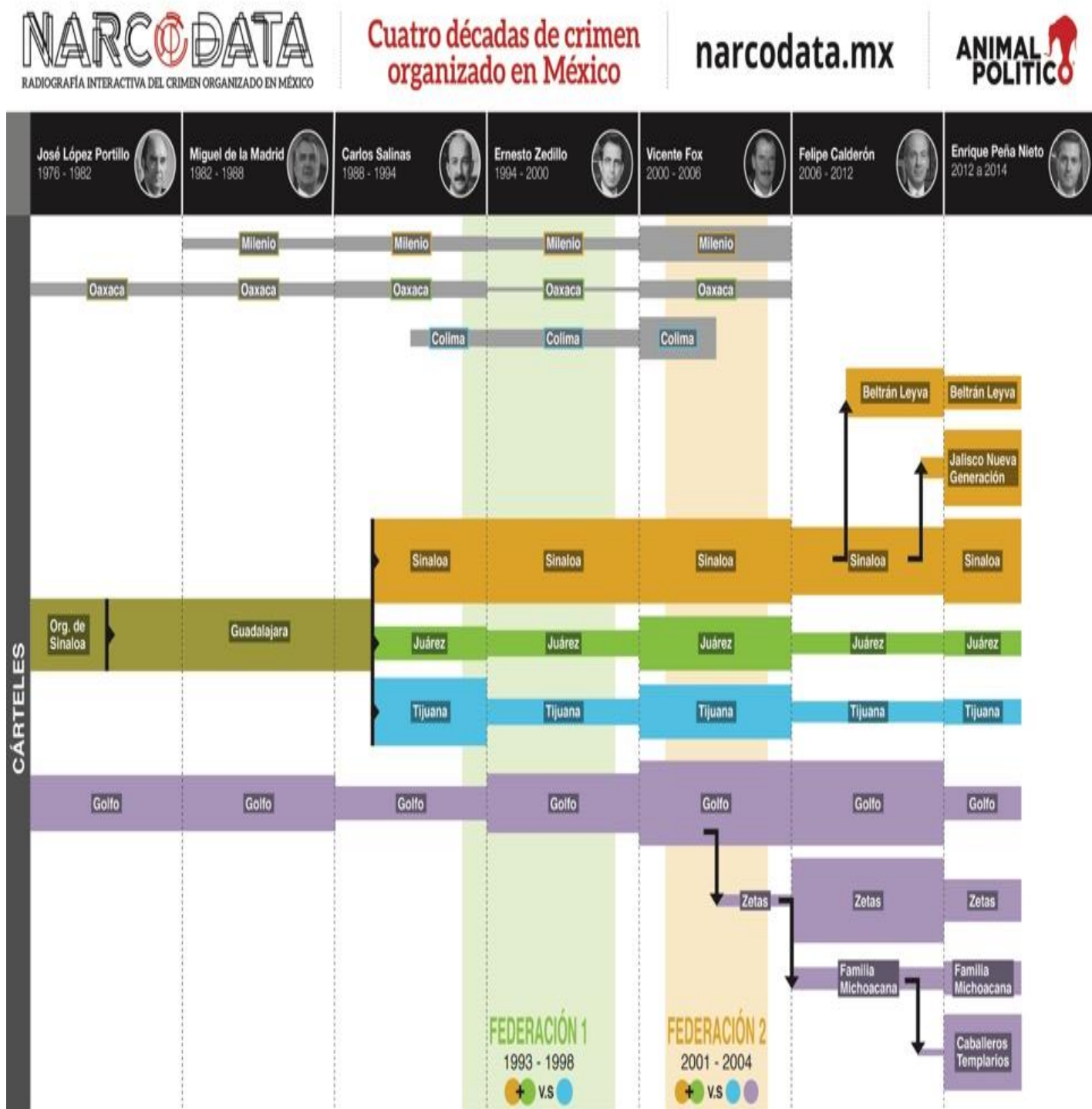
Drug trafficking organizations (DTOs), organized crime groups (OCGs), guerrilla groups and terrorist organizations are all involved in drug trafficking, which for them represents a highly profitable source of income. The OCG framework is perhaps the most helpful for the Latin American context, since it encompasses a range of criminal behavior, consistent with the behavior of Mexican and Colombian groups that engage in drug trafficking, as well as a number of other crimes.¹⁰⁹ According to the UN Convention against Transnational Organized Crime, an OCG is “a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences... in order to obtain, directly or indirectly, a financial or other material benefit.”¹¹⁰

Others have looked at these groups more in the framework of large corporations. A fascinating analysis by the Organization of American States examined the accounting books of DTOs. It found that “Mexican drug trafficking organizations are large relative to other firms in Mexico, even looking only at the plaza as the fundamental operating unit. Plazas typically encompass drug trafficking organizations’ operations in a given city or region and have two types of employees on their payrolls: internal employees and ley (law) employees, the latter consisting primarily of law enforcement officials who render services to the trafficking organization in return for bribes. The number of internal employees per plaza ranges from 61 to nearly 600, whereas the number of individuals receiving bribes ranges from 109 to nearly 1,000.” The report concludes by noting that this structure makes DTOs both larger and better paying than the average Mexican firm.¹¹¹

This analysis captures two key facets of drug trafficking: its profitability in contexts where there are few other comparable economic opportunities, and its strategic use of bribery to maintain a network of corrupt public officials. In the Mexican context, one need look no further than the recent case of Génaro García Luna, a top anti-narcotics official, who faces charges by the US Department of Justice for allegedly taking millions of dollars in bribes from the Sinaloa Cartel, in exchange for allowing them to operate with relative impunity.

Unfortunately, there are numerous OCGs involved in the drug trade in the United States, Mexico and Colombia. As has been well documented,¹¹² one of the unintended outcomes of law enforcement efforts has been the splintering of these groups, which makes future enforcement efforts more challenging, especially as groups fight each other for control over markets and routes. The graphic included below evidences this dynamic in the case of Mexico, where two major groups have splintered into a dozen:

Graphic 3: The Splintering of Mexican Organized Crime Groups



Source: NarcoData, a project by Animal Político. See <https://narcodata.animalpolitico.com/especial-de-fin-de-ano-narcodata-en-posters/>

Other key actors in this process include Professional Money Laundering Networks (PMLNs). PMLNs are increasingly¹¹³ used by Mexican and Colombian organized crime groups, a sort of “outsourcing” of money laundering activities to a third party, conducted in exchange for payment. The Financial Action Task Force (FATF) notes that PMLNs “are often not familiar with the predicate offence (e.g. narcotics or human trafficking) and are generally not concerned with the origins of the money that is moved. Nonetheless, PMLNs are aware that the money that they move is not legitimate.”¹¹⁴

Another important actor in this process are the so-called “gatekeepers,” named as such, because they stand at the gates of the financial system, monitoring who can access it. Unfortunately, complicit or unscrupulous gatekeepers are a common thread in money laundering cases. Gatekeepers are involved in a variety of functions; they include the lawyers who draft company registration documents including the creation of anonymous shell companies, the notaries who authenticate property deeds or IDs, the auditors who review financial statements and the real estate agents who prepare documents for clients and others. Under national laws and international AML/CFT standards, these professions generally have¹¹⁵ AML/CFT responsibilities, though some loopholes do exist. They are also governed by industry-specific professional standards and guidelines. However, because such complicit facilitators and gatekeepers act on behalf of others and have the power to legalize, authenticate and certify transactions, their role is vulnerable to subversion for money laundering purposes.



Methods Used to Move and Launder Narcotics-Related Illicit Financial Flows

The methods used to move narcotics-related illicit financial flows are highly diverse and constantly evolving. This section presents an overview of the methodologies used in narcotics-related illicit financial flows between the United States, Mexico and Colombia, as well as their estimated prevalence. In many cases, these methodologies do not initially or directly use formal financial institutions, though the funds may eventually enter banks at a later point, when linkages to their criminal origins have been obscured.

Drug trafficking operations are complex, sophisticated networks that evade detection by obfuscating the origin of their revenues through complex financial transactions that can span multiple jurisdictions before returning to their countries of origin, and hide wealth in seemingly legitimate sectors and investments that can include real estate, textiles, cars and others.¹¹⁶ With the growth of technology and the ever-changing global nature of supply chains, the trafficking of drugs and laundering of proceeds has benefited from the growth in the digital economy and innovations like virtual currency.¹¹⁷

This section draws on interviews conducted with experts familiar with the US, Mexican and Colombian contexts. An effort was made to include a variety of perspectives that represent current and former government officials, the financial sector, academics, researchers and civil society. Interviews were conducted from January to April of 2020 in person and via phone. In addition to these interviews, this section draws upon open-source information from governments and international bodies regarding anti-money laundering/terrorist financing (AML/CFT) vulnerabilities and efforts, such as National Risk Assessments, Mutual Evaluation Reports and the United States International Narcotics Control Strategy (INCSR) Reports. From these interviews and open-source materials, the methodologies that criminal actors use to move narcotics-related funds were mapped and categorized.

An important source of information has been the Financial Action Task Force (FATF). The FATF, which was created in 1989 by the G7 countries, initially sought to strengthen AML policies among member countries and expanded post-9/11 to also address CFT. The organization currently has 39-member countries, including the United States and Mexico. It also has affiliated regional groups, such as the Grupo de Acción Financiera de Latinoamérica (GAFILAT), of which Mexico and Colombia are members and the United States is an observer.

Main Methodologies Used

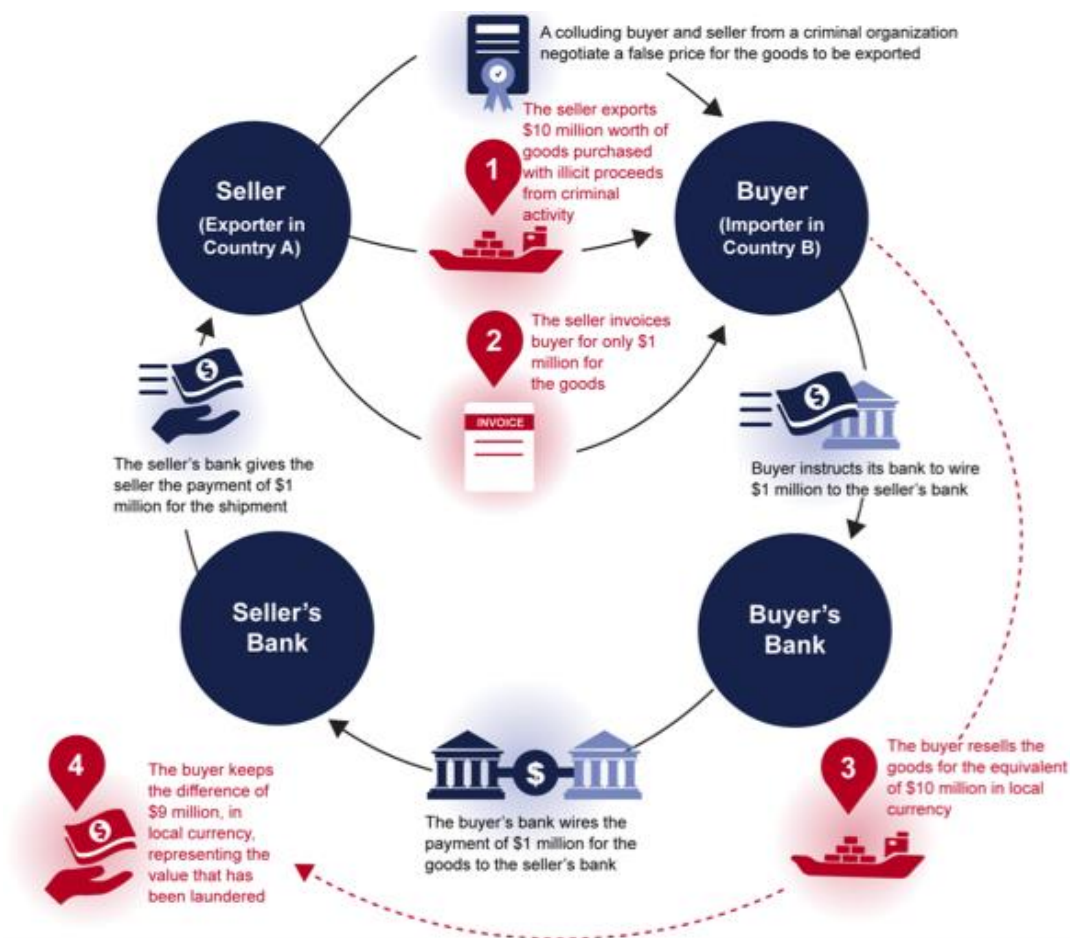
From a review of these interviews and sources, bulk-cash smuggling and trade-based money laundering (TBML) emerged as the two primary methods used to shift drug proceeds from one jurisdiction to another. Bulk-cash smuggling, which involves the physical transportation of large amounts of cash, often across international borders, is used because the “physical transportation of cash distances the criminal proceeds from the predicate offense that generated them, and breaks audit trails.”¹¹⁸ Eventually, the cash will likely be converted into local currency and/or deposited into a financial institution. At this point, countries will have an opportunity to control, supervise and limit the transaction through currency reports or foreign exchange limits. However, the robustness and effectiveness of these controls vary by institution and by country.

Among the expert interviews conducted and open-source reports analyzed, there is some debate as to the prevalence of bulk-cash smuggling along the US-Mexico border, with differences in perspectives between the United States and Mexico. According to a recent report by the US Department of the Treasury, “bulk-cash smuggling into and out of the United States remains one of the predominant ways that Mexican drug cartels move illicit drug proceeds across the US southwest border.”¹¹⁹ This concern with

bulk-cash smuggling is echoed in other US government documents and appears in references to Colombia as well.¹²⁰ However, Mexico's 2016 National Risk Assessment states that there has been a "significant decrease in the flow of US dollars in cash within the financial sector since June 2010, when restrictions were put in place...therefore, it must be concluded that bulk-cash smuggling along Mexico's northern border has a LOW probability rate."¹²¹ This view was echoed in expert interviews conducted by GFI with Mexican sources for this report. Mexico's 2010 restrictions most notably capped the monthly deposit limit for US dollars at US\$4,000 for individual account holders at financial institutions and substantially reduced cash currency exchange for non-account holders, capped at US\$1,500 per month.¹²² At the same time, there have been fewer reports of bulk-cash seizures along the US-Mexico border.¹²³ However, US government and US experts remain concerned with the prevalence of bulk-cash smuggling, noting that the decrease in seizures "does not necessarily mean that there is less bulk-cash transiting the border,"¹²⁴ especially as its final destination may be a country other than Mexico.¹²⁵

Another primary system used is TBML, occurring when proceeds from an illicit activity are disguised as legitimate international trade transactions as a way to move funds across borders and/or launder them into the formal economy.¹²⁶ Many of the methods used in TBML fall within what is known as trade misinvoicing: over- or under-invoicing shipments, falsely duplicating shipments or invoices, or falsely declaring the contents, or quality of a shipment.¹²⁷ This process is used by illicit actors to move money or value under the pretext of legitimate trade transactions. It is very difficult for financial institutions, or traditional law enforcement agencies, to detect the problem, as it occurs through ports, and not through the financial system. Moreover, only 20 percent of international trade involves trade financing,¹²⁸ where financial institutions (FIs) would 1) be aware that the payment/transaction was related to trade and 2) have the opportunity to review the associated trade documents. The majority of international trade (80 percent) is conducted through open-account transactions,¹²⁹ where FIs see a transaction (i.e. payment), but do not necessarily know that it is related to a trade transaction, nor receive supporting documentation.

Graphic 4: Trade Based Money Laundering Diagram



Source: US Government Accountability Office (GAO) presentation of US Agency and International Organization Information, GAO – 20 – 333. As published in *Trade-Based Money Laundering*, GAO, April 2020.

Another concerning method is the black-market peso exchange (BMPE), a major subset of TBML. It can be even more difficult to detect than traditional TBML, because it may not necessarily involve the manipulation of invoices. As the US Immigration and Customs Enforcement (ICE) explained in a statement, BMPE often solves the problem of how to repatriate drug proceeds back to Mexico in US dollars. “As part of the scheme, a broker finds business owners in the foreign country who buy goods from US companies and who need dollars to pay for those goods. The broker arranges for the illegally obtained dollars to be delivered to the United States-based vendors (...) and these illegally obtained dollars are used to pay for the goods purchased by the foreign customers. Once the goods are shipped to the foreign country and sold by the foreign business, the pesos are turned over to the broker, who then pays the drug trafficker in the local currency of the foreign country, thus completing the laundering of the illegally obtained dollars.”¹³⁰ In one recent case, a business in the Los Angeles fashion district used a BMPE scheme to knowingly launder drug proceeds.¹³¹

Table 8 below provides additional detail on bulk-cash smuggling, TBML and other methods used, which are numerous and quite varied. The percentages shown in the table below do not reflect the estimated amount of proceeds moving through each channel, but rather, the frequency with which they are

mentioned by experts and official sources as being among the primary systems used. This method – analyzing frequency of mentions by experts – has been used rather than an analysis of seizures of dirty money, as that would methodologically “favor” the methods that are easier to apprehend, which may not be representative of the actual methods used.

Note that many of these processes are not mutually exclusive: for example, funnel accounts can be used in conjunction with TBML,¹³² and unscrupulous gatekeepers¹³³ are a common thread running through many of these approaches. The diversity of methods speaks to the creativity of those moving these funds, as well as to the tremendous challenges faced by law enforcement.

Table 8: Methods Used and Prevalence,¹³⁴ According to Expert Interviews and Official Sources

Overall	US Perspective: by US Experts and US Official Sources	LAC Perspective: By Mexican and Colombian Experts and Official Sources
<ul style="list-style-type: none"> Bulk-cash smuggling (18%) TBML (18%) 	<ul style="list-style-type: none"> Bulk-cash smuggling (24%) TBML (24%) 	<ul style="list-style-type: none"> TBML (13%) Real estate (13%)
<ul style="list-style-type: none"> Funnel accounts (9%) Real estate (7%) 	<ul style="list-style-type: none"> Funnel accounts (12%) 	<ul style="list-style-type: none"> Bulk cash smuggling (10%) Corporate structures (10%)
<ul style="list-style-type: none"> Corporate structures (6%) Banking system, including correspondent banking (4%) 	<ul style="list-style-type: none"> Professional, third party launderers (6%) Real estate (6%) Structured bank deposits (6%) 	<ul style="list-style-type: none"> Bad gatekeepers (7%) Banking system, including correspondent banking (7%) Car sales (7%) Non-financial institutions (7%)

Source: Mapping of methodologies as mentioned in expert interviews (13) with Global Financial Integrity and in publicly available official reports (11) from the United States, Colombia, Mexico and the Organization of American States.

Other methods directly involve FIs as the first point of contact. These schemes may involve the use of funnel accounts, money mules and correspondent banking. Oftentimes, this process starts with a criminal organization paying someone to open an account at a US bank, ideally with a presence in various states, under an innocuous name. This account (“funnel account”) serves to receive deposits of illicit proceeds, often deposited by various persons (“money mules”) and structured into smaller amounts that fall below the US\$10,000 reporting threshold, as to avoid triggering AML/CFT alarms. In some schemes, the money is then transferred to a Mexican bank account’s US correspondent account.¹³⁵ Indeed, in 2014, the Financial Crimes Enforcement Network (FinCEN), a bureau of the US Treasury, noted that, “schemes such as the use of funnel accounts and TBML are a money laundering concern for both the US and Mexican governments.”¹³⁶

Less common methodologies include virtual currencies, money-service businesses (MSBs) and remittances and prepaid cards, among others. While specific cases have emerged indicating that these methodologies are in use,¹³⁷ they were not identified in the expert interviews as the most prevalent methods.

Given the vast number of actors, organizations and methods involved in complex money laundering schemes, it is difficult to pursue them on a case-by-case basis. However, an approach that leverages systemic changes and strengthens the finance, trade and commerce sectors against drug money could be more effective in curtailing narcotics-related illicit financial flows. The following sections of this report turn to policy efforts by Mexico, Colombia and the United States.



Photo: Juan Carlos Becerra - Unsplash

Mexican Policies Addressing Narcotics-Related Illicit Financial Flows

Over the past decade, Mexico has undertaken a series of ongoing and serious efforts to strengthen its AML/CFT regime, responding to weaknesses that were identified by country officials themselves, as well as external evaluators. Mexican AML/CFT authority stems from Article 119 of the Mexican Constitution, which states that the Mexican federal government has the right to confiscate any “proceeds of crime,”¹³⁸ including the proceeds of drug trafficking. Despite the general framework, however, specific policies and regulations have been inadequate. Mexico’s 2008 Mutual Evaluation Report (MER) by the Financial Action Task Force (FATF) found that the country’s “laws criminalizing the money laundering and financing of terrorism offenses are comprehensive but (did) not fully meet international standards.”¹³⁹ Specific weaknesses were identified with regards to asset forfeiture mechanisms, as well as AML/CFT oversight over “non-financial vulnerable activities,”¹⁴⁰ such as the sales of cars, real estate, or gemstones. Car sales are one of the more prevalent methods of moving drug money in Mexico and can be particularly difficult to detect, as they may not directly or initially involve the financial sector.

Over the past ten years, Mexico has implemented a spate of ambitious new laws and policies to improve its AML/CFT system.¹⁴¹ On the one hand, the extent to which Mexican policymakers have acted to address and resolve weaknesses should be recognized. On the other, some of these policies are still quite new, and may take time to fully implement and fine tune before they are able to achieve their objectives. It is worth considering that the United States passed some of its primary AML/CFT laws several decades ago – the Bank Secrecy Act (BSA) in 1970 and the Patriot Act in 2001. By comparison, Mexican AML/CFT policies are relatively young. Government corruption is another factor that hinders AML/CFT progress in Mexico, as in many other countries around the world.

Some of Mexico’s efforts have focused on preventing drug proceeds from entering the financial system. As discussed, bulk-cash smuggling is one of the primary methods used to move drug proceeds, particularly from the United States (the country of narcotics sales) to Mexico (the country of narcotics production and transshipment). In 2010, as part of attempts to address the problem of bulk-cash smuggling, Mexico substantially restricted cash deposits of US dollars into Mexican financial institutions and currency exchanges of US dollars into Mexican pesos.¹⁴² In interviews with AML experts, this was identified as one of the most impactful changes in Mexican policy.

Another set of laws has strengthened Mexican authorities’ ability to pursue the proceeds of drug trafficking and transnational organized crime. Mexico’s 2009 Federal Asset Forfeiture Law has enhanced capacity to seize assets related to drug trafficking, kidnapping, vehicle theft and human trafficking.¹⁴³ As of 2019, Mexican authorities can seize assets prior to a conviction, or even a court hearing¹⁴⁴ for certain types of crimes, such as drug trafficking. In 2020, the López Obrador Administration highlighted the social role of asset seizures by repurposing illicit proceeds towards social programs.^{145 146}

Lastly, there has been a concerted effort to ensure that AML/CFT reaches beyond the banking sector. This is particularly important since many of the methods used to move narcotics proceeds do not use the formal financial sector as the first point of entry into the economy. In 2011, amendments to the General Law of Auxiliary Credit Organizations and Activities placed certain non-banking financial institutions,¹⁴⁷ such as money service businesses and microfinance institutions, under the supervision of the Comisión Nacional Bancaria y de Valores (CNBV) for AML/CFT matters.¹⁴⁸ Moreover, the 2012 Federal Law for the Prevention and Identification of Operations with Resources of Illicit Origin¹⁴⁹ established requirements for AML prevention and reporting that apply to both financial institutions and vulnerable, non-financial

activities alike.¹⁵⁰ Crucially, the category of “vulnerable, non-financial activities” does include car sales, a prevalent method used to move or launder narcotics proceeds.

In 2019, Mexico passed reforms to address trade misinvoicing, shell companies and fiscal fraud, but the issue of TBML appears to have been sidestepped. The new measures and sanctions leverage existing laws on national security¹⁵¹ to address corporate tax evasion.¹⁵² The reforms have been interpreted by many as an attempt to take Mexican corporations to task for tax evasion and/or tax avoidance.¹⁵³ While tax evasion is an important issue, it is also important to address trade misinvoicing as part of a TBML prevention strategy, particularly given its prevalence in narcotics-related illicit financial flows.

Recent Policy Proposals

The López Obrador Administration has recently requested the Mexican Congress act to reform the Federal Law for the Prevention and Identification of Operations with Resources of Illicit Origin.¹⁵⁴ The MORENA party introduced a bill in early 2019,¹⁵⁵ which, if passed, would:¹⁵⁶ 1) grant the Financial Intelligence Unit (FIU) greater technical and operational autonomy; 2) expand the FIU’s mandate over terrorism financing; 3) collect beneficial ownership data for all legal persons, not just those who are deemed high-risk; 4) increase supervision over non-profits, religious organizations and associations as part of the AML/CFT “vulnerable activities”; and 5) increase information collection on political parties and candidates,¹⁵⁷ as well as on unions and their leaders, expanding existing policies on politically-exposed persons.¹⁵⁸

Strengths and Weaknesses of Mexican AML/CFT Policies

Despite the reforms made and the “significant improvement”¹⁵⁹ that has been achieved, the Mexican AML/CFT system remains incomplete in certain areas. On the legal side, beneficial ownership requirements in Mexico are not as strong as they should be to adequately address the substantial risks posed by drug trafficking organizations, though it is worth noting that they are certainly much stronger than in the United States (see Chapter 8 on US Policy). In Mexico, financial institutions do collect information on the true, or “beneficial” owners of legal structures and assets, but this information is not adequately verified.¹⁶⁰ Financial institutions may “unduly rely on customers’ self-declaration.”¹⁶¹ Moreover, there are substantial limitations in terms of collecting and centralizing this information in such a way that it would be useful for law enforcement.¹⁶² This is a serious issue, as the case of “El Chapo” Guzmán¹⁶³ demonstrated that drug trafficking organizations routinely place assets under the names of unknown operatives,¹⁶⁴ or move funds through shell or front companies.¹⁶⁵

Additionally, it is not always clear how effective Mexican AML/CFT policies are when applied to the non-financial sector.¹⁶⁶ As one expert noted, applying AML/CFT regulations that were designed for the banking sector to a used car dealer doesn’t quite make sense. A better approach may be to evaluate the types of risk faced by non-financial institutions and design “regulatory frameworks that are more tailored” to their daily realities and more effective in detecting potential misuse.¹⁶⁷ Since many of the methods used to move drug proceeds bypass the banking sector, it is critically important to address non-financial sectors.

Mexican terrorism financing laws, which are not clear on corporate liability, present an additional weakness. Mexican AML/CFT experts interviewed for this report had differing views as to whether or not Mexican companies could be charged with terrorist financing as corporate entities. Under Mexican law, individuals can be charged with the crime of terrorism financing and companies are liable for crimes committed under their name.¹⁶⁸ However, for companies themselves, the legal framework for terrorism financing is less clear and enforcement has been ineffective.¹⁶⁹ Furthermore, there are serious doubts that the actors behind such companies could accurately be identified by law enforcement, given the previously mentioned weaknesses in beneficial ownership verification.

On the implementation side, weaknesses emerge with regards to inter-agency coordination. As in any country, this is complex. In Mexico, the Comisión Nacional Bancaria y de Valores (CNBV) is the government

agency responsible for supervising the banking and non-banking financial sector.¹⁷⁰ The tax authority, Servicio de Administración Tributaria (SAT), which has acted on AML responsibilities in the past few years,¹⁷¹ is responsible for supervising vulnerable activities by non-financial institutions. Meanwhile, the Financial Intelligence Unit (FIU) is the government agency responsible for receiving reports of suspicious activity, analyzing and disseminating their findings to law enforcement agencies. Correspondingly, the Attorney General's Office (PGR) builds and prosecutes cases. There is also interaction with the Office of the President. For example, in the López Obrador Administration, the FIU and PGR have increasingly taken on financial crimes related to corruption. Overall though, the siloed approach of the varying agencies results in a frayed AML/CFT strategy.

Weak inter-agency cooperation is partially responsible for the low number of prosecutions and convictions of financial crimes. Mexico's 2018 FATF report highlights the low number of cases referred by the FIU and the PGR, as well as a lack of "proactive and systematic" money laundering investigations by the PGR,¹⁷² noting that "financial intelligence does not often lead to launching ML [money laundering] investigations."¹⁷³ In 2016, for example, the FIU referred 112 requests for money laundering prosecutions to the PGR, of which only 15 were for drug-related crimes and eight for organized crime. Of all money laundering prosecutions referred in 2016, only 43 were prosecuted, with just six resulting in a conviction.¹⁷⁴ As one Mexican AML expert noted in an interview conducted by GFI, prevention and enforcement rely upon each other: the success of preventative efforts depends on enforcement having "teeth."¹⁷⁵

Challenges also emerge in the ports, in terms of coordination with Mexico's customs authority, the Administración General de Aduanas, an administrative unit of the SAT. On the positive side, the FIU does have access to customs data, including declarations of trans-border transportation of cash over US\$10,000.¹⁷⁶ However, experts interviewed for this report qualified the SAT's AML/CFT supervisory capacity as inadequate,¹⁷⁷ particularly with regards to verification.¹⁷⁸ This is problematic given the prevalence of TBML as a method of laundering narcotics proceeds.

Finally, it is important for Mexico to continually reassess the effectiveness of its strategy, particularly in light of all of the changes that have been made in the past ten years. The National Risk Assessment (NRA) is an important tool in this regard. Mexico's 2016 NRA found that the most serious risks facing the country were organized crime and the illicit resources generated by it. The NRA report also clearly states that a Risk Assessment should be conducted every three years;¹⁷⁹ however, an updated version has not been released as of August 2020. Given the numerous policy changes that have been made in Mexico, as well as the substantial vulnerabilities the country faces in terms of narcotics production and transshipment, it is critically important to update this document as part of a national discussion on AML/CFT risks.

In Brief, Policy Recommendations for Mexico:

- ◇ Strengthen beneficial ownership implementation, including verification procedures;
- ◇ Re-evaluate how AML/CFT is working for non-financial businesses, ensuring that the current approach is effective and appropriate;
- ◇ Clarify whether and how terrorism financing laws apply to Mexican businesses;
- ◇ Strengthen inter-agency coordination and information flow on AML cases, from reporting to investigation, prosecution and conviction;
- ◇ Update the 2016 National Risk Assessment, using this assessment as an opportunity to identify risks and evaluate the effectiveness of the current approach.



Photo: Adrian Avila- Unsplash

Colombian Policies Addressing Narcotics-Related Illicit Financial Flows

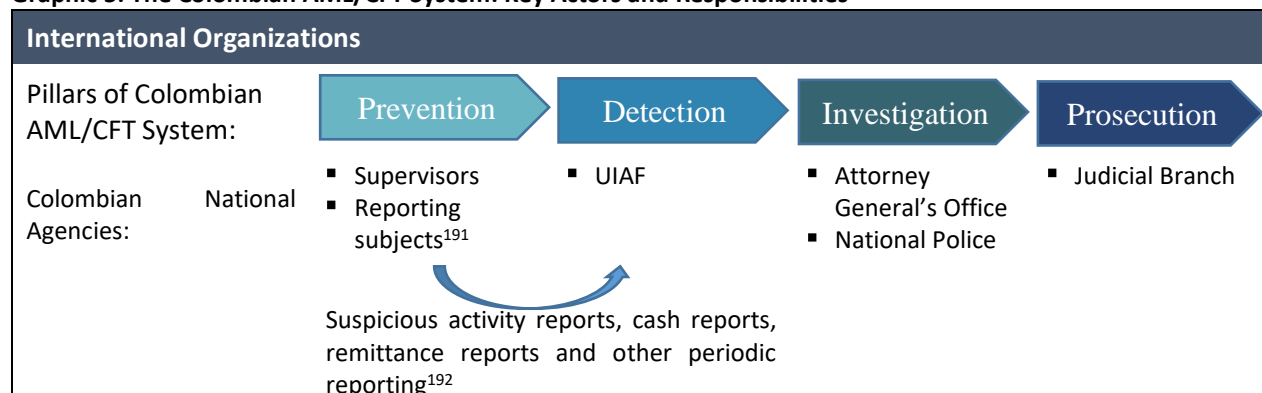
Overall, Colombia has a robust institutional and legal framework for combatting money laundering and terrorism financing. With such frameworks in place, the next step is to ensure that they are fully utilized and effectively implemented, particularly with regards to the investigation and prosecution of narcotics-related financial crimes. As Colombia's most recent Financial Action Task Force (FATF) Mutual Evaluation Report (MER) notes, "most of the structural elements needed to ensure an effective system of preventing and combatting ML [money laundering] and TF [terrorist financing] is present in Colombia."¹⁸⁰ The Colombian constitution includes provisions related to illicit assets, where Article 58 guarantees the right to private property "so long as it has been acquired in accordance with the law"¹⁸¹ and Article 34 states that "possession of assets obtained through illicit enrichment shall be forfeited."¹⁸²

The point of departure for Colombian AML policy is Law 190 of 1995, which designated the crime of asset laundering for the first time. Article 323 of the Colombian Penal Code defines asset laundering as "acquiring, safeguarding, investing, transporting, transforming, storing, conserving, holding custody over, or administering" items that were acquired either directly or indirectly from criminal activities.¹⁸³ The law further recognizes over 60 underlying ("predicate") offenses the money laundering may stem from, including drug trafficking. Illicit enrichment, a lesser offense than asset laundering, is also listed. Colombian law allows for the prosecution of asset laundering even if the underlying offenses occurred outside of the country,¹⁸⁴ a useful provision given the transnational nature of organized crime. Subsequent laws and policies have further strengthened the Colombian legal framework. Law 1908 of 2018 increased investigative and prosecutorial capacity specifically with regards to organized crime groups¹⁸⁵ and organized armed groups¹⁸⁶, along with harsher sentences for these groups and those who aid or abet them.¹⁸⁷ This purview of law is particularly relevant given the involvement of both types of groups in diverse narcotics-trafficking operations, as previously discussed.

Additionally, Law 1121 of 2006 laid out norms to prevent, detect, investigate and prosecute terrorism financing, placing responsibility with the Unidad de Informacion y Análisis Financiera (UIAF), the Ministry of Foreign Affairs, the Financial Superintendence and the Attorney General's Office.¹⁸⁸ Subsequently, Law 1941 of 2018 sought to improve inter-agency coordination on AML/CFT efforts by creating a Center for Coordination on Financing by Criminal and Terrorist Groups.¹⁸⁹

Graphic 5 below outlines key agencies and responsibilities within the Colombian context. Over a dozen sectors, each supervised by a government agency, have reporting responsibilities. The UIAF is the agency responsible for receiving suspicious activity reports and detecting potential financial crimes, which are then shared with the Attorney General's Office (Fiscalía) and the National Police, who from there investigate, prosecute and adjudicate cases. In this process, the Customs and Tax Authority (La Dirección de Impuestos y Aduanas Nacionales, DIAN) is considered a "reporting subject," though the communication flow between DIAN and the UIAF does not appear to be as robust as perhaps it should be.¹⁹⁰ This is problematic, especially in light of the prevalence of TBML as a method of moving illicit funds.

Graphic 5: The Colombian AML/CFT System: Key Actors and Responsibilities



Source: UIAF website¹⁹³ with author's own translation and elaboration.

Current Policy Efforts in Light of Colombia's Peace Process

While the core elements of Colombian anti-narcotics and AML/CFT efforts continue, certain adaptations are being made as part of implementation of the Peace Accords of 2016. Within the Colombian legal and regulatory framework, treatment of the Revolutionary Armed Forces of Colombia (FARC) remains complex. FARC, previously considered a terrorist organization,^{194 195} was engaged in drug trafficking to finance its operations.¹⁹⁶ It has now demobilized and become a political party, with complex implications for AML/CFT laws and regulations. From a law enforcement perspective, if the implementation of the Peace Accords is successful and FARC steps cleanly out of the drug-trafficking arena, additional groups will almost certainly step in to fill the power vacuum. Again, the importance of systemic, big-picture efforts to strengthen the Colombian AML/CFT system – as opposed to combatting specific groups or substances – is key.

Strengths and Weaknesses of Colombian AML/CFT Policies

The Colombian AML/CFT system is not without its strengths. It enjoys a strong legal and institutional framework, making it “one of Latin America’s most rigorous AML regimes,” in the words of the most recent US International Narcotics Control Strategy Report (INCSR).¹⁹⁷ Moreover, Colombia has robust international cooperation regarding AML/CFT and narcotics, particularly with the United States.¹⁹⁸ Communication between the two countries is described by one US official as “extremely close,” with regular and actionable information-sharing.¹⁹⁹ Finally, Colombia also has relatively strong financial inclusion,²⁰⁰ which over time can be expected to reduce the prevalence of difficult-to-trace, cash-based transactions among the general population.²⁰¹ This is important for curtailing money laundering methods that use structuring and money mules, for example, that can be disguised among widespread cash transactions.

At this point, the challenge for Colombia is to fully utilize its existing AML/CFT policies to combat narcotics-related money laundering. As identified in Colombia’s most recent FATF report, investigations and prosecutions are lagging, and inter-agency coordination is likely to blame. “Despite collaboration between the UIAF and Law Enforcement Agencies, spontaneously disseminated financial intelligence has resulted in a limited number of ML [money laundering] and predicate crime investigations given the risk and context of Colombia and not at all for TF [terrorist financing],” the report notes.²⁰² This view was echoed in an interview with a Colombian narcotics expert, who argued that Colombian suspicious activity reports are “useless” as “analysis of reports does not translate into building cases.”²⁰³ An additional area for concern is over-reliance on the lesser crime of “illicit enrichment” over “money laundering.” Illicit enrichment, which refers to “obtaining, directly or indirectly, for oneself or for another person, an

unjustified increase in equity derived in one form or another from a criminal activity,”²⁰⁴ has a lower burden of proof, but carries less punishment. This should be cause for concern by all parties involved, and steps should be taken to identify weak links and strengthen the connections between reporting, analyzing, investigating and prosecution.

Table 9: FATF Effectiveness Ratings for Colombian AML/CFT System (Select Ratings)

Immediate outcome of an effective system to combat ML [money laundering] and TF [Terrorist financing]	Extent Achieved
Money laundering offenses and activities are investigated, and offenders are prosecuted and subject to effective, proportionate and dissuasive sanctions.	Low
Terrorist financing offenses and activities are investigated and persons who finance terrorism are prosecuted and subject to effective, proportionate and dissuasive sanctions.	Low

Source: The FATF, based on 2018 Mutual Evaluation Report results. See <http://www.fatf-gafi.org/countries/a-c/colombia/documents/mer-colombia-2018.html>

Though Colombia does take some steps to identify the real, or beneficial owner, behind companies or assets, verification remains a challenge.²⁰⁵ Colombia’s 2018 MER noted “shortcomings in the legal framework regarding the identification and verification of the identity of the BO [beneficial owner], and there is no requirement to collect BO information in all cases.”²⁰⁶ As previously discussed, the use of corporate structures to launder drug proceeds is a serious concern for Colombia. Failure to verify beneficial ownership data weakens prevention and also renders investigation and prosecution of narcotics-related money laundering and terrorism financing cases more difficult.

Like Mexico, Colombia’s financial sector has stronger capacity in terms of AML/CFT risk management than the non-financial sector, which lags behind.²⁰⁷ This is problematic, as money laundering outside of the financial sector has been identified as an area of concern.²⁰⁸ As previously discussed, some of the primary methods used to launder drug proceeds, such as real estate, corporate structures and TBML, do not use the financial sector as the primary point of departure for the illicit transaction.

Finally, Colombia’s ability to prevent, detect and prosecute TBML is a concern, particularly given the use of trade channels to move narcotics-related illicit financial flows. The 2015 Goldex case, which involved exports of gold linked to a major drug-trafficking organization, demonstrated just how vulnerable trade and ports can be to illicit activity.²⁰⁹ And yet, according to a Colombian financial crimes expert who previously worked at the Attorney General’s Office, “the country remains today as vulnerable as ever. It could happen again.”²¹⁰ DIAN, the Tax and Customs Authority, is not at the front and center in Colombia’s AML/CFT regulatory regime, though it may in fact be front and center of the country’s drug trafficking problem. Though trade is regulated and supervised, Colombia’s 2019 National Risk Assessment notes there is a “hyperregulation that makes it hard to understand and comply,” particularly in light of multiple government agencies involved and unclear division of responsibilities.²¹¹

In Brief, Policy Recommendations for Colombia:

- ◇ Conduct a thorough, internal review to understand why convictions on money laundering charges are so low;
- ◇ Take steps to improve the information flow from reporting to analyzing, investigating and prosecuting financial crimes;
- ◇ In light of the role of anonymous companies in drug trafficking, improve verification of beneficial ownership information, particularly during corporate formation;
- ◇ Strengthen AML/CFT oversight over the non-financial sector;
- ◇ Create an inter-agency working group to address TBML and clarify agency responsibilities;
- ◇ Empower the Colombian Tax and Customs Agency, DIAN, to take a leadership role on TBML, ensuring it has adequate resources and training to do so effectively.



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Rosa Gumataotao-Ross
Treasurer of the United States

Rosa Gumataotao-Ross
Treasurer of the United States



Bilateral Cooperation on Display

US coordination with Mexico and Colombia on issues pertaining to narcotics and related proceeds is robust. Many of the experts interviewed, including current and former Mexican, US and Colombian officials, characterized relations as very strong, citing consistently good technical collaboration among agency staff. Collaboration has been strong enough to withstand major scandals, such as the alleged cooperation of top Mexican anti-narcotics official Genaro García Luna with the Sinaloa cartel, as well as to weather political disagreements as presidential administrations butted heads over trade, immigration and border enforcement. Those interviewed also mentioned frequent and high-quality information sharing, regular trainings and ongoing US technical assistance as evidence of the positive working relationship. In some cases, bilateral task forces or special dialogues have been created to increase collaboration on addressing illicit finance.

While these efforts are important, it is also important to avoid reducing the bilateral relationship to counter-narcotics or AML/CFT alone. Rebecca Bill Chavez, former Deputy Assistant Secretary of Defense for Western Hemisphere Affairs, noted that “in terms of the security relationship, it is important to widen the aperture beyond just counter-narcotics, to include humanitarian assistance, disaster response, peacekeeping and anti-corruption as well, since these are issues that matter to our partners in the region.”²¹² Chavez’ comments are particularly important in light of the current situation in Mexico; as mentioned, the López Obrador Administration has placed anti-corruption at the center of their work on financial crimes.

There are some indications that this sort of anti-corruption collaboration is already in the works, as seen in the 2019 joint action by the US Department of Treasury and its Mexican counterparts to freeze the bank accounts of a Mexican judge and a Mexican former governor who had accepted bribes from drug trafficking organizations. Mexican authorities may have seen the case as an anti-corruption win, whereas the US considered it a counter-narcotics win; regardless, it represented a positive and coordinated outcome. Moreover, US statements reflected an understanding of the priorities of Mexican counterparts. As Sigal Mandelker, Under Secretary for Terrorism and Financial Intelligence at US Department of Treasury noted in a press release, “working with our Mexican partners, Treasury will not hesitate to sanction current or former officials and their networks whose corruption destabilizes financial systems and democratic institutions.”²¹³

As another example of cooperation, counter-narcotics expert Caryn Hollis pointed to the capture of “El Chapo” Guzmán, carried out by Mexican law enforcement. The capture put US-Mexico collaboration prominently on display. In Hollis’ view, it demonstrated the successful implementation by Mexican authorities of previous technical assistance, including the use of fusion intelligence and fusion centers, which brought together a variety of agencies and sources of information, including financial information. Remarks by Mexican officials support this interpretation. As Guillermo Valdés, a high-level Mexican intelligence official noted, the US played a supportive role over various years: “They gave us intelligence, they helped teach us the 24-hour intelligence cycle, helped build up our intelligence centers and taught us the importance of connecting intelligence to operations. Both DEA and the [CIA] helped, and we had a high level of support from Washington.”²¹⁴

In Colombia, there are also many examples of cooperation. In the 2017 Prado Álava case, US and Colombian intelligence sharing, as well as a sophisticated on-the-ground operation by Colombian law enforcement, resulted in the arrest of Álava, 100 members of his organization and the seizure of 150 kg

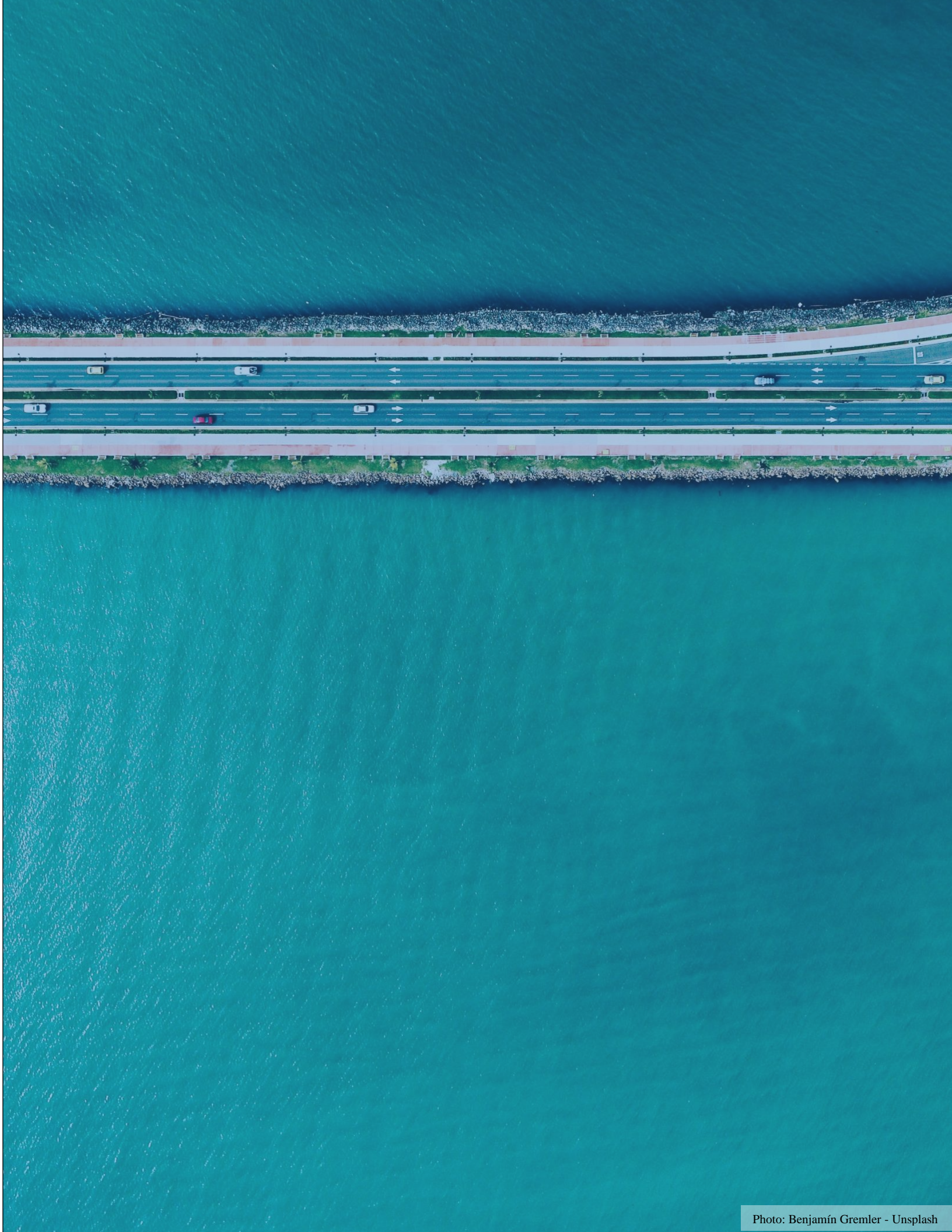
of cocaine.²¹⁵ Moreover, Colombian authorities seized US\$25 million in cash during the operations.²¹⁶ According to US officials, at the time of his arrest, Prado Álava was responsible for transporting at least 250 tons of cocaine to the United States, mainly using speed boats.²¹⁷ Prado Álava was subsequently extradited to the United States, and Colombia moved to arrest 24 front men, who had facilitated his network in Colombia. Though the Colombian Attorney General reported the arrest in 2018, it does not appear to have announced whether the group was successfully tried in a Colombian court of law,²¹⁸ amounting to additional evidence of the weaknesses of Colombian prosecutorial efforts.

In terms of improving bilateral cooperation, many of the current and former government officials interviewed for this report noted that domestic, inter-agency cooperation needs to be the first step in Mexico and Colombia. Effective management of narcotics proceeds comes down to not only coordination across countries, but also between the numerous agencies involved within countries. For the US, a number of agencies are involved: Department of State, United States Agency for International Development, the Drug Enforcement Administration, Department of Homeland Security, Department of the Treasury and the Department of Defense, to name a few. In Mexico and Colombia as well, a number of agencies are involved, and coordination may be challenging, as previously discussed. In a best-case scenario, efforts will leverage the comparative advantages of each agency, whereas in a worst-case scenario, enforcement falls through the cracks, or is jeopardized by ego or inter-agency territorialism.

Trainings and capacity-building, another important component of cooperation, offer many benefits, but should be properly leveraged. One-off trainings are not as helpful as more thorough, repeated training courses, as several experts noted. Moreover, the political will and commitment of those at the top are seen as key to securing buy-in and ensuring the training is time well-spent. Finally, trainings that involve trilateral participation from the United States, Colombia and Mexico, along with trainings that include regional and sub-regional participation, should be prioritized, particularly given the transnational, multi-jurisdictional movements of narcotics-related illicit financial flows.

In Brief, Policy Recommendations for Bilateral Cooperation:

- ◇ Ensure US sensitivity to partner priorities on counter-narcotics, seeking to identify common areas of interest to deepen cooperation;
- ◇ Work with Mexico on anti-corruption cases, given the overlap between official corruption and drug-trafficking in Mexico; also evaluate whether this approach may appropriate for Colombia and other Western Hemisphere partners;
- ◇ Establish effective domestic inter-agency coordination within the United States, Mexico and Colombia as a first step to effective bilateral cooperation and to ensure clear definitions of agency roles and coordination.



United States Policies Addressing Narcotics-Related Illicit Financial Flows

Over the last five decades, the United States government has utilized a range of tools at its disposal to address the ever-growing threat of drugs to national security and economic interests. By the government's own assessment, profits from drug trafficking appear to grow year-on-year unabated and in 2019, "US drug sales continue to account for tens of billions of dollars in illicit proceeds annually".²¹⁹ In the US, both the trade and financial systems are used intermittently as channels to traffic, transfer and launder criminal proceeds. While a larger discussion of how the policies directed at combatting this threat interact and affect the overall efficacy of deterrence is warranted, this section limits itself to two primary goals. First, a broad analysis of the policy tools in the financial (including virtual currency) and trade space that are critical in preventing the use of the US economy as a channel and laundromat for drug trafficking operations. Second, an analysis of professional services that exist outside the financial and trade system that criminals can use to integrate themselves into the formal economy and provide legitimacy to their laundered gains.

Transshipment Points

While this report focuses primarily on the interaction between the US, Colombia and Mexico, a truly cohesive policy framework needs to span jurisdictions that serve as transshipment points for narcotics and narcotics-related illicit financial flows. Perhaps no region better exemplifies this than Central America, which increasingly serves as a transit route for cocaine, as well as narcotics proceeds. By 2015, the US government estimated that 90 percent of cocaine trafficked into the United States moved along the Central America/Mexico corridor, which by geographical necessity means passing through Guatemala.²²⁰ At first, the drugs transited Guatemala by sea, but more recently, trafficking routes have involved small aircrafts carrying cocaine.²²¹ In 2019, Guatemalan law enforcement discovered 50 abandoned aircraft that appeared to be linked to narcotics trafficking, often near runways carved out of the forest.²²² There is evidence as well of narcotics-related money laundering moving through Guatemala as well. In 2020, US federal prosecutors charged Asisclo Valladares Urruela, a former Guatemalan government official, with helping to launder US\$10 million of ill-gotten gains, including illegal drug proceeds.²²³

Transshipment points also extend well outside the Western Hemisphere. For instance, over a decade ago, drug cartels in Colombia used the West African country Guinea-Bissau as a transit hub for cocaine headed to Europe. In 2008, when Guinea-Bissau rose to international prominence as a "narco" state, the country did not have a prison and had only one boat to patrol a 350-kilometer coastline consisting of an archipelago of 82 islands.²²⁴ In 2019, the Guinea-Bissau police seized 1.8 metric tons of cocaine - the largest seizure in the country's history.²²⁵ As this case demonstrates, for financial and trade policy to serve as effective deterrents, the entire ecosystem of jurisdictions needs to be considered.

Another policy tool that is critical to ensuring the success of AML efforts is a better understanding of the relationship between corruption and drug trafficking. It is impossible to separate the "delegitimization of political regimes and the deterioration of institutions and society's trust in said institutions"²²⁶ from the growth of organized crime and drug trafficking. One influences the other and gives rise to structures that are both parasitic and symbiotic. "Corruption is present throughout the chain of illegal drug trafficking, especially at international or cross-border activities, which involve many types of intermediaries: military, police, officials, border and customs agents, illegal armed actors, and organized criminal groups."²²⁷ Examples of this comingling of interests abound and are discussed through this paper. In origin and transit countries, corruption is seen at all levels, including higher levels of government. For example, the trial of

El Chapo revealed in embarrassing detail how prison guards, airport officials, police officers, prosecutors, tax assessors and military personnel received bribes.

To truly tackle this aspect of the drug economy, it is important not to treat this as a problem of individuals but study it as a consequence of the deeper relationship between the State apparatus and the illicit economy that supports, funds, and sustains it.

This pervasive arm of corruption extends to US law enforcement efforts as well. Since 2015, nearly a dozen DEA agents have been charged federally on counts ranging from wire fraud and bribery to selling firearms to drug traffickers.²²⁸ Earlier this year in February a former DEA agent was arrested for laundering money seized from undercover drug operations to fund a lavish lifestyle that involved the purchase of a Tiffany diamond ring, a \$135,000 Land Rover and a home in Cartagena.²²⁹ Corruption is both a financial crime but also a systemic issue that raises questions about the political apparatus and the strength of democratic institutions. While a robust analysis of its effect is outside the purview of this paper, acknowledging its insidious presence is critical to understanding the limitations of financial and trade policy tools.

Estimates of Narcotics Trafficking and US Policy Options

GFI's estimate that narcotics-related illicit financial flows (IFFs) are valued at approximately US\$80 billion-90 billion annually raises old debates around international drug policy. Historically, US policymakers have viewed the confluence of political and security threats as requiring policy approaches that prioritize dismantling the structures and networks of criminal actors in the drug trade. Financial and trade tools will always be critical to this approach, and this section emphasizes the approaches that can be more efficaciously used as tools. However, the scale of IFFs from drug trafficking suggest that US counter-narcotics policy should emphasize other dimensions of the problem including corruption, rule of law, and governance, as well as develop policy options that include comprehensive alternative livelihood options for impoverished farmers; drug demand reduction through treatment, rehabilitation and social reintegration for drug users; and analysis of the cross-cutting impact of existing policy mechanisms on gender, human rights and community development.²³⁰

Trade Channels for Money Laundering

Drugs coming from Mexico and Colombia into the United States use a variety of methods that include comingling the illicit product with legitimate commercial activity. These same channels used to traffic drugs are also used to launder the proceeds of trafficking. Statistics show that depending on the type of drug, 80-90 percent²³¹ of narcotics seized come through legal ports of entry along the US southern border, not between ports of entry.²³² The following provides an analysis of the policy tools to address money laundering through trade channels.

Company Ownership

Under the existing regulatory framework, customs officials, including Homeland Security Investigations (his), are not provided beneficial ownership details of companies involved in cross-border trade. This information is collected only when an account is opened with a financial institution.²³³ This can complicate and delay the investigative process, as it is only under one particular scenario that law enforcement officials have access to beneficial ownership information. In international investigations pertaining to US registered companies that do not hold a bank account, cooperative efforts by country officials have been "obstructed by the lack of information maintained."²³⁴ Requiring beneficial ownership information for all companies involved in cross-border trade would allow investigative agencies to map related suspicious entities, as well as to identify nominee shareholders/directors and high-risk individuals.

Beyond companies, opaque ownership structures of aircraft and speedboats in the US have also been exploited by drug trafficking organizations. Evidence from the United Nations Office on Drugs and Crime (UNODC) is replete with examples of private airplanes and speed boats carrying drugs to remote transshipment destinations in Latin America. These same modes of transport are then used to smuggle illicit drug revenues out of the United States. The US 2020 National Strategy for Combating Terrorist and other Illicit Financing notes that even though bulk-cash smuggling seizure numbers have decreased in the last couple of years, evidence points to the increasing use of private aircraft and boats to avoid land border checkpoints.²³⁵ In many jurisdictions, including the United States, it can be hard to determine the true owner of a private airplane or a speedboat.²³⁶ They are often registered in the name of a trust, LLC or other legal entity that obscures the origins of the owner.²³⁷ This limits the ability of law enforcement to accurately identify members of a criminal network in a timely fashion. Requiring a registry that contains this information would make it more difficult for criminal groups to obfuscate their trail and also would increase opportunities for cooperation between source, conduit and destination countries.

Trade Based Money Laundering

Trade-based money laundering (TBML) involves the exploitation of the international trade system for the purpose of transferring value and obscuring the true origins of illicit wealth.²³⁸ While the mechanics of TBML are described earlier in the report, this section deconstructs the policy options available to law enforcement officials.

a. Extending Anti-Money Laundering Due Diligence Across the Trade Supply Chain

The basic techniques of TBML involve over-and under-invoicing of goods and services, multiple invoicing of goods and services, over-and under-shipments of goods and services and falsely describing goods and services.²³⁹ However, to date there is no dedicated guidance and/or advisory issued by the United States on due diligence obligations for TBML. Oversight and supervision primarily fall on Customs and Border Protection (CBP) and HSI when they are presented with a trade invoice. Unlike the financial system, TBML due diligence obligations are not passed on through the supply chain. A good example is the commodities supply chain, which has exploded as global trade levels have grown and chains more complex. This gap in turn is often exploited by drug traffickers, due to its seemingly innocuous nature, for both trafficking and laundering.²⁴⁰

A policy complement to requiring beneficial ownership would extend anti-money laundering (AML) due diligence requirements across the supply chain to include freight forwarders, export agents, third party vendors and other intermediaries. Requiring these new stakeholders to conduct customer due diligence on their respective customers would ensure the system has multiple firewalls in place. Moreover, it would help ensure that the origins of the funds and the identities of the individuals behind those funds are known. While there have been serious efforts made to create such policies in the extractives and wildlife sectors, drug traffickers often employ the mundane to hide their illicit products and proceeds. Expanding the pool of actors subject to AML requirements could pass some of the due diligence obligations through the supply chain, reducing the burden on CBP, but also increasing opportunities for supervision and oversight. There have been some efforts to utilize distributed ledger technology to overcome these limitations, but these are still in the pilot phase,²⁴¹ and to be effective would have to be extended across multiple jurisdictions that serve as conduits and destinations for laundered proceeds.

It is therefore recommended that:

- ◇ Freight forwarders, export agents, third party vendors and other trade intermediaries should be subject to AML requirements and conduct customer due diligence;

- ◇ An assessment/study should be conducted on the merits and de-merits of distributed ledger technology to address TBML risks.

b. Geographic Targeting Orders

The Financial Crimes Enforcement Network (FinCEN), a bureau of the US Department of the Treasury, issued²⁴² two Geographic Targeting Orders (GTOs)²⁴³ in 2014 and 2015 targeting TBML. GTOs represent orders subject to expiration to report on transactions that are greater than a specified value. The first such GTO required lowering cash reporting thresholds (US\$3,000) and enhanced reporting requirements for businesses in the Los Angeles Fashion District, with an aim toward targeting Mexican and Colombian drug traffickers that had utilized the fashion industry sector to engage in black market peso exchange (BMPE) schemes. The second GTO targeted 700 Miami electronics exporters, which similarly lowered cash reporting thresholds (US\$3,000) and triggered additional recordkeeping requirements. The GTO was renewed in October 2015 and according to FinCEN, its aim was to combat complex TBML-related schemes employed by the Sinaloa and Zeta Cartels. In September 2014, through these efforts, HSI “executed more than 51 search warrants at businesses and residences in the Los Angeles metro area.”²⁴⁴ Nine individuals were arrested and more than US\$90 million in bulk currency was seized. Additionally, 34 seizure warrants on domestic bank accounts in Los Angeles, as well as on a Taiwanese-based account containing more than US\$37 million. HSI also seized “double-invoiced” clothing valued at US\$1.4 million and jewelry valued at US\$170,000.²⁴⁵ QT Fashion, a clothing wholesaler was also indicted for helping launder Sinaloa ransom payments through a network of 17 other businesses.²⁴⁶

These GTOs were not renewed further, and it is unclear why there have been no renewed efforts to create similar targeted policies for TBML using the GTO mechanism. Consultation with experts on the subject did not provide clear answers either as to why these GTOs were discontinued. The most recent report²⁴⁷ from the US Government Accountability Office (GAO) released in April 2020 also makes no mention of the GTOs or provides an analysis for its discontinuance.

Conversely, GTOs applied to the real estate sector have met with much success and have been both expanded and renewed every six months since 2016.²⁴⁸ In 2018, a Las Vegas real estate broker was charged with helping launder US\$250 million for drug trafficking organizations in Central America and Mexico through a variety of methods, including real estate and the use of shell corporations in Nevada.²⁴⁹ Similarly, in February of 2020, a Cleveland boxer was sentenced to over three years in federal prison for laundering drug proceeds through real estate purchases from 2011-2018. Cleveland is currently not part of the counties covered by the GTO orders on real estate.

Moving forward, it is recommended that:

- ◇ FinCEN should expand the existing GTOs on residential real estate nationwide and include commercial real estate and rural/farming land. This is critical to limit the laundering of drug proceeds through and into the real estate sector;
- ◇ GAO should produce a follow-up assessment of TBML GTOs and the reasons for the discontinuance of the TBML GTOs;
- ◇ FinCEN should issue fresh GTOs that conduct enhanced TBML due diligence in one or two locations on a pilot basis, based on a risk and vulnerability of analysis of drug trafficking. The results of the pilot project could be utilized in further TBML policy development more broadly, but also its impact specifically on drug trafficking and the laundering of its proceeds.

c. Trade Transparency Units

Trade Transparency Units (TTUs) were first formed in 2004 as a collaborative effort between HSI, CBP, the US Department of State and US Department of the Treasury. TTUs permit the exchange and analysis of anomalies in domestic and foreign trade data, allowing the US government and its partners to analyze both sides of trade transactions to identify instances of TBML, customs fraud, contraband smuggling and tax evasion that warrant further investigation.²⁵⁰ TTUs use a specialized computer system called the “Data Analysis and Research for Trade Transparency System (DARTTS)” and the US has TTUs set with both Colombia as of February 2005 and Mexico as of 2008.²⁵¹ However, narcotics do not always travel directly from source to destination, and depending on the product can be moved through conduit jurisdictions that include Honduras, Panama, Costa Rica, Guatemala, Belize and the Caribbean.²⁵² The same applies to laundered proceeds. This challenge requires a strategy to exchange trade information that is not just bilateral, but also creates a network involving customs departments in transshipment/conduit countries, while accounting for risks of corruption and regulatory capture in some of these jurisdictions.

Table 10: Analysis of Trade Transparency Units Program

Overall	TTUs and jurisdictions with ML/Drug vulnerabilities	TTUs and Western Hemisphere jurisdictions with ML/Drug vulnerabilities (Western Hemisphere Focus)	TTUs Data Sharing Frequency
<ul style="list-style-type: none"> Total number of TTUs – 17 countries TTUs with Latin American Countries – 12 countries (70.6% of all TTUs) 	<ul style="list-style-type: none"> TTUs with ‘Major Drug Producing/Transit Countries’ – 7 out of 22 (31.8%) TTUs with ‘Major Precursor Chemical Source Countries’ - 9 out of 34 (26.5%) TTUs with ‘Major Money Laundering Countries’ – 15 out of 80 (18.7%) 	<ul style="list-style-type: none"> TTUs with ‘Major Drug Producing/Transit Countries’ – 7 out of 17 (41.18%) TTUs with ‘Major Precursor Chemical Source Countries’ - 8 out of 12 (66.7%) TTUs with ‘Major Money Laundering Countries’ – 12 out of 34 (35.3%) 	<ul style="list-style-type: none"> Data sharing frequency – weekly (1), Monthly – (11), Quarterly (1), Biannually (1), Annually (1) No data sharing – 2 countries Preferred data sharing frequency - Monthly – (64.7% of all TTU relationships)

Source: Global Financial Integrity analysis of ‘Designations’ under Foreign Relations Authorization Act, 2003 and TTU information as disclosed by HSI

As the table shows, the existing TTU relationships cover only 31.8 percent of all jurisdictions identified as “Major Drug Producing/Transit Countries,” 26.5 percent of “Major Precursor Chemical Source Countries” and only 18.7 percent of “Major Money Laundering Countries.” The numbers are better, but in most cases are well below 50 percent for jurisdictions in the Western Hemisphere.

While TTUs provide many laudable benefits to investigative authorities, they currently exist only in seventeen countries²⁵³ and do not allow for the real-time exchange of bilateral trade information data, effectively limiting when investigations can commence. Moreover, the TTU program has suffered from insufficient funding and technical support. For numerous partner countries, the absence of funding causes asymmetries in technology, as well as an inability to ramp up technical expertise. Since 2013, the TTU program has not received funding from State officials because there is “insufficient evidence of the success of TTUs.”²⁵⁴ Even after a TTU program has been launched, actual co-operation between the US and partner countries has been delayed sometimes for several years due to: concerns about political/customs department corruption, continued negotiations with the partner country, poor connectivity issues with the DARTTS and incompatible data formats that make cross-border information exchange difficult.²⁵⁵ This issue of corruption poses a particular conundrum for the TTU program – where on the one hand, the greatest advantages for tracking TBML come from co-operating with countries that are vulnerable trafficking/laundering jurisdictions. On the other hand, many of the jurisdictions designated as such have systemic issues of corruption and weaker rule of law enforcement. Finally, in

many of the countries where the TTU program is implemented, the prime motivation is to garner additional customs revenue. This is often at odds with US policy priority, which is to tackle TBML and transnational organized crime.

At a minimum, it is recommended that the following recommendations are adopted to realize the full potential of the TTU program:

- ◇ Modify the DARTTS system to allow for real-time exchange of information on a pilot basis with trusted partners to examine the impact on enforcement;
- ◇ Address as a matter of highest priority the connectivity and compatibility issues with the cross-border exchange of data through DARTTS. Delays of several months, and regular connectivity issues disincentivize participation and interest in the TTU program;
- ◇ To ameliorate concerns around the effectiveness of the TTU program, HSI should develop a Performance Monitoring Framework²⁵⁶ that is unique to its high priority TTU relationships;
- ◇ One of the limitations around any kind of bilateral and international co-operation mechanism is balancing countries at differing stages of rule of law adherence and corruption risks; HSI should develop a roadmap that includes corruption and rule of law risks within its TTU program and develop mitigation strategies for continued co-operation or re-orientation of priorities in those risk scenarios;
- ◇ The criticisms of the TTU program underscore the fact that to effectively address risks from cross-border trade and TBML, financial and technical assistance is paramount. As a pilot program, it is recommended that funding and technical assistance be allocated to select 'Major Drug Producing/Transit' countries to determine how the effectiveness of the TTU program changes.
- ◇ Collecting revenue through customs departments is critical for developing countries. It is therefore recommended that the US re-orient its approach within the TTU program to provide support around revenue collection and TBML. Focusing purely on TBML ignores the priorities of partner countries and reduces partner country investment in the TTU program, thereby limiting its overall effectiveness;
- ◇ Through other departments of the US government, focus on building TBML awareness within partner countries should be a policy priority. A multi-pronged approach that makes TBML a priority while at the same time providing capacity building and technical assistance within the civil society, private and public sector in target countries would be critical.

Free Zones

The role of free zones²⁵⁷ as transit points for maritime narcotics trafficking has been well-documented since the late 80s and early 90s.²⁵⁸ Most significant of these transit points for Colombian and Mexican drug cartels has been the Colon Free Zone in Panama. Established in 1948, the free zone is the second largest in world next to only the Hong Kong.²⁵⁹ This is all the more impressive because Panama is a little smaller than the State of South Carolina.²⁶⁰ Panama, “[b]y virtue of its geographic position and well-developed maritime and transportation infrastructure,..[has continued to serve as a] major logistics control and trans-shipment country for illegal drugs to the United States and Europe.”²⁶¹

This proximity of Panama to Colombia and Mexico has meant that “[m]ajor Colombian and Mexican drug cartels as well as Colombian illegal armed groups”²⁶² have found a plethora of methods to launder their illicit profits through Panama’s financial and trade system. A 2009 INCSR report stated that “The funds generated from illegal activity [were] susceptible to being laundered through a wide variety of methods, including the Panamanian banking system, Panamanian casinos, bulk cash shipments, pre-paid telephone cards, debit cards, insurance companies, real estate projects and agents, and merchandise... Panama [as]

an offshore financial center that includes offshore banks and various forms of shell companies that have been used by a wide range of criminal groups globally for money laundering.”²⁶³ One report noted evidence that “traffickers [had] set up businesses in the [free] zone that [we]re used to smuggle cocaine dollars into the country and deposit them in the Panamanian banking system; others b[ought] luxury consumer goods such as televisions and cosmetics there with cocaine cash, then ship[ped] them to Colombia, where they c[ould] be sold for Colombian pesos that are “clean” of any taint of trafficking.”²⁶⁴ The State Department referred to the free zone of Colon as a “money-laundering mecca for drug traffickers.”²⁶⁵

Fast forward to 2016, and the role of the Colon Free Zone in supporting and facilitating the illicit activity of criminal organizations and drug traffickers appears little changed. In 2016, the US Drug Enforcement Agency arrested Nidal Ahmed Waked, the head of a powerful money laundering network that helped several drug trafficking operations launder their money. OFAC targeted 68 companies that were part of the Waked Money Laundering Operation, some of which were based out of the Colon Free Zone.²⁶⁶ The money laundering operation employed practices including false commercial invoicing, bulk cash smuggling, and other TBML methods through an import/export company Vida Panama (Zona Libre) S.A based out of the free zone.²⁶⁷

Similarly, the free zones in the Dutch Caribbean islands of Curaçao and Aruba have been at the center of a host of illicit activity from ranging from illegal gold to drug trafficking.²⁶⁸ Curaçao has had ties to a Hezbollah-linked drug ring²⁶⁹ and has served transit point for drugs coming in through Venezuela and going into Africa and Europe.²⁷⁰ Much like Panama, the location of its free zones in proximity to the source of drug trafficking, but with easy access to other transit points, make them attractive for all types of criminal activities including drug trafficking.

The role of free zones in origin (Colombia and Mexico) and destination countries (United States) has not had the same in-depth treatment. Most reports documenting the movement of narcotics out of Colombia do not reference Colombia’s 100 plus free zones. What is less clear is the role of Colombia’s free zones play in helping repatriate the proceeds of narcotics trafficking. Several reports from the US Government Accountability Office, FATF, and the US State Department²⁷¹ highlight the inadequate supervision within free zones as areas of concern for heightened money laundering and TBML risks, while other reports have cited the special economic zones of La Guajira and North Santander as hubs for illicit trade in tobacco.²⁷² They have also pointed to weaknesses with the governance apparatus of the North Santander government and its proximity to Venezuela as risk factors.²⁷³ Yet, beyond these hints at problems, there is little in-depth analysis about the intelligence sharing between the FIU and the free zones, Colombia’s assessment of risks within its free zones was not mentioned or discussed in its recent GAFILAT Mutual Evaluation Report, nor was it a part of the country’s national risk assessment.²⁷⁴

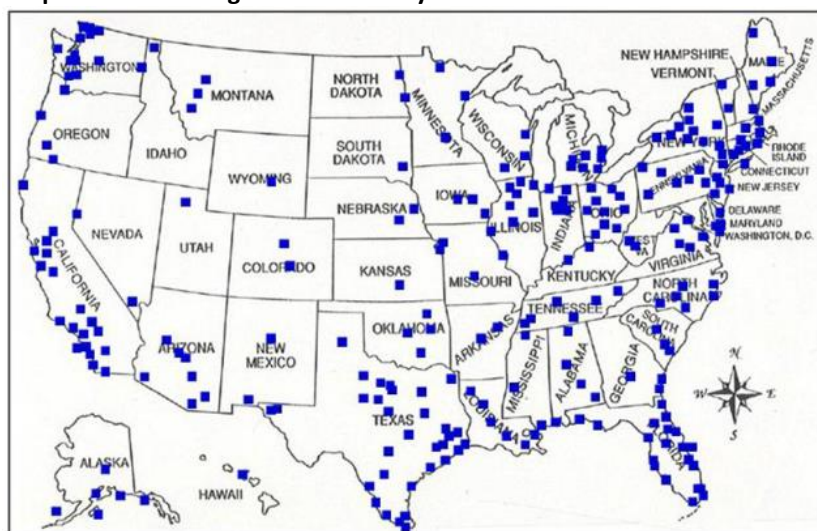
Free trade zones should also be analyzed in relation to the Black-Market Peso Exchange Scheme (BMPE). The BMPE is frequently employed by drug cartels to repatriate profits by converting cash proceeds into goods that can be exported from the United States and imported into Colombia. While it could be any item, cars and clothing are often preferred choices.²⁷⁵ Understanding how much passes through Colombia’s many free zones would assist both US and Colombian law enforcement.

In the case of Mexico, there appears to be only one registered free zone²⁷⁶, and its land border with the United States along with other channels of money laundering including virtual currency appear to provide more convenient TBML and money laundering channels than its registered free zone.

The United States, as per a 2016 OECD survey, has the largest proportion of “foreign trade zones” or free zones amongst OECD member countries. The US has 298 registered “foreign trade zones”, with majority of them concentrated along the eastern shoreline.²⁷⁷ A 2010 FATF report examining money laundering

vulnerabilities within free zones cited two cases of smuggling and tax evasion within US free zones.²⁷⁸ The OECD survey conducted in 2016 found that of the 10 OECD member States that responded – narcotics trafficking ranked below forgery and counterfeiting as the most prevalent illicit activity and for foreign free zones, narcotics trafficking did not register a mention.²⁷⁹ This is in sharp departure to the FATF survey which ranked smuggling and narcotics trafficking as top two illicit activities prevalent within free zones.²⁸⁰

Graphic 6: U.S. Foreign Trade Zones by State



Source: U.S. Foreign-Trade Zones: Background and Issues for Congress, Congressional Research Service, December 2019.

Despite the INCSR reports often identifying free zones as particularly high risk for money laundering and narcotics related illicit financial flows, the annual National Strategy for Combating Terrorist and Other Illicit Financing provides no assessment of money laundering risks of US free zones and neither does the last FATF assessment of the United States.²⁸¹

What hampers a more thorough analysis of the relationship between drug trafficking and the use of free zones is the opacity of basic information around the number, type, degree of law enforcement access, data intelligence gathering by FinCEN and UIAF (Colombian FIU) respectively of activities within free zones.

In addition to the highlighted areas, it is recommended to:

- ◇ Conduct an in-depth study of US and Colombian Free Zones to understand how these zones may facilitate or contribute to narcotics-related illicit financial flows;
- ◇ Ensure that all entities that are registered, owned, and operated within the free zones of the United States and Colombia disclose beneficial ownership information by law;
- ◇ Identify high-risk free zones in the United States and Colombia that are particularly vulnerable to money laundering activities of drug cartels;
- ◇ Publish an assessment of the information sharing practices between free zones in the US and Colombia with FinCEN and the UIAF (Colombian FIU), respectively;
- ◇ Accurately identify the number and type of free zones within the US and Colombia, to see if asymmetries in classification and structure have helped obfuscate criminal behavior;
- ◇ Assess if the existing TTU program with Colombia can accurately capture money laundering vulnerabilities from within the zones;
- ◇ Conduct a joint, US-Colombia risk assessment of free zones to identify mutual areas of cooperation.

In Brief, Policy Recommendations to Address Money Laundering through Trade and Commercial Channels in the US:

- ◇ Require beneficial ownership information for all companies involved in cross-border trade and for speedboats and aircraft;
- ◇ Extend AML/CFT due diligence throughout the supply chain;
- ◇ Enact regulations for freight forwarders, export agents, third party vendors and other trade intermediaries to conduct customer due diligence;
- ◇ Expand existing GTOs on residential real estate nationwide to include commercial real estate and rural/farming land;
- ◇ Address as a matter of highest priority the connectivity and compatibility issues with the cross-border exchange of data through DARTTS;
- ◇ Strengthen TTUs, allowing for real-time exchange of information on a pilot basis with trusted partners to examine the impact on enforcement;
- ◇ HSI should develop a Performance Monitoring Framework that is unique to its high priority TTU relationships.
- ◇ The US and Colombia should conduct a joint risk assessment of their free zones to identify mutual areas of cooperation.

Policies to Address Money Laundering in the Financial System

The policies that target drug trafficking through the financial system fall more broadly under the umbrella of AML/CFT policies. At their core, they require the application of comprehensive know-your-customer (KYC)²⁸² norms at the time of onboarding clients and supervision of subsequent account activity. The Bank Secrecy Act, 1970²⁸³ is the centerpiece of US AML policy, along with important provisions in The Patriot Act, 2001²⁸⁴ and The Foreign Narcotics Kingpin Destination Act, 1999²⁸⁵, designed to prevent criminals from abusing the US financial system.

Risk-Based Approach to Customer Due Diligence

Internationally and in the US, a risk-based approach²⁸⁶ to customer due diligence (CDD) underpins the backbone of an effective AML regime. When laundering the proceeds of drug trafficking, this approach assumes special significance due to the cash-intensive nature of the business model and the need to find ways to place, layer and ultimately integrate illicit finance into the formal financial system.

Unfortunately, these CDD tools²⁸⁷ are more difficult to apply when it comes to preventing TBML. To start with, 80 percent of all global trade transactions are open account transactions and are not supported by trade finance documents.²⁸⁸ This makes it harder to determine and assess the money laundering risk behind a given monetary transaction. Additionally, international payments facilitated through the SWIFT mechanism do not require beneficial ownership details of the originator to be recorded. Finally, US banks do not have access to the trade side of the transaction and are not always conversant with geographic risks particular to certain commodities, or in a position to assess if a shipment through a certain jurisdiction makes adequate business and/or commercial sense. FinCEN issued its final CDD rule in 2016²⁸⁹ with clear and direct requirements to identify and verify the beneficial owner of an account, but to also maintain ongoing supervision. However, this requirement on identification and verification of the beneficial owner extends only to legal entities that open an account with a financial institution.

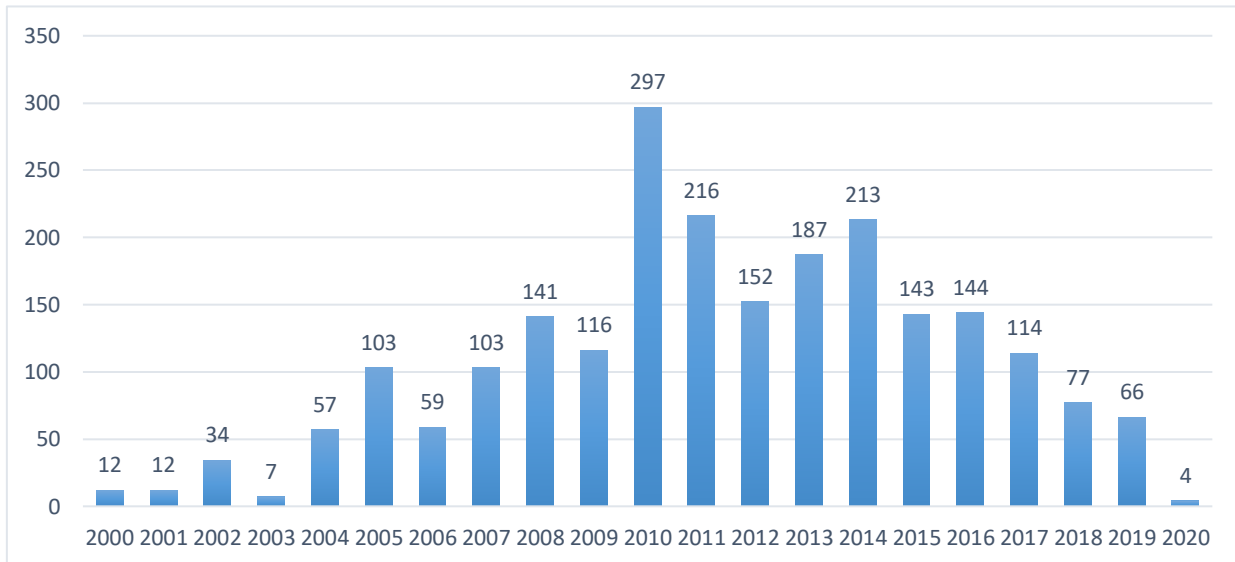
To improve and strengthen CDD compliance, it is important to

- ◇ Enact proposed bills like the Anti-Money Laundering Act, 2020 (S.4049), Improving Laundering Laws and Increasing Comprehensive Information Tracking of Criminal Activity in Shell Holdings (ILLICIT CASH) Act, 2019 (S.2563) and the Corporate Transparency Act of 2019 (H.R. 2513) that seek to remedy the deficiencies within the current CDD regime by collecting information on corporations, LLCs and other similar entities at the time of registration.²⁹⁰ Collecting beneficial ownership information of all registered legal entities independent of the financial system would be of particular relevance in identifying TBML operations, as well as in detecting illicit drug wealth laundered through real estate, yachts and other similar asset classes where ownership can be registered to a legal entity;
- ◇ Create standards to include beneficial ownership information with all SWIFT transactions;
- ◇ Implement robust frameworks and provide internal training to financial institutions to understand the CDD risks from money laundering. Better frameworks include banks incorporating the use of trade data into their KYC/CDD policies, as well as identifying the risks from commodities vis-à-vis certain geographic routes.

The Kingpin Act

Under the Foreign Narcotics Kingpin Designation Act (Kingpin Act), the US Department of the Treasury’s Office of Foreign Assets Control (OFAC) designates and sanctions foreign individuals and entities that contribute to illicit narcotics trafficking, where “OFAC identifies potential Kingpin Act designees, compiles evidence, submits it for legal review and seeks concurrence from partner agencies on designation.”²⁹¹ From 2000-2019, OFAC reported it had designated²⁹² more than 2,000 kingpins²⁹³ and their supporters, and frozen more than half a billion dollars in assets under the Act. The highest number of Tier 1 Kingpin Act designations are individuals and entities from countries in the Western Hemisphere with Mexico (62) and Colombia (32) taking the top two places.²⁹⁴

Graphic 7: Kingpin Act Designations (2000 – March 2020)

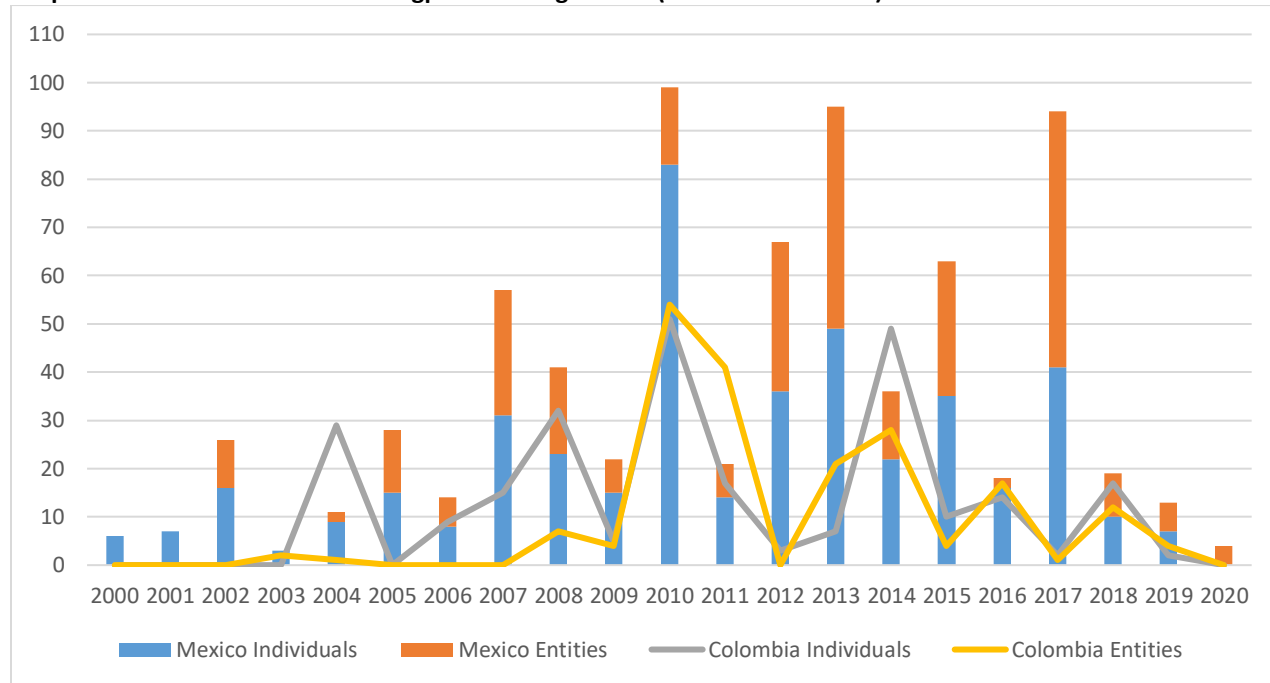


Source: GAO (2019) and Global Financial Integrity analysis of OFAC sanctions information, 2020.

A GFI analysis of designations under the Kingpin Act reveal that year-on-year, Mexico and Colombia account for the majority of Tier 1 and Tier 2 designations. An examination of Kingpin Act designations from 2000 to March 2020 revealed that Mexico had 446 individuals and 298 entities designated for a total

of 744 designations under the Act. Colombia during the same period had 458 designations, with 262 individuals and 196 entities designated. Colombia and Mexico together accounted for 1,202 designations of the 2,257 total designations, 53.26 percent of all designations under the Kingpin Act to date.

Graphic 8: Mexico and Colombia Kingpin Act Designations (2000 – March 2020)



Source: Global Financial Integrity analysis of OFAC sanctions information, 2020.

However, the primary challenge cited in evaluating the impact of the Kingpin Act is the difficulty of isolating its effects from multiple other programs that also combat drug trafficking.²⁹⁵ Additionally, there have been concerns that some designations have been associated with significant economic losses and unemployment by individuals not involved in illicit narcotics, with large companies liquidated in the process. To continue implementing the Kingpin Act along with other sanctions measures, a review of its effectiveness along with other OFAC sanctions in targeting drug trafficking should be undertaken. Moreover, the current process of designation has no ‘due process’ element within it.²⁹⁶ The US government has had to previously remove Colombian and Mexican individuals and entities that were incorrectly designated.²⁹⁷ Furthermore, given the scale of drug proceeds integration into the formal economy, it can be difficult for smaller businesses without sufficient resources to document the origins of money. This concern has been raised several times around the process of designation. It is recommended that the US government conduct a review of the burden and difficulty in target countries. Two areas that the GAO has indicated can improve the efficacy of the legislation is to require OFAC to 1) provide its partner agencies more specific guidance regarding Kingpin Act–related expenditure data and 2) disclose information regarding the limitations of the consistency and reliability of agency expenditure data in OFAC’s annual reports to the US Congress.²⁹⁸

Additionally, the US government should work with the FATF, European Union, Mexico and Colombia to develop a designation process for jurisdictions, especially where vulnerable to drug trafficking as origin, transit and destination. Working through an international model provides greater legitimacy and enforceability of designations. However, it must be noted that even within the FATF process, the

designation of jurisdictions on the FATF “black” and “grey” lists as they are colloquially called can be a matter of geopolitics.²⁹⁹ In order to ensure the continued legitimacy of these international lists, it is recommended that the US government work in close co-operation with Mexico, another FATF member, on the modalities around designation of a jurisdiction and removal of a country from any such list. This is important, because the drivers and causes of drug trafficking are complex. The FATF and its related network of bodies are best equipped to tackle the laundering of drug proceeds and drug trafficking as far as it touches the financial and trade systems. It should not be used a tool to address issues with cultivation and growth of precursors to drugs and target or sanction countries on those grounds.

Suspicious Activity Reports, Currency Transaction Reports and Currency and Monetary Instrument Reports

The filing of suspicious activity reports (SARs) is often considered the backbone of the AML regime, along with currency transaction reports (CTRs) and currency and monetary instrument reports (CMIRs), and forms an integral part of how financial institutions are able to report suspicious financial activity to FinCEN, especially the laundering of cash-intensive drug proceeds. Certain typologies for laundering drug money include structured deposits under threshold limits, structured aggregate deposits, funnel account activity, structured money service business transfers – all of which utilize the SAR, CTR³⁰⁰ and CMIR reporting³⁰¹ systems to raise red flags to FinCEN, at times using specific descriptors for certain drugs.³⁰² Though US SAR filings have grown year-on-year, and between 2013 and 2015 grew on average by 23 percent; globally, there is a consensus amongst Financial Intelligence Units that 80-90 percent of SARs filed have little operational value to law enforcement agencies.³⁰³ Yet, the financial sector spends globally close to US\$905 million, a growth of 17.5 percent from previous years,³⁰⁴ on these processes while less than one percent of illicit flows through the financial system are confiscated and frozen by law enforcement.³⁰⁵ These numbers alone warrant a serious re-examination of the system and its efficacy as a tool to identify laundered drug proceeds. The US has previously come under criticism for its “stagnant, ‘on demand’ approach to information sharing, which creates a transactional relationship between the parties regarding a limited amount of cases, rather than a dynamic, constant flow of information.”³⁰⁶

Some recommendations to overhaul the system include:

- ◇ Improve SAR narrative reports by training financial institution personnel to produce narratives that are concise, factual and written in chronological order. The SAR should include details such as dates, dollar amounts, check numbers, routing numbers, customer names and counterparty names. The narrative report should follow the money within the financial institution and present a clear picture that tracks other originators or beneficiaries, persons and institutions. Finally, the SAR should always include contacts details of the financial institution;
- ◇ Expand the scope of information sharing under Section 314 (a) and (b) of the Patriot Act by FinCEN to include information as part of an attempt to identify client activity. This permits financial institutions to create a fuller picture of the activity of a suspicious client;
- ◇ Improve the feedback loop³⁰⁷ by designating a law enforcement liaison within financial institutions. Once a SAR is filed, for the investigation to proceed effectively, there must be close engagement between law enforcement and the financial institutions. Designating an individual to liaise with law enforcement helps speed the process and can also address deficiencies and concerns about SAR filings. It would also be useful to create secondment programs where employees of private sector financial institutions work with a government department and vice versa to improve real-time and cross-border information sharing. Countries like Australia and the UK have experimented with secondment programs. This allows both the financial institutions and FinCEN to observe how SARs are filed and processed and facilitates broad-based private-public

sector co-operation. In Australia, the program referred to as the Fintel Alliance brings together 28 government and private sector members that work together to 1) increase the resilience of the financial sector to prevent it from being exploited by criminals and 2) support law enforcement investigations into serious crime and national security matters.³⁰⁸ Through this, the Australian government is able to improve feedback loops, as members sit in the same physical space to “exchange and analyze financial intelligence face-to-face in close to real time.”³⁰⁹ Additionally, the program also focuses on government and the private sector working together to “co-design and test new technology solutions that assist in gathering and analyzing financial intelligence at an operational level.”³¹⁰ Moreover, the alliance also works to assess the impact of emerging technologies, such as blockchain and virtual currency. Close and dynamic dialogue of this nature is critical to addressing the existing information asymmetries within the SAR mechanism.

Virtual Currencies

As noted in earlier sections of the report, virtual currencies³¹¹ have been identified as an emerging threat to financial security. Virtual currencies are attractive vehicles to launder drug proceeds,³¹² as they provide anonymity, ease of transferring value across international borders, the absence of clear regulation and the settlement finality.³¹³ Both Colombian and Mexican drug cartels are known to have used virtual currency tools to facilitate payments for drug shipments, at times working in conjunction with sophisticated Chinese crypto operators.³¹⁴ FinCEN issued its first advisory on virtual currencies in 2013³¹⁵ and in 2019³¹⁶ issued a consolidated advisory on “Illicit Activity Involving Convertible Virtual Currency.” The advisories provided specific SAR filing instructions to flag the suspected financial activity as a potential “Convertible Virtual Currency” risk. Given the many concerns expressed above with the existing SAR system, there is a legitimate concern about the efficacy of these advisories that use the SAR filing mechanism as their primary oversight tool. Additionally, even in the US, regulation and oversight of virtual currency is a relatively new field and it is unclear if unilateral efforts on supervision are adequate to mitigate this threat.

It is therefore recommended that:

- ◇ The US work in partnership with the FATF, the Egmont Group, and other vulnerable countries (origin, transit, destination) to determine the scale and size of illegal trade funded through virtual currencies, determine the pathways for overlap for different types of illegal trade (drug trafficking and human trafficking) based on growing enforcement and seizure data and develop recommendations that can be shared with both Mexico and Colombia;
- ◇ Provide technical assistance and capacity building to both Colombia and Mexico officials on the best practices around investigation techniques and regulatory approaches that address the nexus between virtual currencies and narcotics-related illicit financial flows.

Gatekeepers

The final policy piece needed to tackle the laundering of drug proceeds is the role of lawyers, corporate formation agents and accountants, otherwise known as “gatekeepers,” for their role in facilitating access to the financial system. In the United States, the Bank Secrecy Act, 1970 definition of “financial institution” and “designated nonfinancial business and professions” parallels the FATF requirements, but does not include lawyers, accountants and corporate formation agents. It is strongly urged that unless professions classified as gatekeepers are subject to AML requirements, the incentives to aid, abet and obfuscate criminal activities exist without any adequate deterrent. Current legislative proposals within the US Congress do not subject gatekeepers to AML requirements. By contrast, Mexico in 2013 passed the Federal Law on the Prevention and Identification of Operations with Illicit Resources, which imposed AML

obligation on professions that have historically been involved in helping transnational organized crime groups launder drug proceeds. Colombia's main money laundering threat also comes from similar groups involved in drug trafficking and the Financial Action Task Force of Latin America (GAFILAT) has recognized that professions like lawyers and accountants in Colombia are particularly vulnerable to money laundering risks. Much like the US, in Colombia these professions appear to be excluded from the AML/CFT regime of the country.³¹⁷

To be in line with best international practices, it is strongly recommended that the US:

- ◇ Enact legislation that requires gatekeepers like lawyers, corporate formation agents and accountants to carry out AML/CFT requirements, such as customer due diligence with specific requirements that gatekeepers identify and verify the beneficial owner and the source of funds of any customer/client;
- ◇ Encourage Colombia and other high-risk origin/transit/destination jurisdictions to enact legislation/policies that require gatekeepers to be subject to AML/CFT obligations.

US Economic Sanctions

The Office of Foreign Assets Control (OFAC) of the US Department of the Treasury is the agency responsible for administering and enforcing economic and trade sanctions. The US sanctions system is based on US foreign policy and national security goals and is used to target select foreign countries and regimes, terrorists, international narcotics traffickers, proliferation financing and other threats to the national security, foreign policy or the economy of the United States.

The sanctions system is therefore a dynamic and powerful tool within the arsenal of measures available to the US government to influence and shape policy extra-territorially. However, these measures have also had unintended, but serious negative consequences. Most prominent of these is de-risking. De-risking as defined by the FATF is "the phenomenon of financial institutions terminating or restricting business relationships with clients or categories of clients to avoid, rather than manage, risk."³¹⁸ In recent years, concerns have been raised from a plethora of quarters including the International Monetary Fund,³¹⁹ World Bank,³²⁰ civil society organizations like Oxfam,³²¹ governments like the United Kingdom,³²² and affected governments in the Caribbean³²³ and Latin America³²⁴ about the negative impacts of de-risking.

Many point out that the trend around large-scale de-risking stems from the heavy criminal and civil penalties levied by the US Department of Justice and the US Department of the Treasury on banks and other private sector entities for engaging with sanctioned entities. For instance, in 2014, BNP Paribas was asked to forfeit US\$8.9 billion for providing support to Sudan and other countries blacklisted by the US government. As a reaction to the BNP Paribas fine and other similar penalties, financial institutions have re-assessed their AML and sanctions risk exposure and management.³²⁵

These developments reveal that while stringent penalties are needed for financial institutions to change their behavior, wholesale de-risking can have crippling effects on businesses being able to carry out transactions and continuing access to trade finance, remittances and financial inclusion. The effects of exclusion from the US financial system and punitive costs of compliance for doing business with higher risk jurisdictions can push many individuals and businesses into utilizing informal financial services and the shadow banking system. As the causes and consequences of de-risking are so complex, it is critical for the US government to understand the implications of its economic sanctions policy. After all, financial instability within countries in the long run can create further negative effects for US national security and foreign policy.

The US is the largest economy in the world and its institutions constitute a critical part of the global architecture to combat money laundering. The strengths in the US AML regime come both from its long history of strong enforcement action domestically, as well as its proactive enforcement and prosecution of international offenses. As detailed in this section, however, there are some clear weaknesses in the fundamentals of the US AML architecture used to target the laundering of drug proceeds. Effective use of AML/CFT tools to address the trafficking and laundering of narcotics can only come when the US addresses the systemic weaknesses in the current system of beneficial ownership identification, CDD practices for TBML, the TTU program, feedback loops for SAR reporting, AML/CFT obligations for gatekeepers, designations under the Kingpin Act and critically the effects of sanctions measures.

In Brief, Policy Recommendations to Address Money Laundering through Banking and Financial Channels in the US:

- ◇ Pass US legislation requiring the collection of beneficial ownership information on corporations, LLCs and other similar entities at the time of registration;
- ◇ Create well-defined mechanisms for due process prior to Kingpin Act designations;
- ◇ Work with the FATF, European Union, Mexico and Colombia for an international designation model to provide greater legitimacy and enforcement of designations;
- ◇ Take steps to improve the efficacy of SARS reports, such as providing trainings on best practices, improving information-sharing and offering more feedback on what works;
- ◇ Work with FATF, the Egmont Group and other vulnerable countries (origin, transit, destination) to determine the scale and size of illegal trade funded through virtual currencies and take steps to address it;
- ◇ Require lawyers, corporate formation agents and accountants to carry out AML/CFT requirements, such as customer due diligence;
- ◇ Study the implications of US economic sanctions on de-risking, while keeping in mind that financial instability within countries in the long run presents negative effects for US national security and foreign policy.

¹ Channing May Mavrellis, "Transnational Crime and the Developing World," Global Financial Integrity, March 2017. Available at:

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- ⁹ Available at: http://www.cicad.oas.org/drogas/elinforme/informeDrogas2013/laEconomicaNarcotrafico_ENG.pdf
- ¹⁰ Available at: https://financialservices.house.gov/uploadedfiles/traffickers_road_map.pdf
- ¹¹ See footnote 1.
- ¹² See, for example, <https://www.washingtonpost.com/politics/2019/06/24/do-mexican-drug-cartels-make-billion-year/>
- ¹³ Telephone interview by Global Financial with María Dolores González Sepúlveda, March 2020.
- ¹⁴ The US\$151 billion is further broken down to US\$142 billion in North America and US\$9 billion in South America. See pg. 128 in particular. Available at: https://www.unodc.org/pdf/WDR_2005/volume_1_web.pdf
- ¹⁵ See footnote 1.
- ¹⁶ See footnote 14.
- ¹⁷ "What America's Users Spend on Illegal Drugs: 2000-2010," Rand Corporation, Prepared for the US Office of National Drug Control Policy," February 2014. Available at: https://atforum.com/documents/wausid_results_report.pdf
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- ¹⁹ ONDCP, *What America's Users Spend on Illegal Drugs*, Washington D.C, December 2001, p. 3.
- ²⁰ United States National Money Laundering Risk Assessment, 2015.
- ²¹ United States National Money Laundering Risk Assessment, 2015. See pg. 11.
- ²² United States National Money Laundering Risk Assessment, 2018. Available at: https://home.treasury.gov/system/files/136/2018NMLRA_12-18.pdf
- ²³ See <https://www.iustice.gov/archive/ndic/pubs31/31379/finance.htm>
- ²⁴ See <https://www.ice.gov/doclib/cornerstone/pdf/cps-study.pdf#page=2>. See page ii.
- ²⁵ See page 49. Available at: https://www.unodc.org/documents/data-and-analysis/Studies/Illicit_financial_flows_2011_web.pdf#page=42
- ²⁶ United States National Money Laundering Risk Assessment, 2015. See pg. 24.
- ²⁷ Fernando Gutiérrez, "Tiran bloqueos de recursos a la UIF; descongeló \$10,500 millones en el 2019," *El Economista*, January 20, 2020. Available at: <https://www.eleconomista.com.mx/sectorfinanciero/Tiran-bloqueos-de-recursos-a-la-UIF-descongelado-10500-millones-en-el-2019-20200122-0094.html>
- ²⁸ Phone Interview with Global Financial Integrity, March 2020.
- ²⁹ A large portion of drug trafficking proceeds come from small-scale retail operations in the United States. While this is an important issue, it does not necessarily fall within the scope of this research, which looks at narcotics-related money laundering and illicit financial flows between the United States and the Latin American and Caribbean region.
- ³⁰ See, for example, research by James Cunningham at the University of Arizona, at <https://opa.uahs.arizona.edu/newsroom/news/2010/illicit-drug-purity-us-varies-distance-us-mexico-border>
- ³¹ Considering datapoints since the year 2000. See https://www.unodc.org/documents/data-and-analysis/Studies/Illicit_financial_flows_2011_web.pdf Pg. 22
- ³² See https://www.unodc.org/documents/data-and-analysis/Studies/Illicit_financial_flows_2011_web.pdf Pg. 22
- ³³ Colombian National Risk Assessment, 2017, as cited in the 2018 Mutual Evaluation Report. Available at: <http://www.fatf-gafi.org/media/fatf/documents/reports/mer-fsrb/GAFILAT-MER-Colombia.pdf>
- ³⁴ GDP (current US\$), World Bank Data, 2017. Available at: <https://data.worldbank.org/indicator/NY.GDP.MKTP.CD>
- ³⁵ Edgar Villa, Martha Misas and Norman Loayza, "Illicit Activity and Money Laundering from an Economic Growth Perspective: A Model and an Application to Colombia," World Bank Group, February 2016. Available at: <https://openknowledge.worldbank.org/bitstream/handle/10986/23917/Illicit0activi0lication0to0Colombia.pdf?sequence=1&isAllowed=y>
- ³⁶ Fernando Gutiérrez, "Tiran bloqueos de recursos a la UIF; descongeló \$10,500 millones en el 2019," *El Economista*, January 20, 2020. Available at: <https://www.eleconomista.com.mx/sectorfinanciero/Tiran-bloqueos-de-recursos-a-la-UIF-descongelado-10500-millones-en-el-2019-20200122-0094.html>
- ³⁷ Anonymous Interviews conducted by Global Financial Integrity, 2020.
- ³⁸ Mexico and Colombian law enforcement play a crucial role in interdiction as well. However, the 5-10% range is based on drugs entering into the United States, of which a portion have already been seized by Latin American and/or Caribbean authorities.
- ³⁹ This includes seizures made by the Office of Field Operations (at ports), the Border Patrol (in between ports of entry) and by Air and Marine Operations (by air or sea, including in cooperation with other US Government Partners). Seizures data is from <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics> and <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics/air-and-marine-operations-statistics-fiscal-year-2020> Note that this figure is quite modest since narcotics are also seized by other USG agencies. As is noted in the July 2019 Congressional Research Service Report on this topic, "debates about drug flows and how best to counter drug trafficking into the country often rely on selected drug seizure data from border officials, which do not reflect all drug flows into the United States." For a discussion on different types of seizures data and their limitations, see <https://fas.org/sgp/crs/misc/R45812.pdf>
- ⁴⁰ For the percentages of cocaine and heroin coming from Colombia and Mexico, see <https://fas.org/sgp/crs/misc/R45812.pdf> Pg 12. Also see Celina Realuyo, Congressional Testimony, March 4, 2020: "90% of Heroin in the US originates from Mexico." Available at: <https://financialservices.house.gov/uploadedfiles/hhrg-116-ba10-wstate-realuyoc-20200304.pdf> For Cocaine from Colombia, see <https://www.state.gov/wp-content/uploads/2020/03/Tab-1-INCSR-Vol.-I-Final-for-Printing-2-25-20-508.pdf> Pg. 122
- ⁴¹ For the percentage of methamphetamine coming from Mexico, see <https://www.dea.gov/sites/default/files/2018-11/DIR-032-18%202018%20NDA%20final%20low%20resolution.pdf> ("with most of the methamphetamine available in the US being produced in Mexico and smuggled across the Southwest Border").
- ⁴² For the percentage of Fentanyl coming from Mexico, see <https://www.insightcrime.org/wp-content/uploads/2019/02/Fentanyl-Report-InSight-Crime-19-02-11.pdf>. Also see <https://www.buzzfeednews.com/article/danvergano/fentanyl-by-the-numbers>
- ⁴³ For the percentage of Marijuana coming from Mexico, see <http://www.nasca.org/Conference2017/presentations/pena.pdf>
- ⁴⁴ This is a simplified calculation for the purposes of providing an estimate. Narcotics also come from other Western Hemisphere countries in addition to Mexico and Colombia.

⁴⁵ It is important to note that not all seizures data is in-bound to the US. This may be particularly true in the case of marijuana. Some marijuana that is seized by authorities may have been produced in the United States and may be en route to another domestic destination.

⁴⁶ This scenario estimates that 5 percent of all drugs moved into the US are apprehended by US authorities. The calculation is $(=Estimated\ Total\ Inbound\ Seizures\ in\ Kilograms * 100) / 5$.

⁴⁷ This scenario estimates that 10 percent of all drugs moved into the US are apprehended by US authorities. See, for example, SOUTHCOM Posture Statement of Admiral Craig S. Fallor Before the 116th Congress, Senate Armed Services Committee, January 30, 2020: "We still only enabled the successful interdiction of nine percent of known drug movement." The calculation is $(=Estimated\ Total\ Inbound\ Seizures\ in\ Kilograms * 100) / 10$.

⁴⁸ UNODC, Cocaine Wholesale Prices in US, US\$ per Kilogram. Available at:

https://dataunodc.un.org/drugs/heroin_and_cocaine_prices_in_eu_and_usa

⁴⁹ UNODC, Heroin Wholesale Prices in US, US\$ per Kilogram, Available at:

https://dataunodc.un.org/drugs/heroin_and_cocaine_prices_in_eu_and_usa

⁵⁰ Authors' estimate based on <https://dataunodc.un.org/drugs/prices>. Reductions were made based on US legalization in certain states and impacts on pricing. See <https://www.cannabisbusinessexecutive.com/2019/04/cannabis-prices/> as well as

<https://www.cato.org/publications/policy-analysis/how-legalizing-marijuana-securing-border-border-wall-drug-smuggling-and>

<https://www.opb.org/news/article/loosened-us-pot-laws-have-sent-mexican-weed-prices-plunging/>

⁵¹ See https://www.dea.gov/sites/default/files/2020-01/2019-NDTA-final-01-14-2020_Low_Web-DIR-007-20_2019.pdf. See also UNODC Wholesale pricing data.

⁵² Russ Baer of the Drug Enforcement Agency (DEA) as quoted in <https://www.buzzfeednews.com/article/danvergano/fentanyl-by-the-numbers>

⁵³ See, for example, the National Surveys of Drug Use and Health (NSDUH). Available at: <https://www.samhsa.gov/data/report/2017-2018-nsduh-estimated-totals-state>

⁵⁴ On underreporting, see <https://pediatrics.aappublications.org/content/126/5/887> "Parent hair analyses for cocaine and opiate use were 6.5 times and 5.5 times, respectively, more likely to indicate drug use than were parental self-report. The lack of concordance between self-report and bioassay occurred despite participant's knowledge that a "certificate of confidentiality" protected both teen and adult participants, and that the biological specimens would be tested for drugs."

⁵⁵ Robert Twillman, Eric Dawson, Leah LaRue et al, "Average Appearance in Routine Urine Sample Ordered by Primary Care Physician. Evaluation of Trends of Near-Real-Time Urine Drug Test Results for Methamphetamine, Cocaine, Heroin, and Fentanyl," *Jama Network Open*, 2020.

Available at: <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2758207>

⁵⁶ As the 2005 UNODC World Drug Report correctly notes, "information on quantities of drugs consumed" is "largely missing." See pg. 125.

Available at: https://www.unodc.org/pdf/WDR_2005/volume_1_web.pdf

⁵⁷ 2018 Population Estimates, Annual Estimates of the Resident Population by Single Year of Age and Sex for the United States: April 1, 2010 to July 1, 2018, US Census Bureau.

⁵⁸ See footnote 55.

⁵⁹ Average usage ranges have varied from 24 grams per user per year to 42 grams per user per year. To offset any undercounting based on the very short period of time that cocaine remains in the system for urine tests, we have decided to use a higher range for average usage. For reference, see pg. 41, World Drug Report, Chapter 1, Cocaine, 2016. https://www.unodc.org/doc/wdr2016/WDR_2016_Chapter_1_Cocaine.pdf

See also <http://www.cedro-uva.org/lib/cohen.cocaine.html#RTFTOC19>; <https://medium.com/@aboutrecovery/america-is-the-world-s-largest-consumer-of-cocaine-abb4f0c1da27>; and https://www.unodc.org/documents/wdr/WDR_2010/1.3_The_global_cocaine_market.pdf

⁶⁰ See footnote 40.

⁶¹ See footnote 48.

⁶² See footnote 55.

⁶³ Where one bag is approx. .one gram. Heroin Usage: Survey of 109 users in 2011. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3115458/> See also <https://www.ncbi.nlm.nih.gov/pubmed/11041310>; Reduced from 4.7 to 4.0 since not all users are regular users

⁶⁴ See footnote 40.

⁶⁵ See footnote 49.

⁶⁶ Marijuana usage was not available in the urine analysis study, so survey responses were used instead. Since there is less stigma surrounding marijuana use compared to other drugs, underreporting may be less of an issue.

⁶⁷ "Table 2. Marijuana Use in the Past Year, by Age Group and State: Estimated Numbers (in Thousands), Annual Averages Based on 2017 and 2018 NSDUHs," National Surveys of Drug Use and Health NSDUH, <https://www.samhsa.gov/data/report/2017-2018-nsduh-estimated-totals-state> Alaska, California, Colorado, District of Columbia, Illinois, Maine, Massachusetts, Michigan, Nevada, Oregon, Vermont and Washington State were removed because of their legalization policies.

⁶⁸ Marijuana Consumption: Average joint = .3 g. Average user consumes 123 joints/year. See <https://www.seattletimes.com/seattle-news/average-pot-user-consumes-123-joints-per-year-state-estimates/>

⁶⁹ See footnote 43.

⁷⁰ See footnote 50.

⁷¹ This number may seem a bit low, but it is important to remember that marijuana is produced domestically in the US, for both legal and illegal domestic markets.

⁷² Some medications taken for legitimate health reasons contain methamphetamines. The appearance of methamphetamine in urine tests is reduced by one third to control for this. This is a somewhat arbitrary calculation due to the limited availability of data. Average Appearance in Routine Urine Sample Ordered by Primary Care Physician. Evaluation of Trends of Near-Real-Time Urine Drug Test Results for Methamphetamine, Cocaine, Heroin, and Fentanyl, 2020. Available at: <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2758207> a

⁷³ Methamphetamine Usage, see <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2814900/> Addicts consumed 382.9 grams per year of use, experimental users consumed 8.3 grams. 200 grams is used as a rough mid-point.

⁷⁴ See footnote 41.

⁷⁵ https://www.dea.gov/sites/default/files/2020-01/2019-NDTA-final-01-14-2020_Low_Web-DIR-007-20_2019.pdf. See also UNODC Wholesale pricing.

⁷⁶ Fentanyl estimates present unique methodological difficulties because Fentanyl is often present in other narcotics. In the absence of better available data, this estimate includes active users who intentionally sought out fentanyl, as well as passive users, who consumed another narcotic (e.g., cocaine, heroin) that included fentanyl unbeknownst to them.

⁷⁷ Some prescription-based usage may be for legitimate health reasons, though there are indications that this is greatly declining. For more information, see <https://www.ncbi.nlm.nih.gov/books/NBK537318/>

⁷⁸ This is a rough estimate due to limited availability of information. See <https://www.nytimes.com/2019/10/16/magazine/china-fentanyl-drug-ring.html> "Ten milligrams of the powder — 100 times more than the patch — cost \$10 and kept you high all day."

⁷⁹ See footnote 42.

⁸⁰ See footnote 52.

⁸¹ See, for example, <https://www.nytimes.com/2019/05/18/health/heroin-fentanyl-deaths-baltimore.html>

⁸² US Government data. Annual average for FY2017, 2018 and 2019. Includes Office of Field Operations, Border Patrol, and Air and Marine Operations. See <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics>

⁸³ UNODC Data, 2017.

⁸⁴ Colombian Cocaine: 2017 Data, from 2019 World Drug Report, UNODC

⁸⁵ See footnote 48.

⁸⁶ Mexican Heroin: <https://www.whitehouse.gov/briefings-statements/new-annual-data-released-white-house-office-national-drug-control-policy-shows-poppy-cultivation-potential-heroin-production-remain-record-high-levels-mexico/>

⁸⁷ See footnote 49.

⁸⁸ Colombian heroin: <https://www.insightcrime.org/news/brief/el-n-taking-colombias-enduring-heroin-trade/>

⁸⁹ See footnote 49.

⁹⁰ See "Estimaciones propias sitúan la producción de marihuana en México en alrededor de 7,000 y 8,000 toneladas anuales; el consumo doméstico es alrededor del 5% de la producción nacional. See https://www.gob.mx/cms/uploads/attachment/file/85735/MIGUEL_MOLINA_M3.pdf

⁹¹ See footnote 50.

⁹² See "Mexico's Role in the Deadly Rise of Fentanyl," Woodrow Wilson Center, February 2019. It notes that "China produces nearly all of the fentanyl, fentanyl analogues, and fentanyl precursors in the world, although India—with its large chemical infrastructure—appears poised to make an entry into the market, and Mexican traffickers are starting to produce it as well using precursors obtained mostly in China." Available at: https://www.wilsoncenter.org/sites/default/files/media/documents/publication/fentanyl_insight_crime_final_19-02-11.pdf

⁹³ See <https://www.drugabuse.gov/related-topics/trends-statistics/overdose-death-rates>

⁹⁴ Year-over-year growth. Products were at the 2-digit HS code. Meanwhile, overall imports of Chinese goods to Mexico only grew modestly that year, at 6.7% UN Comtrade data. Accessed April 2020. Available at: <https://comtrade.un.org>

⁹⁵ Ibid.

⁹⁶ See <https://www.fatf-gafi.org/faq/moneylaundering/>

⁹⁷ Transparency International, Corruption Perception Index, 2019 data. Available at: <https://www.transparency.org/en/cpi>

⁹⁸ Claudia Mendoza and Mary Beth Sheridan, "Another U.S. Court Filing Ties the Honduran President, a Trump Ally, to Drug Trafficking," Washington Post, April 30, 2020. Available at: https://www.washingtonpost.com/world/the_americas/another-us-court-filing-ties-the-honduran-president-a-trump-ally-to-narcottrafficking/2020/04/30/e2a96406-8b05-11ea-80df-d24b35a568ae_story.html

⁹⁹ See United States Attorney's Office, Southern District of Florida, "Former Guatemalan Official Who Used Drug Trafficking Proceeds and Other Dirty Cash to Bribe Corrupt Politicians Charged in Miami Federal Court," August 5, 2020. Available at: <https://www.justice.gov/usao-sdfl/pr/former-guatemalan-official-who-used-drug-trafficking-proceeds-and-other-dirty-cash>

¹⁰⁰ See "Differences between asset laundering and terrorism financing," in "What To Know about Asset Laundering and Terrorism Financing," UIAF, 2014. Available at: https://www.urosario.edu.co/observatorio-de-lavado-de-activos/Archivos_Lavados/Lo-que-debe-saber-sobre-LAFT.pdf

¹⁰¹ Bruce Riedel, "Al Qaeda's 9/11 Obsession," Op-Ed for Brookings Institution, 2011. Available at: <https://www.brookings.edu/opinions/al-qaedas-911-obsession/>

¹⁰² See, for example, <https://www.wsi.com/articles/hezbollah-said-to-be-laundering-money-in-south-american-tri-border-region-1526389849> and <https://www.elespectador.com/noticias/judicial/la-conexion-libanesa-con-la-oficina-de-envigado/>

¹⁰³ <https://www.elespectador.com/noticias/judicial/la-conexion-libanesa-con-la-oficina-de-envigado/>

¹⁰⁴ "Iran in Latin America: Threat or 'Axis of Annoyance,'" The Woodrow Wilson Center, Eds. Cynthia Arnsion, Haleh Esfandiari, and Adam Stubits, 2008. Available at: https://www.wilsoncenter.org/sites/default/files/media/documents/publication/Iran_in_LA.pdf

¹⁰⁵ Virtual Interview with Caryn Hollis, Conducted by Global Financial Integrity in June 2020.

¹⁰⁶ "Statement on U.S.-Colombia Partnership to Combat Terrorism," US Embassy in Colombia, 21 January, 2020. Available at: <https://co.usembassy.gov/statement-on-u-s-colombia-partnership-to-combat-terrorism/>

¹⁰⁷ See <https://www.eltiempo.com/politica/gobierno/terrorismo-gobierno-adopto-lista-con-79-grupos-453620> and

¹⁰⁸ "Capturan a integrante del ELN pedida en extradición por EEUU," Associated Press, May 26, 2020. Available at: <https://apnews.com/9a7e0b1e020423472337e8a423802ef9>

¹⁰⁹ See UNODC, 2018: "Fewer groups are exclusively dedicated to drug trafficking, since a considerable number also operates in other illicit sectors." Available at: <https://www.unodc.org/e4i/en/organized-crime/module-3/key-issues/drug-trafficking.html> See also <http://america.aljazeera.com/articles/2014/3/17/drug-traffickingasmallpartofmexicancartelsincome.html>

¹¹⁰ "United Nations Convention against Transnational Organized Crime and the Protocols Thereto," United Nations Office on Drugs and Crime, 2004, pg. 5. Available at: <http://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>.

¹¹¹ "La Economía del Narcotráfico," Organization of American States, 2013. See page 24. Available at: http://www.cicad.oas.org/drogas/elinforme/informeDrogas2013/laEconomicaNarcotrafico_ESP.pdf

¹¹² See, for example, "Mexico: Organized Crime and Drug Trafficking Organizations," Congressional Research Service, Updated December 2019. Available at: <https://fas.org/spp/crs/row/R41576.pdf>

¹¹³ United States Treasury, "National Strategy for Combating Terrorist and Other Illicit Financing," 2020. Available at <https://home.treasury.gov/system/files/136/National-Strategy-to-Counter-Illicit-Financev2.pdf>. See pg 10.

¹¹⁴ “Financial Action Task Force Report on Professional Money Laundering,” July 2018. Available at: <http://www.fatf-gafi.org/media/fatf/documents/Professional-Money-Laundering.pdf> See pg 11.

¹¹⁵ In the case of real estate transactions, for example, most but not all fall under AML requirements by the Bank Secrecy Act (BSA). For more information, see <https://legal.thomsonreuters.com/en/insights/articles/u-s-regulators-tackle-money-laundering-luxury-home-market>

¹¹⁶ Ken Silverstein, “Miami – Where Luxury Real Estate Meets Dirty Money,” *The Nation*, October 21, 2013 Available at: <https://www.thenation.com/article/archive/miami-where-luxury-real-estate-meets-dirty-money/>

¹¹⁷ Costas Paris, “Global Shipping Faces Troubling New Smuggling Questions,” *Wall Street Journal*, January 6, 2020 Available at: <https://www.wsj.com/articles/global-shipping-faces-troubling-new-smuggling-questions-11578330634>

¹¹⁸ See “Money Laundering Through the Physical Transportation of Cash,” Financial Action Task Force (FATF) Report, October 2015. Available at: <https://www.fatf-gafi.org/media/fatf/documents/reports/money-laundering-through-transportation-cash.pdf>

¹¹⁹ See footnote 113. Reference pg. 23 of report.

¹²⁰ “Casinos, the postal money order market, bulk cash smuggling, wire transfers, remittances, electronic currency, and prepaid debit cards are being used to repatriate illicit proceeds to Colombia, mainly from drug trafficking.” See the Colombian 2018 Mutual Evaluation Report, page 19. Available at: <http://www.fatf-gafi.org/media/fatf/documents/reports/mer-fsrb/GAFILAT-MER-Colombia.pdf>

¹²¹ Mexican National Risk Evaluation, 2016. See page 20. Available at: <https://www.pld.hacienda.gob.mx/work/models/PLD/documentos/enr.pdf>

¹²² “Mexican regulations, which took effect in 2010, limiting U.S. bank note deposits by individual account holders at financial institutions to \$4,000 per month, and U.S. currency exchanges by non-account and U.S. currency exchanges by non-account holders to \$1,500 per month.” See the US National Money Laundering Risk Assessment, 2015, pages 28-29. Note that some exceptions applied to businesses in the tourism industry. See <https://expansion.mx/economia/2010/06/15/hacienda-lavado-dinero-dolares-crimen>

¹²³ See footnote 113. Reference pg. 23 of report.

¹²⁴ See footnote 113. Reference pg. 23 of report.

¹²⁵ “Mexican regulations, which took effect in 2010, limiting U.S. bank note deposits by individual account holders at financial institutions to \$4,000 per month, and U.S. currency exchanges by non-account and U.S. currency exchanges by non-account holders to \$1,500 per month.” See US National Money Laundering Risk Assessment, 2015, pages 28-29.

¹²⁶ For more on this issue and US efforts to combat it, see “Countering Illicit Finance and Trade: US Efforts to Combat Trade-Based Money Laundering,” US Government Accountability Office, December 2019. Available at: <https://www.gao.gov/assets/710/703609.pdf>

¹²⁷ For a more in-depth discussion of trade misinvoicing and how it works, see “What is Trade Misinvoicing?” by Global Financial Integrity. Available at: <https://gfintegrity.org/research/methodology/>

¹²⁸ “According to the Wolfsberg Group, 80 percent of international trade that is processed through financial institutions is open-account trade. See Government Accountability Office, “Countering Illicit Finance and Trade,” December 2019. Available at: <https://www.gao.gov/assets/710/703609.pdf>

¹²⁹ According to the recent GAO report on TBML, “one of the primary vulnerabilities of the U.S. financial and trade systems is open-account trade, in which the transaction is not financed by a bank. In open-account trade, the financial transaction between the buyer and seller—which underpins the trade transaction—is usually processed through a bank’s automatic payment systems, without human intervention, by the bank sending the payment on behalf of its customer. As such, the financial institution has limited visibility into the underlying reason for the payment.” See <https://www.gao.gov/assets/710/703609.pdf> pages 3-4.

¹³⁰ United States Immigration and Customs Enforcement, “LA Fashion District Company and 2 Owners Plead Guilty in Money Laundering Scheme, December 2017. Available at: <https://www.ice.gov/news/releases/la-fashion-district-company-and-2-owners-plead-guilty-money-laundering-scheme>

¹³¹ *Ibid.*

¹³² See, for example, <https://www.fincen.gov/resources/advisories/fincen-advisory-fin-2014-a005>

¹³³ Gatekeepers are “professionals such as lawyers, notaries, accountants, investment advisors, and trust and company service providers who assist in transactions involving the movement of money, and are deemed to have a particular role in identifying, preventing and reporting money laundering. Some countries impose due diligence requirements on gatekeepers that are similar to those of financial institutions,” according to the Association of Certified Anti-Money Laundering Specialists (ACAMS). See <https://www.acams.org/aml-glossary/index-g/>

¹³⁴ Prevalence is measured by the frequency with which they are mentioned within the top four methods.

¹³⁵ For a more detailed explanation, see <https://www.fincen.gov/resources/advisories/fincen-advisory-fin-2014-a005>

¹³⁶ *Ibid.*

¹³⁷ For an excellent analysis of virtual currencies and AML/CFT efforts, see <https://fas.org/sgp/crs/misc/R45664.pdf>

¹³⁸ “Constitución Política de los Estados Unidos Mexicanos,” Last updated March 6, 2020. See Article 119. Available at: http://www.diputados.gob.mx/LeyesBiblio/pdf_mov/Constitucion_Politica.pdf

¹³⁹ See <http://www.fatf-gafi.org/media/fatf/documents/reports/mer/MER%20Mexico%20ful.pdf>

¹⁴⁰ This includes gambling, stored value services (prepaid cards, credit cards, service cards), travelers’ checks, loan guarantees, real estate development, sales of precious stones or metals, art sales, vehicle sales (new or used, including maritime or aerial vehicles), armored services, money or asset transmitters, professional services providers (including in real estate), notary service providers, NGO donations, 3rd party agents providing customs services for any vulnerable good, and the exchange of virtual assets by those other than financial institutions. Many of these only apply above a certain dollar threshold that is set in relation to the minimum salary. See Article 17. Available at: <https://www.cnbv.gob.mx/Normatividad/Ley%20Federal%20para%20la%20Prevención%20e%20Identificación%20de%20Operaciones%20con%20Recursos%20de%20Procedencia%20IIC3%ADcita.pdf>

Note also that the definition of vulnerable applies to the activity, not the to profession itself. For example, lawyers are not by definition a vulnerable profession; rather, lawyers who conduct vulnerable activities according to Mexican law must comply with AML/CFT regulations.

¹⁴¹ For an overview, see Interim Follow-Up Report, Mutual Evaluation of Mexico, October 2012. Available at: <http://www.fatf-gafi.org/media/fatf/documents/reports/Interim%20Follow-up%20Report%20Mexico.pdf>

¹⁴² Specifically, Article 115 of the Law of Credit Institutions was updated. For more detail, see <https://www.fincen.gov/resources/advisories/fincen-advisory-fin-2010-a007>

¹⁴³ <https://www.proceso.com.mx/115633/entra-en-vigor-la-ley-federal-de-extincion-de-dominio>

¹⁴⁴ <https://www.forbes.com.mx/los-puntos-mas-preocupantes-de-la-ley-de-extincion-de-dominio/> For more on this see, Article 14 of the law, which states “La acción de extinción de dominio se ejercerá aun cuando no se haya determinado la responsabilidad penal en los casos de los delitos previstos en el párrafo cuarto, del artículo 22 de la Constitución, siempre y cuando existan fundamentos sólidos y razonables que permitan inferir la existencia de Bienes cuyo origen o destino se enmarca en las circunstancias previstas en la presente Ley.” Available at: http://www.diputados.gob.mx/LeyesBiblio/ref/Ined/LNED_orig_09ago19.pdf

¹⁴⁵ This includes creating an “Instituto para Devolver al Pueblo lo Robado” from the former Servicio de Administración y Enajenación de Bienes. See <https://politica.expansion.mx/mexico/2020/01/22/adios-sae-hola-instituto-para-devolver-al-pueblo-lo-robado>

¹⁴⁶ According to a statement by the president, the Institute will focus on assets that have been seized from organized crime, the proceeds of corruption, and white-collar crime. These resources will be repurposed for social programs. See <https://www.animalpolitico.com/2019/05/amlo-instituto-devolver-pueblo-robado/>

¹⁴⁷ Such as Sociedades Financieras de Objeto Múltiple (SOFOMES) – which include microfinance institutions – as well as currency exchange houses and money remitters.

¹⁴⁸ See footnote 141.

¹⁴⁹ See http://www.diputados.gob.mx/LeyesBiblio/pdf/LFPIORPI_090318.pdf Minor changes were made in 2018 to include new types of assets.

¹⁵⁰ See footnote 140.

¹⁵¹ <https://politica.expansion.mx/congreso/2019/10/15/aprueban-reforma-contra-empresas-fantasma-y-facturas-falsas-carcel-evasion-fiscal>

¹⁵² See <https://www.economista.com.mx/empresas/SAT-detecta-evasion-de-354512-millones-de-pesos-a-traves-de-facturas-falsas-20190625-0083.html>

¹⁵³ See <https://www.jornada.com.mx/ultimas/politica/2019/10/04/con-facturas-falsas-2-mil-800-empresas-lavan-dinero-shcp-2086.html> Luis del Valle from the American Chamber is as quoted as being “concerned that tax crimes could be prosecuted like drug trafficking crimes or other transnational organized crime.”

¹⁵⁴ See <https://www.elnorte.com/aplicacioneslibre/preacceso/articulo/default.aspx?rval=1&urlredirect=https://www.elnorte.com/propone-uif-reforma-a-ley-antilavado/ar1882693?referer=-7d616165662f3a3a6262623b727a7a7279703b767a783a-->

¹⁵⁵ Available at: https://www.senado.gob.mx/64/gaceta_del_senado/documento/88968

¹⁵⁶ Available at: https://infosen.senado.gob.mx/sgsp/gaceta/64/1/2019-02-07-1/assets/documentos/Inic_MORENA_RPI.pdf

¹⁵⁷ President Andrés Manuel López Obrador outlines these issues here, <https://lopezobrador.org.mx/2020/03/04/version-estenografica-de-la-conferencia-de-prensa-matutina-del-presidente-andres-manuel-lopez-obrador-269/> He states that “Combatir a los grupos de delincuencia organizada evidentemente tiene que hacerse en el ámbito del combate al sicariato, a los narcomenudistas, a los líderes de los cárteles; sin embargo, esta visión es una visión incompleta si no viene acompañada por un mecanismo que implique el desmantelar las estructuras financieras de los grupos criminales a partir del congelamiento de cuentas y la liquidación de las sociedades mercantiles que utilizan. Sin embargo, no solamente estos dos elementos son importantes en considerar; también, para efecto de poder atacar a los grupos delincuenciales, hay que atacar la corrupción política en razón de que muchos de estos grupos surgen con el apoyo, el respaldo o por lo menos la omisión de gobiernos.”

¹⁵⁸ From the bill, it is not yet clear what controls would be put into place to protect this information from potential misuse by political rivals. However, this is an important consideration going forward.

¹⁵⁹ Mexico 2018 Mutual Evaluation Report, page 3. See <http://www.fatf-gafi.org/media/fatf/documents/reports/mer4/MER-Mexico-2018.pdf>

¹⁶⁰ Interviews conducted by Global Financial Integrity with Mexican AML experts, March 2020.

¹⁶¹ 2018 Mexican Mutual Evaluation Report, page 4.

¹⁶² Interviews conducted by Global Financial Integrity with Mexican AML experts, March 2020.

¹⁶³ See <https://www.infobae.com/america/mexico/2019/08/05/la-fortuna-fantasma-del-chapo-guzman-buscan-usd-12-000-millones-pero-el-criminal-no-tiene-una-sola-propiedad-a-su-nombre/>

¹⁶⁴ See https://www.treasury.gov/resource-center/sanctions/Programs/Documents/09142014_sinaloa_cartel_chart.pdf

¹⁶⁵ See, for example, https://www.treasury.gov/resource-center/sanctions/Programs/Documents/cuellar_chart_02272014.pdf

¹⁶⁶ See footnote 141.

¹⁶⁷ Interview with Eduardo Apaez, Mexican AML expert.

¹⁶⁸ See article 421 of the Mexican Penal Code, http://www.diputados.gob.mx/LeyesBiblio/pdf/CNPP_220120.pdf

¹⁶⁹ 2018 Mexican Mutual Evaluation Report, see pg 77. <https://www.fatf-gafi.org/media/fatf/documents/reports/mer4/MER-Mexico-2018.pdf>

¹⁷⁰ For a breakdown of responsibilities by agency, see page 51. Available at: https://www.cnbv.gob.mx/PrevencionDeLavadoDeDinero/Documents/Conocimientos_basicos_PLDFT_Autoridades_Nacionales.pdf

¹⁷¹ See <https://www.infobae.com/america/mexico/2019/10/24/sat-va-contra-el-lavado-de-dinero-visitara-a-contribuyentes-con-actividades-vulnerables/>

¹⁷² 2018 Mexican Mutual Evaluation Report, page 4.

¹⁷³ 2018 Mexican Mutual Evaluation Report, page 7.

¹⁷⁴ 2018 Mexican Mutual Evaluation Report, page 7.

¹⁷⁵ Interview conducted by Global Financial Integrity with Mexican AML experts, March 2020.

¹⁷⁶ 2018 Mexican Mutual Evaluation Report, page 7.

¹⁷⁷ Interviews conducted for this project by Global Financial Integrity, March-April 2020.

¹⁷⁸ See <https://www.economista.com.mx/sectorfinanciero/SAT-reconoce-poco-nivel-de-efectividad-en-lucha-antilavado-20170507-0075.html>

¹⁷⁹ See <https://www.pld.hacienda.gob.mx/work/models/PLD/documentos/enr.pdf>

¹⁸⁰ Colombia 2018 Mutual Evaluation Report, see pg 21. Available at: <http://www.fatf-gafi.org/media/fatf/documents/reports/mer-fsrb/GAFILAT-Mutual-Evaluation-Colombia-2018.pdf>

¹⁸¹ For an excellent analysis of this, see https://www.unodc.org/documents/colombia/2017/Marzo/La_extincion_del_derecho_de_dominio_en_Colombia.pdf

¹⁸² See <https://www.ramajudicial.gov.co/documents/10228/1547471/CONSTITUCION-Interiores.pdf>

¹⁸³ https://www.uiaf.gov.co/sistema_nacional_ala_cft/normatividad_sistema_documentos_28/documentos_interes_ala_cft/cartilla_delitos_fuente_laft

¹⁸⁴ Available at: https://www.uiaf.gov.co/sistema_nacional_ala_cft/normatividad_sistema/leyes/ley_1121_2006

¹⁸⁵ The law defines this as a group of three or more persons, acting over time and in a concerted manner, to commit one or more serious crimes, or crimes under the Palermo Convention, in order to gain, directly or indirectly, an economic or other material benefit.

¹⁸⁶ The law defines this as those who, under the direction of a responsible command, exercise such control over a part of the territory as to enable them to carry out sustained and concerted military operations.

¹⁸⁷ Available at: https://www.uiaf.gov.co/sistema_nacional_ala_cft/normatividad_sistema_documentos_28/leyes/ley_1908_2018

¹⁸⁸ Available at: https://www.uiaf.gov.co/sistema_nacional_ala_cft/normatividad_sistema/leyes/ley_1121_2006

¹⁸⁹ Available at: https://www.uiaf.gov.co/sistema_nacional_ala_cft/normatividad_sistema/leyes/ley_1941_2018

¹⁹⁰ See, for example, “It is not clear if the cooperation agreements between supervisors and other national authorities are being implemented and address the country’s AML/CFT deficiencies. Additionally, an agreement for information sharing between the UIAF and the DIAN was signed in November 2016, but is not implemented yet, and there are some concerns regarding the scope of this agreement,” from page 114 of Colombia’s 2018 Mutual Evaluation Report.

¹⁹¹ This includes government agencies that oversee sports, gambling, customs and taxation (DIAN), notaries and registries, transportation, corporate structures such as anonymous societies, financial institutions, inclusive financial institutions, private security, healthcare, and gold exports, among others. See https://www.uiaf.gov.co/caracterizacion_usuario/perfiles/reportantes

¹⁹² See “Guía de Normatividad ALA/CFT,” Unidad de Información y Análisis Financiero (UIAF), March 2019. Available at: https://www.uiaf.gov.co/sistema_nacional_ala_cft/normatividad_sistema_documentos_28/documentos_interes_ala_cft/guia_normatividad_ala_cft_29974

¹⁹³ https://www.uiaf.gov.co/sistema_nacional_ala_cft/lavado_activos_financiacion_29271/prevencion_deteccion_la_ft

¹⁹⁴ <https://www.univision.com/noticias/america-latina/colombia-excluye-a-las-farc-en-la-lista-de-organizaciones-terroristas>

¹⁹⁵ <https://www.state.gov/foreign-terrorist-organizations/>

¹⁹⁶ This has been well documented by a number of sources. For one perspective, see https://www.wilsoncenter.org/sites/default/files/media/documents/misc/Otis_FARCDrugTrade2014.pdf

¹⁹⁷ US International Narcotics Control Strategy Report (INCSR), March 2020. See page 82. Available at: <https://www.state.gov/wp-content/uploads/2020/03/Tab-2-INCSR-Vol-2-508.pdf>

¹⁹⁸ Interviews with experts conducted by Global Financial Integrity for this project, February 2020.

¹⁹⁹ Interviews with experts conducted by Global Financial Integrity for this project, February 2020.

²⁰⁰ Colombia is among the Latin American and Caribbean countries with higher levels of bank account ownership. Bank account ownership has grown steadily from 30% of the population in 2011, to 39% in 2014 and 46% in 2017. See Global Findex Data by the World Bank. Available at: https://globalfindex.worldbank.org/sites/globalfindex/files/2018-04/2017%20Findex%20full%20report_indicador%20table.pdf

²⁰¹ Cases using money mules have been well documented in Colombia. See, for example, <https://www.insightcrime.org/news/brief/colombia-drug-mules-swallowing-dirty-money-transport/>

²⁰² Colombia 2018 Mutual Evaluation Report, see pg. 12.

²⁰³ Interview conducted by Global Financial Integrity for this project, February 2020.

²⁰⁴ See https://www.uiaf.gov.co/sistema_nacional_ala_cft/normatividad_sistema_documentos_28/documentos_interes_ala_cft/cartilla_delitos_fuente_laft

²⁰⁵ This is recognized the 2019 Colombian National Risk Assessment, see https://www.uiaf.gov.co/sistema_nacional_ala_cft/evaluaciones_nacionales_riesgo/evaluacion_nacional_riesgo_2019/informe_ejecutivo_enr_2019&download=Y

²⁰⁶ Colombia 2018 Mutual Evaluation Report, see pg 13.

²⁰⁷ The 2020 INCSR Report notes, for example, that the non-financial sector “generally have a lower level of awareness than the financial sector regarding money laundering/terrorist financing regulations.” See <https://www.state.gov/wp-content/uploads/2020/03/Tab-2-INCSR-Vol-2-508.pdf>

²⁰⁸ See Colombia’s 2013 National Risk Assessment.

²⁰⁹ See “Illicit Financial Flows and Colombia,” Global Financial Integrity, November 2019. Available at: <https://gfintegrity.org/report/illicit-financial-flows-colombia/>

²¹⁰ Interview conducted by Global Financial Integrity for this project, February 2020.

²¹¹ Colombia’s 2019 National Risk Assessment.

²¹² Interview by Global Financial Integrity, June 2020.

²¹³ “Treasury Works with Government of Mexico Against Perpetrators of Corruption and their Networks,” Press Release, US Department of Treasury, May 2019. Available at: <https://home.treasury.gov/news/press-releases/sm692>

²¹⁴ Dana Priest, “US Role at Crossroads in Mexico’s Intelligence War on the Cartels,” The Washington Post, April 2013. Available at: https://www.washingtonpost.com/investigations/us-role-at-a-crossroads-in-mexicos-intelligence-war-on-the-cartels/2013/04/27/b578b3ba-a3b3-11e2-be47-b44febada3a8_story.html

²¹⁵ Parker Asmann, “Ecuador’s Alleged ‘Pablo Escobar’: From Boatman to Drug Lord” Insight Crime, May 2017. Available at: <https://www.insightcrime.org/news/analysis/alleged-pablo-escobar-ecuador-ascend-boatman-drug-lord/>

²¹⁶ “Colombia: U.S. Counternarcotics Assistance Achieved Some Positive Results, but State Needs to Review the Overall U.S. Approach,” US GAO, December 2018. Available at: <https://www.gao.gov/assets/700/695952.pdf>

²¹⁷ James Bargent, “Treasure, Corruption and Legal Machinations – Gerald’s Legacy in Ecuador,” InsightCrime, November 2019. Available at: <https://www.insightcrime.org/news/analysis/ecuador-gerald-treasure-corruption/>

²¹⁸ See <https://www.fiscalia.gov.co/colombia/seccionales/desarticulada-estructura-criminal-de-lavado-de-activos-al-servicio-de-capo-ecuatoriano/>

²¹⁹ U.S. National Drug Threat Assessment, U.S. Department of Justice – Drug Enforcement Administration (December 2019) at p.7 Available at https://www.dea.gov/sites/default/files/2020-01/2019-NDTA-final-01-14-2020_Low_Web-DIR-007-20_2019.pdf

²²⁰ International Narcotics Control Strategy Report, 2016. Available at: <https://2009-2017.state.gov/documents/organization/253655.pdf> See [page 161](#).

²²¹ For an excellent piece on this, see Oscar Martínez, “La frontera perdida en la selva,” *El Faro* and *El Pais*, August 12, 2019. Available at: https://elpais.com/internacional/2019/08/06/actualidad/1565079622_687171.html

²²² Kevin Sieff, “The Guatemalan Rainforest: Lush Jungle, Mayan Ruins and Narco Jets Full of Cocaine,” *Washington Post*, July 5, 2020. Available at: <https://www.washingtonpost.com/world/2020/07/05/guatemala-cocaine-trafficking-laguna-del-tigre/?arc404=true>

²²³ United States Attorney’s Office, Southern District of Florida, “Former Guatemalan Official Who Used Drug Trafficking Proceeds and Other Dirty Cash to Bribe Corrupt Politicians Charged in Miami Federal Court,” August 5, 2020. Available at: <https://www.justice.gov/usao-sdfl/pr/former-guatemalan-official-who-used-drug-trafficking-proceeds-and-other-dirty-cash>

²²⁴ Ed Vuillamy, “How a Tiny West African Country Became the World’s First Narco State,” *The Guardian*, March 9, 2008. Available at <https://www.theguardian.com/world/2008/mar/09/drugstrade>

²²⁵ Alberto Dabo, “Guinea-Bissau police say 1.8 tonnes of cocaine seized in biggest ever haul,” *Reuters*, September 3, 2019; available at <https://www.reuters.com/article/us-bissau-drugs/guinea-bissau-police-say-18-tonnes-of-cocaine-seized-in-biggest-ever-haul-idUSKCN1VO1VU>

²²⁶ Constanza Sánchez Avilés, “Corruption and illegal drugs: Reconstructing links, reversing the causes,” *The Global Americans*, July 29, 2019. Available at: <https://theglobalamericans.org/2019/07/corruption-and-illegal-drugs-reconstructing-links-reversing-the-causes/>

²²⁷ *Ibid*

²²⁸ Joshua Goodman and Jim Mustian, Associated Press, “‘Very unprepared:’ DEA shakeup followed mounting criticism,” as printed in the *Spokesman Review*, May 21, 2020. Available at: <https://www.spokesman.com/stories/2020/may/21/very-unprepared-dea-shakeup-followed-mounting-crit/>

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²³⁰ See footnote 4

²³¹ 90 percent of heroin, 88 percent of cocaine, 87 percent of methamphetamine, and 80 percent of fentanyl. See CBP Enforcement Statistics, FY2020. Available at: <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics>

²³² CBP Enforcement Statistics, FY 2020. Available at: <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics>

²³³ Bank Secrecy Act, 1970

²³⁴ Minimal Ownership is Collected and Available, Government Accountability Office, April 2006. See pg.37. Available at: <https://www.gao.gov/new.items/d06376.pdf>

²³⁵ National Strategy to Combat Terrorist and Other Illicit Financing, 2020. See footnote 97.

²³⁶ Cocaine from South America to the United States, UNODC, 2011). Available at: https://www.unodc.org/documents/toc/Reports/TOCTASouthAmerica/English/TOCTA_CACaribb_cocaine_SAmerica_US.pdf

²³⁷ See https://www.faa.gov/licenses_certificates/aircraft_certification/aircraft_registry/register_aircraft/

²³⁸ Trade Based Money Laundering: Overview and Policy Issues, Congressional Research Service, June 22, 2016 available at p.1 <https://fas.org/sgp/crs/misc/R44541.pdf>

²³⁹ *Ibid*. See pg. 5.

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²⁴¹ Senator Bill Cassidy (R-LA), “TBML: An Asymmetric Threat with ties to Terror and Drugs,” September 4, 2019, Pg. 4. Available at: <https://www.cassidy.senate.gov/imo/media/doc/TBML%20White%20Paper.pdf>

²⁴² Geographic Targeting Order, April 2015, Available at https://www.fincen.gov/sites/default/files/shared/GTO_Miami.pdf; Geographic Targeting Order, October 2014, Available at: <https://www.fincen.gov/news/news-releases/fincen-issues-geographic-targeting-order-covering-los-angeles-fashion-district>

²⁴³ GTOs are defined in the Bank Secrecy Act in 31 U.S.C. § 5326(a). A Geographic targeting order (or GTO) is an order issued by the US Secretary of Treasury requiring any US domestic financial institutions or non-financial business or trade that exist within a geographic area to report on transactions any greater than a specified value. A GTO is effective only for 180 days unless renewed.

²⁴⁴ Bernadette Smith US Trade and Transparency Unit targets global trade-based money laundering schemes, *WCO News* Available at: <https://mag.wcoomd.org/magazine/wco-news-77/us-trade-and-transparency-unit/>

²⁴⁵ *Ibid*.

²⁴⁶ Large-scale law enforcement effort targets downtown Los Angeles businesses linked to money laundering for drug cartels, September 9, 2014, U.S. Immigration and Customs Enforcement. Available at: <https://www.ice.gov/news/releases/large-scale-law-enforcement-effort-targets-downtown-los-angeles-businesses-linked#wcm-survey-target-id>

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²⁵² Cocaine from South America to the United States, UNODC, 2011. Available at: https://www.unodc.org/documents/toc/Reports/TOCTASouthAmerica/English/TOCTA_CACaribb_cocaine_SAmerica_US.pdf

²⁵³ See footnote 244.

²⁵⁴ See footnote 242

²⁵⁵ See footnote 242 at pgs. 34 -37

²⁵⁶ See footnote 242

²⁵⁷ ‘Free trade zones’ can be known by several other names, including: “free zones, freeport zones, port free trade zones, foreign trade zones, e-zones, duty free trade zones, commercial free trade zones, export processing zones, logistic zones, trade development zones, industrial zones/parks/areas, hi-tech industry parks, hi-tech and neo-tech industrial development zones, investment zones, bonded zones, special economic zones, economic development zones, economic and technological development zones, resource economic development zones and border economic cooperation zones” For more information, refer to : <https://gfintegrity.org/free-for-all-zones-the-case-of-dubai/>

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²⁵⁹ US Library of Congress, “Places in the News.” Available at: https://www.loc.gov/today/placesinthenews/archive/2000arch/20000505_panama.html

²⁶⁰ US Library of Congress, “Places in the News.” Available at: https://www.loc.gov/today/placesinthenews/archive/2000arch/20000505_panama.html

²⁶¹ Bureau of International Narcotics and Law Enforcement Affairs, “International Narcotics Control Report,” February 2009. Available at: <http://www.state.gov/p/inl/rls/nrcrpt/>.

²⁶² Ibid

²⁶³ Bureau of International Narcotics and Law Enforcement Affairs, “International Narcotics Control Report,” February 2009. Available at: <http://www.state.gov/p/inl/rls/nrcrpt/>.

²⁶⁴ Ibid

²⁶⁵ <https://www.govinfo.gov/content/pkg/CHRG-106hrg71970/html/CHRG-106hrg71970.htm>;
<https://www.washingtonpost.com/archive/politics/1993/09/20/panama-still-a-conduit-for-cocaine-profits/97cad418-f4d3-462c-b8ef-493d529db45c/>

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²⁶⁷ See <https://www.treasury.gov/press-center/press-releases/Pages/jl0450.aspx>

²⁶⁸ https://1997-2001.state.gov/global/narcotics_law/1998_narc_report/major/Aruba.html; <https://jamestown.org/program/mystery-surrounds-alleged-hezbollah-links-to-drug-arrests-in-curacao/>

²⁶⁹ “17 arrested on Curacao for involvement in Hezbollah-linked drug ring,” AP, April 29, 2009. Available at: <https://www.theguardian.com/world/2009/apr/29/curacao-caribbean-drug-ring-hezbollah>

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²⁷¹ <https://2009-2017.state.gov/j/inl/rls/nrcrpt/2016/vol2/253392.htm>; <https://www.fatf-gafi.org/media/fatf/documents/reports/ML%20vulnerabilities%20of%20Free%20Trade%20Zones.pdf> at p.40; <https://www.state.gov/wp-content/uploads/2019/03/INCSR-Vol-1-2-pdf.pdf> at p.114

²⁷² See <http://pubdocs.worldbank.org/en/614721548434799087/WBG-Tobacco-IllicitTrade-Colombia.pdf>

²⁷³ <https://www.irishtimes.com/news/world/venezuelan-oil-flows-freely-only-in-contraband-sales-across-border-1.3795663>;
<https://colombiareports.com/illegal-armed-groups-main-benefactors-of-colombia-venezuela-conflict/>; <https://www.crisisgroup.org/latin-america-caribbean/andes/colombia/venezuela-s-dangers-spill-across-colombian-border>

²⁷⁴ <http://www.fatf-gafi.org/media/fatf/documents/reports/mer-fsrb/GAFILAT-MER-Colombia.pdf>

²⁷⁵ For more on the Black-Market Peso Exchange, refer to <https://www.gao.gov/assets/710/705679.pdf>; <https://www.occrp.org/en/daily/9238-us-six-convicted-in-black-market-peso-exchange-scheme>; <https://www.pbs.org/wgbh/pages/frontline/shows/drugs/special/blackpeso.html>; <https://www.justice.gov/usao-cdca/pr/large-scale-law-enforcement-effort-targets-downtown-los-angeles-businesses-linked-money>; <https://www.dea.gov/press-releases/2015/06/01/owner-fashion-district-clothing-company-pleads-guilty-customs-immigration>; <https://www.occrp.org/en/daily/9238-us-six-convicted-in-black-market-peso-exchange-scheme>; <https://www.justice.gov/opa/pr/six-convicted-roles-multi-million-dollar-black-market-peso-exchange-money-laundering-scheme>

²⁷⁶ A second one implemented in January, 2019 in 43 municipalities along the US border; See Ricardo Mireles, “Mexico Prepares to Open its First FTZ,” MHL News, February 14, 2005. Available at: <https://www.mhlnews.com/global-supply-chain/article/22041330/mexico-prepares-to-open-its-first-ftz>. See also World Free Zones Organization, “Index Cards by Country.” Available at: https://www.worldfzo.org/Portals/0/OpenContent/Files/487/Mexico_FreeZones.pdf. See also “New Free Trade Zone to be Created in Mexico-US Border, PWC, December 2018. Available at: <https://www.pwc.com/us/en/services/tax/library/insights/new-free-trade-zone-to-be-created-in-mexico-us-border.html>

²⁷⁷ See <https://enforcement.trade.gov/ftzpage/letters/ftzlist-map.html>

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²⁷⁹ <https://www.oecd-ilibrary.org/docserver/9789264291652-6-en.pdf?expires=1597766192&id=id&acname=guest&checksum=10C2B56C146BB42513605AA4D9F213EC>

²⁸⁰ <https://www.oecd-ilibrary.org/docserver/9789264291652-6-en.pdf?expires=1597766192&id=id&acname=guest&checksum=10C2B56C146BB42513605AA4D9F213EC> at p.13

²⁸¹ <https://home.treasury.gov/system/files/136/National-Strategy-to-Counter-Illicit-Financev2.pdf>; <https://www.fatf-gafi.org/media/fatf/documents/reports/mer4/MER-United-States-2016.pdf>

²⁸² KYC is an acronym for “Know your Customer”, a term used for customer identification process. It involves making reasonable efforts to determine true identity and beneficial ownership of accounts, source of funds, the nature of customer’s business, and reasonableness of

operations in the account in relation to the customer's business, etc. This in turn helps the banks to manage their risks prudently. The objective of the KYC guidelines is to prevent banks being used, intentionally or unintentionally, by criminal elements for money laundering.

²⁸³ The BSA requires financial institutions in the United States to assist U.S. government agencies in detecting and preventing money laundering.

²⁸⁴ The Patriot Act was passed in 2001 to improve the abilities of U.S. law enforcement to detect and deter terrorism.

²⁸⁵ Its purpose is to deny significant foreign narcotics traffickers, their related businesses, and their operatives access to the U.S. financial system and to prohibit all trade and transactions between the traffickers and U.S. companies and individuals.

²⁸⁶ As per the FATF a risk-based approach means that countries, competent authorities, and banks identify, assess, and understand the money laundering and terrorist financing risk to which they are exposed, and take the appropriate mitigation measures in accordance with the level of risk.

²⁸⁷ Customer Due Diligence or CDD, is the process where relevant information about the customer is collected and evaluated for any potential risk for the organization or money laundering/terrorist financing activities.

²⁸⁸ The Wolfsberg Group, ICC and BAFT Trade Finance Principles, Wolfsberg Group (2019) available at <https://www.wolfsberg-principles.com/sites/default/files/wb/Trade%20Finance%20Principles%202019.pdf> at pg.21.

²⁸⁹ Customer Due Diligence Requirements for Financial Institutions, FINCEN, May 11, 2016 available at <https://www.govinfo.gov/content/pkg/FR-2016-05-11/pdf/2016-10567.pdf>

²⁹⁰ <https://www.congress.gov/bill/116th-congress/house-bill/2513>; <https://www.congress.gov/bill/116th-congress/senate-bill/2563/titles>

²⁹¹ COUNTERNARCOTICS: Treasury Reports Some Results from Designating Drug Kingpins, but Should Improve Information on Agencies' Expenditures, United States Government Accountability Office, December 2019, pg. 2. Available at: <https://www.gao.gov/assets/710/703854.pdf>

²⁹² The Act calls for the President to report to specified congressional committees' foreign persons – both individuals and entities that the President determines are appropriate for sanctions.

²⁹³ Under the Kingpin Act, the President may identify foreign entities as well as foreign individuals as Significant Foreign Narcotics Traffickers, or "kingpins."

²⁹⁴ See footnote 291. Pg. 7.

²⁹⁵ Counternarcotics Treasury Reports Some Results from Designating Drug Kingpins, but Should Improve Information on Agencies' Expenditures, GAO, December 2019 available at <https://www.gao.gov/assets/710/703854.pdf> at p. 35

²⁹⁶ US Congressional Hearing renews debate on efficacy of Kingpin Act, November 15, 2017. Available at

<https://www.insightcrime.org/news/brief/us-congressional-hearing-renews-debate-efficacy-us-kingpin-list/>; Examining the Effectiveness of the Kingpin Designation Act in the Western Hemisphere': Eric Olson Testifies before the House Foreign Affairs Subcommittee on Western Hemisphere, November 9, 2017. Available at: <https://www.wilsoncenter.org/article/examining-the-effectiveness-the-kingpin-designation-act-the-western-hemisphere-eric-olson>

²⁹⁷ US Drops Names from 'Kingpin' List, Accused of 'Lacking Rigor', February 27, 2017 Available at: <https://www.insightcrime.org/news/brief/us-drops-names-kingpin-list-accused-lacking-rigor/>

²⁹⁸ Ibid at pg.36

²⁹⁹ Tom Keatinge, "Politics enter the global battle against money laundering," Financial Times, March 3, 2019. Available at <https://www.ft.com/content/25ea75de-3c24-11e9-9988-28303f70fcff>

³⁰⁰ According to a report from the Treasury Inspector General for Tax Administration in September 2018 the Internal Revenue Service still does not make effective use of currency transaction reports. "The Internal Revenue Service still does not make effective use of Currency Transaction Reports," The Treasury Inspector General For Tax Administration, September 2018. Available at: <https://www.treasury.gov/tigta/auditreports/2018reports/201830076fr.pdf>

³⁰¹ When Mexico changed its AML laws in 2010, there was an increase in the movement of illicit cash through couriers or ACS, for attempted placement in U.S. financial institutions. Law enforcement information and BSA data analysis suggest that much of this cash movement is not properly reported on a CMIR and therefore not made available in the FinCEN database for the benefit of investigators and analysts following illicit money trails. 'Geographic Targeting Order' shines spotlight on cross-border cash couriers, U.S Immigration and Customs Enforcement, July 31, 2014 available at <https://www.ice.gov/news/releases/geographic-targeting-order-shines-spotlight-cross-border-cash-couriers>

³⁰² "Advisory to Financial Institutions on Illicit Financial Schemes and Methods Related to the Trafficking of Fentanyl and Other Synthetic Opioids," FINCEN Advisory, August 21, 2019 <https://www.fincen.gov/sites/default/files/advisory/2019-08-21/Fentanyl%20Advisory%20FINAL%20508.pdf>

³⁰³ Nick J Maxwell and David Artingstall, "The Role of Financial Information Sharing Partnerships in the Disruption of Crime," Royal United Service Institute, 2017. Available at: https://rusi.org/sites/default/files/201710_rusi_the_role_of_fisps_in_the_disruption_of_crime_maxwell_aringstall_web_2.pdf

³⁰⁴ "Global AML/KYC Spending Projected to Increase 17.5% To A Record \$905 Million In 2019 - Burton-Taylor Report," November 20, 2019, PR Newswire. Available at: <https://www.prnewswire.com/news-releases/global-amlkyc-spending-projected-to-increase-17-5-to-a-record-905-million-in-2019--burton-taylor-report-300961465.html>

³⁰⁵ 'Estimating Illicit Financial Flows Resulting from Drug Trafficking and Other Transnational Organized Crimes', UNODC, 2011. Pg. 11.

³⁰⁶ See footnote 262.

³⁰⁷ The "feedback loop" refers to coordination between FinCEN, law enforcement and the private sector to improve the quality of SAR reporting for better enforcement metrics.

³⁰⁸ Fintel Alliance Available at <https://www.austrac.gov.au/about-us/fintel-alliance>

³⁰⁹ Ibid

³¹⁰ Ibid

³¹¹ Virtual currency is a digital representation⁵ of value that can be digitally traded and functions as (1) a medium of exchange; and/or (2) a unit of account; and/or (3) a store of value, but does not have legal tender status (i.e., when tendered to a creditor, is a valid and legal offer of payment)⁶ in any jurisdiction.⁷ It is not issued nor guaranteed by any jurisdiction, and fulfils the above functions only by agreement within the community of users of the virtual currency. Virtual currency is distinguished from fiat currency (a.k.a. "real currency," "real money," or "national currency"), which is the coin and paper money of a country that is designated as its legal tender; circulates; and is customarily used and accepted as a medium of exchange in the issuing country. It is distinct from e-money, which is a digital representation of fiat currency used to electronically transfer value denominated in fiat currency. E-money is a digital transfer mechanism for fiat currency—i.e., it electronically transfers value tha⁶⁵

has legal tender status. <https://www.fatf-gafi.org/media/fatf/documents/reports/Virtual-currency-key-definitions-and-potential-aml-cft-risks.pdf> at p.4

³¹² “Advisory to Financial Institutions on Illicit Financial Schemes and Methods Related to the Trafficking of Fentanyl and Other Synthetic Opioids,” FINCEN Advisory, August 21, 2019. Available at: <https://www.fincen.gov/sites/default/files/advisory/2019-08-21/Fentanyl%20Advisory%20FINAL%20508.pdf> pg.4.

³¹³ “Virtual Currencies and Money Laundering,” Congressional Research Service, April 2019. Available at: <https://fas.org/sgp/crs/misc/R45664.pdf> pg.11.

³¹⁴ “Illegal network used cryptocurrencies and credit cards to launder more than EUR 8 million from drug trafficking,” EUROPOL, April 9, 2018 available at <https://www.europol.europa.eu/newsroom/news/illegal-network-used-cryptocurrencies-and-credit-cards-to-launder-more-eur-8-million-drug-trafficking>; Drug Cartels and Border Security, The Senate Judiciary Subcommittee on Border Security and Immigration, December 12, 2018. Available at: <https://www.c-span.org/video/?455663-1/border-patrol-chief-testifies-senate-judiciary-committee>

³¹⁵ “Application of FinCEN’s Regulations to Persons Administering, Exchanging, or Using Virtual Currencies,” FINCEN Guidance, March 18, 2013. Available at: <https://www.fincen.gov/sites/default/files/shared/FIN-2013-G001.pdf>

³¹⁶ “Advisory on Illicit Activity Involving Convertible Virtual Currency,” FINCEN, May 19, 2019. Available at: <https://www.fincen.gov/sites/default/files/advisory/2019-05-10/FinCEN%20Advisory%20CVC%20FINAL%20508.pdf>

³¹⁷ “Detailed Assessment Report On Anti-Money Laundering And Combating The Financing Of Terrorism,” GAFILAT, November 2018. Pgs 10, 13.

³¹⁸ De-Risking, Moneyval. Available at: <https://www.coe.int/en/web/moneyval/implementation/de-risking>

³¹⁹ The Withdrawal of Correspondent Banking Relationships – A Case for Policy Action, June 2016, IMF. Available at <https://www.imf.org/external/pubs/ft/sdn/2016/sdn1606.pdf>

³²⁰ De-Risking in the Financial Sector, October 7, 2016, World Bank. Available at <https://www.worldbank.org/en/topic/financialsector/brief/de-risking-in-the-financial-sector>

³²¹ Understanding Bank De-Risking and its effect on Financial Inclusion, Oxfam, 2015. Available at https://www-cdn.oxfam.org/s3fs-public/file_attachments/rr-bank-de-risking-181115-en_0.pdf

³²² FCA Research into De-Risking, May 24, 2016, Financial Conduct Authority. Available at <https://www.fca.org.uk/news/news-stories/fca-research-issue-de-risking>

³²³ De-Risking and its Impact: The Caribbean Perspective, 2016, United Nations Economic Commission for Latin America and the Caribbean (ECLAC) <http://caribbean.cepal.org/content/de-risking-and-its-impact-caribbean-perspective>

³²⁴ Manuel Orozco, “The risks of de-risking,” The Inter-American Dialogue, October 22, 2019. Available at <https://www.thedialogue.org/analysis/the-risks-of-de-risking/>

³²⁵ Ben Protess and Jessica Silver-Greenberg, ‘BNP Paribas Admits Guilt and Agrees to Pay \$8.9 Billion’, June 30, 2014. Available at: <https://dealbook.nytimes.com/2014/06/30/bnp-paribas-pleads-guilty-in-sanctions-case/>