

House Oversight and Accountability Committee  
*Subcommittee on Health Care and Financial Services*

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# China in Our Backyard:

## How Chinese Money Laundering Organizations Enrich the Cartels

**ANTHONY RUGGIERO**

**Nonproliferation and Biodefense Program  
Senior Director and Senior Fellow**  
*Foundation for Defense of Democracies*

Washington, DC  
April 26, 2023

Chairwoman McClain, Ranking Member Porter, and distinguished members of this subcommittee, thank you for the opportunity to address you today on this important issue.

### **Fentanyl Crisis in America — A 9/11 Every Two Weeks**

More than 100,000 Americans died from drug overdoses in the 12-month period ending in November 2022.<sup>1</sup> The Biden administration noted that “most of these deaths are caused by illicit synthetic drugs like clandestinely manufactured fentanyl and methamphetamine, often in combination with other drugs, including cocaine and heroin.”<sup>2</sup> These deaths increased during the Trump administration and continue to increase today. This is simultaneously a national and local challenge. More Americans die every two weeks on average from overdose deaths than died as a result of the September 11 terror attacks, making this both a national security and a public health crisis that requires bipartisanship to meet the challenge.

But narco-traffickers have a problem: they run a cash business inside the United States without an easy way to repatriate profits to Mexico. At some level, the financial measures to combat money laundering have worked and made it more difficult for the cartels simply to drive bulk U.S. dollars over the border. That’s where Chinese money launderers come in; they see an opportunity for profit and have exploited it. An anonymous U.S. source told *Reuters* that the Chinese operation is “the most sophisticated form of money laundering that’s ever existed.”<sup>3</sup> Yet in many ways it is a new take on an old problem: narco-traffickers need assistance from savvy financial criminals to launder drug profits through a variety of means, including trade-based money laundering.

The scheme involves the largest banks in China, which are also the largest banks in the world. While the Biden administration is focused on combating U.S. demand for drugs and the export of fentanyl precursors from China, it has not tackled the problem of the Chinese financial sector’s role in laundering the proceeds from drug sales that kill over 100,000 Americans each year.

### **Chinese Money Laundering Organizations**

Chinese money laundering organizations and individuals have emerged as a central element of a financial scheme that takes bulk U.S. dollars received from drug operations in the United States and returns the profits to cartels in Mexico. In 2021, Admiral Craig Fuller, then-commander of U.S. Southern Command, noted in testimony before Congress that Chinese money laundering is “the number one underwriter of transnational criminal organizations.”<sup>4</sup> In February 2023, Anne

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<sup>1</sup> “Provisional Drug Overdose Death Counts,” *Centers for Disease Control and Prevention*, February 15, 2023. (<https://www.cdc.gov/nchs/nvss/vsrr/drug-overdose-data.htm>)

<sup>2</sup> The White House, Press Release, “Dr. Rahul Gupta Releases Statement on CDC’s New Overdose Death Data,” January 11, 2023. (<https://www.whitehouse.gov/ondcp/briefing-room/2023/01/11/dr-rahul-gupta-releases-statement-on-cdcs-new-overdose-death-data-2>)

<sup>3</sup> Drazen Jorgic, “Special Report: Burner phones and banking apps - Meet the Chinese 'brokers' laundering Mexican drug money,” *Reuters*, December 3, 2020. (<https://www.reuters.com/article/uk-mexico-china-cartels-specialreport-idUKKBN28D1LZ>)

<sup>4</sup> Adm. Fuller testified before the Senate Armed Services Committee on March 16, the House Services Committee on April 14, and the House Appropriations Committee on April 15, 2021. See: “2021 Posture Statement to

Milgram, administrator of the Drug Enforcement Administration (DEA), testified before the Senate Foreign Affairs Committee and emphasized that the use of Chinese money laundering organizations “by the cartels simplifies the money laundering process and streamlines the purchase of precursor chemicals utilized in manufacturing drugs.”<sup>5</sup>

Milgram explained further that the scheme solves two problems: “(1) the desire of Mexican cartels to repatriate drug proceeds into the Mexican banking system, and (2) wealthy Chinese nationals who are restricted by [China’s] capital flight laws from transferring large sums of money held in Chinese bank accounts for use abroad.”<sup>6</sup> The State Department has noted that individuals in China can only convert approximately \$50,000 worth of Chinese currency into U.S. dollars annually, and the Chinese government has restricted the direct transfer of Chinese currency abroad.<sup>7</sup> Wealthy Chinese evade these restrictions by buying dollars from money laundering operations that exchange the U.S. currency for Chinese currency as part of the money laundering scheme.

The Treasury Department’s February 2022 National Money Laundering Risk Assessment noted that Chinese money laundering organizations are unique because they “offer services at lower fees than traditional money brokers.”<sup>8</sup> The organizations also “provide insurance against losses, in that they will still pay out even if the funds are lost due to theft or interdiction by law enforcement.”<sup>9</sup>

Treasury detailed an example of Chinese money launderers using a six-step process to repatriate drug profits to narco-trafficking organizations.

- Step 1: The Mexican cartel coordinates the delivery of bulk U.S. dollars through couriers to a Chinese money broker within the United States.
- Step 2: The money broker pays the Mexican cartel in pesos in Mexico, taking a two percent commission.<sup>10</sup>
- Step 3: The broker transfers the U.S. dollars to a processor in the United States who then advertises and sells the U.S. dollars to Chinese nationals in the United States.

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Congress,” *U.S. Southern Command*, accessed April 24, 2023. (<https://www.southcom.mil/Media/Special-Coverage/SOUTHCOMs-2021-Posture-Statement-to-Congress>)

<sup>5</sup> Anne Milgram, “Countering Illicit Fentanyl Trafficking,” *Testimony before Senate Foreign Relations Committee*, February 15, 2023. ([https://www.foreign.senate.gov/download/02/15/2023/021523\\_milgram\\_testimony](https://www.foreign.senate.gov/download/02/15/2023/021523_milgram_testimony))

<sup>6</sup> *Ibid.*

<sup>7</sup> U.S. Department of State, “2022 Investment Climate Statements: China,” July 28, 2022. (<https://www.state.gov/reports/2022-investment-climate-statements/china>)

<sup>8</sup> U.S. Department of the Treasury, “National Money Laundering Risk Assessment,” February 2022. (<https://home.treasury.gov/system/files/136/2022-National-Money-Laundering-Risk-Assessment.pdf>)

<sup>9</sup> *Ibid.*

<sup>10</sup> Sebastian Rotella and Kirsten Berg, “How a Chinese American Gangster Transformed Money Laundering for Drug Cartels,” *ProPublica*, October 11, 2022. (<https://www.propublica.org/article/china-cartels-xizhi-li-money-laundering>)

- Step 4: The Chinese nationals conduct a mobile China-to-China bank transfer in Chinese currency to bank accounts controlled by the Chinese money laundering organization.
  - The Chinese money broker takes a commission of 10 percent or more.<sup>11</sup>
  - The Chinese nationals in the United States “use the U.S. dollars to purchase assets and support their lifestyle in the United States, which Chinese capital flight restrictions would otherwise limit.”<sup>12</sup>
  - Treasury explained that the Federal Bureau of Investigation has “noted the sale of cash by [Chinese money laundering organizations] to Chinese university students who then use the cash to pay their tuitions.”<sup>13</sup>
- Step 5: The Chinese money laundering organization sells the Chinese currency to Mexican businesses or Chinese expatriates with business in Mexico to finance the purchase of Chinese goods.
  - The Chinese money broker takes another commission from the transaction.<sup>14</sup>
- Step 6: The Mexican businesses or Chinese expatriates with business in Mexico ship the goods to Mexico or another destination and sell it for a profit.<sup>15</sup>

Treasury’s example is similar to the process described by an indictment issued in October 2020 in the U.S. District Court for the Eastern District of Virginia against six individuals for “participating in a conspiracy to launder millions of dollars of drug proceeds on behalf of foreign cartels.”<sup>16</sup> The Department of Justice alleged that the defendants obtained at least \$30 million from their drug conspiracies and property involved in the money laundering activities. A year after the indictment was unsealed, Xizhi Li, the leader of the money laundering scheme and a U.S. citizen who previously resided in Mexico, pleaded guilty to one count of conspiring to commit money laundering. Li received a 15-year prison sentence and agreed to forfeit \$10 million to the United States.<sup>17</sup>

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<sup>11</sup> Ibid.

<sup>12</sup> U.S. Department of the Treasury, “National Money Laundering Risk Assessment,” February 2022. (<https://home.treasury.gov/system/files/136/2022-National-Money-Laundering-Risk-Assessment.pdf>)

<sup>13</sup> Ibid.

<sup>14</sup> Sebastian Rotella and Kirsten Berg, “How a Chinese American Gangster Transformed Money Laundering for Drug Cartels,” ProPublica, October 11, 2022. (<https://www.propublica.org/article/china-cartels-xizhi-li-money-laundering>)

<sup>15</sup> Ibid.

<sup>16</sup> U.S. Department of Justice, Press Release, “United States Unseals Superseding Indictment Charging Nationwide Money Laundering Network,” October 15, 2020. (<https://www.justice.gov/opa/pr/united-states-unseals-superseding-indictment-charging-nationwide-money-laundering-network>)

<sup>17</sup> U.S. Department of Justice, Press Release, “Leader of Money Laundering Network Responsible for Laundering Millions of Dollars in Drug Proceeds Sentenced to 15 Years in Prison,” October 26, 2021. (<https://www.justice.gov/opa/pr/leader-money-laundering-network-responsible-laundering-millions-dollars-drug-proceeds>)

### **China's Response/Lack of Action**

In February 2023, Assistant Secretary of State for International Narcotics and Law Enforcement Affairs Todd Robinson testified before the Senate Foreign Relations Committee that China's 2019 decision "to schedule fentanyl-related substances as a class, essentially end[ed] PRC-origin shipments of these substances to the United States."<sup>18</sup>

Yet this did not solve the problem. As DEA Administrator Milgram explained at the same hearing, Mexican cartels have circumvented Beijing's controls by purchasing precursor chemicals in China and transporting them to Mexico. The cartels "mass produce fentanyl; pressing the fentanyl into fake prescription pills; and using cars, trucks, and other routes to transport the drugs from Mexico into the United States for distribution."<sup>19</sup> Milgram explained that it costs the cartels as little as 10 cents per fentanyl-laced fake prescription pill that is sold for \$10-\$30 in the United States.<sup>20</sup>

Robinson said that China "can and must do more to act meaningfully in this regard beyond its class-wide control of fentanyl-related substances."<sup>21</sup> Milgram was blunt, explaining that China "has suspended all counter-narcotics cooperation with the United States."<sup>22</sup>

One example is the case of Xianbing Gan, a Chinese national residing in Mexico, whom a federal jury convicted in March 2020 of three counts of money laundering and one count of operating an unlicensed money transmitting business.<sup>23</sup> Reuters reported in December 2020 that the Department of Justice accused Gan of processing between 25 and 65 million dollars in drug proceeds from 2016 until his arrest in November 2018.<sup>24</sup> Gan was sentenced in April 2021 to 14 years in prison.<sup>25</sup>

Reuters noted that U.S. officials said China did not assist in the Gan investigation. The Chinese Foreign Ministry provided a statement to Reuters in October 2020 disputing that account.<sup>26</sup> The

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<sup>18</sup> Todd D. Robinson, "Countering Illicit Fentanyl Trafficking," *Testimony before Senate Foreign Relations Committee*, February 15, 2023. ([https://www.foreign.senate.gov/download/021523\\_robinson\\_testimony](https://www.foreign.senate.gov/download/021523_robinson_testimony))

<sup>19</sup> Anne Milgram, "Countering Illicit Fentanyl Trafficking," *Testimony before Senate Foreign Relations Committee*, February 15, 2023. ([https://www.foreign.senate.gov/download/02/15/2023/021523\\_milgram\\_testimony](https://www.foreign.senate.gov/download/02/15/2023/021523_milgram_testimony))

<sup>20</sup> Ibid.

<sup>21</sup> Todd D. Robinson, "Countering Illicit Fentanyl Trafficking," *Testimony before Senate Foreign Relations Committee*, February 15, 2023. ([https://www.foreign.senate.gov/download/021523\\_robinson\\_testimony](https://www.foreign.senate.gov/download/021523_robinson_testimony))

<sup>22</sup> Anne Milgram, "Countering Illicit Fentanyl Trafficking," *Testimony before Senate Foreign Relations Committee*, February 15, 2023. ([https://www.foreign.senate.gov/download/02/15/2023/021523\\_milgram\\_testimony](https://www.foreign.senate.gov/download/02/15/2023/021523_milgram_testimony))

<sup>23</sup> U.S. Department of Justice, Press Release, "Federal Jury Convicts Chinese National of Laundering Drug Proceeds on Behalf of Traffickers in Mexico," March 2, 2020. (<https://www.justice.gov/usao-ndil/pr/federal-jury-convicts-chinese-national-laundering-drug-proceeds-behalf-traffickers>)

<sup>24</sup> Drazen Jorgic, "Special Report: Burner phones and banking apps - Meet the Chinese 'brokers' laundering Mexican drug money," *Reuters*, December 3, 2020. (<https://www.reuters.com/article/uk-mexico-china-cartels-specialreport-idUKKBN28D1LZ>)

<sup>25</sup> U.S. Department of Justice, Press Release, "Chinese National Sentenced to 14 Years in Prison for Laundering Drug Proceeds on Behalf of Traffickers in Mexico," April 27, 2021. (<https://www.justice.gov/usao-ndil/pr/chinese-national-sentenced-14-years-prison-laundering-drug-proceeds-behalf-traffickers>)

<sup>26</sup> Drazen Jorgic, "Special Report: Burner phones and banking apps - Meet the Chinese 'brokers' laundering Mexican drug money," *Reuters*, December 3, 2020. (<https://www.reuters.com/article/uk-mexico-china-cartels-specialreport-idUKKBN28D1LZ>)

ministry explained China is willing to work with the United States to “destroy drug cartels and drug-related money-laundering networks.”<sup>27</sup> But the ministry cautioned the cooperation could only occur using the “principle of respecting each other’s laws, equality and mutual benefit.”<sup>28</sup> This is an attempt to delay any concrete action by the administration on China’s role in the narco-trafficking.

### **The Biden Administration’s Response**

The Biden administration has pursued a two-year whole-of-government effort focused on an “evidence-based strategy to address untreated addiction, prevent drug deaths, and dismantle drug trafficking production and supply chains.” The administration issued a fact sheet on April 11 detailing these efforts, including a strengthened approach to stopping illicit fentanyl supply chains, working with international partners to disrupt the drug trade, strengthening coordination and information among U.S. intelligence and law enforcement, and working with the private sector.<sup>29</sup>

As part of this effort, the DEA last year “seized more than 50 million fake pills and 10,000 pounds of fentanyl powder equating to approximately 379 million deadly doses of fentanyl.”<sup>30</sup> Last month, the Department of Homeland Security launched a new effort at the southwest border to detect and seize illicit fentanyl. In its first week, the operation seized more than 900 pounds of illicit fentanyl.<sup>31</sup>

On April 14, the administration joined a trilateral statement with Canada and Mexico after the first meeting of the senior-level North America Trilateral Fentanyl Committee. U.S. Homeland Security Advisor Elizabeth Sherwood-Randall convened the meeting, which called for prioritizing four areas for cooperation: current and emerging synthetic drugs, drug demand and public health, drug trafficking modes and methods, and illicit finance.<sup>32</sup>

The administration’s efforts and the April White House press releases are commendable, but they had a glaring omission: not a single mention of China and the role of Chinese individuals, companies, and banks in financing the drugs that are killing Americans. The administration must not shy away from calling out Beijing’s role.

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<sup>27</sup> Ibid.

<sup>28</sup> Ibid.

<sup>29</sup> The White House, Press Release, “FACT SHEET: Biden-Harris Administration Announces Strengthened Approach to Crack Down on Illicit Fentanyl Supply Chains,” April 11, 2023. (<https://www.whitehouse.gov/briefing-room/statements-releases/2023/04/11/fact-sheet-biden-harris-administration-announces-strengthened-approach-to-crack-down-on-illicit-fentanyl-supply-chains>)

<sup>30</sup> Anne Milgram, “Countering Illicit Fentanyl Trafficking,” *Testimony before Senate Foreign Relations Committee*, February 15, 2023. ([https://www.foreign.senate.gov/download/02/15/2023/021523\\_milgram\\_testimony](https://www.foreign.senate.gov/download/02/15/2023/021523_milgram_testimony))

<sup>31</sup> The White House, Press Release, “FACT SHEET: Biden-Harris Administration Announces Strengthened Approach to Crack Down on Illicit Fentanyl Supply Chains,” April 11, 2023. (<https://www.whitehouse.gov/briefing-room/statements-releases/2023/04/11/fact-sheet-biden-harris-administration-announces-strengthened-approach-to-crack-down-on-illicit-fentanyl-supply-chains>)

<sup>32</sup> The White House, Press Release, “Joint Statement from Canada, Mexico and the United States following the First North America Trilateral Fentanyl Committee Meeting,” April 14, 2023. (<https://www.whitehouse.gov/briefing-room/statements-releases/2023/04/14/joint-statement-from-canada-mexico-and-the-united-states-following-the-first-north-america-trilateral-fentanyl-committee-meeting>)

The Treasury Department co-lead an effort with Canada in the Financial Action Task Force (FATF), an international standard setting body focused on money laundering, to analyze the fentanyl issue. FATF issued its first ever report on this issue in November 2022, explaining the problem, the role of the financial sector, and recommendations for detecting the illicit activities.<sup>33</sup> Under Secretary of the Treasury for Terrorism and Financial Intelligence Brian Nelson issued a statement following the report's release, noting that "Drug trafficking is a significant proceeds-generating offense for money laundering and has been identified by the United States as one of eight national priorities for combatting illicit finance."<sup>34</sup>

The administration issued a new executive order in December 2021 that modernized Treasury's sanctions authorities used against the illicit drug trade — the new order grew out of an effort initiated under the prior administration.<sup>35</sup> Executive Order 14059 allows the Treasury Department to sanction any foreign person involved in the global illicit drug trade regardless of whether they are linked to a specific kingpin or cartel, which was the previous standard under E.O. 12978 (1995) and the 1999 Foreign Narcotics Kingpin Designation Act.<sup>36</sup>

Treasury used E.O. 14059 on April 14, 2023, to designate two Chinese companies and five individuals, based in China and Guatemala, for supplying precursor chemicals for fentanyl production to Mexican drug cartels. On the same day, the Department of Justice announced that a federal grand jury in the Southern District of New York had indicted 28 individuals, including four of the five individuals sanctioned by the Treasury Department.<sup>37</sup> While these efforts tackle China's role in exporting fentanyl precursors, they do not address the role of the Chinese financial system in money laundering for the cartels.

### **Addressing the Role of China's Banks**

The Chinese financial sector must be incentivized to cooperate in the fight against narco-money laundering. While the Chinese Communist Party and Chinese President Xi Jinping restrict U.S.-China diplomatic engagement, the Chinese financial sector values its access to the U.S. financial

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<sup>33</sup> Financial Action Task Force, Press Release, "Money Laundering from Fentanyl and Synthetic Opioids," November 30, 2022. (<https://www.fatf-gafi.org/en/publications/methodsandtrends/documents/money-laundering-fentanyl-synthetic-opioids.html>)

<sup>34</sup> U.S. Department of the Treasury, Press Release, "Statement by Under Secretary Brian Nelson on the FATF Report on Money Laundering from Fentanyl and Synthetic Opioids," November 30, 2022. (<https://home.treasury.gov/news/press-releases/jy1131>)

<sup>35</sup> U.S. Department of the Treasury, Press Release, "Treasury Uses New Sanctions Authority to Combat Global Illicit Drug Trade," December 15, 2021. (<https://home.treasury.gov/news/press-releases/jy0535>)

<sup>36</sup> U.S. Department of the Treasury, Press Release, "Treasury Uses New Sanctions Authority to Combat Global Illicit Drug Trade," December 15, 2021. (<https://home.treasury.gov/news/press-releases/jy0535>); Executive Order 14059, "Imposing Sanctions on Foreign Persons Involved in the Global Illicit Drug Trade," December 15, 2021. (<https://ofac.treasury.gov/media/917361/download?inline>); Fentanyl Sanctions Act, 21 U.S.C. §1790-1064. (<https://ofac.treasury.gov/media/49141/download?inline>)

<sup>37</sup> U.S. Department of Justice, Press Release, "U.S. Attorney Announces Charges Against Leadership Of The Sinaloa Cartel And 25 Other Defendants In Massive Fentanyl Importation And Trafficking Conspiracies," April 14, 2023. (<https://www.justice.gov/usao-sdny/pr/us-attorney-announces-charges-against-leadership-sinaloa-cartel-and-25-other-defendants>)

system. But that access should come with conditions: Chinese banks, individuals, and companies cannot finance the drug trade that is killing thousands of Americans.

The Department of Justice explained that the defendants in the Xizhi Li case controlled or had access to accounts at the Agricultural Bank of China and the Industrial and Commercial Bank of China.<sup>38</sup> At Gan's trial, prosecutors noted that his organization used various Chinese banks, including Bank of China.<sup>39</sup> These are three of the largest banks in the world.<sup>40</sup> China's Foreign Ministry told Reuters that China had investigated U.S. information on China-based bank accounts allegedly connected to the fentanyl trade but claimed they were "legitimate enterprises and individuals" in China.<sup>41</sup>

Sanctions are one — but not the only — tool available to address money laundering activities. Financial authorities have used fines, prosecutions, subpoenas, and other information gathering activities to increase the transparency on these activities and encourage the banks to increase compliance with U.S. and other sanctions. Governments in the United States and Europe have used fines and prosecutions to address a series of money laundering cases involving these same large Chinese banks. In November 2016, Agricultural Bank of China agreed to pay the New York State Department of Financial Services a \$215 million penalty and establish effective compliance controls.<sup>42</sup> In 2017, Bank of China agreed to pay more than a million euros for a multi-billion euro scheme at its Milan branch that smuggled money from Italy to China.<sup>43</sup> In 2020, four former employees of Industrial and Commercial Bank of China's Madrid branch pleaded guilty to money laundering and agreed to pay a fine totaling more than \$20 million.<sup>44</sup>

While Chinese banks fear losing access to the U.S. financial system, the current administration and its successors may avoid strong actions against Chinese banks because they fear the impact on the global economy. But there are precedents showing the U.S. government can target these banks without causing broader disruptions. From 2016 to 2018, there was bipartisan support for targeting Chinese banks involved in the evasion of sanctions on North Korea. Through a series of

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<sup>38</sup> U.S. Department of Justice, Press Release, "United States Unseals Superseding Indictment Charging Nationwide Money Laundering Network," October 15, 2020. (<https://www.justice.gov/opa/pr/united-states-unseals-superseding-indictment-charging-nationwide-money-laundering-network>)

<sup>39</sup> Drazen Jorgic, "Special Report: Burner phones and banking apps - Meet the Chinese 'brokers' laundering Mexican drug money," *Reuters*, December 3, 2020. (<https://www.reuters.com/article/uk-mexico-china-cartels-specialreport-idUKKBN28D1LZ>)

<sup>40</sup> Yuzo Yamaguchi, Harry Terris, and Rehan Ahmad, "The world's 100 largest banks, 2022," *S&P Global Market Intelligence*, April 11, 2022. (<https://www.spglobal.com/marketintelligence/en/news-insights/latest-news-headlines/the-world-s-100-largest-banks-2022-69651785>)

<sup>41</sup> Drazen Jorgic, "Special Report: Burner phones and banking apps - Meet the Chinese 'brokers' laundering Mexican drug money," *Reuters*, December 3, 2020. (<https://www.reuters.com/article/uk-mexico-china-cartels-specialreport-idUKKBN28D1LZ>)

<sup>42</sup> New York State Department of Financial Services, Press Release, "DFS Fines Agricultural Bank of China \$215 Million for Violating Anti-Money Laundering Laws and Masking Potentially Suspicious Financial Transactions," November 4, 2016. ([https://www.dfs.ny.gov/reports\\_and\\_publications/press\\_releases/pr1611041](https://www.dfs.ny.gov/reports_and_publications/press_releases/pr1611041))

<sup>43</sup> "Bank of China pays 600,000 euros to close Italy money laundering case," *Reuters*, February 17, 2017. (<https://www.reuters.com/article/bankofchina-italy/bank-of-china-pays-600000-euros-to-close-italy-money-laundering-case-idUSL8N1G25RB>)

<sup>44</sup> Jesus Aguado and Emma Pinedo, "Fines, short jail terms for four ex-ICBC Spain employees in laundering case," *Reuters*, June 16, 2020. (<https://www.reuters.com/article/us-icbc-spain-investigation/fines-short-jail-terms-for-four-ex-icbc-spain-employees-in-laundering-case-idUSKBN23N2Q6>)



actions and disclosures, the Treasury and Justice Departments revealed that North Korea used Chinese banks to process over \$2 billion in transactions through the U.S. financial system. Even these estimates were likely just the tip of the iceberg since these focused only on designated North Korean entities and individuals or those working on their behalf.

- In May 2017, the Department of Justice revealed that Dandong Zhicheng Metallic Material Company Limited and four front companies used the Chinese financial system from 2009 to 2017 to process \$700 million through the U.S. financial system.<sup>45</sup>
- In June 2017, the Department of Justice explained that Dandong Hongxiang Industrial Development Company Limited and its associated front companies, which were created by four Chinese individuals, processed over \$1.3 billion in transactions through the American banking system between 2009 and 2016.<sup>46</sup>
- In July 2017, the Treasury Department issued a proposed rule invoking Section 311 of the Patriot Act against Bank of Dandong, a commercial bank located in Dandong, China. (The rule was finalized in November 2017.) Treasury revealed that Bank of Dandong had processed at least \$133.62 million from May 2012 to May 2015 as an agent for companies transacting with, or on behalf of, U.S.- and UN-sanctioned North Korean entities.<sup>47</sup>

The Department of Justice in June 2017 revealed that from October to November 2015, Mingzheng International Trading Limited, a front company in Shenyang, China, laundered more than \$1.9 million using the Chinese banking system for U.S.-sanctioned North Korean Foreign Trade Bank.<sup>48</sup> Subsequently, the U.S. Attorney's Office for the District of Columbia issued Patriot Act subpoenas for records for one of three Chinese banks with a grand jury issuing subpoenas for the other two. Two Chinese banks had branches in the United States while the other maintained a correspondent account. After a lengthy court fight, the United States prevailed. The judicial fine of \$50,000 per day on the banks for noncompliance with the subpoenas was upheld and confirmed the ability of federal prosecutors to seek information directly from banks that maintain a U.S. presence to investigate potential violations of U.S. law.<sup>49</sup>

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<sup>45</sup> *United States of America v. All Wire Transactions Involving Dandong Zhicheng Metallic Material Company, LTD., et. al.* (D.D.C. May 22, 2017). (<https://storage.courtlistener.com/recap/gov.uscourts.dcd.185942.13.0.pdf>)

<sup>46</sup> *United States of America v. Funds Associated with Mingzheng International Trading Limited*, No. 1:17-cv-01166-KBJ (D.D.C. June 14, 2017). (Accessed via PACER)

<sup>47</sup> U.S. Department of the Treasury, Financial Crimes Enforcement Network, "Proposal of Special Measure Against Bank of Dandong as a Financial Institution of Primary Money Laundering Concern," 82 Federal Register 129, July 7, 2017. ([https://www.fincen.gov/sites/default/files/federal\\_register\\_notices/2017-07-07/2017-14026.pdf](https://www.fincen.gov/sites/default/files/federal_register_notices/2017-07-07/2017-14026.pdf))

<sup>48</sup> U.S. Department of Justice, Press Release, "United States Files Complaint to Forfeit More Than \$1.9 Million from China-Based Company Accused of Acting as a Front for Sanctioned North Korean Bank," June 15, 2017. (<https://www.justice.gov/usao-dc/pr/united-states-files-complaint-forfeit-more-19-million-china-based-company-accused-acting>)

<sup>49</sup> Zia M. Faruqi, Jessie K. Liu, and Noha K. Moustafa, "The Long Arm of U.S. Law: The Patriot Act, the Anti-Money Laundering Act of 2020 and Foreign Banks," *Lawfare*, February 23, 2021. (<https://www.lawfareblog.com/long-arm-us-law-patriot-act-anti-money-laundering-act-2020-and-foreign-banks#>)

There have been few U.S. actions against Chinese banks because we have not learned the correct lessons from our experience so far and fear our own inability to craft a smart financial sector strategy. Additionally, the risk of causing broader disruptions has diminished because the executive branch has designed new approaches to designating financial corporate giants so that the economic fallout from sanctions actions remains limited. Treasury has also combined sanctions with the necessary implementation of general licenses and issuance of specific licenses to mitigate fallout, combined with a clear path to rehabilitation, so that targeted firms can resume operations.

In keeping with these new approaches, the administration could designate the principal corporate officers of a Chinese bank — but not the bank itself — for facilitating narcotics-related money laundering. The action would target the bank for malign conduct without any of the consequences of imposing blocking sanctions on one of the largest banks in the world. This approach was applied during the Obama administration to the Panamanian newspapers *La Estrella de Panama* and *El Siglo*, which were owned by designated narcotics traffickers.<sup>50</sup> Their ownership was eventually transferred to a non-designated entity. There is no reason that these methods cannot be used against the narco-traffickers who have killed our citizens and decimated our communities.

### **Legislative Branch Recommendations**

The congressionally chartered Commission on Combating Synthetic Opioid Trafficking’s final report recommended constantly revisiting the legislative framework for disrupting opioid trafficking to ensure it is both effective in its reach and encourages interagency coordination.<sup>51</sup> While that recommendation largely centered on identifying and updating regulations relating to fentanyl precursors, that process should equally apply to sanctions, anti-money laundering, and export control measures.

1. Update the Fentanyl Sanctions Act and Other Critical Legislation: In my experience, legislatively mandated sanctions need to be consistently reexamined by Congress to ensure that they are both effective and up to date. The Fentanyl Sanctions Act (FSA) and the KINGPIN Act before it were landmark pieces of sanctions legislation.<sup>52</sup> Yet legislation needs to be constantly updated to have a positive impact in the current environment. And the devil is always in the details. The FSA was passed at the end of 2019, and its authorities expire in December 2026. Looking at the structure of the FSA in April 2023, the Congress should consider:
  - a. Revising the menu-based sanctions approach for the application of sanctions on individuals that are identified as foreign opioid traffickers to immediately impose the strongest possible sanctions measures — property blocking combined with visa denial — on a foreign person that engages in or facilitates opioid trafficking;

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<sup>50</sup> U.S. Department of the Treasury, Press Release, “Treasury Sanctions the Waked Money Laundering Organization,” May 5, 2016. (<https://home.treasury.gov/news/press-releases/j10450>)

<sup>51</sup> Commission on Combating Synthetic Opioid Trafficking, “Final Report,” February 8, 2022. ([https://www.rand.org/pubs/external\\_publications/EP68838.html](https://www.rand.org/pubs/external_publications/EP68838.html))

<sup>52</sup> Fentanyl Sanctions Act, 21 U.S.C. §1790-1064. (<https://ofac.treasury.gov/media/49141/download?inline>); Foreign Narcotics Kingpin Designation Act, 21 U.S.C. §1901-1908. (<https://ofac.treasury.gov/media/6771/download?inline>)

- b. Creating a separate menu-based sanctions approach to target agencies or instrumentalities of foreign states that knowingly engage in or facilitate narcotics production and trafficking;
  - c. Applying the menu-based sanctions contained in the current legislation to individuals or entities that are grossly negligent with respect to financial transactions, precursor exports, or other such actions that facilitate narcotics traffickers; and
  - d. Mandating an annual advisory from the Treasury Department on illicit financial schemes and methods related to the trafficking of fentanyl and other synthetic opioids. (Treasury could issue it as a department wide advisory or through the Financial Crimes Enforcement Network as mentioned below.)
2. Codify Executive Order 14059 (2021): Congress may also consider codifying Executive Order 14059, which implemented the FSA, and any executive order that amends E.O. 14059 to capture any other measures that the executive branch may take. A similar approach was taken with respect to statutory sanctions against North Korea.<sup>53</sup>
3. Expanding Secondary Financial Sanctions and Anti-Money Laundering Measures Against Fentanyl Traffickers: In September 2019, Treasury announced an amendment of Executive Order 13224, which provides for secondary sanctions against foreign financial institutions that have knowingly conducted or facilitated significant financial transactions on behalf of a sanctioned person.<sup>54</sup> Congress can amend the FSA to include a similar measure. Similarly, Congress can also require that the administration review jurisdictions and sub-jurisdictions in which enhanced due diligence measures to safeguard the integrity of the U.S. banking system, such as the measures available to the administration under Section 311 or Section 312 of the PATRIOT Act. (See the July 2017 Bank of Dandong example explained in the previous section.)
4. Develop Persistent Oversight Measures: Congress can also develop key oversight tools to promote the effective implementation of sanctions. First, Congress can update the FSA to require a presidential certification prior to lifting fentanyl-related sanctions against any individual or entity to ensure they are not engaged in any other sanctionable conduct. Second, the Congress can borrow from the Global Magnitsky sanctions regime and insert an authority that requires that the administration review and respond to any congressional nominations for sanctions imposition. This measure not only helps hold any administration accountable with respect to sanctions enforcement, but it may even aid the administration in identifying financial facilitators. As members of Congress, you are better integrated into your local communities than most federal officials, and that engagement may yield information that can help identify international money laundering or sanctions evasion networks. Finally, this committee should continue to oversee various agencies' inspector generals' activities and work closely with them to review their oversight plans for counter-narcotics efforts. In this vein, I recommend that this

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<sup>53</sup> North Korea Sanctions and Policy Enhancement Act of 2016, Pub. L. 114-122, 130 Stat. 93, 22 U.S.C. §9201. (<https://ofac.treasury.gov/media/5776/download?inline>)

<sup>54</sup> Executive Order 13886, "Modernizing Sanctions To Combat Terrorism," September 9, 2019. (<https://ofac.treasury.gov/media/26041/download?inline>)

committee also task the Government Accountability Office with examining whether narcotics-related anti-money laundering, sanctions, and export control measures are being effectively enforced by the interagency.

### **Executive Branch Recommendations**

1. Treasury and State senior officials should take an aggressive approach to the Chinese and Mexican governments and financial sectors: The Biden administration should use a public and private approach. The United States should not shy away from specifically naming China's role in money laundering. Every public statement on the issue should remind the American public that China is essential to the operations of the drug cartels. In public, the administration should note that Mexico must do more to curtail the cartels' operations. In private, the message to Chinese banks should be even more blunt. Chinese banks are processing tens of millions of dollars in transactions for narcotraffickers and the U.S. government is prepared to use all available tools to stop it. The administration should remind the Mexican government that Mexico's approach toward the cartels will be a significant factor as Washington discusses ally shoring manufacturing away from China.
2. Issue a new advisory to financial institutions: In August 2019, the Treasury Department's Financial Crimes Enforcement Network (FinCEN), which safeguards the U.S. financial system from illicit use, issued an advisory on illicit financial schemes and methods related to the trafficking of fentanyl and other synthetic opioids. The advisory was detailed with specific examples and included red flags for financial institutions. A revised advisory could integrate the Department of Justice's prosecutions since 2019, the February 2022 U.S. National Money Laundering Assessment, and the November 2022 FATF Report on Money Laundering from Fentanyl and Synthetic Opioids.
3. Surge capacity to prioritize sanctions and law enforcement actions: The Biden administration has pledged to address the narcotrafficking issue and a clear sign would be prioritizing additional resources for the Treasury, Justice, and other departments. If the administration needs additional resources or authorities, it should raise those issues with Congress. The administration could also create a task force specifically focused on the financial aspects of the drug trade. The group should use existing authorities to raise the importance of the issue with the Chinese financial system with government and private sector representatives. The task force could also coordinate cooperation with other governments facing similar problems.
4. Increase cooperation with Mexico and Canada: The senior-level Trilateral Fentanyl Committee is an important initiative from the Biden administration. The first meeting created four focus areas: current and emerging synthetic drugs, drug demand and public health, drug trafficking modes and methods, and illicit finance. The administration should work with Canada to surge support and cooperation with Mexican law enforcement and its finance ministry specifically focused on identifying suspicious financial transactions and sharing information for sanctions designations and law enforcement actions. This effort could be a subset of the illicit finance focus area. The administration, Canada, and

Mexico should create an operational group of border control experts and law enforcement to share best practices to identify the transfer of illicit cargo across all three countries. The administration should also encourage Canada and Mexico to publicly urge China to address its role in the fentanyl crisis. This will move the issue from a U.S.-China issue to a regional/international issue and challenge Beijing's narrative that it is a responsible global stakeholder.

On behalf of the Foundation for Defense of Democracies, I thank you again for inviting me to testify.