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DEPARTMENT OF THE TREASURY

Notice of Finding That Banca Privada d'Andorra Is a Financial Institution of Primary Money Laundering Concern

AGENCY: Financial Crimes Enforcement Network ("FinCEN"), Treasury.

ACTION: Notice of Finding.

SUMMARY: This document provides notice that, pursuant to the authority contained in the USA PATRIOT Act, the Director of FinCEN found on March 6, 2015 that reasonable grounds exist for concluding that Banca Privada d'Andorra ("BPA") is a financial institution operating outside of the United States of primary money laundering concern.

DATES: The finding referred to in this notice was effective as March 6, 2015.

FOR FURTHER INFORMATION CONTACT: FinCEN, (800) 949-2732.

SUPPLEMENTARY INFORMATION:

I. Statutory Provisions

On October 26, 2001, the President signed into law the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (the "USA PATRIOT Act"), Public Law 107-56. Title III of the USA PATRIOT Act amends the anti-money laundering provisions of the Bank Secrecy Act ("BSA"), codified at 12 U.S.C. 1829b, 12 U.S.C 1951-1959, and 31 U.S.C. 5311-5314, 5316-5332, to promote the prevention, detection, and prosecution of international money laundering and the financing of terrorism. Regulations implementing the BSA appear at 31 CFR Chapter X.

Section 311 of the USA PATRIOT Act ("Section 311"), codified at 31 U.S.C. 5318A, grants the Secretary of the Treasury ("the Secretary") the authority, upon finding that reasonable grounds exist for concluding that a foreign jurisdiction, financial institution, class of transaction, or type of account is of "primary money laundering concern," to require domestic financial institutions and financial agencies to take certain "special measures" to address the primary money laundering concern. The Secretary has delegated this authority under Section 311 to the Director of FinCEN.

On March 6, 2015, the Director of FinCEN found that reasonable grounds exist for concluding that Banca Privada d'Andorra ("BPA") is a financial institution operating outside of the United States of primary money laundering concern. The Director considered the factors listed below in making this determination.

II. The History of BPA and Jurisdictions of Operation

BPA is one of five Andorran banks and is a subsidiary of the BPA Group, a privately-held entity. Founded in 1962, BPA is the fourth largest bank of the five banks in Andorra and has 1.79 billion euro in assets. The bank has seven domestic branches in Andorra and five foreign branches that operate in Spain, Switzerland, Luxembourg, Panama, and Uruguay. BPA has fewer domestic and foreign branches than the other major banking groups in Andorra. BPA's Panama branch ("BPA Panama") is licensed as an offshore bank by the Superintendecia de Bancos de Panama, which is the bank regulator for the Panamanian government. BPA has correspondent banking relationships in the major North American, European, and Asian financial centers. At the time of this Finding, BPA has four U.S. correspondent accounts.

III. The Extent to Which BPA Has Been Used to Facilitate or Promote Money Laundering

FinCEN has found that reasonable grounds exist for concluding that several officials of BPA's high-level management in Andorra have facilitated financial transactions on behalf of Third-Party Money Launderers ("TPMLs") providing services for individuals and organizations involved in organized crime, corruption, smuggling, and fraud. Criminal organizations launder their proceeds through the international financial system. These organizations often encounter obstacles in achieving direct access to financial institutions internationally and in the United States because of their illicit activities. To obtain access to financial institutions, some criminal organizations use the services of TPMLs, including professional gatekeepers such as attorneys and accountants. TPMLs engage in the business of transferring funds on behalf of a third party, knowing that the funds are involved in illicit activity. These TPMLs provide access to financial institutions and lend an aura of legitimacy to criminal actors who use the TPMLs' services. Some TPMLs explicitly market their services as a method for criminal organizations to reduce transparency and circumvent financial institutions' anti-money laundering ("AML")/countering the financing of terrorism ("CFT") controls. TPMLs provide access to the international financial system for criminal organizations through the TPMLs' relationships with financial institutions.

Financial institutions that facilitate third-party money laundering activity allow criminals to circumvent AML/CFT controls both in the United States and internationally, and, thus, provide a gateway for undermining financial integrity. TPMLs use a wide variety of schemes and methods to infiltrate financial institutions. These schemes and methods include using illicit shell and shelf corporations, layering financial transactions,

creating and using false documentation, and exerting improper influence on employees in financial institutions or on government officials. A shell company is an entity that is formed for the purpose of holding property or funds and does not itself engage in any significant business activity. A shelf corporation is an entity that is formed and then placed aside for years. The length of time that a shelf corporation has been in existence adds legitimacy to the entity and makes it a prime vehicle for money laundering.

A. BPA Facilitated Financial Transactions for TPMLs Involving the Proceeds of Organized Crime, Corruption, Human Trafficking, and Fraud.

FinCEN has found that reasonable grounds exist to support the following points: Several of BPA's high-level management have facilitated financial transactions on behalf of TPMLs providing services for individuals and organizations involved in organized crime, corruption, human trafficking, trade-based money laundering, and fraud. High-level management at BPA maintained close relationships with these TPMLs. Based on those relationships, TPMLs promoted their services to other illicit actors and relied on BPA to provide access to the financial system for criminal organizations. TPMLs successfully used BPA to facilitate money laundering activity because the Bank's weak AML/CFT controls allowed TPMLs to conduct this high-risk banking activity without detection, and the TPMLs were able to establish close relationships with complicit bank personnel who facilitated illicit transactions.

From 2011 to February 2013, High-Level Manager A at BPA in Andorra provided substantial assistance to Andrey Petrov, a TPML ("TPML 1") working for Russian criminal organizations engaged in corruption. Petrov facilitated several projects on behalf of transnational criminal organizations. Petrov used the proceeds of transnational organized crime to bribe local officials in Spain. Petrov secured beneficial

zoning rights and contracts from a local official. After Petrov's application for a line of credit at a Spanish bank was rejected, High-Level Manager A ensured that Petrov could obtain a line of credit from another Spanish bank and that the application would not be perceived as suspicious. Petrov arranged for High-Level Manager A to fly to Russia to meet with transnational organized crime figures.

High-Level Manager A created accounts at BPA that facilitated false invoicing to disguise the origin of illicit funds. In addition, a Russian businessman known to be connected to transnational criminal organizations worked with BPA, including High-level Manager A, to establish front companies and foundations used to move funds believed to be affiliated with organized crime. Both Petrov and the Russian businessman relied on BPA to facilitate the laundering of the organized crime proceeds and maintained large bank accounts with BPA. In February 2013, Spanish law enforcement arrested Petrov and several associates for laundering approximately 56 million euro. Petrov is suspected to have links to Semion Mogilevich, one of the FBI's ten "most wanted" fugitives.

In addition to BPA's facilitation of illicit financial transactions by Petrov, in a separate scheme, a Venezuelan TPML ("TPML 2") and his network relied on BPA to deposit the proceeds of public corruption. This money laundering network worked closely with high-ranking government officials in Venezuela, resident agents in Panama, and an Andorran lawyer to establish Panamanian shell companies. The money laundering network owned hundreds of shell companies and engaged in a wide variety of business for illicit profit. This network was well connected to Venezuelan government officials and relied on various methods to move funds, including false contracts,

mischaracterized loans, over- and under-invoicing, and other trade-based money laundering schemes.

TPML 2 had a relationship with High-Level Manager B at BPA. TPML 2 gave High-Level Manager B false contracts to support transactions purported to be on behalf of Venezuelan public institutions including Petroleos de Venezuela S.A. ("PDVSA"), the public oil company of Venezuela. In some instances, these contracts did not list a customer for the services. High-Level Manager B's reliance on these contracts demonstrated transaction monitoring and due diligence failures. Also, High-Level Manager B coordinated the opening of a shell company on behalf of the Venezuelan TPML. High-Level Manager B worked with High-Level Manager A on the illicit Venezuelan transactions. BPA facilitated the movement of approximately $2 billion through these shell company accounts maintained at BPA. Between January 2011 and March 2013, BPA facilitated the movement of at least $50 million in send and receive transactions that were processed through the United States in support of this money laundering network. In 2014, BPA continued to facilitate the movement of funds related to this scheme through the U.S. financial system. Overall, BPA facilitated the movement of $4.2 billion in transfers related to Venezuelan money laundering.

In addition to BPA's facilitation of illicit financial transactions by Petrov and Venezuelan money launderers, from 2011 to October 2012, High-Level Manager C at BPA accepted bribes to process bulk cash transfers for TPML Gao Ping ("TPML 3"). Ping acted on behalf of a transnational criminal organization engaged in trade-based money laundering and human trafficking and established relationships with Andorran banks to launder money on behalf of his organization and numerous Spanish

businesspersons. Through his associate, Ping bribed Andorran bank officials to accept cash deposits into less scrutinized accounts and transfer the funds to suspected shell companies in China. One of Ping's key bank executives was High-Level Manager C. High-Level Manager C and another bank manager at BPA processed approximately 20 million euro in cash used to fund wire transfers sent to Ping's accounts in China. Spanish law enforcement arrested Ping in September 2012 for his involvement in money laundering.

B. BPA's Weak AML Controls Attract TPMLs and Allow Its Customers to Conduct Transactions Through the U.S. Financial System That Disguise the Origin and Ownership of the Funds.

BPA's failure to conduct adequate due diligence on customer accounts and its provision of high-risk services to shell companies make it highly attractive and well known to TPMLs. TPMLs worked on behalf of transnational criminal organizations to facilitate the criminal organizations' financial transactions through BPA. In addition, TPMLs reportedly coordinated multi-million dollar deals related to Venezuelan corruption and represented that connections with BPA would facilitate these transactions.

For example, a TPML ("TPML 4"), who has worked with the Sinaloa cartel, facilitated the transfer of bulk cash derived from narcotics trafficking in the United States and facilitated financial transactions involving the proceeds of other crimes. TPML 4 intentionally bolstered connections with BPA to attract money laundering clients and requested that clients send smaller transfers through accounts at other institutions and to only use accounts at BPA for large transactions. In communications with co-conspirators, TPML 4 advertised a relationship with BPA in attempts to attract potential money laundering deals. TPML 4 told clients that this relationship with BPA and other

government officials would ensure that their transactions would not be scrutinized by the financial community. In addition, TPML 4 also marketed services to potential clients by providing specific wire transfer instructions for accounts at BPA.

TPML 4 used many methods to avoid detection by law enforcement, including planning to increase operations during the U.S. government shutdown in 2013. TPML 4 used many Panamanian, Spanish, and Swiss shelf corporations to attract clients. Several of these shelf corporations had bank accounts, including at BPA.

BPA's failure to monitor transactions for apparent red flag activity attracts TPMLs. Many third-party money laundering transactions conducted through BPA lack an apparent business purpose and would be identified as high risk by a bank with sufficient AML/CFT controls. For example, BPA processed millions of U.S. dollar transactions that listed BPA's Andorran address for the originator's or beneficiary's address. Although there may be rare occasions when use of the bank's address as a bank customer's address of record is legitimate, the processing of a high percentage of transactions not containing accurate customer address information indicates failure to conduct sufficient due diligence on a customer, failure to adequately monitor transactions, or possible complicity in money laundering by disguising the origin of funds. BPA also attracts TPMLs by knowingly providing services to shell and shelf companies and unlicensed money transmitters. As noted above, TPMLs rely on shell and shelf companies to shield the identities of their clients engaged in criminal activity. BPA's facilitation of this high-risk business allows TPMLs to obscure the beneficial ownership of these accounts.

BPA accesses the U.S. financial system through direct correspondent accounts held at four U.S. banks. Between approximately 2009 through 2014, BPA processed hundreds of millions of dollars through its U.S. correspondents. These transactions contained numerous indicators of high-risk money laundering typologies, including widespread shell company activity, unlicensed money transmitters, and other high-risk business customers. For example, BPA processed tens of millions of dollars on behalf of unlicensed money transmitters through one U.S. correspondent. The U.S. correspondent requested that BPA sign an agreement to discontinue processing these transactions through its account. After these concerns arose, the U.S. correspondent closed BPA's account.

In addition, 62 percent of BPA's outgoing transactions through one U.S. correspondent bank involved only four high-risk customers. These customers, deemed high-risk by the U.S. correspondent bank, included a shell company, an internet business, and two non-bank financial institutions. Between approximately 2007 and 2012, BPA also used its U.S. correspondents to send or receive wire transfers totaling more than $50 million for Panamanian shell companies that share directors, agents, and the same address. These transfers involved large, round dollar amounts and did not specify a purpose for the transactions. When U.S. correspondents requested additional information, BPA either failed to respond or provided extremely limited information.

IV. The Extent to Which BPA Is Used for Legitimate Business Purposes

It is difficult to assess on the information available the extent to which BPA is used for legitimate business purposes. BPA provides services in private banking, personal banking, and corporate banking. These services include typical bank products

such as savings accounts, corporate accounts, credit cards, and financing. BPA provides services to high-risk customers including international foreign operated shell companies, businesses likely engaged in unlicensed money transmission, and senior foreign political officials. Because of the demonstrated cooperation of high level management at BPA with TPMLs, BPA's legitimate business activity is at high risk of being abused by money launderers.

V. The Extent to Which This Action Is Sufficient to Guard Against International Money Laundering and Other Financial Crimes

FinCEN's [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] proposed imposition of the fifth special measure, pursuant to 31 U.S.C. 5318A(b)(5), would guard against the international money laundering and other financial crimes described above directly by restricting the ability of BPA to access the U.S. financial system to process transactions, and indirectly by public notification to the international financial community of the risks posed by dealing with BPA and TPMLs.

Dated: March 6, 2015.

Jennifer Shasky Calvery,
Director,
Financial Crimes Enforcement Network.

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