

United States House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, D.C. 20515

March 22, 2021

Memorandum

To: Members, Committee on Financial Services
From: FSC Majority Staff
Subject: March 25, 2021, NSIDMP hearing entitled, “Ending Exploitation: How the Financial System Can Work to Dismantle the Business of Human Trafficking”

The Subcommittee on National Security, International Development, and Monetary Policy will hold a hearing entitled, “Ending Exploitation: How the Financial System Can Work to Dismantle the Business of Human Trafficking” on Thursday, March 25, 2021, at 12:00 PM Eastern Daylight Time on the virtual meeting platform Cisco Webex. There will be one panel with the following witnesses:

- **Ambassador Luis C.deBaca**, Senior Fellow in Modern Slavery and Visiting Lecturer in Law, Yale University Law School; Former U.S. Ambassador-At-Large to Monitor and Combat Trafficking in Persons
- **Rev. Dr. Marian Hatcher**, U.S. Representative, SPACE International
- **Barry M. Koch**, Founder and Owner, Barry M. Koch PLLC; Commissioner, Liechtenstein Initiative
- **Laila Mickelwait**, Founder, Traffickinghub movement; President, Justice Defense Fund
- **Dr. Louise Shelley**, Omer L. and Nancy Hirst Endowed Chair, George Mason University. Director, Terrorism, Transnational Crime and Corruption Center (TraCCC)

The Breadth and Reach of Human Trafficking

Human trafficking is defined by the Financial Crimes Enforcement Network (FinCEN) as “the act of recruiting, harboring, transporting, providing or obtaining a person for forced labor or commercial sex acts through the use of force, fraud or coercion.”¹ This exploitation touches every geographic corner and economic strata of the U.S. and beyond.² Proceeds of the human trafficking business – which includes sexual exploitation, forced labor (often involving global supply chains or recruitment into military service), domestic servitude, and even organ trafficking³ – are valued at more than \$150 billion per year,⁴ with more than 25 million trafficking victims worldwide.⁵ Although human trafficking is distinct from human smuggling, trafficking victims may start as

¹ Guidance on Recognizing Activity that May be Associated with Human Smuggling and Human Trafficking – Financial Red Flags FinCEN, (Sep 11, 2014)

² 7 Things You May Not Know About Human Trafficking, and 3 Ways To Help Catholic Relief Services (Accessed Mar 8, 2020)

³ AML Conversations: Christina Bain - Combating Organ Trafficking, AML RightSource (Nov 8, 2019)

⁴ Transnational Crime is a \$1.6 trillion to \$2.2 trillion Annual “Business”, Finds New GFI Report, Global Financial Integrity, (Mar 27, 2017)

⁵ Cracking The \$150 Billion Business Of Human Trafficking, Forbes (Feb 2, 2020)

vulnerable migrants whose traffickers use their smuggling-related debts or unlawful immigration status as tools of duress.⁶

While human trafficking is most often local to a victim's community or nation, it can cross borders and have global security implications.⁷ Violent and armed extremist groups, such as the Islamic State and Boko Haram, use trafficking in persons to gain troops, finance operations, intimidate, and cause local and regional instability.^{8, 9} Permissive governments and corrupt officials benefit monetarily by facilitating such trade. Human trafficking is especially profitable for transnational criminal organizations, which earn income from the movement and sale of persons, one-third of whom are children.¹⁰ Moreover, there is a clear nexus between human trafficking and other types of criminal activity, such as the multi-billion dollar transnational trades in illicit tobacco¹¹ and narcotics, where trafficked persons and illicit products move along the same supply routes.¹² This convergence is seen in Office of Foreign Assets Control (OFAC) designations for transnational organized crime, drug kingpin, human rights, and corruption sanctions programs against those who threaten U.S. security interests.¹³

Financial Aspects of the Human Trafficking “Business”

These illicit networks, both transnational and domestic, frequently operate as businesses, with staff and contractors who manage costs for inputs (including recruitment or abduction of victims), marketing of services, and “supply chain” (i.e., the travel costs and facilitation required to move their victims to the buyers).¹⁴ They also have needs to manage money, including the repatriation or laundering the proceeds of their crimes. It is these financial aspects that allow financial institutions (FIs) and investigators to see into the structure of human trafficking operations, enabling detection, prosecution, and ideally, the dismantlement of the network itself.

Among the hallmarks of finance-related activities seen in human trafficking networks:

Front companies: Human traffickers commonly hide their operations and launder proceeds through businesses which mix licit and illicit proceeds. These front companies are often service-oriented or use manual labor and of a type which might have frequent cash transactions, such as restaurants, hotels, massage parlors, bars, and salons. These businesses are also the type where the presence of trafficking victims as employees or hidden within the business establishment would not raise alarm. Their business activities, however, may not be normal for the industry.

⁶ [Guidance on Recognizing Activity that May be Associated with Human Smuggling and Human Trafficking – Financial Red Flags](#), FinCEN (Sep 11, 2014)

⁷ J Bigio, R Vogelstein, [The Security Implications of Human Trafficking](#), Council on Foreign Relations (Oct 2019)

⁸ A Babatunde, [Human trafficking and transnational organized crime: Implications for security in Nigeria](#), *Peace Research* (2014)

⁹ J Bigio, [Human Trafficking and Slavery Help Finance Terrorists and Earn Them Strategic Advantage](#), *Foreign Policy* (Jan 31, 2020)

¹⁰ Page 10, [Global Report on Trafficking in Persons, 2018](#), UNODC (2018)

¹¹ [The Global Illicit Trade In Tobacco: A Threat To National Security](#), U.S. Department of State (Dec 2015)

¹² J Forget, [Violent drug organizations use human trafficking to expand profits](#), Drug Enforcement Administration (Jan 28, 2021)

¹³ [Treasury Sanctions the Zhao Wei Transnational Criminal Organization](#), U.S. Department of Treasury (Jan 30, 2018); [Treasury Sanctions Individuals and Companies Associated with Japan’s Major Organized Crime Syndicate, the Yakuza](#), U.S. Department of the Treasury (Oct 2, 2018); [Treasury Designates Dominican Republic-Based Peralta Drug Trafficking Organization Under the Kingpin Act](#), U.S. Department of the Treasury (Aug 20, 2019)

¹⁴ P Campana, [The Structure of Human Trafficking: Lifting the Bonnet on a Nigerian Transnational Network](#), *The British Journal of Criminology*, Volume 56, Issue 1, Pages 68–86 (Jan 2016)

“Gatekeepers” such as lawyers, accountants, notaries, real-estate brokers, and other third-party money launderers¹⁵ “facilitate corrupt transactions and...create the necessary infrastructure to pursue their illicit schemes, such as creating shell corporations, opening offshore bank accounts in the shell corporation’s name...creating front businesses for their illegal activity...[and] “launder” or convert their illicit profits into legitimate funds.”¹⁶

Exploitative employment: In addition to outright detention and modern slavery,¹⁷ victims may be lured by offers of seemingly legitimate employment and then exploited by traffickers who withhold or siphon wages; charge exorbitant fees; and deny victims access to their identity and travel documents. Positions may be fake, with victims joining the trafficker willingly, only to be sold or forced to do labor or sex work on the trafficker’s behalf.¹⁸ Positions may also be legitimate, such as in the construction, fishing, or agriculture industries, but include deception, isolation, restricted movement, violence, and no or low pay.¹⁹

This fraud, force, and coercion may be visible to the FIs which service the trafficker’s business or the victim’s trafficker-controlled accounts. These businesses may pay salaries to a number of employees not typical of the industry or may make wage payments for different employees into a single account or to multiple accounts bearing matching addresses, phone numbers, or custodians. Wages may also be withdrawn from employees’ accounts as soon as the funds are deposited.

Alternative payment methods: While cash transactions and bulk cash smuggling are central to the human trafficking industry, the use of alternative forms of payment are common for all phases of the trafficking supply chain.²⁰ Prepaid cards may be used to recruit victims or to receive and transfer payment from the buyers. Mobile payments and credit cards may be used to pay for inputs like travel and hotel rooms or to receive payment for services and subscriptions to websites with exploitative content. There is evidence human traffickers and consumers of sexually exploitative material are increasingly adopting the use of cryptocurrencies,²¹ though most of these transactions continue to be conducted through traditional financial means.²²

Funnel Accounts: Funnel accounts to fund operations and move proceeds are another hallmark of human trafficking. These accounts take advantage of a FI’s national or international network of branches by funneling multiple cash deposits into an account at one branch location and withdrawn from the same account in another bank location.²³ The owner of a funnel account is typically a stand-in for the money launderer, and with human trafficking, is often a trafficking victim who has been coerced into participating in the associated financial crime.²⁴ Further, the

¹⁵ J Carter, *FATF Report: Professional Money Laundering and Related Threats* Ballard Spahr, LLP (Aug 7, 2018)

¹⁶ *Strategy to Combat Transnational Organized Crime*, National Security Council (Jul 25, 2011)

¹⁷ *Free Uyghurs from forced labor in China* Freedom United (Accessed Mar 18, 2021)

¹⁸ *Leader of Human Trafficking Organization Sentenced to Over 15 Years for Exploiting Guatemalan Migrants at Ohio Egg Farms* U.S. Department of Justice (Jun 27, 2016)

¹⁹ J Liew, *World Cup 2022: Qatar's workers are not workers, they are slaves, and they are building mausoleums, not stadiums*, The Independent (Oct 3, 2017)

²⁰ *Supplemental Advisory on Identifying and Reporting Human Trafficking and Related Activity*, FinCEN (Oct 15, 2020)

²¹ *FBI Expects a Rise in Scams Involving Cryptocurrency Related to the COVID-19 Pandemic* FBI (Apr 13, 2020)

²² B. Monroe, *Special ATII Report: Crypto transactions and human trafficking – A non-traditional investigation perspective for traditional financial institutions*, Association of Certified Financial Crime Specialists (Dec 9, 2020)

²³ ICE Cornerstone Report, *Interstate Funnel Accounts – Raising the Money Off The Streets* (Winter 2014)

²⁴ *Supplemental Advisory on Identifying and Reporting Human Trafficking and Related Activity*, FinCEN (Oct. 15, 2020)

victim's identity, including social security number and passport, may have been co-opted by the trafficker to fraudulently open accounts, gain access to credit, and accrue debt.²⁵

This tactic, however, offers FIs a vantage point from which they can identify human trafficking. FIs are required to look for evidence of human-trafficking-related financial crime, for example, a pattern of structured transactions below currency transaction and suspicious activity reporting thresholds which indicate money laundering.²⁶ Additionally, because victims may be sent into bank branches on behalf of the trafficker, FinCEN,²⁷ non-governmental organizations,²⁸ and industry²⁹ encourage FIs to train staff to recognize when a customer may be a trafficking victim.

Empowering Survivors

Restoring survivors' status after financial ruin caused by their traffickers plays a significant role in ending the cycle of abuse.³⁰ Without proactive support, it can be difficult for survivors, whose credit and identities have been misappropriated and damaged, to secure employment or shelter. Lacking identification, such as a birth certificate or driver's license, they face hurdles in accessing the banking system³¹ and navigating services to access benefits and restore identities.³²

Online Exploitation

Human traffickers have shifted parts of their operations online to expand access to victims and buyers, reduce costs, and evade scrutiny. They have also adapted how they sell their victims' services, via content-streaming sites, communications apps, and other social media platforms. This exploitation has worsened during the COVID-19 pandemic as potential victims, especially children and people experiencing isolation and economic difficulty, spend more time online.³³

Online, traffickers reduce risks and costs associated with transporting victims across borders and can generate higher revenue through larger audiences. With real-time video broadcasting, traffickers no longer need their victims to be in the same space, or even the same country, as their potential buyers. Representative of only a small slice of the illicit trade, in 2020, Facebook and its subsidiaries alone reported 21.4 million pieces of child sexual abuse material (CSAM).^{34,35}

Even if a photo or video is flagged and removed, copies of the exploitative content remain circulating online, and the companies that host the abusive content profit from their refusal or

²⁵ [Financial Flows from Human Trafficking](#) Financial Action Task Force (Jul 2018)

²⁶ "Structuring" [AML Glossary of Terms](#) ACAMS.org (Accessed Mar 7, 2021)

²⁷ See "Behavioral Indicators," Page 6. FinCEN Advisory, [Supplemental Advisory on Identifying and Reporting Human Trafficking and Related Activity](#), FIN-2020-1008 (Oct 15, 2020)

²⁸ [Human Trafficking and the Financial Services Industry](#), Polaris (Jul. 2018)

²⁹ [ABA Launches New Training to Help Bankers Detect Human Trafficking and Human Smuggling](#). American Bankers Association (Jan 28, 2020)

³⁰ See the [Survivor Inclusion Initiative](#), Liechtenstein Initiative (Accessed Mar. 17, 2021); [Restorative Development](#), Shared Hope International (Accessed Mar. 17, 2021)

³¹ [Combating Human Trafficking](#) U.S. Department of the Treasury (Jan 29, 2020)

³² [The Path to a Sustainable Recovery for Trafficking Survivors](#) Thorn (Jan 30, 2018)

³³ [EXPLOITING ISOLATION: Offenders and victims of online child sexual abuse during the COVID-19 pandemic](#), EUROPOL (Jun 19, 2020) ; [FBI Expects a Rise in Scams Involving Cryptocurrency Related to the COVID-19 Pandemic](#), FBI (Apr 13, 2020); L Wagner, T Hoang [Aggravating circumstances: How Coronavirus Impacts Human Trafficking](#), GI-TOC (Jun 2, 2020)

³⁴ [2020 Reports by Electronic Service Providers \(ESP\)](#), National Center for Missing and Exploited Children (2021)

³⁵ [Preventing Child Exploitation on Our Apps](#), Facebook (Accessed Mar 12, 2021)

inability to address the crimes committed through their platforms.³⁶ For example, popular pornography website Pornhub and its parent company MindGeek, attract 3.5 billion hits per month (more than Netflix or Amazon) and generate ad revenue and marketing fees from almost 3 billion ad impressions per day as well as through subscription and processing fees and the sale of user data.^{37, 38} Human trafficking survivors and sexual exploitation advocacy groups have long called for better oversight by Pornhub and other platforms in countering the overt uploading, sharing, and downloading of rape, sexual abuse, and exploitation of men, women, and children on their sites.³⁹ After a December 2020 *New York Times* investigation, Pornhub began to institute basic age and address verification requirements for buyers and content producers.⁴⁰ Notably, this occurred only after payment processors Visa and Mastercard also decided to block customers from using their credit cards through Pornhub's websites.⁴¹

Legislation

- **H.R. 808, End Banking for Human Traffickers Act of 2021 (Fitzpatrick/Maloney)**, would add the Secretary of the Treasury as a member of the President's Interagency Task Force to Monitor and Combat Trafficking, require it to submit to Congress recommendations for the revision of AML programs to target severe forms of human trafficking.
- **H.R. 1155, Uyghur Forced Labor Prevention Act. (McGovern)**, would ensure that goods made with forced labor in the Xinjiang Uyghur Autonomous Region of the People's Republic of China do not enter the U.S. market, and for other purposes.
- **H.R. ___, Uyghur Forced Labor Disclosure Act (Wexton/Sherman)**, would amend the Securities Exchange Act of 1934 to require issuers to make certain disclosures relating to the Xinjiang Uyghur Autonomous Region, and for other purposes.
- **H.R. ___, Restoring Unfairly Impaired Credit and Protecting Consumers Act (Tlaib)**, would revise requirements regarding consumer credit information included by a consumer reporting agency on a credit report, including by establishing the right for financial-abuse victims to have adverse information about an abuser's fraudulent activity removed from their consumer reports.
- **H.R. ___, Including of Tribal Governments and Territories in the National Money Laundering Strategy Act** would mandate the inclusion of Tribal and Territory officials in the national money laundering and related financial crimes strategy.
- **H.R. ___, Treasury Human Trafficking Coordinator Act**, would require the Secretary of the Treasury to designate a Coordinator for Human Trafficking Issue
- **H.R. ___, Organ Trafficking and SARs Form Act** would require FinCEN to issue guidance that organ trafficking is considered a type of human trafficking for SARs forms.

³⁶ [Woman whose life was upended by child porn video testifies about Pornhub at ethics committee](#), Global News (Feb 1, 2021)

³⁷ N Kristof, [The Children of Pornhub](#), New York Times (Dec. 4, 2020)

³⁸ [Pornhub.com Site Info](#), Alexa statistics (Accessed Mar 12, 2021)

³⁹ *Id.*

⁴⁰ N Kristof, [The Children of Pornhub](#), New York Times (Dec. 4, 2020)

Most payment processors do not have the same anti-money laundering (AML) compliance mandates as other FIs and are not required to look for and report instances of human trafficking and financial crime. They are treated as "rails" and are not expected to look at the customer or the content of the transactions; that responsibility is left to the FIs to or from which the transactions travel. FFIEC Examination Manual (Accessed Mar 14, 2021)