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# Treasury's War on Corruption

A U.S. Treasury Department Strategy to Fight Kleptocracy  
and Root Dirty Money Out of the U.S. Financial System



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# Executive Summary: Mobilize the Regulatory Arsenal

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The incoming Biden administration has signaled through speeches, articles, and interviews that one of its top policy priorities will be combating corruption and kleptocracy.<sup>1</sup> With Russia and China's increasing usage of strategic corruption and malign finance as geopolitical weapons, and with publics around the world—including in the United States—angry about economic inequality and perceived corruption at home, anti-corruption offers a unique opportunity to unify U.S. foreign and domestic policy. Diplomats and lawmakers agree that cracking down on corruption may be the most viable way to restore American leadership by meeting demands for accountability from citizens all over the world.<sup>2</sup>

Corruption will be the topic of a dedicated special session of the UN General Assembly in June.<sup>3</sup> The issue should get support from leaders at a G7 summit in the U.K. around the same time.<sup>4</sup> Fighting corruption will also be one of the three areas for new country commitments at the Summit for Democracy that President-elect Joe Biden plans to host during his first year in office.<sup>5</sup> At that summit, the U.S. commitment will be a “presidential policy directive that establishes combating corruption as a core national security interest and democratic responsibility.”<sup>6</sup>

Making this U.S. and international anti-corruption campaign a lasting success will require more than words. In the months ahead, while the administration's top leadership and the nation's public health and economic experts are focused on ending the pandemic and rebuilding the economy, the U.S. national security and financial enforcement community should get to work laying the groundwork for a raft of powerful anti-corruption executive actions to be announced in time for the Summit for Democracy. Concurrently, U.S. diplomats should leverage those plans to insist that countries attending the summit make similarly hard commitments, setting a high bar for admission.<sup>7</sup>

Regulatory rulemaking by the U.S. Treasury Department could usher in several landmark reforms that have been recommended for many years by financial enforcers, multilateral standard-setting bodies, and anti-corruption watchdogs. This policy opportunity is possible because the reforms never overcame opposition by special interests during the period before corruption became a leading national security threat roughly five years ago, and then they were generally not prioritized by the Trump administration.

The most potent achievable action available would be for Treasury to set rules requiring several types of professional service providers that enable corruption to institute anti-money laundering controls whereby they would have to identify their ultimate customers and start alerting Treasury of suspicious activity, as is required of U.S. banks.<sup>8</sup> Of the industries enabling corruption by helping wealthy clients hide money, ten could be regulated immediately by revoking regulatory exemptions to the Bank Secrecy Act, including real estate agents, private equity and hedge funds, sellers of yachts and airplanes, and seven other types of exempted financial institutions.<sup>9</sup> Other key enablers would require new regulatory determinations with strong legal and political backing, such as lawyers, accountants, company formation agents, and art dealers.

Treasury's Financial Crimes Enforcement Network (FinCEN), which administers the Bank Secrecy Act, must write stringent regulations to implement the newly mandated beneficial ownership registry, resisting pressure by special interests to water it down. Treasury should also leverage concerns about the recently leaked “FinCEN Files” to work with Congress on a major investment in FinCEN, potentially on the scale of the seven-fold jump in budgetary resources needed by Treasury to implement recent reforms to the Committee on Foreign Investment in the United States (CFIUS).<sup>10</sup>

Treasury should publish its first-ever National Corruption Risk Assessment about the financial networks of kleptocracies and oligarchs, reviewing case studies and methods to assess vulnerabilities and risk. Treasury should create a cross-border payments database and make financial institutions scrutinize politicians' accounts more closely. Treasury should continue supporting two policy initiatives that have developed strongly to pressure kleptocracies in the past couple years by internationalizing Global Magnitsky sanctions and collaborating with the International Monetary Fund on corruption engagement.

The U.S. Treasury Department is uniquely positioned to roll out these and other policy, regulatory, enforcement, and diplomatic actions in the fight against corruption, because it is the only part of the U.S. government with a foothold in each area of domestic and international finance that will be key to rooting dirty money out of the global financial system and applying pressure on kleptocrats and their oligarch proxies. Many of Treasury's most highly developed capabilities have grown out of past fights against top national security threats, such as terrorist financing. The two months following the September 11 attacks witnessed one of the most energetic and well-coordinated performances in Treasury Department history. With Treasury not yet organized and coordinated around anti-corruption, achieving anything like past feats would require Treasury to start by establishing a small team devoted exclusively to this new mission.

Specifically, the Treasury Under Secretary for Terrorism and Financial Intelligence (TFI) should appoint a counselor dedicated to developing and advancing anti-corruption initiatives, from expanding the coverage of the U.S. anti-money laundering regime to prioritizing the threats of strategic corruption and malign finance across Treasury's policy, intelligence, and enforcement efforts. Some of these projects could bear fruit in 2021, while others need longer-term development of capabilities to find kleptocrats' money hiding within the financial system and prepare policy options to confiscate, sanction, or reveal it.

The TFI anti-corruption counselor, who should be designated as early as possible in the administration, should have a staff of two and a mandate to coordinate with and leverage resources across the four principal TFI offices, while also cooperating with Treasury's Office of International Affairs. And while the White House National Security Council should lead the overall fight against kleptocracy and corruption, the TFI anti-corruption counselor should serve as Treasury's senior working-level point of contact for collaboration between Treasury and the rest of the U.S. government, as well as with international partners, civil society, and Congress.

Combating corruption and kleptocracy will be one of the top priorities of the Biden administration, and Treasury has the resources to start delivering major results quickly. But to do so it must coordinate throughout the Treasury Department and with external partners to roll out big executive actions in 2021.

# Summary of Recommendations: First Personnel, Then Policy

Treasury should focus the first 100 days of the Biden administration on getting the right people in place, coordinating efforts across the department, and starting to develop an ambitious anti-corruption policy agenda, much of which should be rolled out within the first year in office.

## Day One

- Appoint an anti-corruption counselor reporting to the Under Secretary of Terrorism and Financial Intelligence (TFI) to coordinate efforts within Treasury and represent the department externally.
- Announce the new anti-corruption counselor position to Treasury staff and the public.
- Ask foreign finance ministries to coordinate with Treasury throughout 2021 to develop stronger national measures and international standards around corruption and kleptocracy.
- Rename TFI “Threat Finance and Intelligence” and TFFC “Threat Financing and Financial Crimes.”
- Start preparing FinCEN corruption advisories and TFFC’s National Corruption Risk Assessment.

## First 100 Days

- Detail two staffers to work with the TFI counselor. Designate points of contact throughout Treasury.
- Start convening internal anti-corruption policy coordination meetings at all levels within Treasury.
- Ensure resources are available for a busy year of planning and rulemaking, particularly at FinCEN.
- Publish the first-ever National Corruption Risk Assessment, focused on kleptocracies and oligarchs.
- Begin workstreams aiming to advance the suite of reform initiatives below throughout 2021.

## First Year

- Promulgate FinCEN regulations that establish a broad and robust beneficial ownership registry, repeal exemptions to Patriot Act requirements for AML programs, require banks to scrutinize politicians’ accounts more closely, and make banks identify the ultimate beneficial owners behind trusts, foundations, and partnerships.
- Develop a two-year plan for FinCEN to start constructing a cross-border payments database, further expand the AML regime to cover lawyers, accountants, company formation agents, and art dealers, and work with Congress to plan a major investment in FinCEN.
- Host a special plenary of the FATF to set strong international standards around corruption financing.
- Advocate for strategic corruption and malign finance of kleptocracies to be prioritized in the National Intelligence Priorities Framework and enhance Treasury’s capability to map oligarch financial networks.
- Use deeper intelligence on kleptocracies’ dark asset pools to develop policy options to protect the U.S. financial system from dirty money and impose costs on hostile regimes through various tools.
- Internationalize Global Magnitsky sanctions with the U.K., Canada, the EU, and potentially Australia.
- Confer with the IMF on anti-corruption, tell the CFIUS interagency to regard corruption as a national security threat, consider moving CFIUS to TFI, and use the G7 finance track to prepare for summits.

# Introduction: Public Enemy Number One

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The clearest and strongest precedent for how Treasury should coordinate its internal resources with external partners to meet the challenge of corruption is the successful fight against terrorist financing.

## Treasury's War on Terrorist Financing

Over the two months following the September 11 attacks, the U.S. Treasury Department embarked upon its most sweeping and systematic national security assignment in modern history: integrating combatting the financing of terrorism (CFT) into the U.S. foreign policy establishment and international financial architecture.<sup>11</sup> In less than two months, Treasury:

- Worked with the White House to roll out new authorities and speeches by President George W. Bush explaining the financial threat.
- Imposed new sanctions designations on known nodes of terrorist financing.
- Started enhancing intelligence collection ranging from movements of cash couriers to accessing SWIFT data.
- Began longer investigations into terrorist facilitation networks that ultimately resulted in major enforcement actions over the following decade.
- Coordinated with the interagency through new National Security Council committees and law enforcement task forces dedicated to terrorist financing.
- Worked with Congress to include in the Patriot Act the most sweeping overhaul to U.S. anti-money laundering laws in a generation.
- Persuaded 30 countries to commit to common financial security protections through a U.S.-hosted special plenary of the Financial Action Task Force (FATF), establishing CFT standards that were adopted by the IMF, World Bank, and UN.
- Followed up bilaterally with technical assistance and diplomatic pressure to enhance the capability and willingness of key partners and allies—such as Saudi Arabia—to close channels for terrorist financing.

This multi-faceted CFT campaign was necessitated by grave intelligence and policy failures. All nineteen 9/11 hijackers used legitimate bank accounts in their own names, receiving wire transfers that added up to half a million dollars from Dubai without triggering suspicious activity reports.<sup>12</sup> The best evidence that terrorist financing had successfully been disrupted came eleven years later, when documents found in Osama bin Laden's Abbottabad compound reflected a terrorist leader and movement in search of new sources of money because their old lines of financial assistance had been cut off, suggesting CFT efforts may have contributed meaningfully to the absence of another very large attack by foreign terrorists on U.S. soil since 9/11.<sup>13</sup> This model of reorganizing every type of resource at Treasury's disposal around a previously underappreciated security threat must now be replicated for the challenge of corruption and kleptocracy.

## Anti-Corruption as Grand Strategy

Over the nearly two decades since 9/11, U.S. foreign policy has become preoccupied with terrorism, wars in Iraq and Afghanistan, nuclear proliferation, financial crises, and the politicization of national security. During this period, revanchist autocratic challengers such as Russia and China recovered enough regional and then global assertiveness to present authoritarian oligarchy as an alternative to liberal democracy, a form of geopolitical competition that differs importantly from the Cold War. Instead of trying to win over the hearts and minds of the masses with communism, authoritarians are now organized as "kleptocracies," which steal from their own people and maintain power by massively enriching a loyal inner circle of cronies. With support from the intelli-

gence services, they use oligarchs, organized crime groups, state-owned enterprises, and other proxies to undermine democracies by exporting “strategic corruption,” which is meant not only for enrichment but also as part of a country’s foreign policy strategy.<sup>14</sup>

One of the first top-level government officials to recognize this threat was then-Vice President Joe Biden, who led the Obama administration’s fight against corruption abroad, from Ukraine to Guatemala.<sup>15</sup> Biden publicly cautioned about the strategic importance of corruption in May 2015:

Corruption is the new tool of foreign policy. It’s never been as handy and as useful in the hands of nations who want to disrupt and oligarchs that respond to them. It’s like the kryptonite of a functioning democracy. It siphons away resources, it destroys trust in government, it hollows out militaries, and it affronts the people’s dignity in the countries where it is rampant. And the stakes are strategic as well as economic because Russia and others are using corruption and oligarchs as tools of coercion.<sup>16</sup>

Around the time of that speech, in 2015, Russia and China happened to each separately be in the process of dramatically ramping up their usage of dirty money as a weapon of election interference. The frequency of “malign finance,” whereby governments or their proxies secretly funnel money to directly interfere in foreign countries’ democratic processes, accelerated aggressively from two or three cases annually before 2014 to fifteen to thirty in each year since 2016.<sup>17</sup>

Once again, Biden was early to draw attention to the financial threat to democracy, authoring an op-ed titled “Foreign Dark Money Is Threatening American Democracy” in 2018.<sup>18</sup> In 2019, Biden pledged to host a Summit for Democracy in 2021, with “fighting corruption” being one of the three areas for new country commitments.<sup>19</sup> Biden elaborated in 2020 that he would make anti-corruption a centerpiece of U.S. foreign policy, emphasizing the role of illicit finance:

As a summit commitment of the United States, I will issue a presidential policy directive that establishes combating corruption as a core national security interest and democratic responsibility, and I will lead efforts internationally to bring transparency to the global financial system, go after illicit tax havens, seize stolen assets, and make it more difficult for leaders who steal from their people to hide behind anonymous front companies.<sup>20</sup>

In his first interview after being named Biden’s National Security Advisor, Jake Sullivan identified one of his top goals: “to rally our allies to combat corruption and kleptocracy, and to hold systems of authoritarian capitalism accountable for greater transparency and participation in a rules-based system.”<sup>21</sup>

Another of Sullivan’s overarching ambitions seems to be bringing U.S. foreign and domestic policy back into alignment for the first time since the Cold War, a period when laissez-faire economics reinforced Western strategic interests because it presented a natural attractive alternative to communism.<sup>22</sup> In addition to authoritarian rivals now being organized as kleptocrats rather than communists, two other situational factors suggest that anti-corruption should be a critical component of a new policy alignment.

First, generational economic stagnation among the majority of American workers and historically high levels of income equality have made the issue of corruption very salient among large swaths of the U.S. electorate, whether it’s Bernie Sanders’ message about a “rigged system” or Donald Trump promising to “drain the swamp” while baselessly caricaturing his opponents as “crooked” and “corrupt.” The need to achieve actual results for voters attuned to these messages makes strong enforcement of the rule of law the natural heir to neoliberalism as an element of grand strategy that advances both domestic and foreign interests.

Second, because kleptocratic regimes destroyed the rule of law in their own countries (in order to enable grand theft), and because there are only so many assets that can be bought with hundreds of billions of dollars in most countries, they store their ill-gotten wealth in Western financial markets. Their dirty money enters the international financial system through weak points such as Cyprus or Latvia, flows through European bank accounts, takes shelter in anonymous vehicles from the British Virgin Islands to Delaware, and ends up buying high-end

property in London, New York, or other deep asset markets.<sup>23</sup>

Thus, anti-corruption should start at home, with Treasury leading an effort to track down kleptocracies' assets hidden within Western markets, strengthen regulations and enforcement to make the global financial system safe for clean capitalism, and demonstrate how anti-corruption work is contributing to a more equitable domestic economic model.

## Treasury's Unique Role

As with CFT, the U.S. Treasury Department will have to play a leadership role as the only part of the U.S. government with an established presence within every area of domestic and international finance that will be essential to rooting dirty money out of the U.S. and international financial system and applying pressure on kleptocrats and their oligarch proxies.

Treasury's relevant functions include setting regulations for the U.S. financial system, enforcing U.S. financial laws and rules, handling financial intelligence and data on suspicious activity, making financial security policies that span from sanctions to investment screening, representing the United States at international financial institutions and standard-setting bodies, maintaining close ties to the private sector, and negotiating with Congress over all manner of economic and financial legislation and policy settings.

Integrating anti-corruption work through all these functions will require a strategy for how to hit the ground running on January 20, 2021 and deliver major results within a very busy first year of the Biden administration

## Busy Year Ahead

Meeting public expectations for strong and coordinated action against corruption will require proactive appointments of dedicated personnel and new institutional arrangements for coordination across the Treasury Department and beyond. The need for a proactive and deliberate push in order to make progress quickly enough is underscored by three ways in which U.S. and international policy priorities have been taking shape:

- **Beneficial ownership regulations:** Treasury already has a full plate of implementation work, given that the Trump administration—to their credit—did support the enactment of two important financial security laws. One is a major expansion to the Committee on Foreign Investment in the United States, which has become less pressing because Treasury's Office of International Affairs has been diligently implementing the law since Congress passed it in August 2018, although more work remains. More urgent in 2021 will be preparations for FinCEN to start receiving and housing beneficial ownership information on all U.S. companies, a critical reform that Congress recently passed as part of the National Defense Authorization Act for Fiscal Year 2021 (NDAA), which came along with 50 other AML sections that now need implementation.<sup>24</sup> Treasury has one year to promulgate regulations creating the registry and setting up systems for newly formed companies to start registering, and the law then gives existing companies another two years to start reporting to FinCEN. Finalizing the regulations will entail a knock-down fight with corporate interests trying to reduce their reporting obligations, while significant human and technological investments will also be needed at a time when FinCEN has come under pressure because of repeated data leaks.
- **Absence of anti-kleptocracy institutions:** While the trends of resurgent kleptocrats wielding weapons of strategic corruption and malign finance have become evident over roughly the past five years, the Trump administration generally neglected to prioritize this issue set. Without sincere presidential support for anti-corruption as a matter of national security, the U.S. government has struggled to credibly signal the danger of corruption, design dedicated institutions, refocus intelligence collection and analysis, take aggressive enforcement and policy actions, and collaborate with international partners. A lot of work will have to go into integrating anti-corruption work throughout the U.S. government with as much priority as any other national security threat.



- **Coronavirus, economy, and climate:** Top officials in the Biden administration will have to spend their early days dedicated to the devastating public health crisis and—particularly at Treasury—the attendant economic emergency, along with ambitious plans to rebuild a more inclusive economy while also addressing long-term threats such as climate change. While corruption is closely tied to these challenges, they could nonetheless take center stage in international diplomacy as well. Prime Minister Boris Johnson is currently considering making global health security, post-coronavirus economic resilience, and climate the focal issues at the G7 summit he will host in mid-2021.<sup>25</sup> Biden should underscore to Johnson that anti-corruption is just as important and should be its own key issue at the G7, picking up where Prime Minister David Cameron left off with his 2016 anti-corruption summit.<sup>26</sup> Commitments by the G7 could help tee up the Summit for Democracy and reinforce the momentum of the UN’s first-ever special session dedicated to corruption hosted by the General Assembly in New York in June 2021.<sup>27</sup>

Even in such a busy year with competing priorities, Samantha Power argues that fighting corruption is on par with distributing Covid-19 vaccines as a priority that can help rebuild confidence in competent U.S. leadership because it matters to hundreds of millions of people.<sup>28</sup> Representative Tom Malinowski agrees, and recommends taking executive actions such as extending anti-money laundering obligations to professional enablers in order to build enduring anti-corruption momentum around the Summit for Democracy.<sup>29</sup>

## Policy Wishlist: Actions Speak Louder Than Words

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The U.S. Treasury Department should either accomplish or make substantial progress toward five ambitious but achievable policy reform areas in 2021.

### Parade Big New Guns at the Summit for Democracy

Of the various international fora scheduled for 2021, the one that the Biden administration will have the most direct responsibility for is the Summit for Democracy. In addition to Biden's presidential policy directive and rhetorical commitments by countries, big and difficult policy changes should be unveiled at the event to show the world that democracies truly mean business about fighting corruption. Better to have a smaller group of highly committed countries in attendance than a mass congregation of leaders delivering little more than speeches about democracy.<sup>30</sup>

Groundwork for unified action should be laid through bilateral engagements and international summits through the first half of 2021. Biden has said that the Summit for Democracy will build off the model of the Obama administration's Nuclear Security Summit. In that nuclear process, the first summit was held in Washington in 2010, after the G8 endorsed the strategy set forth by Obama while the UN supported the initiative through a conference on the Nuclear Nonproliferation Treaty.<sup>31</sup> The Biden administration should similarly build momentum around major country commitments at the G7 summit and UN special session on anti-corruption in the summer of 2021. An example of strong action by a critical partner would be if the British government enacted its own foreign agent registration regime and launched sweeping Mueller-style investigations into the elite Russian expatriates that the U.K. Intelligence and Security Committee warned are interfering in British democracy, which reportedly included a classified annex naming nine big donors to the Conservative Party.<sup>32</sup>

To lead by example, the United States should back up its presidential policy directive on anti-corruption with executive actions that have been recommended by U.S. law enforcement, multilateral standard-setting bodies, and anti-corruption watchdogs for years but have failed to overcome special interests. Several of the objectives described throughout the remainder of this section could either be completed or substantially advanced in time for the summit. To take the single most important example (discussed next), at the time of the summit Treasury could propose a rulemaking that would require ten types of professional service providers to impose anti-money laundering (AML) controls that would identify their ultimate customers.

### Require Professional Enablers of Corruption to Know Their Customers

Authoritarian governments like Russia, and even their proxies such as extremely wealthy oligarchs, are only able to carry out strategic corruption and malign influence operations in Western politics because they buy assistance from private industries legally based within the target countries. This includes U.S.-based lawyers, accountants, company formation agents, art dealers, real estate and escrow agents, investment advisers, third-party service providers, bankers, lobbyists, and public relations professionals. These enablers are also very problematic in London, where Bill Browder describes them as a "buffer" of Westerners set up by Moscow to serve as "de facto Russian state agents."<sup>33</sup> In its evaluations of the U.S. AML/CFT regime, one of the two main deficiencies (along with anonymous shell companies) that the FATF regularly criticizes is "minimal coverage of investment advisers, lawyers, accountants, real estate agents, trust and company service providers," as well as the absence of a designated regulator to supervise compliance by some of these enabling industries.<sup>34</sup> Representative Tom Malinowski says broadening AML rules to cover these facilitating industries is the next most important anti-corruption reform after beneficial ownership, adding that the Biden administration can and should do much of this under executive rulemaking authorities.<sup>35</sup> That is exactly right, although the sequencing should be viewed as two separate groups: easy exemptions to repeal and harder legal cases to make.

Starting with the easy group, the Patriot Act, which was enacted into law the month after 9/11, required all U.S. financial institutions—including not only banks but also many types of professional enablers—to maintain AML programs that would oblige them to conduct due diligence on the true identities of their customers. But since

then, the U.S. Treasury Department has repeatedly granted “temporary” exemptions to ten important sectors, from real estate and escrow agents to investment companies to sellers of luxury vehicles, all important components of malign kleptocratic networks and appalling domestic corruption.<sup>36</sup>

Some of these sectors need updated definitions, such as investment companies, but the necessary regulatory rules have already been drafted and in some cases proposed over the years, so FinCEN could dust them off without too much work. A 2010 Senate investigation into foreign corruption recommended that Treasury repeal all these exemptions, which could and should be done in 2021 through the FinCEN rulemaking process.

The harder cases involve expanding AML regulations to also cover professional enablers that are not named among the Bank Secrecy Act’s list of twenty-five types of financial institutions. Most importantly, kleptocrats and their proxies extensively rely on lawyers, accountants, company formation agents, and art dealers to hide their ill-gotten wealth in the U.S. financial system. For example, law firms provide financial secrecy to corrupt foreign officials—such as the ruler of Equatorial Guinea or Malaysian financier Jho Low—by allowing them to move dirty money through bank accounts in the name of the law firm, keeping even the bank from ever knowing whose money it truly is, ostensibly in the name of attorney-client privilege (which should be about providing confidential legal advice, not hiding shady money from banks and regulators).<sup>37</sup>

Congress could add lawyers, accountants, formation agents, art dealers, and other enablers to the Bank Secrecy Act, just as the NDAA does for antiquity dealers (while mandating a study of art dealers).<sup>38</sup> However, there will be little appetite to embark on another contentious AML reform just months after passing the biggest one in a generation as part of the NDAA.

Instead, this can and should be done through regulation. In its definition of a financial institution, the Bank Secrecy Act includes any type of business that the Treasury secretary determines is engaged in activities that are similar to those of the listed financial institutions or whose cash transactions are useful for criminal, tax, or regulatory matters.<sup>39</sup> If it looks like a duck, swims like a duck, and quacks like a duck, then it probably is a duck.

Doing this would instantly become the administration’s biggest fight with special interests, starting with the American Bar Association. They would sue Treasury and darken the doors their powerful allies in Congress.<sup>40</sup> The time-consuming and costly judicial showdown would involve unpredictable court rulings that could pose risks to the rest of the AML regime. Treasury would have to be prepared with strong legal arguments to back up carefully circumscribed rules, which would have to be drafted from scratch because this has not yet been tried. Officials up to the Treasury secretary and the president would have to take time to frame the initiative to the public and influential lawmakers on vital national security and equity grounds.

Treasury will not have sufficient bandwidth in 2021 to fight and win this battle. Instead, TFI should plan to make this harder expansion a priority within the next couple years. For now, they might consider a temporary softer option recommended in the 2010 Senate report: Get banks to treat their accounts more carefully by forcing financial institutions to obtain certifications from lawyers and accountants that accounts they control are not being used by their clients to circumvent regulation or enable suspicious activity.<sup>41</sup> An important factor for Treasury to consider is whether this would risk becoming a permanent alternative to full AML obligations for lawyers and accountants or whether it would actually motivate banks to help push for the preferred end game of full AML for lawyers and accountants (similar to how the Customer Due Diligence rule motivated banks to support beneficial ownership reform because it will reduce their compliance burden).

The important thing is that Treasury should extend AML regulations to professional enablers, as recommended by the FATF, the IMF, and experts on kleptocracy. It should include repealing exemptions in 2021 and adding lawyers, accountants, formation agents, and art dealers within the next couple years. This is the most severe corruption vulnerability currently facing the U.S. financial system and it could all be addressed without Congress.

## Choose from Options for Additional Executive Policies Targeting Dirty Money

Treasury's Office of Terrorism and Financial Intelligence (TFI) should select a few additional executive actions to be packaged together and announced before the Summit for Democracy to show that the administration is making sweeping reforms to defend the financial system from corruption. The first two actions listed below are essential to the anti-corruption mission. The remaining four should be quickly assessed for feasibility, particularly in light of FinCEN bandwidth considerations, to decide whether they should be prioritized in 2021 or over the next couple years.

- **National Corruption Risk Assessment:** Treasury's Office of Terrorist Financing and Financial Crimes (TFFC) and its predecessors have been drafting roughly 50-page reports assessing national AML/CFT risks every few years since 1999 (when Congress mandated the first one for AML) and 2015 (when Treasury introduced one for CFT).<sup>42</sup> In 2017, Congress required Treasury to issue an overarching National Illicit Finance Strategy that incorporates the two risk assessments respectively on AML and CFT. The next biannual national strategy report is not due until January 2022, but these reports will take on greater regulatory meaning before then because the recent NDAA makes FinCEN use them as a basis for issuing its own national strategic AML priorities at least once every four years (plus semiannual updates on recent trends<sup>43</sup>), with the first iteration due by June 2021.<sup>44</sup> The NDAA also tells financial institutions to integrate those priorities into their risk-based suspicious activity and other reporting processes, while regulators examine compliance with that obligation.<sup>45</sup> In other words, rather than issuing a suspicious activity report (SAR) whenever there is any doubt or only when certain thresholds are exceeded, banks are now expected to ensure they are keeping an extra close eye out for whichever threats Treasury is prioritizing.

Even though the Trump administration came into office at the time when authoritarian kleptocracy was clearly on the rise, the main change to the risk posture set forth by TFFC—overseen by an assistant secretary who in 2002 was a Defense Department official warning about Iraq building WMD infrastructure and who now serves as Trump's special envoy for arms control—was to introduce Treasury's first-ever risk assessment dedicated to the proliferation of WMD.<sup>46</sup> WMD proliferation financing is very important and should remain on Treasury's radar, along with other persistent threats such as drug and human trafficking. But WMD proliferation has been a widely known threat for decades, and Treasury should be careful not to signal without good reason that the risk is suddenly rising.

Under the Biden administration, TFFC should instead introduce a National Corruption Risk Assessment that focuses on the financial networks of major kleptocracies and associated oligarchs, reviewing case studies and methods to assess vulnerabilities and risk. This work could be repurposed to satisfy two studies required by the NDAA: one on Chinese money laundering<sup>47</sup> and one on authoritarian malign finance, kleptocracy, corruption.<sup>48</sup> Both mandated reports are due within one year, but the National Corruption Risk Assessment should be completed within Biden's first 100 days, so FinCEN has time to incorporate it into its AML priorities statutorily due within 180 days of NDAA enactment (FinCEN's only national strategic AML priorities report due within the four-year presidential term).

- **Beneficial ownership regulations:** FinCEN's single most important job in 2021 is to promulgate strong regulations to implement the beneficial ownership registry, due within a year of the NDAA enactment date. Four lessons from the legislative process foreshadow a storm of lobbying for weak regulations, which Treasury will have to resist. First, the statutory definition of a beneficial owner includes some terms like "exercises substantial control over the entity" that need broad definitions to get proper reporting.<sup>49</sup> Second, opponents of beneficial ownership tried to insert roadblocks to make it time-consuming for both law enforcement and the banks to get access to the database. Those spoiler efforts sometimes failed (thankfully investigators will not need approval from a federal judge before accessing the database) and sometimes succeeded (but federal agents will need approval from designated officials at their agencies, while state and local law enforcement need authorization from a local court). The regulations need to ensure timely access. Third, U.S. banks were solid supporters of beneficial ownership reform, presumably because getting the information from the government rather than having to collect it themselves

will either cut the cost of complying with the Customer Due Diligence (CDD) rule (which is reasonable) or support an argument to weaken the CDD rule as duplicative (which is reckless). In an indication that many banks may push for the latter, their supporters in Congress added an eleventh-hour change to the NDAA ordering Treasury to revise the CDD rule by revoking the regulations specifying how banks verify beneficial ownership.<sup>50</sup> Treasury will have to craft new regulations that keep the best parts of the rescinded regulations, ensuring the CDD rule is strengthened where it needs to be (see the next bullet, for example) and otherwise remains strong. Fourth, several smaller interest groups throughout the financial industry—such as providers of pooled investment vehicles, certain non-profits, home builders that rely on dormant companies, and insurance brokers regulated by states—lobbied for exemption from the reporting requirement. Lawmakers had to block and tackle each type of entity, reaching compromises to satisfy these groups without creating major loopholes that could be exploited by bad actors. Treasury will need to ensure that the exemptions that came out of that legislative process are regulated to be as narrow as possible.

- **Trusts, foundations, and partnerships:** Beneficial ownership reform will push dirty money out of U.S.-registered companies. In many cases, it will shift to other secrecy vehicles such as trusts, foundations, and partnerships, which Congress did not include in the U.S. government's beneficial ownership registry.<sup>51</sup> FinCEN should rerun the play that got the ball rolling on corporate beneficial ownership in 2016 after the Panama Papers: Make the banks do it. This would involve applying the ultimate beneficial ownership requirement under the CDD rule so that banks would be required to know the beneficial owner hiding behind the trust, foundation, or partnership. The eleventh-hour lemon described in the previous bullet could become lemonade if Treasury revises the CDD rule to continue capturing corporations, LLCs, and partnerships, while also extending it to trusts, foundations, and other entities that received problematic exemptions in the NDAA.
- **Geographic targeting orders (GTOs):** Another highly effective transparency tool has been GTOs, a temporary pilot program making title insurers identify the beneficial owners behind shell companies used in all-cash purchases of residential real estate exceeding \$300,000 in twelve large U.S. cities.<sup>52</sup> In the next semiannual renewal, FinCEN should consider making GTOs nationwide, permanent, and inclusive of commercial real estate. This program remains important after beneficial ownership reform, for a few reasons. First, it also applies to companies registered in foreign countries, although this is less common in U.S. real estate than in some other countries because of extra withholdings applied under the Foreign Investment in Real Property Tax Act. Second, GTOs help centralize data of who owns what real estate in one place without FinCEN or law enforcement having to take the time to cross-tabulate the national beneficial ownership registry with county-level real estate records. Third, GTOs should ultimately be a bridge to full AML programs for those involved in real estate transactions, which is recommended in the previous section, so expanding GTOs would accelerate the process of title insurers being fully prepared for that regulation.
- **Politically exposed persons (PEPs):** Both the FATF and FinCEN's working group on AML effectiveness recommend that FinCEN should strengthen its existing guidance or regulations around U.S. legal requirements to perform enhanced due diligence on PEPs (i.e., to scrutinize the money of senior politicians and their family more closely).<sup>53</sup> New FinCEN rulemakings should address three deficiencies in the regulations for handling PEPs, an area that constitutes the main AML approach to corruption. First, the regulations currently define a PEP as a foreign senior political figure or their close associates or family, which excludes domestic politicians, international organizations, or their family. Second, the PEP rules require covered financial institutions to identify PEPs and incorporate that into their risk-based AML program, but there is no legal requirement that all PEPs be subject to enhanced due diligence. Third, financial sectors covered by PEP rules do not include investment advisers, money service businesses, life insurance companies, and commodity trading advisers.
- **Cross-border payments database:** Treasury should start building a cross-border payments database, which would help track money moving in or out of the United States.<sup>54</sup> This was authorized by Congress

in 2004, supported by feasibility and impact studies, and even the subject of a proposed rule in 2010, but Treasury has yet to implement it due to hesitations around data privacy and secure storage.<sup>55</sup> The increasing rate of malign financial flows over the past decade make a clear and strong argument that Treasury should design a cross-border payments database with robust privacy protections and limitations on official use. Other countries already do this and find it useful to spot and discourage flows of dirty foreign money.

## Invest in the Financial Crimes Enforcement Network (FinCEN)

The hour has come for the United States to make a landmark investment in FinCEN, permanently providing it with vast resources to become a highly secure and all-seeing defensive shield against dirty money. FinCEN needs to be the single most important government bureau in the anti-corruption mission, capable of detecting and regulating shady dealings and clandestine suspicious payments, from domestic corruption scandals to covert operations run by hostile foreign intelligence services using cut-outs to fly below the radar.

The “FinCEN Files” revealed numerous major and important cases, such as an \$8 million secret payment in 2016 from an oligarch close to Putin to the husband of a top U.K. Conservative Party donor.<sup>56</sup> These revelations were identified by some 400 journalists filtering through roughly 2,100 leaked SARs, which suggests there are plenty more dangerous cases hidden in the more than *two million* SARs that financial institutions send FinCEN every year.<sup>57</sup> Compare to these figures the fact that FinCEN only has a little more than 300 employees—slightly less than financial intelligence units covering far smaller financial systems, such as Canada or Australia—and it becomes clear that a substantial amount of suspicious activity is probably being overlooked in a vast ocean of SARs.<sup>58</sup> The top implication of both the security breach and the unaddressed cases it revealed is that FinCEN urgently needs more resources.

Congress’s response to the FinCEN Files was to add \$10 million to FinCEN’s annual budget, lifting it from \$126 million to \$136 million.<sup>59</sup> For context, two thirds of the \$10 million boost would be consumed just through implementation of the multi-year hiring plan that FinCEN launched a year ago to add thirty-seven employees.<sup>60</sup> This is nowhere near the amount of money that would properly reflect the national security implications of FinCEN’s capabilities, particularly given the backdrop of intensified geopolitical competition with assertive authoritarian oligarchies choosing the realm of finance and investment as their battlefield of choice.

Compare the eight percent increase in FinCEN’s budget to the 2018 legislative overhaul of the Committee on Foreign Investment in the United States (CFIUS), which is expected to triple its caseload (including many more complicated deals in highly advanced sectors) and be funded by a *seven-fold* expansion of resources for Treasury to administer CFIUS.<sup>61</sup> However, in order to get Congress to invest hundreds of millions of dollars in FinCEN when the bureau is drowning in SARs and cannot go more than a couple months without another leak, Treasury should develop an ambitious reform plan and make a strong case that FinCEN can become the vanguard of U.S. national security defenses. Given both the opportunity presented by the salience of the FinCEN Files and the amount of time involved in major Congressional reform and budgeting processes, starting this process should be yet another priority for FinCEN in 2021.

FinCEN cannot be just any national financial intelligence unit. More than half of international payments take place in U.S. dollars, while the United States similarly provides the world’s largest market share of offshore financial services.<sup>62</sup> Moreover, no country has been hit more often by authoritarian malign finance than the United States, and even non-U.S. operations (such as the example of the U.K. Conservative donor) often flow through the U.S. financial system.<sup>63</sup>

A challenge of this scale calls for some new perspectives. Recent regulations show that FinCEN is thinking about how financial institutions can leverage new technologies and share more information, but FinCEN should also look inward and consider learning lessons from how the private sector and national security organizations prioritize advanced technological systems for their own internal purposes.<sup>64</sup>

Jamie Dimon, who is widely regarded as the most capable financial executive of his generation, says banks are re-

ally in the business of technology (to the dismay of many bankers and traders who regard themselves as far more important than the back office or IT help desk). From basic systems integration to cloud platforms and artificial intelligence, Dimon views technology as fundamental to securely and efficiently managing financial data, creating new products, reducing costs, and improving customer experiences.

FinCEN's last IT modernization effort took place from 2010 to 2013. That program enabled and mandated electronic filing of SARs and other reports while also making them available and searchable through an online portal for authorized law enforcement and regulatory users.<sup>65</sup> The entire project costed less than \$22 million, as compared to the Pentagon's \$10 billion cloud contract known as JEDI.<sup>66</sup> In its budgetary planning, FinCEN should consider spending some of the \$150 million of funding Congress authorized to implement beneficial ownership reform towards another major IT modernization. The beneficial ownership money may be better suited for systems projects than permanent staffing because it is temporary and lumpy. For example, the biggest annual tranche—\$50 million, which does not include the aforementioned permanent \$10 million boost—comes in fiscal year 2022, just close enough from now that IT contractors may be willing to begin work soon for future delivery.<sup>67</sup>

FinCEN should consider requesting proposals to utilize new technologies such as machine learning to identify linkages between one data series and another, evaluating whether a person named in a SAR is the same as a beneficial owner identified in the forthcoming registry, scraping additional data sources, and automatically mapping connections in a tightly secured and user-friendly interface. Future enhancements could allow authorized users to see ties to tax filings, classified reporting, information shared by foreign partners, and the substantial universe of open-source financial intelligence. This would be a natural matter to be taken up by a new expert and group established by the NDAA: an Innovation Officer and a Subcommittee on Innovation and Technology within FinCEN's public-private advisory group.<sup>68</sup>

FinCEN's advisory group should also establish a working group dedicated to understanding why it has been difficult to track the financial footprint of kleptocracies and which new financial intelligence data sources might be prioritized, collected, made accessible, and analyzed to advance this mission. For proper framing, this process ought to begin with an unclassified but non-public landscape of known and unknown oligarch financial networks provided by the intelligence community, through Treasury's Office of Intelligence and Analysis (OIA) and in collaboration with the law enforcement agencies represented on FinCEN's advisory group.

Most importantly, FinCEN needs more staff. Management will have to conduct scenario analyses showing what they could do with considerably higher levels of funding, but two top staffing priorities are clear. First, FinCEN needs the resources to staff joint AML examination teams with federal functional regulator colleagues.<sup>69</sup> When it becomes aware of possible concentrated threat activity, FinCEN should be able to quickly surge expertise and information to support examinations by the federal banking agencies. Second, FinCEN needs more specialists to beef up its analysis function. Major U.S. government agencies have their own access to FinCEN data, sometimes in bulk, so they are not entirely dependent on FinCEN.<sup>70</sup> But FinCEN needs a deeper bench of analysts to make better use of the vast number of SARs it receives and to enhance the depth of its understanding of emerging threats (such as kleptocracy) and feed that analysis into its issuance of priorities and advisories.

In the past four years, advisories issued by FinCEN (ad hoc guidance with typologies and red flags that financial institutions may use to target suspicious activity reporting) have covered how political corruption works in Nicaragua, South Sudan, Venezuela, and more generally.<sup>71</sup> Surprisingly, throughout its history of issuing 172 advisories over twenty-five years, FinCEN has never issued one dedicated to Chinese financial threats (having only substantively mentioned China once in a 2019 advisory on fentanyl trafficking) and only ever issued an advisory about Russia once back in 2000 (which was withdrawn in 2002 because "Russia has enacted significant reforms to its counter-money laundering system").<sup>72</sup> FinCEN should issue advisories with step-by-step schematics depicting how Russian oligarchs launder money through art markets (which could repurpose the NDAA-mandated study and recent Senate investigation<sup>73</sup>) and real estate, how the Russian "laundromats" uncovered by the OC-CRP have operated, and how Chinese companies and executives use corruption to secure business throughout the Belt and Road Initiative.<sup>74</sup>

## Prioritize Anti-Kleptocracy across Policy, Intelligence, and Enforcement Efforts at Home and Abroad

In the weeks after September 11, 2001, the Treasury Department added terrorist financing to its traditional effort against money laundering. After the FATF issued CFT standards that were later adopted by the United Nations, the IMF, and the World Bank, threat finance work became known internationally as AML/CFT.

Treasury has not yet similarly pushed to update international priorities to focus on kleptocracy. Instead, TFFC used its turn holding the rotating presidency of the FATF for the first time in 23 years to get the FATF to correspondingly add countering WMD proliferation to its mandate, although at the same time the FATF adopted an “open-ended mandate” toward all threats.<sup>75</sup> The UN, IMF and World Bank remain focused on AML/CFT, not having added WMD.<sup>76</sup>

The FATF was right to shift to a more open-ended focus with more frequent meetings to take stock of its mandate in light of the evolving threat landscape. TFI leadership should signal that it will focus on all forms of threats, starting by changing the Under Secretary title and office name from “Terrorism and Financial Intelligence” to “Threat Finance and Intelligence.” TFI’s policy office subsidiary, TFFC, should correspondingly rename itself from “Terrorist Financing and Financial Crimes” to “Threat Financing and Financial Crimes.” TFFC should introduce a regular National Corruption Risk Assessment (see earlier section) and the Under Secretary for TFI should appoint a counselor for anti-corruption (see next section). TFI and FinCEN should start covering the strategic threat of corruption in their annual budget justifications, as should broader Treasury in its department-wide strategic plan, all of which currently barely mention corruption.<sup>77</sup>

With Treasury incorporating corruption into its organizational structure and strategic planning, the department should push the international community to similarly focus on a broader threat spectrum, including corruption and kleptocracy. TFFC would take the lead at the FATF, while the Office of International Affairs (IA) represents the United States at the international financial institutions. To start, Treasury should aim to get the FATF to hold a special plenary meeting to expand standards to counter the financial flows of corruption proceeds, modeled after the October 2001 meeting in which the 30 member countries committed to meeting eight new CFT standards (a ninth was added in 2005).<sup>78</sup> Following the CFT playbook, IA should then get the IMF and World Bank to adopt the standards, while the State Department should do the same at the UN. Additionally, law enforcement and intelligence communities need better channels to cooperate in their tracking of covert foreign money around the world.<sup>79</sup> Along with the other national security departments and agencies, Treasury should play a leadership role in this international push alongside the various multilateral summits focused on corruption scheduled for 2021.

Together with the rest of the intelligence community, OIA should focus its resources on the collection and analysis of intelligence relevant to combating global corruption.

The National Intelligence Priorities Framework should prioritize the threat of kleptocracy by allocating more resources to the collection and analysis of intelligence relevant to combating global corruption. OIA should work with CIA and NSA to deepen penetration of key oligarch and princeling networks, tracing their wealth across companies, properties, planes, yachts, and other stores of value, understanding how they move and hide financial flows, and tracking the dark pools of assets available for deployment into Western politics. OIA’s next step after developing a rich understanding of the malign financial landscape is to provide intelligence support for Treasury’s policy options by identifying assets tied to Western financial systems and thus vulnerable to confiscation, sanction, or other legal and financial policies (whereas the main policy option to deal with money stored deep inside authoritarian countries is public disclosure).

Finally, based on a fuller picture of financial intelligence, policy and enforcement options should be prepared and vetted in advance so that strong measures are close to ready at times when kleptocracies escalate aggression against the United States or its allies. Scrambling to evaluate possible targets at the last minute is how mistakes are made, such as the April 2018 designation of Rusal and other companies owned by Oleg Deripaska, which



Treasury had to embarrassingly unwind because it had not anticipated and planned out the knock-on effects it would have on prices in the aluminum market and jobs in Europe. If that sanctions package has been thoroughly scrutinized and ironed out with the Europeans beforehand, it is possible that it could have sustained billions of dollars' worth of costs on Deripaska. This is because it revealed that Treasury can sanction medium-sized oligarch companies with existing (and not grandfathered) securities trading in secondary markets without triggering blowback on U.S. and European debt and equity markets (other than the aluminum response, which was contained).<sup>80</sup> All to say that with more investment in intelligence, targeting, and diplomatic work beforehand, there are strong financial sanction options to put pressure on kleptocracies by designating not only oligarchs themselves but also their companies, family members, associates, and enablers.

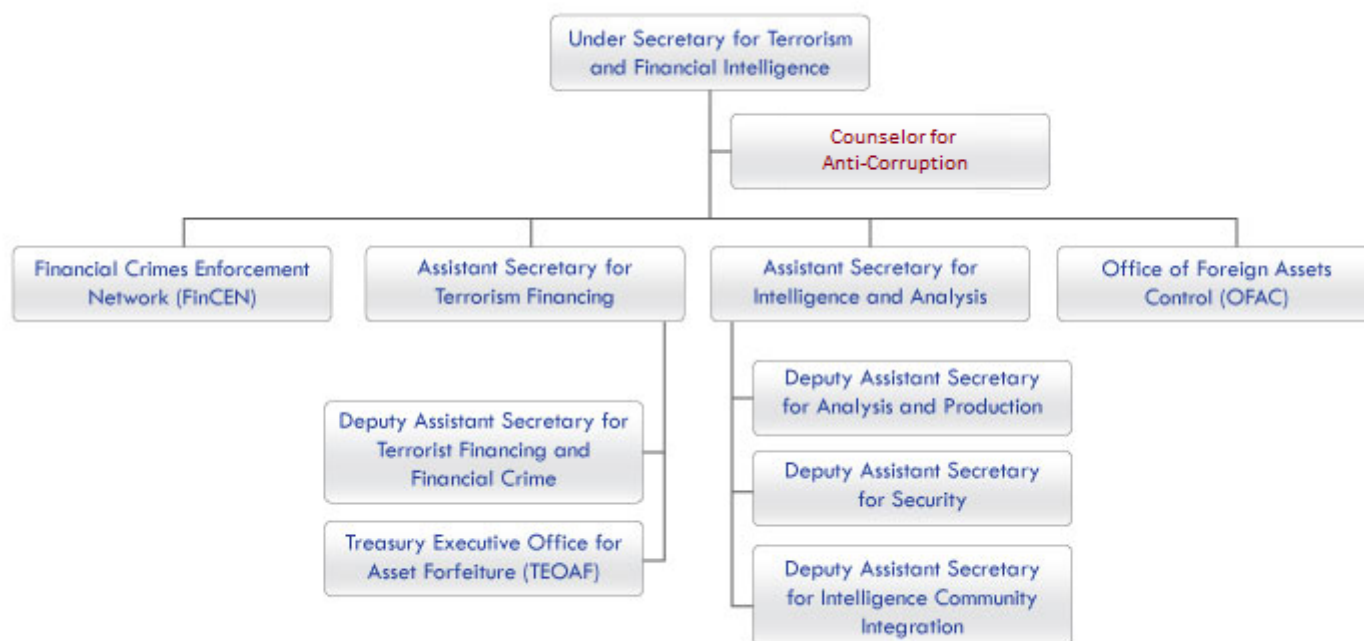
## Coordination: Rally the Troops

Anti-corruption work at Treasury is distributed across dozens of offices reporting up to roughly a half dozen assistant secretaries spread across two under secretaries. The offices most directly relevant for anti-corruption—working on threat finance, AML/CFT, sanctions, and intelligence—report up to the Under Secretary for Terrorism and Financial Intelligence (TFI). But the work must be closely coordinated with the economists and diplomats reporting up to the Under Secretary for International Affairs (IA) in order to truly globalize an anti-corruption program through the international financial institutions as well as the G7 and G20 finance tracks. Moreover, Treasury must engage closely with the White House, additional key departments and agencies such as State and Justice, civil society, the private sector, and counterparts in allied governments and multilateral bodies.<sup>81</sup>

To do all this coordination work quickly and thoroughly enough to meet and exceed high expectations at home and abroad, Treasury needs a senior official responsible for coordinating its anti-corruption work, backed up by a small staff and a mandate to harness the resources dispersed throughout the department.

### Appoint a Senior Official for Anti-Corruption

The Under Secretary for TFI should appoint a Counselor to the Under Secretary for Anti-Corruption who is an expert on kleptocracy and malign finance and has a direct reporting line to the Under Secretary. The counselor will need to retain the faith of the Under Secretary and work effectively with the directors of FinCEN and OFAC, assistant secretaries, and deputy assistant secretaries. The counselor should be an honest broker seeking to leverage resources and expertise, break down silos, and align efforts across TFI to safeguard the financial system from dirty money and counter aggression by kleptocracies, rather than creating redundancies or competing objectives.



The counselor should be given a clear mandate to develop and advance anti-corruption initiatives within TFI, the U.S. government, and internationally. The counselor should be authorized to coordinate with and leverage the resources of TFI offices at the level of the assistant secretaries, deputy assistant secretaries, and directors of FinCEN and OFAC to support swift progress within TFI and across the U.S. government as the administration seeks to deliver on public expectations for anti-corruption action and shape an ambitious international agenda to fight corruption. This could be supported by hardwiring anti-corruption objectives into each office's mission, such as writing into the job descriptions of relevant TFI officials anti-corruption goals tailored to their respective resources and objectives.

Two staff members from relevant TFI component offices and bureaus should be detailed to report full-time to the counselor for a period of time in order to coordinate anti-corruption work at the staff level throughout TFI. The counselor and team should have complementary expertise in domestic and foreign challenges of corruption and malign finance, the AML/CFT architecture in the United States, multilateral platforms to set international standards and encourage compliance, bilateral engagement with allies, efforts by law enforcement and the intelligence community to track dirty money, coordination with the White House and key interagency partners such as the State and Justice, and engagement with the private sector and civil society, as well as strong relationships with key figures involved in all of the above.

In addition representing Treasury in interagency work on corruption, the counselor should also work with the National Security Council and other departments and agencies on the threat of authoritarian interference in democratic processes through malign finance, whereby money is secretly funneled to favored political actors.<sup>82</sup> Treasury's role in this interagency process should focus on providing and vetting financial options to fight back against foreign interference, whether the attacks are perpetrated through disinformation, covert political financing, or other means. Treasury should continue to enhance its capability to sanction trolls and their funders (Cyber Command is getting better at hunting for and identifying perpetrators), prepare opportunities to hit kleptocracies' dark money pools (in order of preference: confiscate, sanction, expose), and evaluate the bite and blowback associated with sectoral sanctions of varying degrees of severity. As Treasury's intelligence capabilities around oligarch networks deepen, they can also help bring live cases of ongoing financial interference to the attention of the interagency and explain how they fit into the kleptocracy's power system. Finally, Treasury should also be responsible for advancing transparency policies that would enhance resilience to malign finance. In addition to building up U.S. defenses, Treasury can advise on standards that should be internationalized, as Biden has identified "defending against authoritarianism" (including covert foreign money in elections) as another of the three areas for country commitments at the Summit for Democracy (along with corruption and human rights).<sup>83</sup>

The counselor should be designated as early as possible in the administration—and possibly during the transition period—to ensure that while Treasury's top-level and public focus is on pandemic recovery, preparations are also being made to begin rolling out major U.S. anti-corruption reforms as part of the international push throughout 2021, as well as to secure corresponding country commitments while also starting the longer-run work of harnessing intelligence capabilities and launching investigations into the financial networks of kleptocracies and oligarchs in order to support future enforcement actions and policy options. The Secretary or Deputy Secretary should announce the new position, through either a standalone statement or part of a broader message to Treasury staff and the public, using the message to underscore the Biden administration's prioritization of anti-corruption at home and abroad.

Other options exist around where a counselor for anti-corruption could fit within Treasury's organizational structure but are less desirable. For example, having the counselor report directly to the Deputy Secretary would offer the advantages of demonstrating high-level priority for the anti-corruption mission and more naturally incorporating Treasury resources beyond TFI, such as IA. A major disadvantage to that structure would be that most of the anti-corruption work will be done within TFI, so vesting primary ownership over the mission with the Under Secretary would facilitate deeper integration with the authorities and resources throughout the components of TFI, which will be important to advance well-informed decisions and seamless implementation in a timely manner. The advantages of having the counselor report directly to the Deputy Secretary should instead be achieved by the Under Secretary for TFI having a strong working relationship with the Under Secretary for IA, while also helping to ensure that the Secretary and/or Deputy Secretary actively show support for Treasury's anti-corruption work by tracking its progress closely, weighing in on key judgments, convening internal leadership meetings to help coordinate across relevant components of Treasury, representing the work in meetings with the White House and interagency, engaging with international partners at a high level, and explaining the initiative through major public speeches. Another organizational structure option in the opposite direction would be to embed the counselor within TFFC, which could risk complicating the ability to coordinate across the components of TFI while also failing to signal sufficient standing to advance rapid and harmonious results throughout the U.S. government and internationally.

## Align Departmental Efforts within Treasury

All four TFI components reporting directly to the Under Secretary will play critical roles in developing and advancing anti-corruption policies and results, but their efforts are not currently supported by high-level prioritization and smooth coordination.

An intra-TFI working group can regularly coordinate anti-corruption work across offices, convening at three levels. High-level guidance should be provided, and decisions made, in meetings chaired by the Under Secretary, with participation by the two assistant secretaries and the Directors of FinCEN and OFAC. During the first 100 days, the Under Secretary should chair the first such meeting, with an agenda to take stock of anti-corruption efforts underway, ask the four office heads to collectively detail two staff members to the TFI front office with complementary expertise to the counselor, ask them to designate a senior anti-corruption point of contact within their office (such as a deputy assistant secretary or director of a subsidiary offices), discuss the 2021 regulatory agenda as it relates to anti-corruption, and agree upon guidance and follow-up taskings to be taken up at the working level. The counselor should then convene the first such senior working-level sessions, after which the counselor's staff should follow up with and support staff within the relevant component offices.

The main TFI offices and bureaus include:

- **Financial Crimes Enforcement Network (FinCEN):** FinCEN administers the Bank Secrecy Act, which includes receiving suspicious activity reports (SARs) and other information from U.S. financial institutions and making it accessible to law enforcement and other domestic and foreign partners. It serves as the U.S. financial intelligence unit and AML regulator. FinCEN will have a full plate of responsibilities right from the beginning of Treasury's anti-corruption initiative, including multiple relevant regulatory reforms such as expanding the AML regime to cover more professional enablers, promulgating regulations and developing systems to prepare for the receipt of beneficial ownership data, working with Congress to plan a major investment in FinCEN's resources and capabilities, and working with stakeholders to collect, analyze, and provide more useful information about how the proceeds of corruption are hidden in the U.S. financial system.
- **Office of Terrorist Financing and Financial Crimes (TFFC):** TFFC is TFI's policy and outreach team. It is the successor to the Treasury offices that quarterbacked the U.S. government drive to get the interagency and international partners to focus on CFT after the Sept. 11 attacks, a job that must now be replicated for anti-corruption. For example, as the head of the U.S. delegations to the FATF and nine FATF-style regional bodies, TFFC should advance the expansion of international standards—potentially set at a special plenary meeting of the FATF—for countering ill-gotten financial flows. TFFC also leads the preparation of Treasury's National Risk Assessment reports (on money laundering, terrorist financing, and starting in 2018, proliferation financing), which feed into a National Illicit Finance Strategy. TFFC should include a new regular National Corruption Risk Assessment in this process (as described earlier).
- **Office of Intelligence and Analysis (OIA):** OIA performs TFI's intelligence functions, integrates the Treasury Department into the broader U.S. intelligence community, and provides intelligence support both to senior policymakers at Treasury and to the rest of the intelligence community. For the anti-corruption mission, OIA would do the essential mapping of financial networks used by proxies of authoritarian regimes to undermine democracies. This would involve pulling in intelligence community reporting on kleptocrats and their oligarchs and then analyzing and tailoring the information to support policy needs at Treasury.
- **Office of Foreign Assets Control (OFAC):** OFAC administers and enforces U.S. economic and trade sanctions. While the most focus and attention goes to major sanctions programs such as those targeting Iran, Russia, Venezuela, and North Korea, OFAC manages 35 sanctions programs around the world.

One of those OFAC programs—Global Magnitsky or “GloMag”—may be the most powerful tool the U.S. government has to fight international corruption, administered by what is increasingly one of the

most developed groups of professionals anywhere dedicated to taking down networks of kleptocracy (along with the FBI's international corruption unit). The GloMag authorities were enacted by Congress in December 2016 and has been used well by Treasury since then.<sup>84</sup> The law and an implementing executive order authorize Treasury to sanction any foreign official engaged in corruption, as well as anyone who enables them.<sup>85</sup> GloMag is more nimble than other sanctions programs because it can drop into entirely new countries and situations without a new executive order declaring a national emergency.<sup>86</sup>

In just a few years, Treasury has imposed GloMag sanctions on 110 individuals and 109 entities around the world.<sup>87</sup> Designations include the longtime leader of The Gambia (who plundered state coffers before going into exile), an Israeli billionaire (who used his friendship with the Congolese president to sell access to the country's mining industry), the Gupta family (who fled South Africa after their massive corruption scandal took down the president they bankrolled), a Latvian oligarch (who used port corruption not only to amass wealth but also corrupt law enforcement and thus evade long-running criminal investigations), and the former boss of the Macau triads (whose organized criminal activity is associated with the Belt and Road Initiative).<sup>88</sup>

Designations like these deliver some justice to kleptocrats who flee their own country to escape prosecution. GloMag sanctions have helped motivate the release of Pastor Andrew Brunson from Turkey and caused Hong Kong's Chief Executive Carrie Lam to lament losing access to all banks and now having to deal only in cash.<sup>89</sup> By isolating targets from financial markets, they can also impose substantial costs on international bandits who operate in jurisdictions without extradition, such as the Israeli billionaire who lost his ability to recover \$200 million in corrupt "royalties" from Glencore thanks to the sanctions.<sup>90</sup>

Key to making individual sanctions impactful is finding those types of international financial entanglements that end up trapping big pools of ill-gotten gains. Similar and bigger opportunities will arise out of further TFI investment in mapping kleptocrats' assets located in the Western jurisdictions and global business enterprises reliant on Western markets economies, as well as better coordination with IA to carve out targets that are big and connected enough to be painful but not so much as to trigger blowback on Western economic interests. The Biden administration should also be more willing to go after oligarchs tied not only to deposed leaders but also to currently ruling regimes, especially if they use corruption as a strategic weapon against other countries, a vital interest that has unfortunately not been covered by GloMag designations thus far. GloMag sanctions could also be strengthened by demonstrating more willingness to target professional service providers abroad who enable kleptocracy, and by combining designations with other tools beyond sanctions while also trumpeting the actions from the White House podium to show and explain the results to the public. Finally, in order to project a unified front and further tighten the net of financial and travel destinations, these policy and enforcement activities should feature more close cooperation with allied governments, including those with their own GloMag laws: the U.K., Canada, the EU (although unfortunately without the ability to target corruption), and hopefully soon Australia.<sup>91</sup>

The Office of International Affairs (IA) directs Treasury's policies on global and regional economic matters. Immediately after 9/11, the Under Secretary for IA assigned one of Treasury's seasoned veterans to stand up a war room to track how different partners and allies were contributing to the war on terrorist financing, from G8 action plans to national commitments to a tabulation of frozen assets.<sup>92</sup> The Under Secretary for IA should assign a point person for IA's anti-corruption efforts, whether it is an office director, deputy assistant secretary, or senior advisor. That official should ensure anti-corruption work is integrated across the offices run by the three assistant secretaries reporting up to the Under Secretary for IA:

- **Office of International Finance:** The Assistant Secretary for International Finance leads Treasury's work on international monetary and financial policy, including programs involving the Western Hemisphere, Asia, the Middle East and Africa, and Europe and Eurasia. This office also runs Treasury's participation in the G7 and G20 finance ministers' processes, which will be crucial for securing international commitments to anti-corruption, similar to how the G8 leaders endorsed Obama's three-part strategy for nuclear

nonproliferation in 2009, at which time Obama announced his plan to host a summit in 2010, a process on which Biden's Summit for Democracy is modeled.<sup>93</sup> The Office of International Finance and its subordinate offices also manage U.S. policy formulation and engagement with the IMF, an institution that has recently become a leading proponent of anti-corruption and expert in how it manifests across economic policy areas.

Whereas the United States had to push the IMF to expand its involvement in CFT two months after 9/11 (using its sway on the IMF board to continue the momentum generated at the emergency U.S.-hosted FATF plenary), this time around the IMF has beaten the United States to the front line of the war on corruption.<sup>94</sup> In 2018, then-Managing Director Christine Lagarde got the IMF to make engagement (advice to countries, conditions for loans, etc.) on issues of corruption mandatory, meaning that none of the 190 member countries may refuse to let the IMF criticize them for corruption if it is imposing a macro-critical toll on the national economy.<sup>95</sup> The IMF set up a centralized cross-departmental working group of senior IMF staff to assess the extent to which essentially each national government in the world suffers from corruption vulnerabilities across six state functions: (i) fiscal governance; (ii) financial sector oversight; (iii) central bank governance and operations; (iv) market regulation; (v) rule of law; and (vi) AML/CFT.<sup>96</sup> While those economic institutions tend to be more corrupt in developing countries, the IMF also evaluates advanced economies for the extent to which they criminalize and prosecute bribery (the United States scores well) and keep the proceeds of corruption out of their own financial systems and economies (the United States suffers from shortcomings around beneficial ownership and professional enablers).<sup>97</sup> In 2019, the IMF discussed corruption in its country-by-country reports four times more frequently than the average over the prior decade.<sup>98</sup>

The strongest dosage of anti-corruption medicine ever administered by the IMF is the case of Ukraine since the 2014 Euromaidan Revolution. IMF lending and other substantial U.S. and European financial assistance was conditioned upon the establishment of new independent institutions such as a national anti-corruption investigative bureau, a special anti-corruption prosecutor, dedicated anti-corruption courts, and asset declaration requirements for public officials. Ultimately, only voter persistence can drive lasting success against corruption. But Ukrainians also want and need foreign help, having repeatedly elected new presidents with an anti-corruption mandate only to see the reform movement suffer sharp backsliding. The underlying problem is that Ukrainian politicians and many minders of corrupt interests across all the government ministries are beholden to oligarchs, who bankroll candidates and use their control over media and other enterprises to pull the strings—positions of power that would be severely disrupted by anti-corruption progress.<sup>99</sup> Prying the influence of these oligarchs out of Ukrainian public life is not a job for the IMF alone. Technical advice about law enforcement must be combined with sustained and repeated high-level pressure campaigns to get political leaders to break from their patrons and in some cases dismantle the oligarchs' influential empires or even pursue criminal charges. As the leading supporter of such a vulnerable country, the United States has substantial leverage in its dealings with Ukraine. U.S. assistance is not limited to the military aid and White House meetings that Trump tried to corrupt for his own personal political purposes in 2018. Support for Ukraine during the Obama-Biden years also included three \$1 billion loan guarantees provided by Treasury's Office of International Finance, which also leads international tin-cupping exercises on behalf of Ukraine at the IMF, the EU, and with other donors. As the United States returns to using this leverage to support Ukrainian sovereignty, the top objective must be to provide strong and tailored support for the public's desire to de-oligarchize Ukraine.

Within the first 100 days of the Biden administration, Treasury should lead a senior U.S. delegation to privately confer with the IMF senior staff who lead its anti-corruption work, brainstorming ways the United States can step up its global anti-corruption leadership, including through both U.S. policy changes and diplomatic engagement. Treasury should also be prepared to support the IMF's enhanced engagement on corruption in a formal IMB board review process scheduled for mid-2021, while also encouraging the IMF to be even more candid, consistent, concrete, and comprehensive as it continues to address corruption even more aggressively.<sup>100</sup>

- **Office of International Markets and Development:** The Assistant Secretary for International Markets and Development directs Treasury's portfolio on international financial services regulation, trade, banking and securities, development, technical assistance, and climate finance. Two areas would be particularly important to support anti-corruption work abroad. First, given that corruption costs the developing world more than \$1 trillion annually (far surpassing development assistance spending of \$166 billion), strong conditionality around anti-corruption must be included in loans and grants by the multilateral development banks, including the World Bank and the regional development banks. Second, as with efforts to build up CFT capacity among partners and allies looking to deter and disrupt financial flows by bad actors, technical assistance provided by the U.S. Treasury Department will be a crucial instrument to help foreign partners root out corruption. In this regard as well, Treasury should follow the lead of the IMF, which has stepped up its own technical assistance, which helps countries fight corruption through improvements in tax administration, spending oversight, fiscal transparency, financial sector oversight, anti-corruption institutions, and asset declarations for senior officials.<sup>101</sup> The NDAA authorized \$60 million to increase Treasury's technical assistance footprint.<sup>102</sup>
- **Office of Investment Security:** The Assistant Secretary for Investment Security runs the office that fulfills Treasury's responsibilities as chair of the Committee on Foreign Investment in the United States (CFIUS), which has the authority to coordinate interagency reviews of the national security effects of foreign acquisitions of U.S. businesses. Whereas TFI has ample authorities to sanction oligarchs and their companies and to keep dirty money out of the banking system and property markets, CFIUS is crucial to blocking sensitive foreign direct investments by malign actors.

In recent years, CFIUS has a mixed record against oligarchs, having not stopped Oleg Deripaska from investing \$200 million in a greenfield aluminum mill in Kentucky, whereas CFIUS did make Mikhail Fridman sell his fund's stake in a U.S. cybersecurity firm.<sup>103</sup> Even though strategic corruption and malign financial activity have escalated sharply over the past five years, the Trump administration generally erred more in the direction of supporting U.S. commercial interests, which strengthened the hand in interagency debates of the economic departments and agencies such as Commerce. That default posture more naturally suited U.S. foreign policy interests during the Cold War, which is why CFIUS was created in 1975 to dissuade Congress from enacting restrictions and why it is chaired by the Treasury Department (rather than a national security agency) and housed within IA (rather than the enforcement offices).<sup>104</sup>

At a minimum, Treasury should underscore to its interagency partners that the definition of national security they apply to reviews and investigations should include corruption (covering not only corrupt transactions but also ostensibly above-board transactions funded with ill-gotten funds or involving corrupt foreign actors), consistent with Biden's planned presidential policy directive.<sup>105</sup> To support collaboration with TFI and imbue more of a national security orientation, Treasury should also consider moving responsibility for the Office of Investment Security from IA to TFI. The change would be minimally disruptive, because most of TFI and IA are located in the same building (including Investment Security, which is now taking over an entire floor of Main Treasury). Investment Security also has less interaction with the rest of IA than do the other more integrated IA offices. While TFI and IA already represent Treasury well with a unified voice at the CFIUS table, the change in reporting would further encourage close CFIUS collaboration with OIA and the rest of TFI as they proactively track and closely scrutinize acquisitions tied to the proxies of kleptocracies.

## Engage with Partners Beyond Treasury

Treasury's wide-ranging authorities and ubiquitous footprint across the U.S. economy and financial system make it arguably the most crucial U.S. department in the fight against corruption. However, in order to be truly effective, this campaign should be led by the White House, not Treasury. Moreover, it must be coordinated with dozens of countries and multilateral bodies, and just as many non-governmental organizations and Congressional committees. Treasury's job will be to coordinate its internal resources, develop strong relationships with all these external elements, and then correlate forces to mobilize the country and the world against kleptocracy and dirty money.

The key types of external partners include:

- **Interagency:** The U.S. government body that commands the most interagency attention and energy around major foreign policy initiatives is the National Security Council (NSC). By contrast, Treasury-led processes such as CFIUS tend to be more self-contained and circumscribed venues to exchange technical analyses and views in accordance with a statutory process. But while the NSC should lead the fight against corruption and kleptocracy, the nature of this issue set involves economic considerations—including domestic policies—more than even other initiatives in which Treasury has played a leading role such as countering terrorism. As such, the NSC should design an anti-kleptocracy interagency process that ensures ample representation by the economic departments and agencies such as Treasury, Energy, Commerce, the U.S. Trade Representative (USTR), the National Economic Council (NEC), and the Council of Economic Advisers. Lessons can be drawn from past interagency processes to inject those resources of economic expertise into discussions of national security matters with State, Defense, Justice, Homeland Security, and the intelligence community. Traditionally, such coordination on matters of economic statecraft (such as sanctions and aid) has been managed by the international economics staff shared by the NSC and NEC. Given his prioritization of trade relations over economic diplomacy, Trump appointed a string of trade negotiators (usually with experience at USTR, whereas past deputies most often came from Treasury) to run international economics. In November 2019, the White House broke off the team's ties with the NSC altogether, such that it now reports exclusively to the NEC.<sup>106</sup>

The Biden White House should return to the practice of assigning a “dual hat” between NSC and NEC to the international economics staff and its deputy assistant to the president. And more to the point for the anti-corruption effort, the NSC should also appoint a senior director for anti-kleptocracy, who could sit within either the international economics team (the benefit of which is easier alignment with domestic economic policy), a new directorate focused on foreign interference in democracy (which would also cover malign finance alongside other senior directors for cyber and information operations), or a new directorate dedicated exclusively to anti-kleptocracy (perhaps bringing the most attention and resources to the issue). The State and Justice Departments should appoint similar points of contact dedicated to countering corruption and kleptocracy, ideally at the assistant secretary level. The TFI anti-corruption counselor and other senior officials at Treasury should have strong relationships with these interagency partners.

- **International:** Treasury's TFI and IA staff have deep relationships with foreign counterparts in their respective lines of work, whether it is TFFC representation at the FATF, FinCEN liaisons at other countries' financial intelligence units (with the NDAA mandating six foreign liaisons<sup>107</sup>), IA attachés around the world (with the NDAA mandating six more attachés<sup>108</sup>), OFAC collaboration with allies over sanctions, CFIUS's increasing collaboration with foreign authorities responsible for screening investments, the Office of International Monetary Policy participating in G7 and G20 processes, the Office of International Financial Markets representing Treasury at the Financial Stability Board, technical assistance building up capacity at foreign ministries, regional IA offices in touch with their counterparts at foreign finance ministries, the six U.S. executive directors representing the United States at the IMF, World Bank, and regional development banks, or many other line offices. All these lines of contact will be involved in anti-corruption work.

However, given that both the kleptocracy threat and public frustration over inequality and corruption have escalated sharply within the past five years, most foreign governments—like Treasury—have not yet sufficiently organized around anti-corruption or made clear who should be their main point of contact on corruption. As such, the Treasury Secretary and Deputy Secretary should underscore in early conversations with their foreign counterparts that the United States would like to work closely with them well in advance of the various summits scheduled for 2021, that such collaboration should include anti-corruption, and that Treasury would like to know who to coordinate with in their respective finance ministries on anti-corruption issues. EU officials should be asked the same question and also encouraged to work toward establishing strong centralized supervisors in Brussels dedicated to investment screening (i.e., a



binding EU CFIUS<sup>109</sup>) and AML/CFT (i.e., FinCEN-like supervision<sup>110</sup>), while multilateral organizations and alliance structures should be urged to follow the lead of the IMF by engaging more on corruption.

- **Civil Society:** Because corruption is perpetrated by actors within governments and the private sector, the natural place for anti-corruption investigations and advocacy work is the “third sector” of civil society groups such as non-governmental organizations (NGOs). Whereas most national security policies such as sanctions are informed first and foremost by state intelligence collection and diplomatic reporting, anti-corruption work will require closer coordination with civil society than in most other policy areas. One component of Treasury that has already been building up these relationships is OFAC, which traditionally has its strongest outside contacts with the private sector but is increasingly collaborating with human rights and corruption watchdogs in the process of identifying and investigating GloMag targets.

The TFI anti-corruption counselor should help build upon and expand Treasury’s contacts with civil society to extend beyond sanctions targeting. For example, Transparency International (TI) is an NGO with an international secretariat in Berlin and more than 100 chapters worldwide staffed with local experts.<sup>111</sup> TI annually ranks 180 countries based on their perceived levels of public corruption and uses their country-by-country insights to make policy recommendations.<sup>112</sup> The Organized Crime and Corruption Reporting Project (OCCRP) is a consortium of investigators and journalists that is partly funded by the State Department and USAID. Some of the OCCRP’s biggest investigations have involved “laundromat” schemes to launder the proceeds of corruption, including the Proxy Platform, Russian Laundromat, Azerbaijani Laundromat, and Troika Laundromat.<sup>113</sup> While tracing illicit financial flows, the OCCRP has developed tools for tracking corruption and a rich understanding of complicit actors and the policy vulnerabilities they exploit, expertise that could help inform many of the Treasury’s policy, intelligence, and enforcement efforts discussed in this report. Successful policy advancement, particularly on Capitol Hill, would also require collaboration with the Financial Accountability and Corporate Transparency (FACT) Coalition, the anti-corruption advocacy group that led the beneficial ownership reform drive. Beyond TI, the OCCRP, and FACT, more than 700 experts from around the world are connected through the Anti-Corruption Advocacy Network (ACAN), where Treasury’s anti-corruption counselor should be a known and accessible partner, building relationships that will be essential to a well-informed campaign against corruption.

- **Congress:** In addition to the reforms recommended in this paper that should be undertaken by the executive branch, many critical anti-corruption policy reforms would require Congressional approval. Several in the jurisdiction of Judiciary and Foreign Affairs/Relations committees should be the primary purview of the State and Justice Departments (criminalize the demand side of bribery, broaden a “thing of value” in campaign finance law, report the identities of small political donors, reform the FEC, disclose campaign contacts with foreign powers, make political non-profits disclose funding sources, require public archives of funders behind political ads and media outlets, eliminate the lobbying exemption to FARA, protect whistleblowers, etc.).<sup>114</sup> The Helsinki Commission has also been critical to anti-kleptocracy legislation by championing laws such as the Magnitsky Act, the Global Magnitsky, and most recently, the Rodchenkov Anti-Doping Act, as well as putting forward a slate of further anti-kleptocracy proposals.<sup>115</sup>

Several other critical anti-corruption reforms belong to the House Financial Services and Senate Banking Committees, where Treasury should closely coordinate, encourage, and advise on prospective legislation. One example might be any expansions of AML coverage that Treasury deems unachievable without amendments to the Bank Secrecy Act. Treasury’s recently authorized beneficial ownership database may inevitably require statutory updates to close loopholes that emerge, while more ambitious legislative expansions should also be under consideration, such as adding trusts, foundations, and partnerships and making the information publicly available. Other examples of possible legislative needs include ways to streamline and expand Section 311 of the Patriot Act (so FinCEN can designate primary money laundering concerns without going through the rulemaking process and can also target non-bank financial entities) or a financial reward program for tips about stolen assets in U.S. bank accounts.

Anti-corruption budgetary priorities need to be coordinated with OMB and Congress. The new reality of authoritarians confronting the United States through asymmetric lines of attack such as finance and investments is reflected well in OFAC's recent 58 percent increase in the budget and additional hiring authorities, as well as the more than seven-fold jump in appropriated resources for CFIUS.<sup>116</sup> The next financial security area that needs similar investment is FinCEN (as discussed in a prior section).

Together with Treasury's legislative affairs office, the TFI anti-corruption counselor should work closely with allies in Congress to advance anti-corruption initiatives and harmonize them with Treasury policy priorities.

## **Need to Assess and Rebuild Organizational Capacity**

This anti-corruption plan may be too ambitious.

As of this writing, levels of morale and staffing are down considerably throughout TFI. Attrition at OFAC, TFFC, and other offices has been severe. The organization has been without a confirmed Under Secretary since October 2019 and without an Assistant Secretary for Terrorism Financing since April 2020 (and that after nearly two years of uncertainty due to controversial confirmation delays). OFAC has spent prolonged periods backpedaling after its strongest move against an oligarch—Oleg Deripaska's Rusal—backfired rather spectacularly. FinCEN suffers from data security breaches that have been repeated, embarrassing, and damaging. And now, Treasury was reportedly a key victim of a massive case of Russian cyber espionage, while Congress's NDAA just mandated a mountain of lengthy reports and complicated regulatory requirements.

It could be reckless of the incoming TFI leadership to come in with grand plans and high expectations if the organization is not currently equipped to execute well on big new initiatives. The most important job on day one will be to listen to and appreciate staff, gauge organizational health, and construct and execute on plans to rebuild capacity.

On the other hand, TFI staffers are highly capable pros, fiercely patriotic, and extremely dedicated to the mission of Treasury and the U.S. government. Authoritarian rivals have been undermining American democracy and national security with strategic corruption and malign finance for half a decade without facing prohibitive costs.

It is possible that nothing would rally the troops as much as mobilizing for a good war against kleptocrats and oligarchs.

## Conclusion: Time for Executive Action

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Combating corruption and kleptocracy offers a historic opportunity to unite U.S. foreign and domestic policy, and 2021 will be a busy year of international momentum amid competing priorities. The incoming Biden administration understands this and is clearly signaling an intent to prioritize anti-corruption.

Durable momentum in this fight will only be sustained if the U.S. Treasury Department quickly mobilizes to rally its internal resources, prepare major policy rollouts such as an expansion of anti-money laundering obligations to professional enablers, and coordinate with external partners. There is no time to lose.

# Appendix of Recommendations: All Hands on Deck

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Thoroughly coordinating anti-corruption work across Terrorism and Financial Intelligence (TFI) and International Affairs (IA) would require active support from Treasury leadership, coordinating among the TFI and IA front offices, and ambitious planning and execution by many component offices.

## Treasury Leadership

### Day One

- The Secretary or Deputy Secretary should announce the appointment of the TFI anti-corruption counselor as either a standalone message or part of a broader message to Treasury staff and the public.
- Top Treasury officials should underscore as part of their preliminary conversations with foreign counterparts the high priority the Biden administration places on anti-corruption and ask who to coordinate with in their respective ministries on anti-corruption issues.

### First 100 Days

- The Deputy Secretary should convene the under secretaries of TFI and IA to kick off an internally coordinated anti-corruption policy campaign, including plans to roll out a series of major policy actions in time for the Summit for Democracy.

### First Year

- Top Treasury officials should support the anti-corruption mission by tracking its progress closely, weighing in on key judgments, representing the work in meetings with the White House and interagency, engaging with international partners at a high level, and explaining the initiative publicly.
- The Deputy Secretary should deliver a speech on corruption and kleptocracy, setting out an agenda to include regulating domestic enablers and building stronger international standards.
- The Deputy Secretary should consider whether responsibility for CFIUS should move from IA to TFI in order to instill more of a national security orientation.

## TFI Front Office

### Day One

- Appoint a Counselor to the Under Secretary of TFI for Anti-Corruption to coordinate efforts against corruption and kleptocracy within Treasury while also representing the department externally.
- Rename the Under Secretary and Office of “Terrorism and Financial Intelligence” to instead be called “Threat Finance and Intelligence.”
- Start meeting staff who work on corruption across all four TFI offices; schedule time to discuss collaboration on FinCEN advisories and a National Corruption Risk Assessment drafted by TFFC.

### First 100 Days

- The Under Secretary of TFI should chair the first meeting of an intra-TFI working group to coordinate anti-corruption work, with the participation of the four heads of TFI’s principal component offices (the two assistant secretaries and the directors of FinCEN and OFAC).
- The counselor should follow up by chairing the first senior working-level session with designated coun-

terparts across the four offices (roughly at the level of deputy assistant secretaries).

- TFI component offices should reassign two staff members with complementary expertise to the counselor, to whom they should report within the TFI front office.
- The counselor should ensure anti-corruption needs are emphasized in Treasury's department-wide strategic plan, while coordinating with Treasury Legislative Affairs and the Office of Management and Budget to ensure the issue and funding needs are represented in the administration's first budget.
- TFI should connect at all levels with officials at State, Justice, and the National Security Council (and potentially the National Economic Council) that are organized around the functional areas of corruption, kleptocracy, or malign finance. Start coordinating potential plans for the Summit for Democracy.
- The Under Secretary of TFI should confer with the Director of FinCEN about how to make maximum resources available immediately to staff up quickly for a busy year of regulatory rulemaking and reform planning. Beyond promulgating beneficial ownership regulations and revoking the ten Bank Secrecy Act exemptions, priorities should be set around other initiatives.

## First Year

- Building on OIA efforts to map the financial networks of key oligarchs tied to kleptocracies, lead a TFI-wide process of developing defensive and offensive policy options to protect the U.S. financial system from dirty money and impose costs on hostile regimes through sanctions and other tools.
- Hardwire anti-corruption goals into the mission and job descriptions of major TFI offices and officials.
- Coordinate with the National Security Council and other interagency partners to align Treasury anti-corruption efforts with broader U.S. government strategy around kleptocracy and foreign interference.
- Coordinate with the National Security Council and State Department to make Treasury regulatory actions a featured deliverable at the Summit for Democracy, using the anticipated actions as leverage to encourage other countries to go big and feeding public talking points into White House messaging.
- Maintain strong relationships with the anti-corruption civil society, using their investigations, policy recommendations, and public platforms to advance Treasury's anti-corruption mission.
- Together with Treasury Legislative Affairs, work closely with allies in Congress to advance anti-corruption initiatives and harmonize them with Treasury policy priorities.

## Financial Crimes Enforcement Network (FinCEN)

### Day One

- Start preparing advisories about corruption by surveying existing analyses of Russian laundromats, oligarchs laundering ill-gotten wealth through real estate and works of art, and corruption through the Belt and Road Initiative.

### First 100 Days

- Update the Under Secretary of TFI on the substantial efforts made particularly over the past 18 months to reinvigorate Policy Division leadership, management, and staff, as well as the creation of a standalone Technology Division and other recent equities such as fallout from the "FinCEN Files," as well as requirements and plans to implement the NDAA.
- Work with the Under Secretary of TFI to prioritize regulatory and reform initiatives that will deliver major results in time for statutory deadlines and the Summit for Democracy while also being achievable

at existing resource levels. Also discuss additional short- and medium-term options to build up resources available to FinCEN.

- Start issuing advisories with typologies and red flags about corruption and kleptocracy in the US financial system; collaborate with TFFC on a National Corruption Risk Assessment; start incorporating corruption risks into the national strategic AML priorities that the NDAA mandates within 180 days.

## First Year

- Issue a rule repealing the ten exemptions FinCEN has granted from the Patriot Act requirement for AML programs.<sup>117</sup> Develop a work plan to cover lawyers, accountants, formation agents, and art dealers within the next couple years.
- Promulgate beneficial ownership regulations that keep the definition of beneficial owner strong, narrowly define exempt entities, ensure timely access to both law enforcement and banks, and protect the Customer Due Diligence (CDD) rule.
- Apply the ultimate beneficial ownership requirement under the CDD rule to trusts, foundations, and partnerships, so banks would be required to know the beneficial owner hiding behind them.
- Revise existing guidance or regulations around politically exposed persons to improve clarity, effectiveness, and compliance.
- Incorporate into FinCEN's first-ever national strategic AML priorities TFFC's first-ever National Corruption Risk Assessment, making corruption and kleptocracy a feature risk highlighted in the AML strategy.
- Issue advisories on how Russian oligarchs launder money through art markets and real estate, how the Russian "laundromats" uncovered by the OCCRP have operated, and how Chinese companies use corruption to secure business throughout the Belt and Road Initiative.
- Get the Bank Secrecy Act Advisory Group to establish a working group dedicated to understanding why it has been difficult to track the financial footprint of kleptocracies and what new data sources might be prioritized, collected, made accessible, and analyzed to advance this mission.
- Start a work stream to construct a cross-border payments database.
- Make geographic targeting orders nationwide, permanent, and inclusive of commercial real estate.
- Develop and start implementing a plan to work with Congress to design a major reform and investment of FinCEN, including a dramatic increase in budgetary resources.
- Consider requesting proposals to leverage emerging technologies to identify linkages between data series and automatically map connections in a tightly secured and user-friendly interface.

## Office of Terrorist Financing and Financial Crimes (TFFC)

### Day One

- Rename the Assistant Secretary for "Terrorism Financing" to instead be called "Threat Financing."
- Rename the Office of "Terrorist Financing and Financial Crimes" to instead be called "Threat Financing and Financial Crimes."
- Start preparing the first-ever National Corruption Risk Assessment, structured similarly to previous National Terrorist Financing Risk Assessments and the 2018 National Proliferation Risk Assessment.

## First 100 Days

- Publish the first-ever National Corruption Risk Assessment, focused on the financial networks of kleptocracies and oligarchs, reviewing case studies and methods to assess vulnerabilities and risk.
- Begin diplomatic push to get the FATF to meet in Washington, D.C., in the second half of 2021 for a U.S.-hosted special plenary meeting dedicated to setting international standards around corruption.

## First Year

- Encourage the FATF and the nine FATF-style regional bodies—ideally at a special plenary—to improve existing standards around politically exposed persons and develop new standards around additional elements of kleptocratic networks that rely upon the facilitation of corruption.
- Contribute to all relevant multilateral processes (G7, UNCAC, Summit for Democracy, etc.) and informal engagements (IMF, bilateral, etc.) with strong U.S. positions around how to integrate anti-corruption into the international AML/CFT regime.

## Office of Intelligence and Analysis (OIA)

### Day One

- Start assembling intelligence to support advisories and a risk assessment about corruption and kleptocracy abusing the US financial system; start evaluating options to declassify and publicly disclose at least one major unreported case (such as the Kremlin bankrolling a European political party) and preferably also major systemic features (such as how the biggest money laundering channels into the West are secretly controlled by the FSB's Directorate K).

### First 100 Days

- Work with colleagues at the Office of the Director of National Intelligence to ensure the National Intelligence Priorities Framework will prioritize the threat of kleptocracy.
- Develop a plan to enhance the tracing of kleptocracies' money and assets hidden in Western financial systems, map key oligarch networks, and support the development of options to confiscation, sanction, or reveal dirty money.

### First Year

- Execute on the plan described above.

## Office of Foreign Assets Control (OFAC)

### Day One

- Start packaging information on corruption, from GloMag cases to sanctions evasion through works of art, all of which should feed into FinCEN advisories and TFFC's National Corruption Risk Assessment.

### First 100 Days

- Develop plans to internationalize GloMag sanctions by encouraging the U.K., Canada, and the EU to designate targets Treasury has already sanctioned, including both a plan to align regimes gradually over time and contingency plans for rapid catch-up and escalation following foreign aggression.
- Develop plans to shift future GloMag designations increasingly toward currently ruling regimes, even if only as a contingency plan for escalation in the event of foreign aggression.

## First Year

- Execute on the plans described above.

## Office of International Affairs (IA)

### First 100 Days

- Designate a point person to coordinate anti-corruption efforts throughout IA, which could be an office director, deputy assistant secretary, or a senior advisor.
- Lead a senior U.S. delegation to confer with the IMF senior staff who lead its anti-corruption work about ways the United States can step up its global anti-corruption leadership.
- Send a message to CFIUS interagency partners that the definition of national security they apply to reviews and investigations should include corruption.

### First Year

- Work through the G7 finance track to advance stronger global standards to counter secrecy jurisdictions and other facilitators of international corruption in advance of the G7, the UN special session on corruption, and the Summit for Democracy.



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- 23 To be sure, offshore finance has been around since London bankers invented the Eurodollar market in the 1950s, with its usage by oligarchs exploding after the Cold War. But only after strongmen like Putin brought those oligarchs to heel in the 2000s and then reportedly gave the intelligence services (such as the FSB's Directorate K) control over illicit cash flows to did offshore finance become a geopolitical weapon. See Catherine Belton, [Putin's People: How the KGB Took Back Russia and Then Took On the West](#), New York: Farrar, Straus and Giroux, 2020, pp. 396-418.
- 24 See United States Congress, H.R.6395 - [National Defense Authorization Act for Fiscal Year 2021](#), December

- 2020.
- 25 See Tom Keatinge, “[Get Serious: Illicit Finance is a Threat to the US–UK Special Relationship](#),” London: RUSI, December 15, 2020.
- 26 One particularly intriguing proposal championed by David Cameron in 2016 but not yet enacted in Britain is to make foreign-registered companies *publicly* disclose their beneficial ownership before buying luxury real estate within the country. See Anti-corruption Summit, “[London 2016 - Communiqué](#),” May 12, 2016.
- 27 [UNGASS](#), 2021.
- 28 See [Power](#), 2021.
- 29 See [Malinowski](#), 19:34, 30:14.
- 30 See [Malinowski](#), 30:14.
- 31 See G8 L’Aquila Summit, “[Addressing the Nuclear Threat: Fulfilling the Promise of Prague at the L’Aquila Summit](#),” July 8, 2009; NPT Review Conference, “[Final Documents](#),” May 3-28, 2010.
- 32 See House of Commons of the United Kingdom, Intelligence and Security Committee of Parliament, [Russia](#), HC 632, July 21, 2020, pp. 15-16 (“ISC Russia Report”); Tom Harper and Caroline Wheeler, “[Russian Tory donors named in secret report](#),” *The Times*, November 10, 2019.
- 33 See [ISC Russia Report](#), pp. 15.
- 34 See Financial Action Task Force, [United States’ measures to combat money laundering and terrorist financing](#), Paris, December 1, 2016.
- 35 See [Malinowski](#), 19:34.
- 36 [67 FR 21113](#), Apr. 29, 2002, as amended at 67 FR 67549, Nov. 6, 2002; 67 FR 68935, Nov. 14, 2002; 73 FR 1976, Jan. 11, 2008.
- 37 See Rachel Louise Ensign and Serena Ng, “[Law Firms’ Accounts Pose Money-Laundering Risk](#),” *The Wall Street Journal*, December 26, 2016.
- 38 See United States Congress, H.R.6395 - [National Defense Authorization Act for Fiscal Year 2021](#), December 2020, Sec. 6110.
- 39 The Bank Secrecy Act defines a “financial institution” as including twenty-five different types of entities, such as depository institutions, commercial banks or trust companies, private bankers, U.S. branches of foreign banks, credit unions, thrifts, broker dealers, investment companies, persons involved in real estate closings and settlements, businesses selling vehicles, etc. The NDAA added antiquity dealers as the twenty-fifth type of financial institution. But after listing those entities, the definition also includes two final open-ended prongs (bringing the total to twenty-seven): [31 USC § 5312\(a\)\(2\)\(Y\)](#) is “any business or agency which engages in any activity which the Secretary of the Treasury determines, by regulation, to be an activity which is similar to, related to, or a substitute for any activity in which any business described in this paragraph is authorized to engage.” [31 USC § 5312\(a\)\(2\)\(Z\)](#) is “any other business designated by the Secretary whose cash transactions have a high degree of usefulness in criminal, tax, or regulatory matters” (which is a reference to the purpose of Bank Secrecy Act reporting, as set forth in [31 USC § 5311](#)).
- 40 Concern about a similarly intense political and legal fight is why Treasury Secretary Hank Paulson advised President Bush that they would take Fannie Mae and Freddie Mac into conservatorship by surprise, reassuring Bush that “the first sound they’ll hear is their heads hitting the floor.” See Paulson, Henry M., [On the Brink: Inside the Race to Stop the Collapse of the Global Financial System](#), United States: Grand Central Publishing, 2013, pp. 1.
- 41 See United States Senate, Permanent Subcommittee on Investigations, [Keeping Foreign Corruption out of the United States: Four Case Histories](#), 2010, pp. 6.
- 42 See Department of the Treasury and Department of Justice, “[The National Money Laundering Strategy](#),” September 1999; Department of the Treasury, “[National Terrorist Financing Risk Assessment](#),” June 2015.
- 43 See United States Congress, H.R.6395 - [National Defense Authorization Act for Fiscal Year 2021](#), December 2020, Sec. 6106.
- 44 See United States Congress, H.R.6395 - [National Defense Authorization Act for Fiscal Year 2021](#), December 2020, Sec. 6101.
- 45 See United States Congress, H.R.6395 - [National Defense Authorization Act for Fiscal Year 2021](#), December

- 2020, Sec. 6102.
- 46 See Testimony of Deputy Assistant Secretary of Defense Marshall Billingslea, [Strengthening Multilateral Non-Proliferation Regimes](#), Senate Committee on Government Affairs, July 29, 2002; Department of State, [Bio: Ambassador Marshall S. Billingslea, Special Presidential Envoy for Arms Control](#), April 10, 2020; Department of the Treasury, “[National Proliferation Risk Assessment](#),” December 2018.
- 47 See United States Congress, H.R.6395 - [National Defense Authorization Act for Fiscal Year 2021](#), December 2020, Sec. 6107.
- 48 See United States Congress, H.R.6395 - [National Defense Authorization Act for Fiscal Year 2021](#), December 2020, Sec. 6108.
- 49 See United States Congress, H.R.6395 - [National Defense Authorization Act for Fiscal Year 2021](#), December 2020, Sec. 6403(a).
- 50 See United States Congress, H.R.6395 - [National Defense Authorization Act for Fiscal Year 2021](#), December 2020, Sec. 6403(d); Valentina Pasquali, [EXCLUSIVE: Eleventh Hour Changes to Defense Bill Could Weaken CDD Rule](#), ACAMS, December 4, 2020.
- 51 See Oliver Bullough, [The Biden admin. wants to combat kleptocracy. It should start here.](#), Coda Oligarchy, December 2, 2020.
- 52 See FinCEN, [FinCEN Reissues Real Estate Geographic Targeting Orders for 12 Metropolitan Areas](#), Press Release, November 5, 2020.
- 53 See Financial Action Task Force, [United States’ measures to combat money laundering and terrorist financing](#), Paris, December 1, 2016, pp. 207-208; Department of the Treasury, “[Anti-Money Laundering Program Effectiveness](#),” Federal Register Vol. 85, No. 181, September 17, 2020, pp. 58025.
- 54 See Joshua Kirschenbaum and David Murray, “[An Effective American Regime to Counter Illicit Finance](#),” Washington: The Alliance for Securing Democracy, December 18, 2018, pp. 2.
- 55 See FinCEN, [FinCEN Proposes Regulatory Requirement for Financial Institutions to Report Cross-Border Electronic Transmittals of Funds](#), Press Release, September 2010.
- 56 See BBC, “[FinCEN Files: Tory donor Lubov Chernukhin linked to \\$8m Putin ally funding](#),” September 20, 2020.
- 57 See Oliver Bullough, [Blame politicians, not banks, for the FinCEN mess](#), Coda Oligarchy, September 23, 2020.
- 58 In fiscal year 2020, FinCEN began a multi-year hiring plan to increase its number of full-time equivalents from 300 to 337, and the administration’s FY2021 budget request projected 345. See U.S. Treasury Department, “[Congressional Budget Justification and Annual Performance Report and Plan for FinCEN](#),” FY 2021, pp. 4-5. The Canadian financial intelligence unit has 355 employees. See FINTRAC, “[Annual Report](#),” 2019-20. The Australian financial intelligence unit has 378 employees. See Australian Government, “[AUSTRAC Annual Report](#)” 2019-20.
- 59 According to sources, this deal was struck by the four corners in NDAA conference proceedings in order to bolster FinCEN’s staff and capabilities as a response to the FinCEN files. The manager’s statement noted, “recognizing the important role of FinCEN and the need to strengthen the bureau’s management and operations, the agreement adds 10 million to the bureau’s authorization.” The increase can be seen by comparing the annual authorization levels between the version of beneficial ownership legislation released by the Senate Banking Committee in June (including \$126 million in fiscal year 2021 and smaller amounts thereafter dedicated only to beneficial ownership) to the numbers in the final NDAA (starting with \$136 million in fiscal year 2021 and the other years also higher by \$10 million each). See United States Congress, S.Amdt.2198 to S.4049 - [AML Act](#), submitted June 25, 2020; United States Congress, H.R.6395 - [National Defense Authorization Act for Fiscal Year 2021](#), December 2020, Sec. 6509.
- 60 The two thirds statistic is calculated by assuming the thirty-seven employees each cost \$182,000, including benefits, which is the average based on a fiscal year 2020 personnel budget of \$54.6 million distributed among 301 employees. See U.S. Treasury Department, “[Congressional Budget Justification and Annual Performance Report and Plan for FinCEN](#),” FY 2021, pp. 4-5.
- 61 See U.S. Treasury Department, “[Congressional Budget Justification and Annual Performance Report and Plan for CFIUS](#),” FY 2020, pp. 4; U.S. Treasury Department, “[Congressional Budget Justification and Annual Per-](#)

- [formance Report and Plan for CFIUS](#),” FY 2021, pp. 4.
- 62 As of 2014, the U.S. dollar had a 51.9 percent share of the value of worldwide international currency usage. See SWIFT, “[Worldwide Currency Usage and Trends](#),” December 2015, pp. 7. The United States has a 21.4 percent share in the global total amount of cross-border financial services. See Tax Justice Network, “[Financial Secrecy Index - 2020 Results](#).”
- 63 The United States has been the target of malign finance operations more than 25 times in the past decade, more than any other country. See [Rudolph and Morley](#), 2020, pp. 65.
- 64 See Department of the Treasury, “[Anti-Money Laundering Program Effectiveness](#),” Federal Register Vol. 85, No. 181, September 17, 2020, pp. 58025.
- 65 See FinCEN, “[FinCEN’s IT Modernization Efforts](#),” September 2012.
- 66 See Amanda Macias and Jordan Novet, “[Pentagon says it will stick with Microsoft for \\$10 billion JEDI cloud contract](#),” September 4, 2020.
- 67 After subtracting the \$10 million annual boost added after the FinCEN Files, the NDAA authorized FinCEN budgetary authorizations of \$126 million for fiscal year 2021 (which simply represents the regular FinCEN budget, the same amount as in fiscal year 2020), \$50 million for fiscal year 2022, and \$25 million for each of fiscal years 2023 through 2026. The \$150 million for beneficial ownership is the summation of the amounts after fiscal year 2021 (excluding \$10 million from each year tied to the FinCEN Files). See United States Congress, H.R.6395 - [National Defense Authorization Act for Fiscal Year 2021](#), December 2020, Sec. 6509.
- 68 See United States Congress, H.R.6395 - [National Defense Authorization Act for Fiscal Year 2021](#), December 2020, Sec. 6107, 6210.
- 69 See Joshua Kirschenbaum and David Murray, “[An Effective American Regime to Counter Illicit Finance](#),” Washington: The Alliance for Securing Democracy, December 18, 2018, pp. 6.
- 70 See William F. Baity, “[1st Review of the Suspicious Activity Reporting System \(SARS\)](#),” Statement from the Acting Director, FinCEN, April 1998.
- 71 See FinCEN, [Advisory on the Risk of Proceeds of Corruption from Nicaragua](#), October 2018; FinCEN, [Advisory on Political Corruption Risks in South Sudan](#), September 2017; FinCEN, [Updated Advisory on Widespread Public Corruption in Venezuela](#), and May 2019; FinCEN, [Advisory on Human Rights Abuses Enabled by Corrupt Senior Foreign Political Figures and their Financial Facilitators](#), June 2018.
- 72 See FinCEN, [Advisory on Illicit Financial Schemes and Methods Related to the Trafficking of Fentanyl and Other Synthetic Opioids](#), August 2019; FinCEN, [Transactions Involving the Russian Federation](#), Advisory No. 25, July 2000; FinCEN, [Withdrawal: Transactions Involving the Russian Federation](#), Advisory No. 25A, November 2002.
- 73 See United States Congress, H.R.6395 - [National Defense Authorization Act for Fiscal Year 2021](#), December 2020, Sec. 6110; United States Senate, Permanent Subcommittee on Investigations, [The Art Industry and U.S. Policies that Undermine Sanctions](#), July 29, 2020.
- 74 See Anders Åslund and Julia Friedlander, [Defending the United States against Russian dark money](#), November 17, 2020, pp. 20; OCCRP, “[The Real-Life Laundromats](#),” September 24, 2019; United States Senate, Permanent Subcommittee on Investigations, [The Art Industry and U.S. Policies that Undermine Sanctions](#), July 29, 2020; Elaine K. Dezenski, [Below the Belt and Road: Corruption and Illicit Dealings in China’s Global Infrastructure](#), May 2020.
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- 78 See FATF and OECD, “[FATF Cracks down on Terrorist Financing](#),” Press Release, October 31, 2001.
- 79 See [Malinowski](#), 31:30.
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- 81 With special thanks, this proposed organizational approach and several aspects of its description draw extensively and directly from a separate and different recommendation to appoint a counselor to the Secretary for economic growth and climate. See Joseph Aldy, Tim Profeta, and Himamauli Das, [Climate 21 Project: Department of the Treasury Transition Memo](#), 2020.
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- 88 U.S. Department of the Treasury, "[United States Sanctions Human Rights Abusers and Corrupt Actors Across the Globe](#)," Press release, December 21, 2017; U.S. Department of the Treasury, "[Treasury Sanctions Corruption and Material Support Networks](#)," Press release, December 9, 2019; U.S. Department of the Treasury, "[Treasury Sanctions Members of a Significant Corruption Network in South Africa](#)," Press release, October 10, 2019; U.S. Department of the Treasury, "[Treasury Sanctions Corrupt Actors in Africa and Asia](#)," Press release, December 9, 2020.
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- 93 See [G8 L'Aquila Summit](#), 2009; [Biden](#), 2020.
- 94 See International Monetary Fund, [IMF Board Discusses the Fund's Intensified Involvement in Anti-Money Laundering and Combating the Financing of Terrorism](#), Public Information Notice, November 16, 2001.
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