

Written testimony of

Ambassador Robert M. Kimmitt
Senior International Counsel, WilmerHale

Before the U.S. House of Representatives Financial Services Committee
Task Force to Investigate Terrorism Financing

“Helping the Developing World Fight Terror Finance”

March 1, 2016

Mr. Chairman, Mr. Vice Chairman, Ranking Member Lynch, members of the Task Force,

Thank you for this invitation to appear and, moreover, for your in-depth look at this important topic. On a personal note, it is a particular pleasure to appear before Vice Chairman Pittenger and Mr. Kildee, with whom I welcomed back our hostages from Iran when they arrived in Landstuhl, Germany, in January, and also Ranking Member Lynch, with whom I attended the Munich Security Conference last month.

You have heard from many experts in this field, and my fellow panelists today will contribute significantly to the depth of your efforts. I thought, then, I might make a few broader observations to start our discussion:

- First, ISIS and other enemies who use illicit financial flows to support terrorism against the United States and its allies are smart, creative, and adaptable. The world's financial system, once entered, provides a borderless, near seamless opportunity for our enemies to use the system to fund insidious operations designed to inflict near- and long-term harm on the United States. We must, therefore, be equally smart, creative, adaptable, and especially well coordinated in protecting that system and defending it against abuses.
- Second, in forty years of working at senior levels of government, I have learned that the vast majority of high-level attention to an issue goes into the passage of legislation or the making of a policy decision. Far less attention is paid by principals to the crucial task of implementation of laws and policies, and that is why your bipartisan, detailed look at terrorism finance is so unusual and so important.
- Third, we will succeed in our efforts to impede terrorism and other illicit financial flows only with a "whole of governments" approach. I stress governments, plural.

Let me use the remainder of my brief statement to make some observations and recommendations on point 3 – a whole of governments approach:

1. The host governments with whom we work to provide technical assistance and other support in the fight against illicit finance must be full partners in the effort. If they believe that the international community is simply and paternalistically imposing a program on them, that program will never have sustained success. And one size does not fit all – each country program will

have a common core but also unique local features. That is where technical assistance is so important.

2. U.S. leadership is vitally necessary, but never entirely sufficient. In addition to working with host countries, we must also enlist friends, allies, and even competitors like Russia and China to join us in this fight. Where possible, a UN Security Council Resolution should be passed to lay the most effective international foundation for common efforts, since both countries and international organizations like the World Bank more quickly allocate priority and resources to UN-mandated missions. Where a UN Resolution cannot be agreed, we should look to negotiate International Compacts – as we did in Afghanistan and Iraq – whereby post-conflict and other fragile countries receive assistance but only in return for meaningful commitments on their part, including, crucially, assigning priority to safeguarding their financial systems from abuse.
3. For the United States to be the leader it must be, we need to ensure that we work as one government in this existential fight against terrorists and their financiers. Our national security today is as much about commerce and finance as it is about diplomatic and military capabilities, and each of the critical agencies – State, Treasury, Defense, Justice, and DHS – must work closely together on an interagency basis under the direction of the National Security Council and with the support of the Intelligence Community.

The interagency meetings at which counterterrorism efforts are coordinated and effected are not just in the White House Situation Room and elsewhere in Washington; they also take place at embassies and military commands

around the world. We need to ensure, then, that not only agencies in Washington but also their overseas posts have individuals identified to ensure counterterrorism efforts are a priority both at home and abroad.

When Clay Lowery and I were colleagues in government, we increased from 3 to 24 the number of U.S. embassies that had assigned Treasury attachés. We also moved Treasury officers to military commands and brought military officers into Treasury to support the effort to counter terror finance. One question you should ask as your effort continues is whether, in developing countries of particular concern, Treasury – as the U.S. Government lead – has representation at the U.S. embassy in that country. If not, who in the embassy has the lead on countering terrorism finance and how often does she or he meet with the Ambassador and country team to ensure both priority attention and interagency coordination? Again, the best laid of Washington plans can founder in the absence of attention to implementation, both at home and especially abroad.

One last point: it is very important to have a close partnership with the private sector in seeking to make this whole of governments approach effective. As we work with U.S. and overseas financial institutions toward our common goal of safeguarding the global financial system, let us not forget the law of unintended consequences. If we so harshly regulate banks that they withdraw services from post-conflict and other developing countries that are ideal breeding grounds for terrorists and their financiers, we will drive the work of these financiers into the shadows – unregulated and informal financing networks that are difficult to both track and disrupt. We must expect banks to be held to high standards in this area,

but not set the bar so impossibly high that the only rational business decision is to withdraw. In addition to feeding the parlous economic conditions that give rise to terrorists, withdrawal of financial services, sometimes called de-risking, will make it even harder to succeed in the effort you are so diligently pursuing to fight terror finance.

Thank you again for this opportunity to appear, and I look forward to our discussion, both today and beyond.