DA Vance Addresses the ACAMS-AML Money-Laundering Conference

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Thank you to ACAMS for inviting me to be a part of your conference. It's great to be here today with leading anti-money laundering experts from all over the world. Today's conference is truly an international event. In that spirit of international unity and collaboration, I believe I speak for everyone here when I say: we stand in solidarity with all Parisians and citizens of France, as we mourn yet more victims of international terrorism.

We are gathered here at a time of intense, international concern over terrorism in all its forms, and over the means by which terrorists fund their operations. Within just the past few months, we've witnessed attacks in the kinds of places we'd never seen them before – brutal assassinations at a magazine office and grocery store, a crazed gunman in the Canadian parliament, a man swinging a hatchet at the heads of junior NYPD officers in Queens – and in the places we *have* come to expect them, as hundreds are slaughtered daily in Iraq and Syria for their refusal to adhere to a violent ideology that masquerades as Islam.

What I'd like to do this afternoon is to talk with you about our office's priorities in fighting foreign and domestic terrorism, because to the surprise of some, my Office has come to play a significant role in this area. And we've done so in complete partnership with you, and in complete reliance on your hard work.

First, let me explain our role in combatting this international threat. We *prevent* terrorism by attacking terror finance, and investing in the tools that law enforcement needs to prevent the next attack. We *prosecute* terrorism using New York's state terrorism laws when homegrown, violent extremists aspire to do New Yorkers harm. We do this in ways that leverage our unique position in the fight against terrorism, and our strong partnerships with AML professionals like you.

What makes our position unique, and where do you fit in to this picture? First, let me tell you a little about our Office. We are the local prosecutor here in Manhattan. We have about 1.6 million residents in a 23 square mile area, plus another 1.5 million people who commute in to work every

day. We also host about 60 million visitors every year. Manhattan, it goes without saying, is one of the world's premier terror targets.

So even though New York City today is one of the safest big cities in America, the Manhattan District Attorney's Office remains one of the busiest prosecutor's offices in the nation. And while we're busy *preventing* crime and acts of terror, our traditional role as prosecutors keeps us pretty busy, too: We handle more than 100,000 cases a year, a significant portion of which are white-collar crimes. Because with Wall Street, the New York Stock Exchange, and the NASDAQ all located just a few blocks from our office, our county is also a global financial capital.

Our Office's jurisdiction includes any property, communications, or transactions going through Manhattan. This might apply to bank branches located in the city, or any payments passing through local institutions. And because much of the world's commerce and finance is transacted in US dollars, the vast majority of those transactions are cleared by and pass through banks in Manhattan. We view this as an extraordinary opportunity to fight the financing of terrorism and other criminal activity, even when it originates halfway across the globe.

We do our terror finance investigations in what we call the Investigation Division. Alongside our prosecutors who focus on street crime, we have about 100 attorneys who investigate and prosecute all sorts of financial misconduct, whether it's international money laundering; investment, securities, and commodities fraud; large-scale Ponzi schemes; usury in payday lending; economic sanctions violations; or cybercrime and identity theft.

Criminal activity in these areas is increasingly sophisticated, and increasingly borderless. That's why, last year, our Office opened the International Money Movement Center. Analysts in the Center focus on particular geographic or functional areas, and develop linguistic, cultural, and historical knowledge to combat international threats.

The scope of knowledge and experience within our International Money Movement Center is unprecedented for a local prosecutor's office. The Center is part-think tank, and part "fusion

center" of expertise. It brings together federal, state, and local prosecutors, academics, and private sector partners – working together, in-house – to examine illicit money movement through the United States. We ask private sector partners: What are you seeing in your SARs? Are you seeing any new typologies of illicit money movement? Are you seeing illicit activity through any of your new products or technologies?

The Center's experts work hand-in-hand with our Office's Financial Intelligence Unit, or "FIU." FIU conducts proactive investigations into illicit financial activity. It's staffed with analysts who are specially trained to collect and review data from banking, regulatory, and law enforcement sources. We also cross-train our analysts in fields like human trafficking, violent criminal enterprises, and exploitation of immigrant communities – because sometimes the first indication we have of a criminal enterprise will be in a Suspicious Activity Report or Currency Transaction Report. The FIU expands on the success of our Suspicious Activity Report (or "SAR") Review Team, which we began in 2010. The SAR Review Team analyzes SARs to trace the source of suspicious funds, identify criminal patterns, and develop potential targets.

Our efforts in this area are not limited to the movement of traditional currency. Our financial intelligence folks are constantly uncovering new kinds of schemes that leverage, for example, the untraceability of Bitcoin transactions. Today, in Manhattan Criminal Court, my Office filed a complaint charging securities fraud, scheme to defraud, and petit larceny against the operators of a website based in Southeast Asia that promised people – including Manhattan residents – a three-to-one return on Bitcoin "investments" made through the site. All you had to do – they said – was send them one Bitcoin, and they'd send you *three* Bitcoins in return, within 48 hours. It probably won't surprise you to learn that when our undercover investigator transferred a Bitcoin to the operator's Bit-address, they kept it, and he never heard from them again. That website – and 72 others like it – were seized and shut down by my Office on January 16.

Unregulated currency makes this kind of conduct too easy, and too untraceable. You may have seen news recently about an effort to "take bitcoin mainstream" by creating the first regulated Bitcoin exchange for American customers. We are watching efforts like these with intense interest. We believe a regulated exchange would provide opportunities for law enforcement and

AML professionals to work together to discuss typologies, examine cash-ins and cash-outs, and keep our world safer from terror and financial crime.

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This morning, you heard from Adam Szubin, the Director of the Office of Foreign Assets Control at Treasury, and an important friend and partner to my office.

Perhaps the best known aspect of that partnership has been in the seven major sanctions investigations involving large foreign financial institutions for violations of international sanctions designed to prevent terrorists and human rights violators from taking advantage of our U.S. and New York financial markets. In total, our investigations have resulted in the forfeiture of approximately 12 billion dollars.

All these sanctions cases started with work our office began in 2006, when we investigated the Alavi Foundation, a supposed non-profit organization that we suspected was a front for the Iranian government and a vehicle for money laundering. That investigation ultimately ended in a federal, civil forfeiture action through which a large, midtown office building was seized. Money from the sale of that building was used to compensate victims of Iranian-sponsored terrorism, including victims of the 9/11 attacks. In the course of that investigation, we examined payments being made to the Alavi Foundation that a confidential source told us came from Iran – and in particular, from Bank Melli. So, we subpoenaed wire information connected with those payments, and received payment messages in response to our subpoena. The payment messages we received did not show that the payments came from Bank Melli. Instead, in the place where Bank Melli's name should have appeared as the originating sender, the payment message indicated that either Lloyds Bank or Credit Suisse was the sender. So was born what is now known as the first "stripping case" – in which financial institutions systematically falsify business records of banks in New York by manipulating payment messages, in order to circumvent sanctions against countries like Iran.

What began in 2006 continues today. Our most recent international sanctions case is the largest ever prosecuted. Between 2004 and 2012, BNP, the largest bank in France, moved at least $8.8 billion through the U.S. financial system on behalf of Iranian, Sudanese, and Cuban clients in violation of U.S. sanctions. The 2006 tip that led to this prosecution, as in so many other cases, came to our office through a confidential source. The evidence proved BNP modified and omitted the funding sources on payment messages, and established U.S. Dollar accounts with other satellite banks in order to facilitate U.S. Dollar transactions with sanctioned banks and entities.

Stripping and modifying payment messages is something we had seen in our previous sanctions cases. But BNP took the misconduct one step further, by structuring payments in highly complicated ways, with absolutely no legitimate business purpose. On top of that, many of the payments BNP processed were on behalf of Specially Designated Nationals. And, the number and dollar amounts of the illegal transactions were much, much larger than in any of our previous sanctions cases. Following our investigation, the bank pleaded guilty to felony and misdemeanor charges, and paid a record $8.9 billion in criminal forfeiture and penalties. They also agreed to follow a system of best practices for international banking transparency aimed at ensuring compliance with U.S. sanctions.

Sometimes I'm asked why I pushed for a criminal guilty plea from BNP, as opposed to a settlement with no prosecution. I did so because BNP's conduct in propping up regimes like Iran and Sudan was *particularly* egregious, prolonged, and well-known by its employees. I did so because BNP's criminal conduct continued long after we told them we were investigating it. And I did so because – let's face it – the most important values in the international community – respect for human rights, peaceful coexistence, and a world free of terror – depend in large part on the effectiveness of U.S. sanctions. In order for sanctions to mean anything, they have to be enforced.

While full criminal charges were appropriate in the case of BNP, sometimes they can be avoided. In fact, many of our sanctions cases have culminated in deferred prosecution agreements, or "DPAs." Over the last five years, we have secured DPAs with a handful of multinational

financial institutions, including HSBC, Standard Chartered, ING, Barclays, Credit Suisse, and Lloyds TSB, for illegal conduct amounting to billions of dollars in forfeiture money. DPAs are a valuable tool for prosecutors. In a previous era, a corporate investigation led either to a criminal charge, or to prosecutors walking away entirely. DPA's now provide a third option ─ in appropriate cases ─ to hold companies and financial institutions responsible for misconduct without severe collateral consequences that may cause irreparable harm to employees and shareholders. Sometimes DPAs are suitable, but sometimes they are not. Sometimes, the bank's conduct is so egregious that full criminal charges are appropriate.

What are some of the considerations we make when we decide whether to pursue a DPA or criminal charges? We've actually made the criteria publicly available, in what is called a Corporate Charging Memorandum. You can find it on our website. We look at: the nature of the offense; the pervasiveness of the conduct; the history of the corporation and its record of compliance; the collateral economic damage if we were to indict the corporation; and, if a corporation cooperates with our investigation, whether that cooperation was valuable and extensive. We also look at collateral consequences. Because we know full well that the failure of multinational firms – whether financial, industrial, or service-related – carries with it collateral consequences of economic pain, dislocation, and possible ripple effects that can damage other sectors of the economy.

Of course, DPAs can be just as controversial as a criminal indictment. Many feel that DPAs don't go far enough. One thing that sometimes gets lost in this debate is that DPAs are extremely serious. Our DPAs provide grave consequences for companies who fail to disclose information at the time of entering into the DPA – and, of course, for companies who continue their illegal misconduct even after certifying in the DPA that the misconduct has ended. Simply put, the DPA is not the end of your company's dealings with us. It's just the beginning. We will continue to scrutinize you, and your DPA-mandated reports, every bit as closely. When companies violate DPAs, we won't hesitate to extend the length of the agreement, and we won't hesitate to file new criminal charges.

Broadly speaking, I believe that our obligations in this area boil down to this: on the one hand, it's important to identify and deal with wrongdoing. On the other, how do you ensure that the punishment doesn't unfairly affect people who may not be responsible for the conduct? These types of questions arise in all of our cases. Because in every case, prosecutors evaluate how to enforce laws both effectively *and* responsibly.

So, we evaluate whether to prosecute *individuals* in our cases against banks. We evaluate whether to prosecute *clients* or *sanctioned entities* when banks commit financial crimes.

We did so in 2011, when we indicted eleven companies and five individuals associated with IRISL – Iran's state-sponsored national shipping line, which was sanctioned in 2008 for financing terrorism. In that case, IRISL created front companies and conducted business through aliases in order to fool the OFAC filters. They even renamed their ships. For a while they succeeded, causing Manhattan banks to process over many million dollars in illegal payments – until we were successful in shutting them down.

And increasingly, we evaluate whether to prosecute *accountants, auditors, consultants, and their firms*, in cases where these professionals aid, abet, conceal, or underreport financial crimes.

What is our guiding principle in these decisions? At the Manhattan DA's Office, we believe that a crime prevented is better than a crime prosecuted. Through sheer deterrence value, our sanctions cases have brought about fundamental change in the way banks conduct their business accessing American financial markets, and have heightened vigilance worldwide with respect to dealing with sanctioned entities. And in so doing, we have helped to shut off the spigot of funds flowing to terrorists from governments like Iran.

Essentially, what we told banks was: Globalization and technology may enable you to move money around the globe in an instant. But if you choose to avail yourself of the privilege of moving funds through New York, you can't deceive regulators and others in order to profit from rogue governments and acts of genocide and terror. You can't evade international sanctions to enrich your bottom line. Not in our city. Not on our watch.

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Terrorists – and those who finance them – aren't the only kind of criminal actors we can shut down by working together.

In New York State, it's a crime for unlicensed lenders to charge more than 25 percent per annum interest on any loan of less than $2.5 million. After an investigation spanning several months, my Office indicted three individuals and 12 companies in an alleged conspiracy to make illegal payday loans to Manhattan residents, sucking them into an interminable, predatory lending cycle. We also brought a Criminal Usury charge, which is a charge normally brought in traditional organized crime cases. The loans made by the defendants carried interest rates exceeding 300 – over 1000 percent of the principal – when calculated on an annual basis for the initial term of the loan. Now, financial institutions often play an unwitting role in facilitating these illegal payday loans.

Payday lenders use the same types of automatic debit facilities that the rest of the financial world relies on to reach into borrowers' bank accounts and take payments, including interest and fees. That's why, in the course of prosecuting the pay-day loans case, we met proactively with financial institutions to discuss ways to set filters so that they are less accommodating of these multiple reach-ins into consumers' accounts.

That kind of collaboration with industry is not limited to policing payday lending. Almost every day, we collaborate with businesses across the financial sector, including many represented in this room today. Because just as the deterrence function of our enforcement actions help to prevent crime, so do our efforts to *collaborate*. Increasingly, we find that we can influence behavior through proactive, day-to-day cooperation.

Our partnerships with financial institutions not only help root out criminal misconduct in our markets, they also foster a relationship built on trust and mutual objectives.

One example of this kind of collaboration is our partnerships against human trafficking. Sex trafficking is, at its heart, a money-making enterprise, and traffickers frequently leave digital footprints that connect their illegal activity to their bank accounts. Financial institutions are in a unique position to help us flag that activity. Last year, my Office partnered with the Thomson Reuters Foundation to host two high-level roundtables with representatives from American Express, Citigroup, JP Morgan Chase, TD Bank, and others. The purpose of these workshops was to assist corporations in identifying irregularities in financial transactions by potential traffickers, share financial and technical expertise, and discuss cross-border solutions to combatting trafficking. Following the success of the roundtables, we issued a White Paper with guidance on identifying financial regularities. Some of the world's leading financial institutions have adopted the document, and have requested further advice on how they can help us continue this fight.

When you think about regulators and prosecutors like me, there is a tendency to think that we play on opposing teams. Nothing could be further from the truth.

After all, no financial institution wants to be a conduit for a criminal enterprise. That's the reason, I believe, many of you got into this field to begin with: to leverage your unique skills to keep your institutions, your markets, and our world at large, safe from terror and financial crime.

Thank you for the opportunity to speak today. I am eager to take your questions.

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