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COUNTERING RUSSIA: FURTHER ASSESSING OPTIONS FOR SANCTIONS

HEARING

BEFORE THE

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS UNITED STATES SENATE

ONE HUNDRED FIFTEENTH CONGRESS

FIRST SESSION

ON

CONTINUING EXAMINATION OF EXISTING RUSSIAN SANCTIONS

APRIL 27, 2017

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COUNTERING RUSSIA: FURTHER ASSESSING OPTIONS FOR SANCTIONS

THURSDAY, APRIL 27, 2017

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC.

The Committee met, at 10:04 a.m., in room SD–538, Dirksen Senate Office Building, Hon. Mike Crapo, Chairman of the Committee, presiding.

OPENING STATEMENT OF CHAIRMAN MIKE CRAPO

Chairman CRAPO. The hearing will come to order.

This morning, the Committee will receive testimony on the smart use of sanctions to counter Kremlin military incursions in Ukraine, Syria, and its increased reliance on cyber warfare against many nations.

The Committee met 6 weeks ago to begin an inquiry into the effectiveness of the United States sanctions regime imposed 3 years ago against the Russian Federation for its invasion of Crimea, continuing violence and interference in the Ukraine, and cyber intrusions against the United States.

At that hearing, we learned that, alone, United States-imposed targeted sanctions have had a somewhat limited impact on the economy of the Russian Federation. That impact was magnified by the combined effect of sanctions imposed by other Western nations coupled with the severe drop in world oil prices.

It was less clear, however, if the existing sanctions were affecting any change in the aggressive geopolitical calculations that President Putin continues to make.

Some analysts say that the economic sanctions have had a deterrent effect on Putin pushing even farther into Ukraine territory, and that is a good start.

Others look to Putin's continued actions in the Ukraine and Syria in the weeks since this Committee last met and conclude that we should target additional sanctions on the Russian Federation. Despite existing U.S. and Western sanctions, Putin has not shown any intention to cease his aggressive behavior.

For the Committee, today's inquiry is not about punishing the people of the Russian Federation but, rather, those responsible for Russia's misbehavior.

The goal now is to transform the initial, limited application of financial leverage into the next step of what must become a general campaign to impose real costs that impact Putin's ability to conduct hostile activities in an already troubled world.

A good starting point might include a codification of existing Executive orders and a deepening and broadening of sanctions in certain economic sectors, addressing cyber activity and financial corruption, and making mandatory certain existing discretionary sanctions.

Vital in all of this is harmonizing the conditions to lift sanctions so that if Putin were to try to reverse course, overlapping or misdirected sanctions would not defeat the potential for meaningful change in Kremlin policy.

Since sanctions were first imposed 3 years ago, the Obama administration, the U.S. Congress, and now the Trump administration have been prepared to impose additional sanctions as circumstances warrant or until Putin follows through with his commitments to the Minsk cease-fire agreement. In fact, several rounds of new designations have been implemented under existing sanctions laws over the last 3 years.

Make no mistake, these sanctions currently in place, and those that may yet come, are Putin's fault and a result of Putin's confused notions of Russian power and pride. Putin is not defending the interests of his people but exploiting opportunities to seize neighboring lands by fomenting disorder and seeking to perpetuate Mideast conflict to advance Russia's military influence.

America must lead on the issue since the most successful sanctions result from a united front of the United States and EU cooperation.

Since the unlawful annexation of the Crimea, the years of destabilizing Eastern Ukraine through relentless war, the global spread of cyber intrusions, and Putin's indefensible support of Assad's leadership of Syria, particularly in light of the recent chemical attack, fewer are left in Europe to defend Putin's policies.

The European Union must ask itself if it is prepared to join the United States to take the necessary financial actions in the foreseeable future to deny Putin the resources he needs to take whatever his next steps may be.

The last thing the European Union, the United States, or this Congress can be is divided in the face of Putin's uncertain path. The times call for clarity of purpose and a correct amount of pressure.

I thank our witnesses for coming here today to help the Committee understand what a next course of action might look like, what the repercussions of taking such actions might look like, and how even those may be mitigated.

Senator Brown.

STATEMENT OF SENATOR SHERROD BROWN

Senator BROWN. Thank you, Mr. Chairman, for calling this second important Committee hearing on Russian sanctions. I appreciate your willingness to explore how the current U.S. and multilateral sanctions regime is working and next steps to strengthen it while preserving unity among our allies.

Mr. Poncy, welcome to our Committee. Ambassador Burns, good to see you again. Thank you for your public service.

As witnesses underscored in the last hearing, U.S.-EU unity is critical if multilateral sanctions on Russia are to continue to be

effective. In our last hearing, witnesses discussed how Congress has worked together on a bipartisan basis to craft the current U.S. sanctions regime and to hold Russia accountable for its aggressive activity. This encompasses Russia's violations of international law and of the territorial integrity of Ukraine, including its illegal annexation of Crimea, its role in the brutal repression in the war in Syria, and the Assad regime's recent gassing of its own people and its cyber attacks on the United States, including on the U.S. financial system and on our elections.

In the last hearing, witnesses also outlined their ideas on ways to strengthen the current sanctions in response to Russian aggression. We should focus today on the broader strategic questions, including on what the Committee might do to strengthen our response to Russia, and for its continuing efforts to destabilize states in Europe and beyond. We should talk about what the Administration should be doing now on this front.

Russia's interference in our election, confirmed unanimously by the U.S. intelligence community in a declassified report issued in early January, as we all know and recognize, poses a problem that goes far beyond foreign policy and strikes at the core of our democracy. It should not be a partisan issue. As their joint report made clear, there was no disagreement within the U.S. intelligence community about the Russian role, and it noted that similar efforts would likely be undertaken by Russia against U.S. allies and others. It is clear that it is happening in European elections now as Russia intervenes to bolster extreme anti-democratic forces there.

Just this week, we see reports of cyber attacks against one of the French Presidential candidates, attacks that look very similar to the Russian attacks and disinformation efforts in our election last year. The same reportedly happened in the German elections. Earlier this week, we read of Russia's attacks on Danish military computer systems over the last couple of years.

It is not subtle. It is a blatant, unprecedented attack on Western governments and on democracies. While we have started to impose sanctions for Russia's cyber attacks, we have not yet fully responded to these challenges. Congress must look backward, as various committees are doing, to determine and describe precisely what happened. But we must also look forward, strengthening our election processes and cyber systems to prevent future interference and imposing strengthened sanctions to deter the Russians from future activity like this.

We should be clear-eyed. The Ukrainian community in my State and around the world knows firsthand, like our Baltic NATO allies Latvia, Lithuania, and Estonia, they know firsthand the dangers of unchecked Russian aggression. The recent escalation of violence by Russian-backed separatists in Eastern Ukraine, the lack of a consistent policy to deter further Russian aggression, those acts are dangerous.

It seems clear from the surge of violence in recent months that Russia and its allies are testing our resolve. We must leave no doubt that Russia must comply with the Minsk agreement. Until it does, Russia deserves no sanctions relief for the conflict it created.

We should strengthen not weaken sanctions, and the President must work with Congress on a principled, bipartisan Russia policy that firmly counters this aggressive behavior.

We are joined by two people today, Mr. Chairman: an accomplished former senior career diplomat who has held important positions in Republican and Democratic Administrations, and a former Treasury official and sanctions expert who will help us assess where we are and what effects the current sanctions regime is having on Russia's economy and behavior. We will discuss how stricter sanctions enforcement, how closing loopholes, how strengthening statutory requirements where appropriate, and how taking other measures can send a clear and unambiguous signal of U.S. resolve to deter future Russian aggressions.

I welcome our witnesses. Thank you.

Chairman CRAPO. Thank you very much, Senator Brown.

Before I introduce the witnesses, I again want to remind the Members of the Senate Committee that we want to be very careful about the 5-minute rule. I will try to remind you if you forget. And that is also a reminder to the witnesses. We ask you each to keep your testimony to 5 minutes. Your full statements will be included in the record, and you will have ample opportunity to respond to questions as well.

First among our witnesses we will receive testimony from Ambassador Nicholas Burns, who is the Roy and Barbara Goodman Family Professor of the Practice of Diplomacy and International Relations—that is a long title, and I am not done yet—at the Harvard Kennedy School of Government. And he is a 27-year veteran diplomat at the United States Department of State.

Next we will hear from Mr. Chip Poncy, who is the President and Co-Founder of the Financial Integrity Network and Senior Advisor at the Center on Sanctions and Illicit Finance at the Foundation for Defense of Democracies. Another long one. Mr. Poncy was also a Senior Advisor at the U.S. Treasury Department's Office of Terrorism and Financial Intelligence.

To both of you, we welcome you here, and you may begin, Mr. Burns.

STATEMENT OF R. NICHOLAS BURNS, ROY AND BARBARA GOODMAN FAMILY PROFESSOR OF DIPLOMACY AND INTERNATIONAL RELATIONS, HARVARD UNIVERSITY, JOHN F. KENNEDY SCHOOL OF GOVERNMENT

Mr. BURNS. Mr. Chairman, thank you. Ranking Member Brown, Members of the Committee, thank you very much for this invitation to be with you. I will try to be very brief. You have my full testimony.

Mr. Chairman, I would start by saying that Russia is the most dangerous adversary that the United States has in the world today, and I think that is pretty much agreed by most national security experts. And President Putin has used the power of the Kremlin to undermine America's global interests in the Middle East and Europe and around the world. He launched a deliberate assault on the heart of our democracy, designed to discredit the American Presidential elections in 2016. Russia is actively contesting the democratic peace that we established 25 years ago with our allies

and the people of Eastern Europe to create this peaceful, democratic, united Europe. That was the great victory at the end of the cold war.

During the last 8 years, Putin has invaded Georgia and Eastern Ukraine and divided both countries. He invaded, occupied, and then annexed Crimea, and no European leader had annexed another country's territory since the Second World War. He has kept Moldova divided, and he has sought to undermine the internal stability—and you mentioned this, Senator Brown mentioned it—of Estonia, Latvia, and Lithuania.

So, essentially, Putin has redivided Europe on a dotted line from the south and west of the Russian Federation, and that is a serious strategic challenge to the United States and to our European allies.

I just returned from France last evening, and I would just repeat some of what Senator Brown said. Many leaders in the Netherlands and France and Germany are convinced that the Russian government is intervening right now in their elections, in this three-tiered election in Europe in 2017. He is attempting to do to them what he did to us: discredit, disrupt, and possibly alter the results of democratic elections in Europe as well as in our country.

This is a blatant, unprecedented, and deadly serious attack on democracy, and that is why we need a vigorous bipartisan investigation by the Senate and House Intelligence Committees and, of course, an investigation by the FBI. And if bipartisan investigations in Congress are not possible, then the President and Congress should agree to form a bipartisan commission to study this issue, investigate, and report to the American people.

Sanctions are one of the most important instruments we have to contain Russian power and eventually—and this may take quite a long time—roll back Putin's territorial aggression. That is why I support continuing without exception our current sanctions on Russia and Ukraine.

I also recommend that Congress should consider a strong and unmistakable response, additional sanctions against Russia, following its interference in our elections. This is the only leverage, toughness, that President Putin understands.

President Trump's response to Russian interference in the elections, however, has been extremely disappointing. I would say it has been weak. President Trump has repeatedly questioned the judgments of both the FBI and the intelligence community about Russia's attempt to undermine our elections. He has taken no initiative of his own to have the executive branch investigate these allegations. He has failed even to criticize President Putin in clear and harsh terms on this or any other issue, including Ukraine.

I have worked, as you noted, for three American Presidents on the Russia issue: President George H.W. Bush, President George W. Bush, and President Bill Clinton. I cannot imagine any of President Trump's predecessors since the Second World War failing to act swiftly to let Russia know how unacceptable these actions are to the American people and to our Government. But that is the unfortunate reality with President Trump's administration, and it is why Congress must now take the lead on the sanctions issue on a bipartisan basis, because our national security depends on it.

The American, Canadian, and European sanctions are having a negative impact on the Russian economy—not decisive, Mr. Chairman, as you noted, but they are an effective way to isolate and to shame and pressure the Russian government. Sanctions alone cannot contain Russian power, but we know that they can act in concert with other measures. We can provide lethal military support to Ukraine. We can make permanent the stationing of NATO forces in Poland and the Baltic States. We can rebuild the strength of the United States military in Europe. As the Congress funded in 2016, that package of initiatives to strengthen the U.S. military in Europe with the sanctions can help over the longer term to contain President Putin.

So much depends on what Congress will do, and thank you for the honor of testifying today.

Chairman CRAPO. Thank you, Ambassador Burns.

Mr. Poncy.

STATEMENT OF CHIP PONCY, PRESIDENT AND CO-FOUNDER, FINANCIAL INTEGRITY NETWORK, AND SENIOR ADVISOR, FOUNDATION FOR DEFENSE OF DEMOCRACIES' CENTER ON SANCTIONS AND ILLICIT FINANCE

Mr. PONCY. Thank you, Mr. Chairman.

Chairman Crapo, Ranking Member Brown, distinguished Members of the Committee, thank you for inviting me to testify here today. It is truly an honor. And it is an honor to testify alongside a career diplomat and distinguished public servant, Mr. Ambassador Nicholas Burns.

I was extraordinarily privileged to serve at the United States Department of the Treasury for 11 years following the terrorist attacks on 9/11. I worked with an extraordinary group of individuals across the Government, the private sector, and allied governments to develop sanctions policies and financial and economic authorities to protect our national collective security.

With bipartisan leadership across the Congress and four Administrations, we further developed and institutionalized financial and economic power as an increasingly important component of our foreign policy and our national security.

I have continued to focus on this work in the past 4 years with an extraordinary group of colleagues at the Financial Integrity Network and the Center on Sanctions and Illicit Finance. These experiences inform the recommendations in my written testimony, which focuses on specific sanctions-related steps that the Congress can take to protect our national collective security moving forward.

However, it is critical at the outset to recognize that sanctions cannot be effective in isolation. To be effective, sanctions policy should be crafted within a broader strategy—a strategy that incorporates regulatory, diplomatic, law enforcement, intelligence, military, and positive economic power in pursuit of clear national security and foreign policy objectives.

Moving forward, there are steps that we can now take to do this, and with a unified approach to a broader strategy in pursuit of clear objectives, these steps can include sanctions against dangerous, illicit, and aggressive actions taken by the Russian Government.

Many of these steps are consistent with those set forth in the Senate bill proposing the Counteracting Russian Hostilities Act of 2017. I will take a minute to review these.

First, Congress should prioritize targeted sanctions against illicit conduct by the Russian leadership. This includes calling for the establishment of a Russian Counter-Illicit Financing Task Force dedicated to tracing, mapping, tracking, sanctioning, and prosecuting illicit flows from Russian leadership that touch our financial system. Such a task force should also work with allied governments to similarly track and trace illicit flows abroad.

Congress should also codify, consolidate, and expand existing sanctions authority to specifically target Russian leadership engaged in illicit conduct, including conduct that, with respect to any state, undermines democratic processes or institutions; threatens the peace, security, territorial integrity, or political sovereignty of our allies; or misappropriates state assets.

Congress should also create specific funding for publication of studies and research on the corruption of Russian leadership. And Congress should call upon Treasury to consider applying Section 311 of the USA PATRIOT Act to any foreign financial institution, including Russian financial institutions, that engage in substantial transactions associated with illicit conduct by Russian leadership.

Beyond these steps targeting illicit conduct by the Russian leadership, there are steps that Congress can take to heighten controlled pressure on the Russian economy. This should include steps that build upon the sectoral sanctions issued by the United States, the European Union, Australia, Japan, and Canada in 2014.

To strengthen the effectiveness of U.S. sanctions in general, Congress should take additional steps. This includes:

Providing funding for Treasury to expand its sanctions targeting, compliance, and enforcement resources and capabilities. Sanctions are here to stay, and we need to resource them appropriately.

Authorize Treasury to issue regulations specifying sanctions program and training requirements for global financial institutions operating in the United States and for other sectors vulnerable to sanctions evasion. We have had over $20 billion of enforcement actions levied against banks for breakdowns in controls that have led to sanctioned parties getting access to our financial system.

Congress should call upon FinCEN to finalize pending anti-money laundering (AML) rules that enhance the transparency of the financial system. That transparency is critical to allow us to understand where illicit flows are, including sanctioned assets.

And Congress should issue a report—Congress should call upon Treasury to issue a report offering recommendations for expanding information sharing in ways that reduce costs and enhance the effectiveness of our illicit finance analysis efforts.

These recommendations are based in large part upon key developments, conditions, and challenges evident in the recent evolution of sanctions policy and implementation as discussed in greater detail in my written testimony.

I am grateful for the opportunity to testify before you today. I look forward to your questions. Thank you.

Chairman CRAPO. Thank you, Mr. Poncy.

The first question I have is for both of you, and either of you please respond as you choose. There are elements in the Russian Federation that are unparalleled in black and gray market operations, bulk cash smuggling, and general corruption practices. And it is equally clear that Russia will put up a significant resistance to sanctions pressure.

Could you comment on to what extent and through what mechanisms the Kremlin is able to evade or circumvent sanctions, particularly those relating to its oil, financial sectors, and individual oligarchs?

Mr. PONCY. I will take the first shot. Thank you, Mr. Chairman. It is a great question. Sanctions evasion is an area about which we do not know a lot. What we do know is that there are holes in our financial system, globally and at home, that prevent us from really understanding whose assets we are holding and transacting, and we have seen this with cases that law enforcement has brought. We have seen this with regulation that is targeting vulnerable sectors, including geographic targeting orders against high-end real estate where we know we have had Russian organized crime buying high-end real estate in Manhattan and Miami. We have also seen this in regulatory rulemaking around customer due diligence, the final rule that is going to impose beneficial ownership requirements on due diligence for financial institutions next year.

These actions turn the lights on in our financial system. That is going to allow us to get smarter on where money, whether it is Russian organized crime or Russian leadership or other illicit assets, may be in our financial system.

What is clear—and I do not know if you have seen the expose from "60 Minutes" last year on Anonymous, Inc., or obviously everyone has heard of the Panama Papers or the 1MDB scandal on corruption—is that we are exposed at the highest levels of the financial system, high end, capital markets, gatekeeper accounts, top-tier firms—not willingly, but exploited because of a lack of understanding or diligence or requirements to understand who to do business with. Closing those loopholes will give us a better understanding.

That said, I do not think that the sanctions that we have imposed have been ineffective. I think how we define a success here is making it harder, costlier, and riskier to do business in the United States if you are conducting illicit activity abroad. And I think we have done a decent job of that.

Chairman CRAPO. Ambassador?

Mr. BURNS. Mr. Chairman, I would just add very quickly—because Chip is the sanctions expert and I agree with what he said—one thing that Congress could do, as we reflect on the interference in our elections and the Ukraine sanctions issue, is to ask the Administration to step back—it is a good thing for the Trump administration to do, too—assess the effectiveness of the sanctions so far, and how effectively they are being implemented and how tightly and comprehensively they are being implemented by the United States. That is the first.

Second, to make sure that the European governments are making sure that their companies are actually implementing the sanctions, so that the sacrifices made by European companies are equal

to the sacrifices made by American companies, because we all know there is sometimes a double standard.

And, third, this is an opportunity, I think as both of us have said, and you have also said, to tighten and strengthen the sanctions in 2017. So it is an opportunity for Congress to ask the Administration, and hopefully the Administration would welcome that, to do a fundamental review.

Chairman CRAPO. Thank you very much.

Senator Brown.

Senator BROWN. Thank you, Mr. Chairman.

Ambassador Burns, I would like to start with you. In January, the U.S. intelligence community unanimously said, and I will quote, please:

> Russian efforts to influence the 2016 U.S. Presidential election represent the most recent expression of Moscow's longstanding desire to undermine the U.S.-led liberal democratic order, but these activities demonstrated a significant escalation in directness, level of activity, and scope of effort compared to previous operations.

They then noted they expected similar efforts by Russia against U.S. allies.

Talk about their grand strategy. Talk about, if you would, how best we increase the cost of that strategy to Putin, how we change his calculus, how we deter that behavior, and wrapping that into fundamentally what you would suggest the State Department does and what you would recommend that President Trump personally do.

Mr. BURNS. Thank you, Senator. As I said in my full testimony, there is no question—and we saw this in the Bush administration; I think the Obama administration had the same assessment—no question that President Putin has set out to undermine the basis of America's power position around the world. He knows that we are by far, by a great extent, much more powerful militarily, politically, economically than Russia will ever be. But he is trying, in essence, to cut us down to size. He thinks he has an opportunity to do that.

One way he has done it is through the last 8 years these territorial attacks on Georgia, Moldova, Ukraine, Crimea, pressure in the Baltics.

A second way is to discredit the ability of the United States to be a good allied leader, so he is really preying upon the weaker members of both NATO and the EU—Bulgaria, Greece—trying to convince them not to uphold the unanimous sanctions that the European Union has voted.

And he is also trying to undercut America's democratic leadership. We saw that by the interference in our elections. We have seen it—he alleges that the United States does not protect its allies. We saw that in his response to the Arab revolutions. He has tried to move into Egypt to replace the United States, now into Libya to replace American influence there.

This is a concerted campaign. He is skillful. He is very opportunistic. He is cynical. And he is attempting to weaken the United States, and I think he believes that there is a rising tide of authoritarianism—China, Turkey, Russia itself, and nationalism in other countries—and he can take advantage of that.

So that is part of the strategy of President Putin, is to cut the United States down to size, to limit our effectiveness, especially in Europe. But he has also displaced us in the Middle East.

What can we do to respond to it? Well, I think that President Obama and the Congress, Republicans and Democrats, had a good start: strengthen the American military in Europe. We hollowed it out to fight the two wars after 9/11. We need to rebuild our armor and our army capacity and our air capacity in Europe, and there is a congressional appropriations to help the U.S. military do that. Make permanent the stationing of our forces in Eastern Europe. These are very small contingents, our battalions in Poland and in the Baltic States. But they are a signal to him that we are going to defend the NATO allies. And we set a red line, must defend the red line—and the red line is the territory of the Baltic States themselves.

I would also say, Senator, I testified before House Foreign Affairs last month. The idea that you reduce the budget of the State Department and aid by 31 percent at a time like this, when we need our diplomats to be on the front lines, we need Radio Free Europe, Radio Liberty to be fully funded, to fight the intelligence war and the information war against fake news that the Russians are propagating, this is a comprehensive strategic response that the United States needs to make, and I think President Trump has done well to put in place a strategy against the Islamic State, and he has a theory of the case on North Korea, which you heard about yesterday.

What we have not seen from the Trump administration is how do we strengthen America's strategic position militarily and diplomatically in Europe, how do we respond to Putin, and that is what needs to happen from Secretary Mattis, Secretary Tillerson. I think both of them have been very tough-minded, but we have not seen that from the White House and the President.

Senator BROWN. And if you were advising the President and he were listening, what would you say he should say?

Mr. BURNS. As I said in my testimony—and I am not accustomed as a career Foreign Service Officer to be publicly critical of a President in the way I was in my opening remarks, but I feel quite profoundly that his reluctance to be critical of President Putin is a mistake strategically and tactically, that Putin does not respect nice, flowery words. He respects strength. And what we need now from the American President is strength, especially on this issue of Russian interference in our election. There has been no response from President Trump except to question the intelligence community and the FBI.

So that would be my recommendation, a toughening of American policy toward Russia.

Senator BROWN. Thank you, Ambassador.

Chairman CRAPO. Thank you.

Senator Shelby.

Senator SHELBY. Thank you.

I believe both of you are spot on, on what you are talking about about Russia, but the fact remains that there has been no real response, real concrete response to Putin's moves in Georgia, in the Ukraine, the threats of the Baltics, the other stuff. But how do we

really do this without sweeping, biting sanctions? And that would take our European allies to go all the way with us.

Of course, they are dependent, as you guys know well, on Russia for energy, and that is Russia's lifeblood for money. Their economy is based on that, and their military comes from that, too, everything funded.

So how do we do it? I could see sanctions if they were sweeping and if they meant something, they were not porous, not tepid sanctions. You would get somebody's attention, including Putin's. But short of that, Putin is an opportunist. He is tough, he is smart, he is tactical. He looks for opportunities, and he has found some. But how do we get our allies behind us when they are doing business in different ways with Russia? And how do we get them, including Germany, of all people, the biggest economy there and the biggest population, to come forth with more defense money? You know, a lot of them are not even meeting the 2 percent, as you well know. Secretary Burns?

Mr. BURNS. Thank you, Senator. I think three things in answer to your question.

Number one, the most direct thing we can do to change the game with Putin is to help arm the Ukrainians, lethal, defensive weaponry—not offensive. They can defend themselves from these attacks, and the attacks have actually accelerated over the last 3 months, instigated by Russia inside Eastern Ukraine.

Number two, I think you are exactly right. We need to act in tandem with Europe and hopefully some of the Asian allies—Japan, Australia, South Korea. Germany is the key, so the President needs to have a close strategic relationship with Chancellor Merkel as long as she is in power. We will see what happens in the September elections. Whoever is in power in Berlin is going to be the key European leader. There are some weak states. Germany is the key to act in tandem with the United States on sanctions to make them that much more effective. And so I think those are the most important principles we have got to follow right now.

Senator SHELBY. What about financial crimes and financial sanctions? I do not believe we have done enough in the banking area as far as Russia is concerned, because you can choke off an economy fast if we had sweeping sanctions, could we not?

Mr. PONCY. There are certainly steps that we can take to elevate and escalate our pressure on Russia. What I tried to outline in my testimony is sensitive to what you have raised about the possibility of blowback, particularly on our allies that are highly exposed to Russian potential retaliatory sanctions. So how do we escalate this pressure in a way that is going to be strategically meaningful in addition to tactically significant?

I really think that the starting point here is to go after the conduct that we see in Russian leadership associated with corruption. We have not studied this with the resources that we should be applying toward this. I do think the creation of a task force that is dedicated, that has protected funding, and that does this for the longer term—this is a 17-year picture that we have seen evolving, as you pointed out. And rather than wait for a regime change and trying to find assets after the fact or hope that the policies that we have had over the past 17 years, which have not necessarily been

dissuasive, let us figure out where Russian leadership money actually is. Let us figure out where the corruption is that we can highlight. Let us go after that illicit conduct, and let us make it very public. We need to make investments into investigations, analysis, tracking, tracing here, and we need to get our allies to do the same abroad. If we focus on that, that is one element.

A second element would be to look at the pressure that we have put through our sectoral sanctions in 2014 and ways that we could ramp that up, but calibrate it in a way that is sensitive to blowback that we may get.

I do not know that we know enough about this either. It is clear that the Russian economy has been reeling. It is also clear there are a lot of contributing factors to that. Sanctions are one of those factors, but, clearly, depressed oil prices were a big part of the picture.

Ways that we could ramp this up depend on, one, additional designations in sectors we have already identified as critical. To your point, finance is one of them; energy is another, and so is defense. There are other industries that may also be relevant, whether it is mining or it is aerospace or other industries that we should understand are highly exposed to vulnerability in sanctions that we could impose.

At the same time, there are ways to broaden the sectoral sanctions by taking sectoral-wide investment bans against anyone who is going to be investing in the Russian energy market as an example.

Again, the bill on counteracting Russian hostilities proposes this sort of a ban on any person. And to the Ambassador's point, you do not want U.S. businesses sitting on the sidelines while the Europeans that we are trying to assist are investing in energy markets that are lining the pockets of the Russian government. At the same time, I do not know that the Europeans can join us politically in that because of the blowback.

So you know more than anyone, sir, how effective secondary sanctions can be in sanctioning regimes that we have problems with. We have to be very careful how we do it, but this might be an instance where we provide the cover by saying that we will sanction anyone who is going to be investing in the Russian energy sector. And we do that in a way that we can manage and be flexible with, but that also starts to heighten the economic pressure on Russia.

Senator SHELBY. Thank you, Mr. Chairman.

Chairman CRAPO. Thank you.

Senator Cortez Masto.

Senator CORTEZ MASTO. Thank you.

To follow up on that conversation, do you anticipate FinCEN would be an integral partner of any task force that would be created? And along with that question, also, are there additional resources or tools that FinCEN needs now to be able to go after any type of illicit Russian money or activity?

Mr. PONCY. Thank you, Senator. I do think FinCEN is a critical component of the task force, but I also think that the task force needs to rely on all the assets that we have in the investigative and analytic community.

I would propose putting that task force in Treasury itself where the office that I came from, Terrorism and Financial Intelligence, of which FinCEN is a part, relies on joint analysis across FinCEN, the Office of Foreign Asset Control that administers and implements our sanctions, the Office of Intelligence and Analysis that has a dual reporting function to the Director of National Intelligence in addition to the Under Secretary for TFI. That will allow us to do the joint analysis where we are at our best at Treasury and to merge that or combine it with the investigative assets and expertise from the Department of Justice. At Justice, you have a National Security Division and a Criminal Division that are highly skilled in these issues as well.

So the funding should be at a level where we are demanding the interagency support and participation and prioritization that this task force will need across intelligence, law enforcement, and analysis. FinCEN is a part of it, but it is only a part.

So I do think it is important to dedicate that funding in a way that everyone can participate. I think it is important to provide the leadership at a senior level to include the Under Secretary for TFI and potentially the Deputy Attorney General of the United States to co-chair something like this, and to give it a 2- or 3-year mandate with regular reporting so that this is a long-term and sustained commitment against a regime that has had 17 years to consolidate its power around this.

Senator CORTEZ MASTO. Thank you. And further discussion on this topic. At the earlier hearing of this Committee, there was discussion of possible options for Congress in countering Russian aggression, and at that time witnesses urged that we move cautiously on imposing further, more draconian sanctions. In particular, one witness noted the possible profound consequences for all large U.S. global banks if we targeted President Putin and his associates' direct and indirect assets.

How concerned should we be in Congress about potential systemic risk to large banking institutions if we impose significantly tougher sanctions?

Mr. PONCY. Thank you, Senator. I do not think that there is risk to our financial institutions for going after illicit conduct. The Russians themselves, the entire international community has agreed upon the criminality associated with corruption, associated with fraud, associated with organized crime and the interests that we should be pursuing in the task force. I do think those issues are front and center when we start talking about pressure on the Russian economy. But that is where I believe the experience we have gained in sectoral sanctions has been critical.

Those sanctions, having worked in the industry for the past 4 years across the global banking community, have been implemented effectively and responsibly, in ways that have produced economic pressure, and that can be ratcheted up in ways that global banks understand.

There are going to have to be sensitive and ongoing consultations with industry as that happens. There is going to have to be a broader strategy that also looks at engaging our foreign partners so that we can calibrate this as we go. We have to be careful how we do it, but we can certainly do it. And I do think the notion that

we have to go this alone is inaccurate when you look at the fact that we have the European Union, Japan, Australia, and Canada that have moved in lockstep with us on these sectoral sanctions. So we will have support experience from the global banking community and not just U.S. banks.

Senator CORTEZ MASTO. Thank you.

Ambassador, anything else to add?

Mr. BURNS. Senator, I would say there has to be a response. Putin acts in a zero-sum fashion. He is expecting a response. And I agree with Chip that it has to be multilateral, it has to be with Europe and our Asian allies. And we can start with some of the sanctions that President Obama put in place at the very end of his term, deepen them and broaden them, go to different areas like mining, expand the energy sanctions, expand the number of individuals in the Russian government that we identify for personal sanctions, travel bans, that kind of thing.

I did not think the Obama sanctions went far enough, and certainly what we have seen in the three European countries and the United States merits a tougher American response.

Senator CORTEZ MASTO. Thank you.

Chairman CRAPO. Thank you.

Senator Rounds.

Senator ROUNDS. Thank you, Mr. Chairman.

Gentlemen, before Russia invaded the Ukraine, clearly Mr. Putin would have thought about what the responses would have been. Part of that planning perhaps would have been how they could defend their assets against the possible retaliation for their invasion. They knew there had to be something. I am just curious. Prior to the implementation of the sanctions following Russia's invasion, how exposed was Russia's targeted assets to both U.S. and EU sanctions? Basically what I am trying to ask, I guess, is: To what extent did Mr. Putin have the opportunity, along with his supporters, to protect or isolate their assets from the reaches of our proposed sanctions?

Mr. PONCY. Thank you, Mr. Senator. That is a great question, and it is one of the reasons why I feel there has to be urgency around this task force.

Hindsight is always 20/20, but it is very clear that President Putin had allegations associated with corruption when he was in St. Petersburg pre-2000, investigations the Russians themselves were running. They were shut down when he was elected President. It is very clear that he has marginalized, that he has intimidated, that he has expelled oligarchs that do not share his political pathway or support for his political leadership. And this is a picture, when you look in hindsight, you see has emerged where he strengthened and consolidated his power and protected his assets over 17-plus years. So I do believe that when the invasion happened in 2014, he was already in a great position of relative security.

That said, without any effort to combat that, that pathway continues. And as a G–8 economy, there are only so many steps he can take to protect the Russian economy from exposure to heightened sanctions pressure.

The challenge for us is, I think, how effective can we be in going after illicit assets—right?—of the Russian leadership, and that is what the task force is designed to do, is to figure that out, and at the same time, ramp up what is not targeted at illicit conduct, what is very deliberately targeted at economic pressure on key sectors, and to do that in a way that minimizes the possibility for blowback, which may require, even with broad-based political support, the United States taking a unilateral position on the most aggressive measures where we would apply secondary sanctions against European companies or others that would be investing in sectors that are important for the Russian economy, because the Europeans, if they were to do something like this, would probably engender blowback in a retaliatory sanctions manner.

We do not have as much exposure. For us to do that well and to do it carefully, I think we need to have a study of our economic exposure, that of our allies, and the exposure of the Russian economy beyond the steps we have taken. But those are recommendations I have advocated in my testimony to take immediate actions to escalate responsibly, but to take immediate actions to also get a better picture of illicit assets and of our exposure, our allies' exposure, and the exposure of the Russian economy to where we can be most effective in ramping up economic pressure while minimizing blowback.

Senator ROUNDS. Mr. Ambassador?

Mr. BURNS. Senator, I think it is reasonable to assume that President Putin did not anticipate that the European Union, Canada, the United States, and some of the Asian countries would actually come together in a coherent sanctions package. He thought he could divide the Europeans, because traditionally, as you know, the Germans, the Italians, the business communities have resisted these types of sanctions. I think he was surprised by Merkel's view and her toughness.

And so we have got to keep that coalition together. I am here to support stronger U.S. sanctions across the board against Russia. But if we maximize it with the others, we will be in much better shape.

Senator ROUNDS. Can we identify who his most important and influential associates are, the people that really are the decisionmakers? Can we identify them appropriately now?

Mr. BURNS. I think so, after so many years in power. There is a group around him from his youth in St. Petersburg. He has enriched them. They run some of the big state enterprise firms. We know who they are. Treasury knows who they are. They can go after them. He also has loyalists from the KGB——

Senator ROUNDS. The reason why I ask is—and I am going to run out of time, but we have heard talk about sectorizing it and going after particular segments of the industries that really do impact Russia as a whole. But some of the reports we are getting and some of the recommendations we are receiving is that we need to go after the decisionmakers and after their assets. There is a difference between the two—and I would really like to hear just very, very briefly—what your thoughts are on that.

Mr. BURNS. I think we should investigate that possibility. That is one way to toughen sanctions, is to make it direct, somebody in his inner circle is hurt financially because of what they have done.

Chairman CRAPO. Thank you.

Senator ROUNDS. Thank you.

Chairman CRAPO. Senator Heitkamp.

Senator HEITKAMP. Thank you, Mr. Chairman.

I want to get to the issue here that goes beyond kind of sanctions but our own, I think, vulnerability. I think Putin understands that the greatest vulnerability we have internally in this country is hyper-partisanship, is that you can say one thing and people will believe it because we have no longer let foreign policy happen at the water's edge. We just keep sending a message that we cannot get along and we cannot get things done, and so it gets easier to drive a wedge through.

I want to applaud the Chairman for these hearings. I think they have just been very—not bipartisan. They have been nonpartisan. And when you read the questions, you would not know if it was a Democrat or a Republican asking the questions. This is our challenge to send that message.

And so my question is: Do you believe that today Vladimir Putin believes that there is a unified U.S. internal policy to combat his aggression? Ambassador.

Mr. BURNS. I do not believe that President Putin sees a unified response by the Congress and the Administration to what he has done on the hacking issue and in a way even the Ukraine issue. And I believe he now thinks that maybe the Congress is the party that might take action and the Administration is the party that might not. He might seek to divide the two, just as he has divided us, tried to, from the Europeans. That is a danger, that we have to act on a bipartisan basis and between the Congress and the Administration on both grounds, on Ukraine as well as on the interference in our election.

Senator HEITKAMP. Mr. Poncy?

Mr. PONCY. Thank you, Senator. I could not agree more that unity is essential. It is essential for sanctions policy to be effective for the industry to understand that these are intended, expected, and will be enforced as operational measures, for our allies to understand that these are not sanctions where they can sit on the sidelines with their investments ready to go in, but where they have to start to impact their long-term business strategies, and sanctions where our adversaries understand that until there is a serious change in behavior, there is no serious discussion of sanctions relief. I fully agree with all of that.

I have confidence that if we were to do that, our sanctions would be much stronger. I have confidence that President Putin has misjudged us. I think our best unifying moments are often in the face of adversity, and the question is—it is like family. The minute that somebody outside the family starts yelling at your brother or sister or your mom or dad, you forget about whatever quarrels you had over the dinner table. And I am hoping that is what happens here.

Senator HEITKAMP. In the 2 minutes that I have left, what more can we do to send the signal, other than hearings like this, where we come together and you do not know who is on either side here,

what more can we do in Congress, absent passing additional sanctions or doing something legislatively, that will send a clear message that we stand united in this country against this aggression?

Mr. BURNS. Well, there has to be new legislation.

Senator HEITKAMP. Right. I agree with that.

Mr. BURNS. There has to be a response. Right now, there has not really been a significant response by the Congress or the White House, either President Obama or President Trump, to what happened in the interference in our election. So that has to happen, a unanimous denunciation of what the Russians did by both the Administration and both parties in Congress on a nonpartisan basis.

Senator HEITKAMP. OK. Mr. Poncy?

Mr. PONCY. Thank you, and I fully agree with that. I think just for simplifying it as clearly as possible, the response should include immediate legislation to codify what we have already done. There is no going back. Two, to escalate as aggressively as possible on illicit conduct.

In response to Senator Rounds' question earlier, that conduct should focus on the nepotism associated with the Putin regime. The fact that the sanctions we have issued have translated into the passage of assets from those who are closest to him to nominal accounts held by their kids or their nephews or their close associates is something that we can track and trace, but we need the resources to do it. That is what the task force is about.

Senator HEITKAMP. Can I just ask, there is a young gentleman in the audience. I do not know whose son or nephew he is, but we welcome you. And I want you to know when you are watching this that all these people really want to create a very safe America for you in the future. So thank you for coming.

Is he related to either one of you?

Mr. PONCY. I believe the proud mom is right behind you.

Senator HEITKAMP. Oh, great.

[Laughter.]

Senator HEITKAMP. Anyway, I want to acknowledge—you know, sometimes when we get into this, we forget that this is about our children and about our future and our country and making our country and the world safe for them to thrive.

Chairman CRAPO. Thank you, Senator Heitkamp.

Senator Scott.

Senator SCOTT. As Senator Heitkamp has pointed out, today is "Bring Your Kid to Work Day." I would imagine that the Banking sanctioning hearing is an interesting and perplexing conversation——

[Laughter.]

Senator SCOTT.——for many of us on this side of the aisle, much less this attentive young man. I will say that Senator Heitkamp also mentioned the fact that the need for legislation, enhanced sanctions, is important, and I know that Senator Lindsey Graham and others have been talking about that for the last couple of months from my perspective.

I do thank you both for being here, and, Mr. Chairman, I thank you for having another hearing on such a critical topic. Whether it be unwarranted aggression in Eastern Europe or propping up the

Assad regime in Syria or meddling in our elections here at home, Russia's actions have shocked the entire free world.

I would like to counter one of the main arguments used against the sanctioning of Russia. In 2014, the United States and the European Union deployed targeted sanctions against Russia in response to its actions in Ukraine. Targets were determined by Treasury and State after a careful investigation and vetting process. Russia's economic growth slowed dramatically, and critics of our targeting claimed that we unfairly hurt neighboring countries and innocent parties. These critics conveniently ignore the dramatic drop in oil prices that occurred during the same time. And my understanding is that the drop of the oil prices had about a 4-percent impact on Russia's economy; whereas, our sanctions had about a 1.4-percent impact, thereabouts, on the Russian economy, at least under 2 percent. So the drop in the oil prices had a significant impact, and our targeted sanctions had a targeted impact.

The State Department released a report in December 2016 detailing the strong evidence it found that our targeted sanctions, and I quote, "affected the financial health of the targeted firms or firms associated with sanctioned individuals, while causing minimal collateral damage," which I think is consistent with the impact of 1.4 or 1.5 percent of the GDP.

Mr. Poncy and Mr. Burns, you have already spoken to part of this. I want to ask you a similar question. I would like to get your thoughts. Can targeted sanctions be used to effectively pressure those who threaten our national interests while limiting collateral damage on innocent parties or other countries?

Mr. PONCY. Thank you, Mr. Senator. I could not agree more that the evolution of sanctions—and I spent a lot of time on this in my written testimony—but the evolution of sanctions in recent years has clearly reflected a migration toward conduct-based sanctions that are targeted on behavior and are intended to minimize collateral damage on innocent parties or populations.

I do think that the advent of sectoral sanctions we have seen in Russia, they are a new breed of targeted sanctions because they are not targeting illicit conduct. They are targeting pressure points in an economy, but they are attempting to do it in a way that is still tailored. And I think we have had some success with that. If they are sophisticated, our sanctions implementation, our compliance, our oversight in the market and in authorities here at home have made those sanctions effective.

I think combining the two is the best approach, and the way we do that is to identify the key firms that are owned or controlled by the close associates of Vladimir Putin. To do that well, we need resources that are targeting what we call derivative designations. This is how this works. We identify at a primary level close associates that are associated with the illicit activity of the Russian government, that are the decisionmakers in the regime that are engaged in illicit conduct, and they put all their assets in the hands of others, right, that are not named as sanctions, that evade our filters and our controls, the way that we operationalize this stuff. And then it is a game of cops and robbers, and as fast as we can identify those who are acting for, on behalf of, or supporting the

regime, the faster they continue to change color, change shape, change form.

We can keep up with them, but we need the resources to do it. And when you have got Iran on the radar screen and North Korea and ISIS and all the other challenges that we face, this is why we need the task force. And in getting to the task force, we should also make sure that we are resourcing targeting over at OFAC and at TFI to specifically go after sanctions—to levy sanctions against those who are close to the regime and are holding assets in the names of others that are materially significant to the Russian economy. I think that is the strategy.

Senator SCOTT. Thank you. I will skip to my last question because I think you really have hit on the whole nepotism nature of the sanctions and what we have to do to pull a larger net to get more folks. But, Mr. Burns, you talked a little bit earlier about the necessity of not only our sanctions being enhanced, but perhaps the European Union and others joining that team. Can you talk a little bit more about——

Chairman CRAPO. Briefly, please.

Senator SCOTT. Briefly. No more than 7 or 8 minutes, sir.

[Laughter.]

Mr. BURNS. I will be very brief, Mr. Chairman and Senator Scott. The key is going to be built on this consensus that is growing in Europe that they have been hacked, in the Netherlands, France, and Germany. And the key country is always going to be Germany. Germany has enforced the sanctions implementation against Putin. A lot of countries have wanted to cut and run, and Chancellor Merkel has not let them. So I think consolidating that relationship is going to be key for us.

Senator SCOTT. Thank you.

Chairman CRAPO. Thank you.

Senator Menendez.

Senator MENENDEZ. Thank you, Mr. Chairman. And thank you both for your testimony.

You know, I am amazed that the Congress and the Administration has not responded to a cyber attack on the United States seeking to affect its national elections. Whether or not one believes they succeeded at it is not the question. The mere fact of launching a cyber attack with that purpose should create an outrage from the President of the United States on down. If we had any other form of attack, believe me, we would have imminently responded. And yet in this context, there seems to be a reticence to ultimately pursue what is one of a handful of peaceful diplomacy tools, which is the use of sanctions. And as the architect of the Iran sanctions, I can tell you that that brought Iran to the table. And we have just touched the surface on Russia as it relates to a sanctions policy.

That is why I was a co-author of the Countering Russian Hostilities Act, which I think would go a long way toward moving us in the right direction here. And when former Secretary Burns says this statement—this is an extraordinary statement: "Russia is the most dangerous U.S. adversary in the world today."

"Russia is the most dangerous U.S. adversary in the world today." Wow. And we seem to be frozen in time.

So I strongly believe that where we are missing the boat, at least as it relates to a sanctions policy, is where sanctions work the best, which are financial sanctions—and sectoral sanctions, of course. I mean, Russia's economy is basically an extraction economy, so it depends overwhelmingly on its oil and related enterprises.

And so while we have had some sanctions in that regard, there are far more pervasive sanctions that could be pursued there. And above all, Putin and his cronies care about where their money flows. And so, therefore, sanctions against financial institutions, of which we have at best scratched the surface, is sorely, sorely missing.

Mr. Poncy, would you agree that sanctions against financial institutions that are appropriately designated would go a long way toward moving our policy along?

Mr. PONCY. Thank you, Senator, and thank you for all of your work on the Iran sanctions campaign. It was tremendous, and I was proud to be a part of that when I was at Treasury. And I fully agree. I think that there is plenty of powder in the keg to apply in sanctions if the intent is to disrupt and overwhelm the Russian economy. We can do that. The question is: How do we do it in a way that preserves a multilateral approach that will ultimately be necessary within a broader strategy that allows us to escalate in a manner that drives settlements toward whatever the aggression is, whether it is Georgia or it is Ukraine or it is Syria or it is cyber. And there is a lot, obviously, with the Russian government.

What you have in the Counteracting Russian Hostilities Act I think is a tremendous start. My written testimony supports virtually everything in there. I want to focus on two issues that you have just identified in particular. One is the investment ban in the energy sector. I think that is a very interesting idea because it is a ban in which we would sanction any person who invests in energy. And as I tried to say earlier, I think that is an area where we are going to have to lead unilaterally, just as we did in the Iran campaign, because of the blowback on the Europeans.

Senator MENENDEZ. And if you can briefly talk to the second one, because there is one more question I want to ask before my time runs out. You said the investment——

Mr. PONCY. The second one is sovereign debt, and you have got that one in there as well.

Senator MENENDEZ. Now, the United States imposed sanctions on state-owned oil company, Rosneft, and its effective owner, Putin crony Igor Sachin. Russian owns 69 percent of Rosneft and sanctions that both the United States and European countries have imposed intend to prevent financing of Rosneft. However, Rosneft, as well as other Russian state-owned enterprises, they are still operating.

For example, Rosneft recently purchased nearly 50 percent ownership of Venezuela state-owned oil company PDVSA, which, incidentally, wholly owns and operates Citgo in the United States, which has a large amount of critical infrastructure in the United States, with the possibility that Venezuela may collapse in its economic standings and default. And I have no doubt that Rosneft purchased on the open market other shares to put them over 50 percent ownership. Is that not something that we should be taking

as an action to make sure that Russian state-owned companies cannot further expand into international markets?

Mr. PONCY. I could not agree more. That is part of the study that needs to be done, not just the task force to track and trace illicit finance, but to better understand the points of vulnerability that we have to Russian economic and financial influence, that our allies have, our exposure, and the leverage that we have on a Russian economy that is, as you say, highly extractive.

I do not think we have studied this enough. I do not think our defenses are up where they need to be. I think those sorts of actions are actions that we need to be highly attentive toward, and where we see those, escalate with a sanction where we are not allowing a vulnerability like our own dependence on imported oil, with Venezuela in particular, to be controlled by a regime that we are trying to sanction.

Senator MENENDEZ. Thank you.

Senator TILLIS. [Presiding.] Senator Cotton.

Senator COTTON. Thank you. Gentlemen, thank you for your testimony today.

In November 2015, I wrote an article in Foreign Affairs talking about how to counteract Russia's aggression across the world. It was caused most immediately by their surge into Syria and their attacks on the proxy forces that we were supporting there. But it ranged more widely—security, intelligence, economic, legal, diplomatic measures.

I would like to go through some of the measures I suggested there. Ambassador Burns, I know you state in your testimony that you are not an economist or a sanctions expert, so maybe, Mr. Poncy, if I could just run through those discrete items with you, and then, Ambassador Burns, you could back him up on the kind of geopolitical implications of that basket of measures.

So, first, I called for expanding individualized sanctions against regime cronies much further than they had been, but also to include immediate family members, spouses and children, so wives can no longer have apartments in Paris and villas on the French Riviera and kids can no longer go to private schools in the United Kingdom. Is that still a feasible option?

Mr. PONCY. It is not only feasible; it is part of the targeting criteria now under, I believe, Executive Order 13661. The challenge there, Senator—and I fully agree with that as a point that we ought to be pressing—is putting these dedicated resources in place where they are not getting pulled into Iran and North Korea and ISIS, which are equal national security threats, as you are aware, but that require resources to map that transfer from principal to family to close associate to front company to shell company to offshore. That takes a lot of homework, as you know, and under the legal principles that we operate under, we have to have evidentiaries in place before we can take those actions, and that takes time.

So given the urgency of the threat, given the importance of the issue, we should be investing the resources to make that work.

Senator COTTON. Direct and secondary sanctions against the energy sector, in particular the refining industry?

Mr. PONCY. Absolutely, and very much in support of some of those provisions in the Counteracting Russian Hostilities Act.

Senator COTTON. Reciprocal provisions of arms, so, for instance, if Russia sells weapons to Iran and Syria, then Ukraine gets defensive anti-armor, anti-tank weapons?

Mr. PONCY. That certainly makes sense to me. I will defer to the Ambassador on that.

Senator COTTON. Extending the long arm of U.S. law to Russia? As you know, since I wrote that article, Russia was punished severely by the World Anti-Doping Agency not only in the Olympics but in the Paralympics. They cheated in the Paralympics. They are hosting the World Cup next year. I suspect that bid was greased with all kinds of kickbacks and other bribes. Should our investigators, as they did with FIFA and in the Olympics, extend the long arm of U.S. law into all Russian activities?

Mr. PONCY. Targeting all illicit conduct by the Russian leadership should be a priority.

Senator COTTON. Finally, one other example, and there are many more in the article: Extending laws in the direction of the Helms-Burton Act or the Alien Tort Claims Act to open U.S. courts to victims of Russian aggression, theft, war crimes, and so forth, exposing the regime to reputational and litigation harms and costs?

Mr. PONCY. Expanding the intent of the Magnitsky Act in that direction makes sense to me.

Senator COTTON. OK. As I said, there are many more measures in the article, but just after giving you a flavor of those, Ambassador Burns, would you like to now give your geopolitical take on what that kind of approach to Russia might yield from Russia?

Mr. BURNS. Thank you, Senator. First, I sense strength in the Congress in both parties on this issue; not so much from the White House. I hope we could close that gap, number one.

Number two, we are going to have to ask the allies to do more. In 2007, I took Stuart Levy with me to meet the European allies on the Iran sanctions. The Europeans were very resistant. They came around when they saw the effectiveness of what congressional and Administration sanctions did with Iran. We have to replicate that on the Russia side, and Germany will be key.

Third, yes to deeper sanctions by the United States on energy, in mining, and sanction more of these individuals who are Putin cronies throughout the Government. And you have written about that.

And, finally, yes to arms to Ukraine. We have got to do more on the military side, and you know a lot about this, strengthen the U.S. military in Europe to be a deterrent to Putin, defensive arms to Ukraine. That puts pressure on Putin, and he will respond to that. He will understand that. In a way we will have greater deterrent power over him.

Senator COTTON. Thank you. I have just a few seconds here, so I will ask one final question along these lines coming out of recent news. What are the implications of Gazprom receiving the approvals and financing that it needs to proceed with Nord Stream 2 in Europe?

Mr. BURNS. This does get back to the question of having Europe make the same kind of sacrifices that we are making and having

an identical policy with Europe, which we do not have at the present time.

Senator COTTON. And European action matching European rhetoric.

Mr. BURNS. Right.

Senator COTTON. Thank you.

Senator TILLIS. Senator Warren.

Senator WARREN. Thank you, Mr. Chairman.

We all know that there are a lot of unresolved questions about the disturbing ties between this Administration and the Russian government, and the President has suggested that he might unilaterally start waiving sanctions against the Russians. Thanks in part to the pressure from Congress, the Trump administration is currently enforcing those sanctions. The Treasury Department recently rejected Exxon-Mobil's request for a waiver from our Russian sanctions so it could get its hands on more Russian oil.

But just 2 months ago, their CEO bragged that, and I am going to quote him here, "In Russia, we are there for the long term. We have got a successful business there, and we will continue to invest in that business." This sounds like Exxon does not plan to give up on this deal.

So the Trump administration could face more requests for waiving Russian sanctions in the future. So let me ask the question. We have talked a little bit about pending legislation here, but let me ask, Ambassador Burns, given the questionable ties between the Trump administration and Russia and the fact that the Trump administration has wide latitude to waive our Russia sanctions, would a law to require congressional review before the President can waive or suspend our sanctions on Russia be a good insurance policy here?

Mr. BURNS. Thank you, Senator. Before I answer, I want to let you know that I informed Committee staff a couple of days ago that I consult with the Cohen Group in Washington. The Cohen Group has a client relationship with Exxon-Mobil, and I wanted to disclose that to the Committee.

Senator WARREN. All right.

Mr. BURNS. Having said that, I very much supported what the Administration did in denying the license to Exxon-Mobil. I do not think that we should have any kind of waivers or weakening of the sanctions regime. I generally am a disciple of executive branch power, having been a creature of the executive branch. But in this case, given the weakness of the President's statements on Russia, I do favor a law that would require congressional consent, congressional review, whatever, before the Administration could waive sanctions, either on the hacking of our elections or on Ukraine.

Senator WARREN. That is powerfully important. Thank you.

I think it is also clear that our sanctions work better when we coordinate with our allies and our partners, a point you have made. Right now, the United States and the European Union coordinate their sanctions on Russia's energy, financial, and defense industries, and those sanctions were designed to try to push back on Russia's actions in the Ukraine.

Ambassador Burns, if we ease our sanctions on Russia without meaningful changes in Russia's behavior, does that increase or

decrease Putin's ability to destabilize the countries along its border and in the rest of Europe and, frankly, around the rest of the world?

Mr. BURNS. Senator, it would increase Putin's ability to be aggressive against the countries around his borders, mainly because he would not have paid a price; and, second, because some of the countries in the European Union that do not really want to implement tough sanctions would have an excuse, if the United States eased up, they would argue in the EU councils—and they have to agree by unanimity on these sanctions. They would argue that Europe should weaken correspondingly. So it would not be in our interest.

Senator WARREN. Right. And let me just ask a related question on this. Obviously, one of our strongest tools against Russia is the U.S.-EU economic pressure. If we unilaterally ease our pressure on Russia without meaningful changes in Russia's behavior, can Europe on its own effectively hold Russia accountable?

Mr. BURNS. I do not think so. Europe has a greater trade relationship, as you know.

Senator WARREN. Yes.

Mr. BURNS. But Europe does not have the political and military weight to be an effective deterrent. It needs the United States. That is why we have had NATO since 1949. So we have got to have an integrated strategy.

Senator WARREN. Good. Thank you very much. You know, I am very glad that the Administration denied Exxon this recent waiver from our current Russian sanctions for now. But we have to be clear about the broader context for this. Our intelligence community has determined that Russia engaged in cyber attacks on the United States to interfere with our election. The FBI has active and ongoing investigations into connections between Russia and the Trump campaign. Members of the Trump administration and campaign have questionable ties to Russia and were forced to resign in disgrace. And there is good reason to believe that President Trump himself has substantial financial relationships with Russia, but we will not actually know the details of that so long as he will not release his taxes.

If ever there was a time for Congress to serve as a check on any attempts to roll back sanctions against Russia, now is that time. I have cosponsored the legislation to do that, and I hope we can pass it. Thank you.

Thank you, Mr. Chair.

Senator TILLIS. Thank you.

Mr. Ambassador, I think this should be directed to you. I just want to clarify for the record on what Exxon sought. I thought they sought a license from Treasury, not a waiver from State. Is that correct? And they were denied that license back in March under the Trump administration?

Mr. BURNS. I am not the best person to answer that. I am not aware of what the specific obligation——

Senator TILLIS. I believe that is right. So I do think you are right that at least particularly last year some of the words about Russia out of the then candidate concerned many of us here. But it seems

like that action is an action that you agree was an appropriate action. Thank you.

Mr. BURNS. I certainly do.

Senator TILLIS. Yeah. I have a question about when we identify targets—are the people in Russia that we identify as targets of potential sanctions aware—are they aware—they know that they are actually a part of people that we may go after? And if they are, how do they behave? What do they do financially to try and inoculate themselves from the effect of some of those sanctions?

Mr. PONCY. Thank you, Senator. I think they are keenly aware, and in the discourse with Senator Rounds, I was explaining that the Putin regime has had 17 years to consolidate its power around behavior that has been remarkably consistent, marginalizing anyone that does not support the regime and rewarding those that do. And as our sanctions were levied, they followed years of investigations into corruption by the regime, initially by the Russians themselves, then through opposition parties, all of which have been suffocated. And so this is not a new game for them. They understand how to do this.

By the time that we started issuing sanctions, they were well insulated into the financial system, into the global economy, with holdings that are derivative in nature. And I do think we can get to those holdings, but that requires a lot of research, analysis, and intelligence. And this is the point about funding the task force again on illicit finance, but also funding the task force on the economic ties and relationships between their economy and their leadership and between their economy, ours, and that of our allies, so that we can start to connect the dots, understand where the pressure points are, and then start to go after it.

It is not going to be an immediate picture. We have got to get smart before we shoot. But I think we can get there with a dedicated investment from the Congress, a dedicated commitment from the Administration. And given that this has been a 17-year behavior pattern and it does not look like it is going to change, this is what we should be doing.

Senator TILLIS. Another question I thought about as Senator Menendez was talking about some of his concern with the lack of action. One area that I have a significant concern with is the lack of action of using our energy assets as a tool that begins to put us in a different posture with European nations. You know, it is easy for us to say that they need to join us. It is a little bit more difficult if, I do not know, a quarter of our energy supply was coming from the very nation that you want me to put pressure on.

So, you know, for the last 8 or so years, we have more or less made it very difficult to extract natural gas, to export natural gas, to wean European nations off of Russian energy. Do you believe that that is a very important part of how we change the dynamic and make it more likely that people in Europe will work with us when it will not have the kind of consequences it could have if they came down too heavy? Ambassador?

Mr. BURNS. I agree with you. The Europeans are trying to diversify through Norway, natural gas through Algeria, but they do want to have natural gas exports from the United States. They

want to over the long term reorient their energy dependencies and escape it. So I agree this is an option for us.

Senator TILLIS. And to the extent that we reduce some of the regulatory barriers, responsible, environmentally sound regulations, but reduce the regulatory barriers and reduce the underlying cost of natural gas, doesn't that also directly affect the resources that Russia has available for any malign activities? In other words, if gas is cheaper, they are making less money?

Mr. BURNS. Well, that certainly is the case, and the Russians have a stranglehold on the European market and have had for 35 years.

Senator TILLIS. The last question that I have in my time remaining is—we have focused a lot on how we can create new sanctions, enforce the sanctions regime—but what other things would you encourage us to think about that go beyond the traditional sanctions regimes that we have used in the past that maybe we have not thought about? And to the extent that it would require congressional approval, what advice could you give this Committee?

Mr. BURNS. We have to have greater capacity to resist Russia's propaganda efforts, Sputnik and RT, and we need to rebuild our ability to have an effective information program of our own. This gets to the Broadcast Board of Governors, with Radio Free Europe, Radio Liberty. It gets to reconstituting in the State Department a much more effective organization to try to distribute factual facts around the world and combat the fake news of the Russian Federation. State is being defunded right now, a 31-percent proposed budget cut by this Administration. And I hope the Congress will resist that because we need a strong State Department in order to counter Russia in that sphere. That is very important.

Mr. PONCY. Thank you, Senator, and I fully agree with that. Again, I think the Counteracting Russian Hostilities Act and the dedication of what I believe was $100 million in 2017–18 to go toward these sorts of programs, and not only information programs but programs to highlight the corruption that we know is associated with Russian leadership, we have to be much more aggressive in the public messaging campaign here. Sanctions, as I was saying earlier, cannot work in isolation. It requires a very strong diplomatic push, a very strong push on law enforcement, which the task force will also use the long arm of U.S. jurisdiction to go after anyone associated with corruption in Russia. It has to be part of a broader strategy.

Senator TILLIS. Thank you.

Senator Donnelly.

Senator DONNELLY. Thank you, Mr. Chairman, and I want to thank the witnesses for being here. It is clear to me that Russia actively engaged and actively interfered in United States elections this past election, that they worked nonstop in that effort, and in my book, among many other reasons, that certainly gives us the right to impose sanctions. And my question would be, Ambassador, what do you think is the most effective sanction that could be imposed right now?

Mr. BURNS. Senator, first, we need to be better aligned with the Europeans, the Japanese, the Australians, and others to have

maximal impact, and I think there is work to be done diplomatically to do that.

Second, deepen the sectoral sanctions and even broaden some of them into mining, for instance, deepen the energy sanctions, make it more difficult. Senator Tillis talked about this. This is Russia's comparative advantage. Make it more difficult for them in their supposed area of strength.

And, third, we do have—Congress voted sanctions, and the President did as well, initiated sanctions in 2014 to go after certain individuals around Putin. Other Members have raised this today. I think that is an area where we begin to pressure Putin personally. He is not—he does not govern alone. He actually in a way has——

Senator DONNELLY. And there is a real perception that it is just him.

Mr. BURNS. It is not. I mean, he has got full autocratic power over the machinery of the state, but for his continuation as President, he depends on the oligarchs, he depends on the people who run these state enterprises. He needs to keep them happy by throwing them contracts. If you go after those people, you are more liable to really influence the thinking and the behavior of Putin.

Senator DONNELLY. Mr. Poncy?

Mr. PONCY. Thank you, Senator, and I fully agree with that. I believe the most immediate step is to codify sanctions in a way that sends a strong message. And this is not about politics. It is just about unity and saying, look, this is a position where the United States is not going to be entertaining any sort of a walk-back. That is not a message that I would weigh in on internally. It is a message I want to weigh in *vis-a-vis* an external audience that says the United States is united on this. We have open discourse disagreements, sometimes very hostile, as a democracy does. But on this issue we are united. So that is step one, no rollback, we are united on that.

Two, we are going after illicit assets by the Russian leadership.

Three, we are going to prioritize task forces to look into where that money is, and our economic vulnerability and opportunities associated with interconnections with the Russian economy and that of our allies. And we are going to heighten economic pressure responsibly, using the sectoral sanctions we have, expanding them where it makes sense, and doing that in concert with our allies; all that makes sense.

That entire package has to sit within that broader strategy that we were just talking about with military reinforcements in Europe, with an intelligence capability, law enforcement ramped up, diplomatic outreach to our allies, and positive economic power, something that we have not talked a lot about, but how do we reinforce opposition? How do we counter this not just playing defense but some offense? How do we use our export credits to—how do we do a substitution for the European——

Senator DONNELLY. It is about a five- or six-front effort.

Mr. PONCY. Yes, exactly. And that is really what has been missing, is a prioritization of that, the integration of that, and the consistency behind it from a unified Government.

Senator DONNELLY. Ambassador, let me ask you this: How powerful is denying access to things like the SWIFT transfer payment

system for his oligarchs and for the country? And is that something that, if we do, sets off a whole cataclysm of events at that point?

Mr. BURNS. I do think this gets into the range from a national security perspective. We are going to have to be careful and think through this. I am all for tougher, deeper, broader sanctions. He needs to feel the pain.

If you go to SWIFT—that is just one example—he may take that as an existential threat against the Russian state, not just against himself but the Russian state. And I am not sure the United States wants to go there. This is a very dangerous adversary. They have nuclear weapons. He is not unpredictable. He is rational. But he would, I think, in a rational sense take that as a blow to undermine the very existence of this particular Russian government. So I think the Congress needs to be careful here but tough.

Senator DONNELLY. So how do you best ensure that—obviously, we hope he rolls back in Ukraine and in Crimea, but how do you ensure that he does not go further, do you think?

Mr. BURNS. I think the place he would have gone further would have been the Baltic countries had we not deployed forces there and had President Obama not gone to Tallinn in September 2014 to say we will defend these countries. And you have to make that meaningful. That gets to building up the American military in Europe right now and adding to the strength of our armor and our air capacity now because he is testing us there. So strategic deterrence of the type we practiced in the cold war is definitely back in this equation.

Senator DONNELLY. Mr. Poncy?

Mr. PONCY. Just to reinforce the Ambassador on this, particularly with respect to the SWIFT action, not only would that be a potential existential threat, but it is also one that starts to lose the message campaign that we want, which is this is not about Russia, this is about a leadership that we can and should be targeting more aggressively than we have been and where we can be dissuasive by focusing on their illicit conduct, their cronyism, and then the key ties between that leadership and the Russian economy rather than a broad-based hit against a G–8 economy that has a lot of people who may be on our side on this.

Senator DONNELLY. Thank you.

Thank you, Mr. Chairman.

Senator TILLIS. Senator Cortez Masto, I want to apologize. I am surprised Senator——

Senator BROWN. She went already.

Senator TILLIS. You have already gone? OK. Then I withdraw the apology.

[Laughter.]

Senator TILLIS. I thought I skipped over—I will save it for another time, but I thought I skipped over you for Senator Donnelly.

Senator Van Hollen.

Senator VAN HOLLEN. Thank you, Mr. Chairman, and thank you both for your testimony today. Thank you for your service both in and out of Government, and I appreciate your comments.

I think there is a growing consensus, at least in the Congress, that we need to not only codify the existing sanctions that are currently operating through Executive order, but also that we need to

go further as a result of the interference in our democratic process, something that concerns Democrats and Republicans alike, both for what happened and the potential for it to happen again. So I am hoping that the Congress is moving quickly in that direction.

As you have indicated, we have also seen this kind of interference among our Western European allies. We know that the pro-EU centrist French Presidential candidate Emmanuel Macron's campaign was hacked by the Russians. We know that Russians targeted Angela Merkel and the Christian Democratic Party and also hacked into the German parliament. We know that the Russians provided more than a million euros to the National Front Party in 2014, and, Ambassador Burns, as you indicated, President Trump made some very positive remarks just recently about Le Pen's campaign, even though the Russians would love to see a victory by that particular party because, as you have indicated, their overall strategy is to undermine the democratic processes within Europe and try to increase the rise in authoritarianism more to Putin's liking. So I am glad that we are focusing on how we can make sanctions more effective.

I want to focus for a minute on developing a broader strategy to combat cyber attacks and hacking. Punishing via sanctions for past behavior is one thing. How can we develop a strategy going forward? I had hoped we were moving forward very early on. President-elect Trump said he was going to establish an anti-hacking plan. He asked for a plan to be put forward within 90 days. That deadline passed last week, and apparently there is no team in place, no plan, and nobody at the White House has been able to indicate who, in fact, would be in charge of that plan.

I am in the process right now of finalizing some legislation with Senator Cory Gardner to try to establish a working group and strategy with the United States and our allies to really coordinate our efforts with respect to responding to cyber attacks. And as you indicated in your testimony, Ambassador Burns, we have a right to sanction Russian individuals and firms. The tougher question is, of course, how to address the Russian state.

But we also need to try to find a way to not only respond but deter going forward, and I would ask both of you, beyond economic sanctions and financial penalties, what diplomatic measures, what counter cybersecurity actions can be taken to sort of set up rules of the road so the Russians know that when they try to interfere in American elections or European elections, there will be a response? What suggestions or ideas do you have in establishing a kind of structure that could do that?

Mr. BURNS. Senator, thank you, and let me just say I agree with all of your comments about the need for bipartisanship, the fact that the Europeans are being harassed and interfered with right now in these elections. And I agree with your comments on Marine Le Pen. I cannot remember a time when an American President said anything positive about an anti-democratic leader in Europe, but it happened last week.

Your question is the key question. I think we know what to do on Ukraine sanctions, less clear what to do on cyber sanctions. A couple of thoughts.

One is we know that the United Kingdom, Germany, France, and Israel have capacity here. We should be working in tandem with them and have a common response with them. That will impress the Russians more, first.

Second, we have got to strengthen defense, obviously. We are in a defensive mode. We have to think about our offensive capabilities as well, as the Trump and Obama administrations have been trying to do.

Third, you are right that some of the new sanctions proposed by Congress have to be directed at the Russian state, not just Russian companies that might be working in a cyber capacity, a wink and a nod with Russian security services, but with the state itself and the people and organizations around Putin.

And, finally—and this is going to be difficult—President Obama did succeed in having a conversation with President Xi Jinping on the cyber issue, what we will not do against each other, kind of unwritten rules of the road. President Trump is going to have to have that conversation with President Putin. President Trump should want to be in a position of strength and not weakness, and right now he is in a position of weakness. And I am sorry to say that, because if we are going to be effective, we have to have a tougher-minded and much more serious approach by our Government.

Senator VAN HOLLEN. Thank you for raising the example of President Xi, and I know my time is up, but I would like to continue the conversation about whether you think that model, backed up with the kind of sanctions we are talking about, can actually be effective in dealing with Putin.

Thank you.

Senator TILLIS. Any other questions on the part of the Members? Senator Cortez Masto.

Senator CORTEZ MASTO. This is for the Ambassador. Yesterday we had a briefing on North Korean, and last week the Russian Federation vetoed a resolution at the United Nations seeking to condemn North Korea for their nuclear tests. At the same time, this week, unconfirmed reports indicate that Russia may be moving troops to the North Korea border for fear of military, potential military conflict and/or refugees flowing across the border into Russia.

Do you think that with respect to North Korea the United States' and Russia's interests may be aligned in terms of constraining North Korea? And if so, do you think that that should be a consideration when we are looking to impose severe economic sanctions against Russia?

Mr. BURNS. Thank you, Senator. For a long time, when I was involved in the Bush administration in our policy to try to work with Russia on North Korea, the Russians did not deviate much from what we wanted to have happen. This was back in 2007 and 2008. The same was true with the Agreed Framework in the Clinton administration. But, you know, now, I think because President Putin does have this objective of trying to undercut and undermine American power, we have seen it in Egypt, we have seen it in Libya, we have seen it in Syria, we may now be seeing it in North Korea.

And your question also gives me the opportunity to say I think that Russia is important in North Korea, China is much more important. I think President Trump has been right to publicly

challenge China to do more. I worry, however, that China is going to disappoint him the way it disappointed President Obama and President George W. Bush. In the end, the Chinese prefer the status quo in the Korean peninsula to the potential collapse of the North Korean regime and the emergence of a unified Korean peninsula under the control of a democratic government, our ally in Seoul.

And so I think that the Administration should temper public expectations that China is going to resolve this for us. I do not think that is going to happen. But I do agree with President Trump that we have to face this squarely. I believe that putting THAAD into operation makes sense. That is going to happen, as I understand from news reports, this week, and to up the pressure on both the Chinese and North Koreans over this unacceptable threat to the west coast, to Nevada, to the Mountain States, to the west coast of the United States, maybe in the next 5 to 6 years from North Korea.

Senator TILLIS. Mr. Ambassador, Mr. Poncy, thank you both for being here.

This will conclude the hearing. The record will remain open for a period of 1 week for follow-up questions. Thank you again, and thank you for your service.

The hearing is adjourned.

[Whereupon, at 11:39 a.m., the hearing was adjourned.]

[Prepared statements, responses to written questions, and additional material supplied for the record follow:]

PREPARED STATEMENT OF CHAIRMAN MIKE CRAPO

Chairman Mike Crapo delivered the following opening remarks during the full Committee hearing:

"This morning, the Committee will receive testimony on the smart use of sanctions to counter Kremlin military incursions in Ukraine, Syria, and its increased reliance on cyber warfare against many nations.

"The Committee met 6 weeks ago to begin an inquiry into the effectiveness of the United States sanctions regime imposed 3 years ago against the Russian Federation for its invasion of Crimea, continuing violence and interference in Ukraine, and cyber intrusions against the United States.

"At that hearing, we learned that alone, U.S.-imposed targeted sanctions have had a somewhat limited impact on the economy of the Russian Federation.

"That impact was magnified by the combined effect of sanctions imposed by other Western nations coupled with the severe drop in world oil prices.

"It was less clear, however, if the existing sanctions were affecting any change in the aggressive geopolitical calculations that President Putin continues to make.

"Some analysts say that the economic sanctions have had a deterrent effect on Putin pushing even farther into Ukraine territory. That is a good start.

"Others look to Putin's continued actions in Ukraine and Syria in the weeks since this Committee last met and conclude we should target additional sanctions on the Russian Federation.

"Despite existing U.S. and Western sanctions, Putin has not shown any intention to cease his aggressive behavior.

"For the Committee, today's inquiry is not about punishing the people of the Russian Federation, but rather those responsible for Russia's misbehavior.

"The goal now is to transform the initial, limited application of financial leverage into the next step of what must become a general campaign to impose real costs that impact Putin's ability to conduct hostile activities in an already-troubled world.

"A good starting point might include a codification of existing Executive orders, and a deepening and broadening of sanctions in certain economic sectors, addressing cyber activity and financial corruption, and making mandatory certain existing discretionary sanctions.

"Vital in all of this is harmonizing the conditions to lift sanctions so that if Putin were to try to reverse course, overlapping or misdirected sanctions would not defeat the potential for meaningful change in Kremlin policy.

"Since sanctions were first imposed 3 years ago, the Obama administration, the U.S. Congress, and now the Trump administration have been prepared to impose additional sanctions as circumstances warrant, or until Putin follows through with his commitments to the Minsk cease-fire agreement.

"In fact, several rounds of new designations have been implemented under existing sanctions laws over the last 3 years.

"Make no mistake, these sanctions currently in place, and those that may yet come, are Putin's fault and a result of Putin's confused notions of Russian power and pride.

"Putin is not defending the interests of his people, but is exploiting opportunities to seize neighboring lands by fomenting disorder and seeking to perpetuate Mideast conflict to advance Russia's military influence.

"America must lead on the issue, since the most successful sanctions result from a united front of U.S. and EU cooperation.

"Since the unlawful annexation of Crimea, the years of destabilizing Eastern Ukraine through relentless war, the global spread of cyber-intrusions and Putin's indefensible support of Assad's leadership of Syria, particularly in light of the recent chemical attack, fewer are left in Europe to defend Putin's policies.

"The European Union must ask itself if it is prepared to join the United States to take the necessary financial actions in the foreseeable future to deny Putin the resources he needs to take whatever his next steps may be.

"The last thing the European Union, the United States or this Congress can be is divided in the face of Putin's uncertain path.

"The times call for clarity of purpose, and a correct amount of pressure.

"I thank our witnesses for coming here today to help the Committee understand what a next course of action might look like, what the repercussions of taking such action might look like, and how even those may be mitigated."

PREPARED STATEMENT OF R. NICHOLAS BURNS

ROY AND BARBARA GOODMAN FAMILY PROFESSOR OF DIPLOMACY AND INTERNATIONAL RELATIONS, HARVARD UNIVERSITY, JOHN F. KENNEDY SCHOOL OF GOVERNMENT

APRIL 27, 2017

Mr. Chairman and Ranking Member Brown, it is an honor to testify before the Senate Committee on Banking, Housing and Urban Affairs on United States sanctions against the Russian Federation.

The United States should maintain sanctions on Russia due to its continued aggression in Ukraine. The Congress and the Trump administration should now also consider additional sanctions over the Russian government's interference in the 2016 U.S. Presidential elections.

Russia is the most dangerous U.S. adversary in the world today. For more than a decade, Russian President Vladimir Putin has used the power of the Russian state to undermine American interests in Europe, the Middle East and now in the heart of our democratic system here in the United States.

Russia is attempting to undermine the democratic peace in Europe that the United States helped to bring about after the dissolution of the former Soviet Union and communism in Eastern Europe a quarter century ago. In August 2008, Russia invaded Georgia and has kept that country divided since. Russia has imposed a false territorial conflict in Moldova. In 2014, Russia invaded and then annexed Crimea, violating the territorial integrity of Ukraine. This was the first outright theft in Europe of one country's sovereign territory by another since the Second World War.

Russia has helped to instigate, fund and arm an insurrection against the Ukrainian government in Eastern Ukraine through the continued presence of Moscow's military forces in that region. Russia has also attempted to undermine the internal stability of our NATO allies, Estonia, Latvia, and Lithuania.

To the south and west of the Russian Federation, Putin has acted to undermine neighboring states and to gain effective control over their futures so that they may not seek closer ties to either the European Union or NATO. He wants to attain what the Tsars and Stalin sought in the past—strategic depth along his borders to separate Russia from the West. In this regard, he views the United States as his most serious competitor for power and influence in Europe. He understands that the United States, as the leader of NATO, is the pivotal country in organizing an effective defense against his plan to expand Russia's sway in Eastern Europe.

In response to Russia's invasion of Ukraine, President Obama was right to join European countries and Canada in imposing economic sanctions on Russia in 2014. The Trump administration should not lift those sanctions until all the provisions of the Minsk agreements have been implemented fully.

These sanctions are a critical component of the ability of the United States to counter Russia in Europe and to assist those European countries that are victims of Russian aggression. Helping to create a free, united and democratic Europe has been one of America's most important and historic global objectives for a century. The United States fought in the First World War, World War Two and during the long decades of the cold war to secure freedom in Europe.

Putin has now put that all at risk. Europe has been divided again by his illegal actions. It is thus a vital national interest of the United States to contain Russian power in Eastern Europe. Sanctions are one of the principal tools the United States and Europe have to ensure the success of this common strategy.

Russia's clear interference in the American Presidential election in 2016 should also strengthen our determination to undercut Putin's ambitions and to raise the costs to his government of this unprecedented assault on American sovereignty. The U.S. Intelligence Community report to the country in January was unequivocal. Russia attempted to undermine the credibility of our 2016 election by intervening through a variety of nefarious means.

This is a blatant, unprecedented and deadly serious attack on our democracy. Vigorous investigations by the FBI and the Senate and House Intelligence Committees are necessary to unearth the full truth of this attack on our electoral system. It also warrants a response from the Congress by the imposition of further and stronger sanctions in addition to those already in place.

The United States must respond swiftly and with conviction or Putin's government will only be encouraged to continue its campaign to undermine our democracy and those of our allies. Indeed, there is ample evidence that Moscow has already been interfering in the Dutch, French, and German elections this year on behalf of extreme anti-democratic populist parties. Russian Television, Sputnik and other organs of the Russian state have been dispersing fake news, misleading articles and

outright lies about those democratic leaders in Europe that oppose Russian policies. The Russians will very likely continue these activities unless we work together with the European Union to impose substantial costs on them for doing so.

The response by President Trump to Russia's actions has been extremely disappointing.

President Trump has repeatedly contested the judgments of the intelligence community and of the FBI on this issue.

He has downplayed the need for investigations by the Congress. He has ordered no serious investigation of his own and has not demonstrated any sense of urgency to discover the extent of Russia's interference in our election. He has failed to criticize President Putin for this brazen attack on our democracy. Based on my experience working for Republican and Democrat Presidents on Russia, I cannot imagine any of President Trump's predecessors adopting such a weak approach on such a grave national security challenge.

One of President Trump's fundamental responsibilities as President is to defend our country from foreign aggression. He has failed to do so in not responding to a serious attempt to undermine American democracy.

That is why Congress must now act by undertaking a comprehensive, bipartisan investigation of Russia's actions and by adopting a far stronger and more forceful response than the Trump administration has to date. Indeed, a recent NBC/Wall St. Journal poll showed that 73 percent of the American respondents supported an independent investigation into this attack.

With this in mind, I support many of the goals of the proposed bipartisan Russia Sanctions Review Act of 2017. Congress should consider imposing more comprehensive sanctions on Russia to build on the cyber sanctions initiated by President Obama in late December 2016.

At the very least, the President and Congressional leaders must make clear directly to the Russian government that interference in our elections or attacks on our critical infrastructure will not be tolerated by the United States. We must warn that the United States will retaliate further if these attacks continue. And we should coordinate our response with our key allies to maximize its impact.

The United States has every right to sanction those Russian individuals and firms who have carried out hacking attacks during our election campaign on behalf of the Russian government. But, the far greater challenge is to decide how to respond to hacking attacks, the use of false information, fake news sites and other interference by the Russian state itself. Depending on the results of the FBI and Congressional investigations, our response must be forceful and unmistakable in our determination to deter future attacks.

As a career Foreign Service Officer, I worked for three American Presidents as they sought to respond to challenges from Russia. From 1990 until 1995, I served in the Administration of President George H.W. Bush as Director for Soviet Affairs at the National Security Council and then in the Administration of President Bill Clinton as Special Assistant to the President and Senior Director for Russia, Ukraine, and Eurasian Affairs.

During the Administration of President George W. Bush when I was Ambassador to NATO (2001–2005) and Under Secretary of State for Political Affairs (2005–2008), I worked extensively on our often difficult relationship with the Russian Federation. While we cooperated reasonably well with the Russian government for a time after the 9/11 attacks, President Putin eventually adopted a much more aggressive, competitive and distrustful attitude toward the United States and Europe. Our relationship with Moscow has suffered as a consequence.

All three Presidents worked within a carefully constructed and bipartisan strategic framework that emphasized the freedom and security of our allies and friends in Europe as a primary priority. President Trump has not made these principles a point of emphasis in his first months in office. He is the first American president in seven decades who has not made clear his unequivocal commitment to NATO and the European Union and to the preservation of democratic governments in Europe. He has been reluctant to embrace U.S. leadership of the NATO Alliance. He has been even more lukewarm on our historic support for European integration. Just last week, he made laudatory comments about the French anti-democratic populist, Marine Le Pen. This is an abrupt and misguided departure from seven decades of resolute American policy in support of democratic governments in Europe.

Congress must thus remain vigilant on the issue of U.S. sanctions against Russia over its outright violation of Ukraine's sovereignty. Congress should make it difficult for the Trump administration to lift sanctions without Congressional concurrence. And if the Russian-supported separatist forces continue to expand their territorial control in Eastern Ukraine, Congress should consider adding sanctions in response. A December 2016 report by the Atlantic Council (where I am a board member)

details a variety of options from strengthening sanctions on key individuals in the Russian government to expanding financial sanctions, including in energy. It would also be beneficial for Congress to request from the Trump administration a full accounting of Russia's ongoing violations of the Minsk accords during recent months.

I am neither an economist nor a sanctions expert and am thus not in a position to judge the precise impact of the sanctions on the Russian economy to date. Many experts believe lower world oil prices have been the main factor contributing to Russia's negative economic growth during this period. But, many also believe sanctions have had an impact in helping to slow Russia's GDP growth rate and robbing its economy of badly needed investment capital in energy and other areas.

Sanctions have not been sufficiently robust to cause the Russian government to withdraw its military forces from Crimea and Eastern Ukraine. But, the sanctions have isolated Russia internationally and have been a unifying factor in galvanizing Western opposition to Putin and in ensuring nonrecognition of Russia's land grab in Ukraine.

The fact that Putin and his government have worked so hard to have the sanctions lifted is an indication that they are a cause of great concern for Moscow. The Russian government continues to attempt to divide the European Union on this issue. German Chancellor Angela Merkel has been the key leader in insisting that Russia meet all of its Minsk agreement commitments before sanctions can be lifted. She deserves our full support in maintaining unanimity within the European Union in the months ahead.

As Congress debates the right mix of sanctions in response to Russia's actions in Ukraine as well as its interference in our elections, it will be important to integrate U.S. sanctions with those of Canada and the European Union. Congress should request a full report on sanctions implementation by the United States and all the other countries to ensure they are being carried out in a rigorous manner. The United States would be right to insist that the sanctions also be equitable on both sides of the Atlantic so that the sacrifices made by European companies are equal to those being made by American companies.

Sanctions are the main tool the United States and Europe can employ to send a message of tough opposition to Russia's territorial aggression in Eastern Europe. When Russian military forces entered Crimea and then Eastern Ukraine in early 2014, President Obama, Chancellor Merkel, and other allied leaders made the right decision not to use military force in response. As Ukraine is not a member of NATO, we had no legal or ethical obligation to do so. And military force would have created a dangerous confrontation between two nuclear weapons powers. Sanctions were the only effective way the United States, Canada, and Europe could respond forcefully to Putin and inflict economic damage that might, over time, cause him to rethink his strategy.

For now, however, Russia is far from compliance with the Minsk accords. During the last 3 months alone, Moscow has instigated more intensive fighting by the separatist movements it supports directly. Indeed, the Russian government took an unprecedented step earlier this year of treating passports of the separatist government in the Donbass region as legitimate. It has even acquiesced in the use of the Russian ruble in territory that clearly belongs to Ukraine under international law. The trends are both obvious and ominous in Ukraine, Moldova and Georgia-Russia is attempting to subvert the independence of all three countries.

The United States must now mount a renewed strategy to combat this dangerous Russian campaign. The first step is for the Administration to maintain and possibly increase sanctions on Russia. A second step is for Congress and the Administration to agree to provide lethal defensive arms to Ukraine so that it can defend its people and its borders. A third step is to make permanent the recent stationing of NATO military forces on the territory of Poland, Estonia, Latvia, and Lithuania. Finally, the Trump administration should also continue the policy of President Obama to rebuild the strength and armored capacity of U.S. military forces in Europe as a deterrent to Putin's truculent behavior.

While there will be some issues where cooperation with Russia may be possible—implementation of the Iran Nuclear Deal, North Korea, and counter-narcotics are examples—we will likely remain in a competitive and hostile relationship with Russia until Putin's Soviet-trained and inspired generation passes from power some years from now.

Our long-term goal must thus be to contain Russian power in Eastern Europe to preserve, in the words of President George H.W. Bush, the "Europe whole, free, and at peace" that was the historic result of the end of the Cold War in 1991.

Russia, however, is clearly attempting to rebuild its power base in Europe and the Middle East at the expense of the United States and its allies. Its brutal air campaign in Syria has resulted in the deaths of thousands of civilians. By

weakening both NATO and the European Union, Moscow also hopes to undermine the credibility of our democratic systems.

Finally, Mr. Chairman, these aggressive Russian actions are a warning to the American people and our Government. We must be vigilant in defending the Western values upon which our country was founded and on the Transatlantic Alliance that is critical to our long-term security.

Just as during the Cold War, Russia's assault is focused on our concrete interests in Europe but also on the values that are at the heart of our democratic system of government. Russia is contesting the victory of the democratic countries at the end of the Cold War. Putin's actions are a carefully coordinated power move to divide the West and reduce American power in the world.

With this in mind, I hope President Trump will speak and act more resolutely in defense of those values—freedom of speech and of the press and the separation of powers, including an independent judiciary. The United States is the natural leader of the West and is an exceptional global power. We must give confidence to the American people, as well as hundreds of millions of Europeans who are our treaty allies, that we will act to protect the freedom and independence of the Western democracies against a cynical and opportunistic Russian autocrat.

We urgently need a principled, bipartisan American response, led by the Congress, to the threat of Russian attacks on our friends in Europe and on our democracy at home.

PREPARED STATEMENT OF CHIP PONCY

PRESIDENT AND CO-FOUNDER OF THE FINANCIAL INTEGRITY NETWORK, AND SENIOR ADVISOR TO THE CENTER ON SANCTIONS AND ILLICIT FINANCE

APRIL 27, 2017

Chairman Crapo, Ranking Member Brown, and other distinguished Members of the Senate Committee on Banking, Housing & Urban Affairs, I am honored by your invitation to testify before you today.

This is the Committee's second hearing in the past several weeks on assessing next steps and further options for U.S. sanctions on Russia. I commend your attention to this issue of growing urgency to our national security and to the collective security of the international order that the United States has led since the founding of the United Nations over 70 years ago.

I am also grateful for the substantial contribution of the expert witnesses who testified before you on this topic last month. Their prior testimony and ongoing work, together with the contributions of other dedicated experts studying this topic, continue to inform our thinking at the Financial Integrity Network and the testimony that I will deliver to you today.

The primary basis of my testimony, however, is the experience that I have gained in helping to shape and implement sanctions policy over the past 15 years, in the U.S. Government, the international community, and in the private sector. Based on this experience and as explained in greater detail below, I believe there are important steps that Congress should take to protect our national and collective security by clarifying and strengthening sanctions on Russia, summarized as follows:

1) *Prioritize targeted sanctions against Russian leadership engaged in illicit conduct.* Congress should target sanctions against Russian leadership engaged in illicit conduct by:

(i) Calling for the establishment of a Russian Counter-Illicit Financing Task Force dedicated to tracing, mapping, sanctioning, and prosecuting illicit Russian financial flows that intersect with the U.S. financial system, and for working with allied governments to similarly track, trace, and combat illicit Russian financial flows, largely as proposed in the Countering Russian Hostilities Act Bill;

(ii) Providing specific funding for the Russian Counter-Illicit Financing Task Force, to be managed by Treasury and the Department of Justice to ensure interagency participation and support as needed across law enforcement, intelligence, regulatory, and financial authorities;

(iii) Codifying and consolidating existing sanctions authority to specifically target Russian leadership engaged in illicit conduct, largely as proposed in the Countering Russian Hostilities Act Bill;

(iv) Expanding existing sanctions authority to specifically target Russian leadership engaged in illicit conduct that, with respect to any foreign state: (a)

undermines democratic processes or institutions; (b) threatens the peace, security, territorial integrity or sovereignty; or (c) misappropriates state assets;

(v) Prioritizing and expanding derivative sanctions against persons and entities owned or controlled by; acting for or on behalf of; or materially, financially, or technologically assisting Russian leadership engaged in illicit conduct, including by calling upon Treasury to lower the ownership threshold for derivative designations from 50 percent to 25 percent, consistent with Treasury's final rule on customer due diligence for U.S. financial institutions;

(vi) Creating a Europe and Eurasia Democracy and Anti-Corruption Fund as proposed in the Countering Russian Hostilities Act, and further creating specific funding for publication of studies and research on corruption of Russian leadership.

Prioritizing targeted sanctions against illicit conduct by Russian leadership will expose, contain, disrupt, and potentially deter such conduct. Efforts that can expose corruption of Russian leadership may be particularly powerful in raising opposition to such conduct in Russia. Prioritizing derivative designations in particular will give much greater economic impact to primary designations against Russian leadership by going after the networks that support and benefit from illicit conduct engaged in by such leadership.

2) *Call upon Treasury to consider designating under Section 311 of the USA PATRIOT Act any Russian financial institutions engaging in substantial transactions associated with any illicit conduct by Russian leadership;*

3) *Heighten controlled pressure on the Russian economy.* Congress should consider building upon Treasury's sectoral sanctions program to heighten controlled economic pressure on Russia, including by:

(i) Calling upon Treasury to expand designations of Russian financial institutions, defense firms, and energy companies under the sectoral sanctions program;

(ii) Applying new sanctions against any persons with respect to purchase, subscription to, or facilitation of the issuance of sovereign debt of Russia, as proposed in the Countering Russian Hostilities Act bill;

(iii) Applying new sanctions against any persons with respect to investments in the Russian energy sector, as proposed in the Countering Russian Hostilities Act bill;

(iv) Considering new sanctions against any persons with respect to investments in the Russian financial or defense sectors;

(v) Calling upon Treasury and the intelligence community to produce a study of key Russian sectors exposed to economic sanctions and U.S. and allied countries' exposure to potential counter-sanctions by Russia; and

(vi) Based on such a study, considering new sectors for possible designations under the sectoral sanctions program.

4) *Strengthen the effectiveness of U.S. sanctions in general.* Congress should strengthen the operational effectiveness of U.S. sanctions by:

(i) Providing funding for Treasury to expand its sanctions targeting, compliance, and enforcement resources and capabilities, particularly with respect to derivative designations of key node primary sanctions targets;

(ii) Considering requiring Treasury to issue regulations specifying sanctions program and training requirements for global financial institutions operating in the United States and for other sectors vulnerable to sanctions busting and sanctions evasion;

(iii) Calling upon FinCEN to issue final anti-money laundering (AML) rules on the reporting of cross-border wire transfers and on AML program, SAR reporting, and customer due diligence (CDD) requirements for investment advisors to heighten the transparency of the U.S. financial system in accordance with international standards;

(iv) Calling upon FinCEN to consider rulemaking extending AML requirements to title insurance companies and/or others involved in the sale of high-end real estate as necessary to close proven sanctions evasion and money laundering vulnerabilities in the U.S. real estate market;

(v) Calling upon Treasury to issue a report offering recommendations for expanding information sharing under Section 314 of the USA PATRIOT Act to

enhance the effectiveness and reduce the costs associated with counter-illicit financing analysis by U.S. authorities and across the U.S. financial system.

5) *Facilitate operational sanctions capability in allied countries.* Congress should enhance foreign partner capacity in key allied countries by providing funding to Treasury to launch a Foreign Partner Training Program across sanctions administration, implementation, and enforcement.

These recommendations are based in large part upon key developments, conditions, and challenges evident in the recent evolution of sanctions policy and implementation, as discussed in greater detail below.

Background

I was extraordinarily privileged to serve our country at the United States Department of the Treasury for 11 years following the terrorist attacks of 9/11. I worked for and with an immensely talented and dedicated group of individuals from across the U.S. Government, the financial services industries, and various governments with shared interests in our collective security. This was a pivotal period in the development and institutionalization of financial and economic power as an increasingly important component of our national and global security.

With bipartisan leadership across the Congress and four Administrations, we collectively constructed, secured, and deployed an unmatched capability to exploit financial information and apply financial and economic pressure to identify and attack threats to our national security. We also secured, strengthened, and expanded enduring multilateral support for these efforts, including through global frameworks, relationships, and mechanisms that continue to protect the international financial system from a wide range of illicit activity and actors. Developing and applying a broad array of financial and economic sanctions against various threats to our collective security constituted a core component of these efforts.

For the past 4 years at the Financial Integrity Network, our mission has focused on assisting allied governments, the global banking sector, and critical industries in developing and implementing financial policies that advance our collective security and protect the international financial system from abuse. A key area of our work has been collaborating with clients and partners to design, implement, assess, and strengthen effective and workable sanctions policies within broader financial security risk management regimes.

Throughout my experiences in Government and the private sector over the past 15 years, U.S. sanctions policy has continued to evolve, benefiting from lessons learned over time. My recommendations above for strengthening sanctions against Russia are based on this recent history of sanctions evolution, and how this history has revealed key conditions and challenges to strengthening the effectiveness of sanctions policy in general, including with respect to sanctions against Russia.

Important Developments in the Recent Evolution of Sanctions Policy

Designing, implementing, assessing, and strengthening current sanctions programs requires an understanding of the recent evolution of sanctions policy within the broader rise of financial power and economic statecraft. This evolution is marked by four inter-related and fundamental developments:

(i) The emergence of sanctions and targeted financial measures as a core component of foreign policy, national security, and collective security strategies;

(ii) Shifting expectations of sanctions policy as an increasingly operational, targeted, and nuanced tool designed to achieve real financial and economic impact;

(iii) Expanded application of sanctions against a broader range of illicit conduct, and

(iv) The increased blending and interdependence of sanctions and AML regimes.

These developments, briefly explained below, help shape the conditions and challenges that sanctions policymakers should consider in developing, assessing, and strengthening sanctions programs, including with respect to sanctions against Russia.

The emergence of sanctions as a core component of foreign policy, national security, and collective security strategies

The emergence of sanctions and targeted financial and economic measures as an essential component of foreign policy and national and collective security strategies is evident in the relatively recent and rapid expansion of sanctions programs at global, multilateral, and national levels. Since the terrorist attacks of 9/11, virtually every United Nations Security Council resolution addressing various threats to

global peace and security has included heightened sanctions and other targeted financial and economic measures. This includes global responses to illicit activities ranging from terrorism to the proliferation of weapons of mass destruction, as well as global responses to rogue regimes and destabilizing elites in various countries such as Afghanistan, the Central African Republic, the Democratic Republic of the Congo, Iran, Libya, North Korea, Somalia, Sudan, South Sudan, and Yemen.

In addition to this global expansion of sanctions programs, the United States has prominently coordinated multilateral sanctions campaigns targeting collective security threats associated with the Bashar al-Assad regime in Syria and Russian aggression in the Ukraine. The United States also continues to work with the European Union and other partners in maintaining other multilateral sanctions programs against oppressive and corrupt governing regimes in countries such as Belarus and Zimbabwe, and in implementing conduct-based sanctions against designated terrorist groups and their support networks.

At a national level, the United States continues to impose broad economic sanctions against Cuba, notwithstanding the substantial relaxations introduced in the last years of the second Obama administration. The United States has also introduced and heightened unilateral sanctions against oppressive and corrupt elements of the governing regime in Venezuela. And the United States has expanded conduct-based sanctions against threats ranging from drug trafficking and terrorism to proliferation and malicious cyber-enabled activities, as well as against transnational criminal organizations more broadly.

Similarly, other jurisdictions, most notably the European Union, have developed unilateral sanctions programs to advance foreign policy interests such as combating kleptocracy, including with respect to ongoing asset recovery efforts against the former Mubarak regime in Egypt.

This broad expansion of various types of sanctions programs underscores the increasing importance of sanctions as a core component of global, multilateral, and jurisdictional strategies to advance fundamental foreign policy interests and address various threats to national and collective security.

Shifting expectations of sanctions policy

The emergence of sanctions as a fundamental component of foreign policy and national and collective security strategies is due in part to the shifting expectations of sanctions policy. This is notwithstanding the historically consistent overarching purpose of sanctions as a means of advancing core foreign policy interests and addressing threats to national and collective security.

In general and with a few notable exceptions, expectations associated with sanctions policy have shifted in two fundamental ways. First, sanctions have evolved from primarily political "name and shame" symbolic measures to operationally meaningful tools to deter, change, disrupt, and/or contain activity that threatens core foreign policy or national or collective security interests. As operational rather than purely political or symbolic measures, sanctions are increasingly expected to create real financial and economic pressure on their intended targets.

Second, as sanctions have become more operational, they have also become more tailored and nuanced, targeting specific actors or conduct of concern while minimizing collateral damage to third parties or related interests. Policymakers increasingly craft, tailor, and adapt specific types of sanctions to address specific types of threats, maximizing the effectiveness of sanctions while minimizing collateral harm. This is evident in the rise of conduct-based sanctions and the general move away from comprehensive jurisdictional embargoes and toward regime-based sanctions, targeting specific elites responsible for the threatening behavior of concern.

Expanded application of sanctions against a broader range of illicit conduct

As sanctions have shifted toward a more operational and targeted approach, they have been applied against a wider range of illicit conduct previously addressed exclusively by criminal law enforcement, or occasionally by the use of force. Such illicit conduct includes drug trafficking, terrorism, the proliferation of weapons of mass destruction, cybercrime, and transnational organized crime more broadly.

This emergence and expansion of such conduct-based sanctions have been driven by both necessity and opportunity. Such sanctions are increasingly necessary to protect and advance core foreign policy and national and collective security interests against an expanding array of threats that have become more sophisticated and globalized in an increasingly globalized economy. And such conduct-based sanctions provide us with an opportunity to apply our considerable financial and economic power in a manner that directly attacks these threats, in support of law enforcement, foreign policy, and other national security interests.

The emergence of conduct-based sanctions has also been critical in targeting jurisdictional sanctions programs against government elites that are responsible for a targeted country's threatening behavior. Such sanctions have increasingly targeted a sanctioned country's government officials and related individuals responsible for activities such as: (i) threatening the peace, security, territorial integrity or sovereignty of other states; (ii) misappropriating state assets; (iii) undermining democratic processes or institutions; or (iv) engaging in gross human rights abuses.

Increased blending and interdependence of sanctions and AML regimes

As sanctions have become more expansive, operational, and targeted, they have also increasingly depended upon and overlapped with AML regimes. This is particularly true with financial sanctions or economic sanctions that are primarily implemented and enforced through the financial system. At a fundamental level, the effectiveness of such sanctions depends critically on the financial transparency achieved through sound implementation of robust AML preventive measures by the banking and financial services industries. The customer and transactional due diligence conducted by financial institutions pursuant to AML regulation enables such institutions to identify and manage risks associated with sanctioned parties, activities, and jurisdictions. Without the financial transparency achieved through implementation of such AML requirements, compliance with many sanctions policies would be substantially limited or even unachievable.

In addition to this fundamental reliance of operational sanctions effectiveness on financial transparency gained through implementation of AML preventive measures, most conduct targeted by sanctions is also criminalized as predicate offenses to money laundering. This includes drug trafficking, terrorist financing, WMD proliferation (smuggling/violation of export controls), organized crime more broadly, and corruption. This overlap enables sanctions policy to benefit from the support of AML regimes across governments and the global financial system, where such conduct is targeted for as a basis for suspicious activity reporting, investigation, prosecution, and asset forfeiture.

Finally, sanctions policy may focus on targeted financial measures that may also be required or authorized by AML authorities. Depending on the particular sanctions program and scenario, sanctions may not require an asset freeze, but may prohibit certain financial relationships, investments, or transactions, akin to certain AML measures such as in applying Section 311 authorities of the USA PATRIOT Act. And as a practical matter, sanctions implementation increasingly requires AML risk management measures, such as certifications, representations, and enhanced due diligence.

This is particularly true with respect to the sectoral sanctions levied by the United States, the European Union, Canada, and other countries against Russia. While such sectoral sanctions do not require asset freezing or outright prohibition of relationships or dealings with sectoral sanctioned parties, they do impose certain debt or equity financing prohibitions with respect to such designated parties, as well as other restrictions. These complex sanctions were deliberately designed to enable ongoing relationships with sanctioned parties while putting financial and economic pressure on key parts of the Russian economy. Financial institutions that must comply with these sanctions while remaining engaged in business with sectoral sanctioned entities rely upon a combination of sanctions screening and AML-like enhanced due diligence measures and controls.

These developments in the recent evolution of sanctions policy as described above can assist policymakers understand conditions and challenges that impact sanctions effectiveness.

General Conditions and Challenges for Assessing Sanctions Effectiveness

The recent evolution of sanctions policy reveals general conditions and challenges for assessing sanctions effectiveness as follows:

- First, effective sanctions policy and implementation requires clear sanctions objectives and criteria. With respect to sanctions against countries, the evolution of sanctions policies and programs, and in particular the complex combination of sanctions relevant to some countries such as Russia, has raised challenges of clarity and common understanding regarding sanctions objectives and criteria. Policymakers should ensure that objectives and criteria for specific sanctions programs are clear, and that these remain clear as underlying circumstances change. Policymakers should also ensure that sanctions objectives and criteria are well understood, including among allied countries, across affected business communities and the compliance industry, in the popular media, and within sanctioned countries—particularly when sanctions target corruption by ruling regimes. Such clarity and understanding may facilitate greater

compliance with and more active support for various sanctions programs among allied countries, within affected industries, and among the general public.

- Second, as sanctions programs have become more operational and nuanced, they must be flexible to adapt to changing circumstances. Such flexibility is crucial to maintain the effectiveness of sanctions against intended targets while preserving their workability for compliance and implementation purposes. Policymakers should ensure that authority is delegated to the Treasury with sufficient discretion to manage, administer, and implement sanctions programs in a dynamic and complex environment.
- Third, the general shift away from classic jurisdictional embargoes and toward regime-based sanctions targeting illicit conduct by governing elites not only minimizes collateral damage to innocent parties, but also highlights and holds accountable specific individuals engaged in such illicit conduct. When such illicit conduct includes corruption, it may make it more difficult for sanctioned regimes to blame the United States or sanctions programs for economic problems that are likely due to the corruption and failed policies of the sanctioned regime.

  Policymakers should generally favor developing such regime-based programs targeting illicit conduct over comprehensive jurisdictional sanctions. Derivative designations associated with such targeted programs can still introduce largely prohibitive jurisdictional risk in such countries for outside markets; however, the cause of intended or collateral economic pain in the sanctioned regime's country may be more visibly attributed to the illicit conduct of the regime and its control over the country's economy. This may help create internal pressure for the ruling regime to change its behavior.[1]
- Fourth, the growth and complexity of operationally focused sanctions have put substantial pressure on sanctions implementation, administration, and enforcement resources, both within the Government and across the private sector. As policymakers consider strengthening or expanding sanctions programs, they should ensure that appropriate Government resources are available to implement these programs effectively, including for purposes of providing clear and workable guidance for the financial community and other industries whose compliance systems are critical in making sanctions operationally meaningful.
- Fifth, effective implementation of and compliance with increasingly complex sanctions programs and requirements demand specialized expertise, particularly in global finance and other industries exposed to sanctioned parties, activities, and jurisdictions. Policymakers should support sanctions implementation and compliance by considering requiring training programs that specifically focus on developing such expertise in highly exposed industries.
- Sixth, the disparity between the United States and the rest of the world in sanctions administration, implementation, and enforcement—including with respect to global and multilateral sanctions programs—weakens sanctions effectiveness and heightens the burden of sanctions compliance for U.S. persons and authorities. Policymakers should prioritize not only global or multi-lateral political support for sanctions, but global and multi-lateral operational capability in sanctions administration, implementation, and enforcement. It is astonishing that 16 years after 9/11 and the adoption of United Nations Security Council Resolution 1373 requiring all countries to develop targeted sanctions against global terrorism, that only a handful of countries have invested in any meaningful sanctions administration, implementation, oversight, guidance, or enforcement. By and large, the Treasury's Office of Foreign Assets Control (OFAC) remains a singular source of expertise, authority, and capability on sanctions administration, oversight, and enforcement, and the Treasury's broader Office of Terrorism and Financial Intelligence remains a unique institutional authority in targeting and implementing sanctions programs within a broader financial security approach and framework.

  Policymakers should consider training budgets and personnel to assist foreign partners who commit to developing operational sanctions capabilities, particularly within a broader financial security framework. Facilitating such foreign capability may also make it easier to engender political support for using such capabilities against common threats to collective security.
- Seventh, notwithstanding the need for greater multilateral capability in sanctions administration, implementation, and enforcement, the increasing use of

[1] For similar reasons, policymakers should also consider converting existing comprehensive jurisdictional sanctions against Cuba and Sudan to regime-based programs targeting illicit conduct.

sanctions by authorities around the world may expose the United States and its allies to retaliatory sanctions by countries subject to U.S. and allied sanctions. This concern should limit our consideration of technical assistance to allied countries and should drive a proactive study of our exposure to retaliatory sanctions by countries currently or potentially subject to U.S. sanctions. Policymakers should consider financing such a study.

- Eighth, the increased blending and interdependence of sanctions and AML regimes underscore the importance of investing in AML regimes not only to combat money laundering and financial crime, but also to facilitate compliance and implementation of sanctions policy. Where holes in AML regulation, implementation, supervision, or enforcement prevent financial institutions from truly understanding their customers or transactions, sanctions evasion becomes an elevated and real risk. In recent years, several enforcement actions resulting in billions of dollars of fines levied against global financial institutions for breakdowns in sanctions and AML compliance underscore this reality.

  To facilitate effective sanctions implementation, policymakers should ensure that sound and robust AML regimes extend across the financial system and deliver the financial transparency required to identify and manage sanctions risk.

  Sanctions policymakers should also leverage AML authorities and resources to provide investigative, analytic, and prosecutorial expertise and support to combat illicit conduct targeted by both sanctions and AML regimes.

Conclusion

Over the past generation, the United States has led the global development and institutionalization of global and national frameworks to combat financial crime, exploit financial information, and leverage financial and economic power, including through the development and implementation of sanctions policy. We must continue to invest in this capability, at home and abroad, and fully utilize this capability to combat threats to our national security, including with respect to dangerous behavior by the Russian government. I am hopeful that my testimony will assist the Congress and the Administration in continuing to lead these efforts.

I am grateful for the opportunity to testify before you today, and I look forward to your questions.

RESPONSE TO WRITTEN QUESTIONS OF SENATOR TESTER FROM NICHOLAS BURNS

Cyber-Deterrence

Q.1. During a recent meeting with sanctions experts, a few Senators discussed the concept of "cyber-deterrence." We are fighting and fending off—at all levels of Government and industry—a persistent and growing threat from foreign government hackers and armies of online trolls. This endangers our financial systems, our interconnected infrastructure, and our electoral process.

- Do you believe there are any number of sanctions we could place on Russian entities or officials that could deter further cyberattacks?
- What other actions do you believe the United States could take, such as increasing our "cyber-offense," that could deter future meddling and cyber-attacks from Russia?

A.1. Did not respond by publication deadline.

European Support for Sanctions

Q.2. Our allies in Europe depend on us to spearhead efforts against Russian aggression. For decades, they have relied on American leadership and the promise that we are going to be there to back them up. Now, in order for the current sanctions regime against Russia to work, we need our allies to back us up. But right now, there does not seem to be a unified voice for foreign policy coming out of the White House and the State Department.

What message does this lack of a leading, unified voice send to our allies in Europe? How is Russian domestic and foreign policy leadership reacting to current U.S. foreign policy in Europe?

A.2. Did not respond by publication deadline.

Russian Energy Production

Q.3. Many of our allies in Europe, despite having sanctions on Russia for its incursions into Ukraine, are still highly dependent on natural gas from Russia. Clearly, this reduces the European Union's leverage to levy sanctions where it really hurts Russia the most.

What policy recommendations would you make to us in Congress that would help our allies in Europe to wean themselves from Russian natural gas?

A.3. Did not respond by publication deadline.