

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

JAMES OWENS, et al.

Plaintiffs,

v.

TALIBAN a/k/a ISLAMIC EMIRATE OF
AFGHANISTAN

Defendant.

Civil Action No. 22-cv-1949-VEC

EXPERT DECLARATION OF PETER M. PIATETSKY

I. Introduction and Qualifications

1. My name is Peter Medvedev Piatetsky. I am submitting this declaration in my capacity as an expert consultant to the Plaintiffs in *Owens v. Taliban*, Case No. 22-cv-1949 (S.D.N.Y.). The facts and opinions stated in this report are based on my research, expertise, and personal experiences and observations. If called as an expert witness in this proceeding, I could testify competently to all that follows.

2. I am an expert on terrorist financing methods with over a decade of experience in the executive branch and the private sector. I am currently the Chief Executive Officer of Castellum.AI, a regulatory technology startup I co-founded that automates compliance screening, directly enabling users of all sizes to fight terrorist financing. I have been cited for analysis—and our data has been used—on terrorist financing and sanctions issues by, among other organizations, the Wall Street Journal, Harvard’s Belfer Center, the Atlantic Council, The Economic Times, and the Organized Crime and Corruption Reporting Project. My qualifications as an expert on the

Taliban, terrorist financing, Da Afghanistan Bank (“DAB”), and central bank functions are based on a combination of professional experience, professional training, and formal education.

3. I am a United States citizen, residing in New York City.

4. I hold a Master of Professional Studies in Persian from the University of Maryland, College Park (UMD College Park), one of the preeminent graduate programs in the United States that focuses on the Persian-speaking world, including Afghanistan. I hold a Bachelors of Arts (Cum Laude) from Boston University with a double major in International Relations and History and a minor in Russian and Eastern European studies.

5. From 2011–2012, I spent fourteen months as a civilian contractor supporting the United States war effort in Afghanistan. During that time, I spent five months in Kabul at the International Security Assistance Force (“ISAF”) headquarters, working as an intelligence analyst and conducting all source (classified and public material) research and analysis, with a focus on corruption in Afghanistan and Afghan government theft of United States supplies and monies, including by officials at DAB and the Afghan Ministry of Finance. I was then transferred to Forward Operating Base (“FOB”) Salerno in Khowst, by the Pakistani border. At FOB Salerno, I supported 3rd Group Special Forces, ODB 3320, updating war fighters to key developments in their area of operations. I wrote over 200 intelligence reports and analysis products, conducted over 250 intelligence briefings and supported military operations that led to the neutralization of insurgent threats and clearing of weapons caches.

6. From 2012–2018, I worked first as an investigator and then an advisor in various divisions of the United States Department of the Treasury. In 2012, I began at the Department as a sanctions investigations contractor at the Office of Foreign Assets Control (“OFAC”). In that role, I drafted sanctions packages for over 150 targets involved with Iran’s nuclear program,

including Islamic Revolutionary Guard Corps (“IRGC”) officers and companies. In one novel project, I devised a method for sanctioning Iranian aircraft—which OFAC had not previously done—and organized and chaired an interagency group that worked on Iranian airline sanctions. I wrote Iran-focused guidance for aviation exporters, especially as it pertained to Iranian Transactions and Sanctions Regulations, the Commerce Control List and Executive Orders 13382 and 13224. Based on my work, I provided leads to the Federal Bureau of Investigation relating to criminal violations of United States sanctions and export controls. Finally, I worked with other divisions of the Treasury Department to analyze congressional sanctions proposals for impact on United States policy, foreign partners, and financial institutions.

7. I then served for two years in the Treasury Department’s Office of Intelligence and Analysis, becoming the lead analyst on Europe, Russia, and the former Soviet Union. In that role, I wrote Presidential Daily Briefs (“PDB”) and Economic Intelligence Briefs (high-level intelligence products that are provided to the President and the Cabinet), with a focus on Russia’s funding of separatists and hidden oligarch assets. Those briefings were instrumental in structuring United States sanctions against Russia, in regards to oligarchs, Crimea, human rights abuse, and Russian organized crime. I received an award for exemplary work on Russia sanctions during Russia’s invasion of Ukraine in 2014. Additionally, I investigated and worked with international partners to close or penalize financial institutions involved in significant money laundering in Russia, Ukraine, Latvia, and Moldova.

8. In late 2015, I moved to Treasury’s Office of Terrorist Financing and Financial Crimes, becoming the policy advisor for Iran. In this role, I drafted and proposed detailed Iran sanctions and engagement options to White House and Treasury leadership and participated in high-level multilateral meetings with the government of Iran at sessions of the Financial Action

Task Force (“FATF”), an intergovernmental organization focused on developing policies to combat money laundering. I also engaged C-suite leadership of companies doing business in Iran, discussing their approaches to risk, due diligence, and compliance data.

9. In 2017, I was promoted to Senior Policy Advisor and given the additional portfolios of Lebanon, Israel, and Palestine, which gave me a full view of Iranian financing of terror, from the IRGC in Tehran to the Taliban in Afghanistan, Hizballah in Lebanon and Iraq, and Hamas in Gaza. I advised White House and Treasury officials on Hizballah and Hamas sanctions and legislation, and met with foreign counterparts to discuss how to provide humanitarian assistance to civilians in Gaza without empowering Hamas. This included reviews of World Bank and International Monetary Fund loans, with the goal of ensuring risk mitigation was in place to prevent financial support to terrorist actors through steps that included implementing effective due diligence procedures, know-your-customer assessments, and watchlist screening.

10. My Afghanistan-focused work in this role entailed evaluating options for mitigating Iran’s harboring of Taliban leadership, Iran’s financing of the Taliban, and proposing options to influence Taliban senior leaders in exile (at that time in Doha, Qatar). Many of these Taliban leaders were and remain sanctioned, and are now in positions that oversee DAB.

11. Finally, I was appointed as the United States Representative to FATF for the mutual evaluation of Bahrain. In this role, I assessed Bahraini government regulations on terrorist financing and sanctions, and how Bahrain’s banks implemented these regulations through screening, monitoring and reporting. This involved meeting with financial services executives and compliance leaders, government ministers, and leadership of the Central Bank of Bahrain, compiling interview information with data gathered by the FATF team and drafting conclusions that were presented at an international plenary session of the FATF.

12. In 2018, I moved to New York City to work at the New York City Agency of Woori Bank, one of Korea's largest banks. I was Compliance Supervisor for the United States, with purview for all financial crimes related to operations at the bank across its two agencies in New York and Los Angeles, as well as the 19 locations that are part of its subsidiary, Woori America Bank. In this role, I advised Head Office (Seoul, Korea) on trade, banking and credit matters related to Iran and North Korea. I worked to ensure that the bank's United States operations met regulatory requirements, that deficiencies were identified and remediated, and that the bank responded appropriately to all regulatory demands and investigations. The regulators that I interacted with on a daily basis included the Federal Reserve Bank of New York, Federal Reserve Bank of San Francisco, the New York Department of Financial Services, and the California Department of Financial Protection and Innovation. I participated in and supervised daily compliance operations, including sanctions screening and transaction monitoring, resolved highly complex queries elevated by staff in both the United States and Korea on sanctions, trade finance red flags, suspicious activity report filings, and risk assessments. I also led the bank's efforts to replace compliance technology systems, ensuring that compliance data and requirements were accurately used and implemented across core banking and payments systems.

13. During this time, I began teaching as an adjunct professor at American University in Washington, D.C. In this role, I designed, wrote, and taught the university's first-ever course on financial crime compliance, a master's level class titled "Sanctions, Terrorist Financing, and Financial Crimes." The class covered topics like Iran's financing of terrorism, how terrorist groups finance themselves, how they store and spend money, and the finances of the Taliban, Hizballah, Hamas, and Iraq-based militia and terrorist groups. In designing the class, I devoted significant time to the study of the Taliban, Hamas, Hizballah, al-Qaeda, the Islamic State, Iraq-based militia

and terrorist groups, and their precursor organizations. To prepare for the class, I interviewed other experts, academics, private sector compliance professionals, and government officials to further my knowledge on these topics.

14. In September 2019, I co-founded Castellum.AI, a regulatory technology startup that automates compliance screening, directly enabling users of all sizes to fight terrorist financing. Castellum.AI's mission is to organize the world's compliance data and make it universally accessible and useful. We automate compliance screening for individuals and organizations, and enable deep dive research into global compliance data. Sanctions lists, export control regulations, law enforcement notices, and other crucial compliance data is publicly available, but not in one place, one language, and one data architecture. To solve this problem, Castellum.AI is building the world's largest free compliance database, with the aim of putting global risk analysis at the fingertips of every person with an internet connection. Our platform is powered by automated data ingestion, underpinned by proprietary architecture and made easily accessible through powerful search capabilities. As a result of my work at Castellum.AI, I have been cited and our data has been used to break news and provide analysis regarding terrorist financing and sanctions by the Wall Street Journal, Harvard's Belfer Center, the Atlantic Council, The Economic Times, the Organized Crime and Corruption Reporting Project, and other organizations listed on our website.

II. Nature of This Declaration

15. I have been asked to provide an expert opinion regarding whether DAB is an alter ego of the Taliban, whether it functions as a central bank, and whether it is currently being used to finance terrorism.

16. My opinions, set forth below, result from my extensive study of Afghanistan as outlined herein, including over a year spent in Afghanistan, and my professional work and research

over the past decade. While my knowledge of the Taliban's terrorist activity and terrorist financing includes information I reviewed during my government service, my expert opinion is based solely on publicly available information, including United States government reports and designations of entities as connected to terrorism under various executive orders.

17. Statements by United States government officials, like the ones discussed below, are reliable and are widely used by scholars and policymakers. The Treasury Department has created a large structure to investigate terror financing headed by the Under Secretary for Terrorism and Financial Intelligence, along with the Financial Crimes Enforcement Network ("FinCEN") and OFAC.

18. Based on my experience and in my expert opinion, the facts strongly suggest that the Taliban controls DAB. The Taliban has installed Taliban loyalists to lead DAB and issue directives to DAB. DAB today performs few of the functions of a legitimate central bank. And the Taliban is using DAB's sensitive financial intelligence information and its control over DAB to advance its illicit agenda, including to enhance revenue generation from its narcotics trafficking operations, as well as stripping DAB controls over the financing of terrorism, money laundering, and the narcotics trade.

19. I begin with a brief background on the Taliban and how it came to regain control over Afghanistan in the summer of 2021 and then discuss the Taliban's takeover of DAB's leadership and operations. Based on this background, I conclude that the Taliban directs and controls DAB and that DAB no longer performs core central banking functions.

III. The Taliban

20. The Taliban, a/k/a Islamic Emirate of Afghanistan, is a militant, Islamic fundamentalist organization whose goal is the establishment of a Shariah-governed state in Afghanistan.¹

21. The Taliban was founded in 1994 by Mullah Mohammed Omar following the Soviet Union's withdrawal from Afghanistan. Its original members consisted of mujahedeen fighters, including Osama bin Laden, who had fought against the Soviet occupation of Afghanistan.²

22. Bin Laden founded al-Qaeda in 1989. Al-Qaeda is a radical Islamist terrorist organization that seeks to purge the Islamic world of American and Western influence, destroy the state of Israel, and establish an Islamic caliphate under strict Shariah law.

23. By 1996, the Taliban had seized control over most of Afghanistan and founded the Islamic Emirate of Afghanistan, imposing strict shariah law over the territory it controlled. Only three countries—Pakistan, Saudi Arabia, and the United Arab Emirates, recognized the Taliban as the legitimate government of Afghanistan.³

24. The Taliban provided al-Qaeda with significant resources, training, and protection that enabled al-Qaeda to carry out atrocities such as the 1998 bombings of the American embassies in Kenya and Tanzania and the September 11 attacks.

¹ Organizational Overview - The Afghan Taliban, Stanford Univ. Ctr. for Int'l Sec. and Cooperation, https://cisac.fsi.stanford.edu/mappingmilitants/profiles/afghan-taliban#text_block_16833 (last visited Apr. 28, 2022).

² *Id.*

³ *Taliban PM calls for Muslim nations to recognise Afghan government*, France24 (Jan. 19, 2022), <https://www.france24.com/en/live-news/20220119-taliban-pm-calls-for-muslim-nations-to-recognise-afghan-government>.

25. The United States requested that the Taliban hand over Osama Bin Laden after the embassy bombings, but the Taliban refused. This directly resulted in sanctions on the Taliban not only from the United States, as described below, but also from the United Nations.⁴ On July 4, 1999, President Clinton signed Executive Order 13129, entitled “Blocking Property and Prohibiting Transactions with the Taliban,” which blocked all property in the United States belonging to, controlled by, or used to provide assistance to the Taliban.⁵

26. The United States again demanded that the Taliban surrender Osama bin Laden after the September 11 attacks. The Taliban refused, and the United States and its allies commenced an invasion that removed the Taliban from power.

27. On September 23, 2001, President Bush signed Executive Order 13224, which “provides a means by which to disrupt the financial support network for terrorists and terrorist organizations by authorizing the U.S. government to designate and block the assets of foreign individuals and entities that commit, or pose a significant risk of committing, acts of terrorism.” The order created a mechanism under which the State and Treasury Departments could identify “Specially Designated Global Terrorists.”⁶

28. A specially designated global terrorist includes any foreigner “determined by the Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of Homeland Security and the Attorney General, to have committed, or to pose a significant risk of committing,

⁴ East Africa Embassy Bombings, Clinton Digital Library, <https://clinton.presidentiallibraries.us/embassy-bombings> (last visited Apr. 28, 2022).

⁵ Exec. Order No. 13129 (July 4, 1999), <https://www.govinfo.gov/content/pkg/FR-1999-07-07/pdf/99-17444.pdf>.

⁶ Exec. Order No. 13224 Summary, U.S. Dep’t of State, <https://www.state.gov/executive-order-13224/>; Exec. Order No. 13224 (Sept. 23, 2001), <https://www.govinfo.gov/content/pkg/CFR-2002-title3-vol1/pdf/CFR-2002-title3-vol1-eo13224.pdf>.

acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.”⁷

29. In July 2002, President Bush signed Executive Order 13268, which declared the Taliban to be a specially designated global terrorist.⁸

30. The Executive Order includes information from United States Department of the Treasury, United Nations, and other sources, which illustrates the rigor of the designation process both in the United States and internationally. The designation of a person or entity as a specially designated terrorist entity by either the Treasury Department or by the United Nations requires a significant body of classified and open-source information that the person or entity supports terrorism. This information is collected from numerous agencies and intelligence services. Such designations are the product of a robust United States interagency process that relies on information gathered from myriad experts and considers factors such as the timeliness and strength of the evidence, diplomatic concerns, the impact on intelligence-gathering or other governmental activities, and the availability of alternative options to disrupt illicit activity. The evidentiary record then undergoes several rounds of review by lawyers representing various Cabinet departments, both for legal sufficiency and litigation risk. Given the appropriately intense rigor involved in this process, many more entities are considered for designation than those that are ultimately designated. Sanctions are a reflection of the fact that enough incontrovertible evidence has been gathered that the entire U.S. government agrees that an individual or organization is involved in terrorist activity or terrorist financing. Information that goes through such a process

⁷ 31 C.F.R. §§ 594.201(a)(2), 594.310.

⁸ Exec. Order No. 13268 (July 2, 2002), <https://www.govinfo.gov/content/pkg/WCPD-2002-07-08/pdf/WCPD-2002-07-08-Pg1129.pdf>.

in the United States sanctions process is then often shared with the United Nations and other governments, forming the backbone of their designations.

31. After the United States invaded Afghanistan and removed the Taliban from power, the people of Afghanistan ratified a new constitution in 2004 and established the Islamic Republic of Afghanistan, a democratic civilian government recognized by the United States and the international community at large. The Taliban, however, maintained a violent insurgency for most of the next two decades.

32. On February 29, 2020, the United States and the Taliban signed an “Agreement for Bringing Peace to Afghanistan.” Under this agreement, the United States promised to withdraw its military forces, release prisoners, and remove members of the Taliban from its sanctions list.⁹ In exchange, the Taliban pledged “not to allow any of its members, other individuals or groups, including al-Qa’ida, to use the soil of Afghanistan to threaten the security of the United States or its allies.”¹⁰ It also agreed to “not cooperate with groups or individuals threatening the security of the United States or its allies” and to “send a clear message” that “those who pose a threat to the security of the United States and its allies have no place in Afghanistan.”¹¹

33. Also on February 29, 2020, the United States and the Islamic Republic of Afghanistan issued a joint declaration under which the latter pledged to participate in a “discussion with Taliban representatives on confidence building measures” and to work with the United Nations “to remove members of the Taliban from the sanctions list.”¹²

⁹ Agreement for Bringing Peace to Afghanistan, U.S. Dep’t of State (Feb. 29, 2020), <https://www.state.gov/wp-content/uploads/2020/02/Agreement-For-Bringing-Peace-to-Afghanistan-02.29.20.pdf>.

¹⁰ *Id.*

¹¹ *Id.*

¹² Joint Declaration between the Islamic Republic of Afghanistan and the United States of America for Bringing Peace to Afghanistan, U.S. Dep’t of State (Feb. 29, 2020), <https://www.state.gov/wp-content/uploads/2020/02/02.29.20-US-Afghanistan-Joint-Declaration.pdf>.

34. The Taliban reneged on its promise of peace. In summer 2021, while American troops withdrew from Afghanistan, the Taliban commenced a major offensive and captured the capital city, Kabul, on August 15. The offensive created a humanitarian crisis, and hundreds of thousands of civilians fled the country following the collapse of the elected government.

35. The Taliban now has de facto control over most of Afghanistan, but no country has recognized the Taliban as the legitimate government of Afghanistan, notwithstanding explicit efforts by the Taliban to gain recognition.¹³ The Taliban and many of its leaders remain specially designated global terrorists.

36. In addition to the Taliban, there are an estimated 16 other terrorist groups operating in the territory of Afghanistan, including ISIS-K, al-Qaeda, Tehrik-e-Taliban Pakistan (“TTP”), and Islamic Jihad, among others.¹⁴

37. State Department Deputy Assistant Secretary and Special Representative for Afghanistan Thomas West has stated that the Taliban “has no interest in co-operating with the United States when it comes to fulfilment of their commitment[.]”¹⁵ The UN in February 2022 noted that “Member States are concerned that the [Taliban] regime will offer a safe haven for Al-Qaida.”¹⁶

¹³ *Taliban PM calls for Muslim nations to recognise Afghan government*, *supra* note 3.

¹⁴ Alex Zerden, *Reassessing Counter Terrorism Financing in a Taliban-Controlled Afghanistan*, Just Security (Sept. 17, 2021), <https://www.justsecurity.org/78221/reassessing-counter-terrorism-financing-in-a-taliban-controlled-afghanistan/>.

¹⁵ Bryant Harris, *Biden’s Afghanistan envoy details ‘honest and productive’ dialogue with Taliban*, The National News (Feb. 15, 2022), <https://www.thenationalnews.com/world/us-news/2022/02/15/bidens-afghanistan-envoy-details-honest-and-productive-dialogue-with-taliban/>.

¹⁶ Letter from the Chair of the Security Council Committee pursuant to resolutions 1267 (1999), 1989 (2011) and 2253 (2015) concerning Islamic State in Iraq and the Levant (Da’esh), Al-Qaida and associated individuals, groups, undertakings and entities addressed to the President of the Security Council, United Nations Security Council (Feb. 3, 2022), <https://digitallibrary.un.org/record/3957081?ln=en#record-files-collapse-header>.

38. The Taliban also continues to provide sanctuary and support to the TTP in Afghanistan. The TTP is a Taliban-aligned, United States-designated terrorist organization that seeks to create a fundamentalist Islamic state in Pakistan under Sharia law.¹⁷ As of March 2022, TTP has “stepped up attacks in recent months” and “announced it would launch a Ramadan offensive against security forces, after claiming an attack which the [Pakistani] military said killed at least six of its soldiers.”¹⁸ The continued support offered the TTP by the Taliban since it took over de facto control of Afghanistan is further evidence that the Taliban does not intend to abide by the peace agreement.

39. It is my expert opinion that the Taliban will continue to provide material and financial support, including access to Afghanistan’s financial system to al-Qaeda, TTP, and other terrorist organizations operating in Afghanistan.

40. Moreover, designated terrorists subject to sanctions have been appointed to key positions within the unrecognized Taliban-led government.

- a. Mullah Mohammed Hasan Akhund was appointed the Taliban’s interim prime minister in September 2021.¹⁹ Akhund is subject to UN sanctions, which indicates that he was a close associate of former Taliban leader and

¹⁷ Organizational Overview - Tehrik-i-Taliban Pakistan, Stanford Univ. Ctr. for Int’l Sec. and Cooperation, https://cisac.fsi.stanford.edu/mappingmilitants/profiles/tehr-i-taliban-pakistan#text_block_19701 (last visited Apr. 28, 2022).

¹⁸ *Pakistani Taliban announce Ramzan offensive against security forces after attacking military base*, Firstpost (Mar. 30, 2022), <https://www.firstpost.com/world/pakistani-taliban-announce-ramzan-offensive-against-security-forces-after-killing-six-soldiers-in-military-base-attack-10503441.html>.

¹⁹ Alia Chughtai, *Who are the men leading the Taliban’s new government?*, Al Jazeera (Sept. 7, 2021), <https://www.aljazeera.com/news/2021/9/7/who-are-the-men-in-the-taliban-acting-government>.

co-founder Mullah Mohammed Omar. He also served as a member of the Taliban's Supreme Council as of 2009.²⁰

- b. Mullah Abdul Ghani Baradar was named the Taliban's acting deputy prime minister in September 2021. Baradar is subject to UN sanctions.²¹ Baradar was previously jailed in Pakistan until 2019. He subsequently led the Taliban's office in Doha, Qatar, and represented the Taliban in negotiations with the United States.²²
- c. Abdul Salam Hanafi was appointed as the Taliban's acting second deputy prime minister in September 2021.²³ Hanafi is subject to UN sanctions because he previously led the Taliban in the Jowzjan Province of Afghanistan and was involved in narcotics trafficking.²⁴
- d. Sirajuddin Haqqani was appointed as the Taliban's acting interior minister in September 2021.²⁵ Haqqani led the Haqqani Network, a semi-autonomous group closely affiliated with the Taliban. The Haqqani Network is a specially designated global terrorist by OFAC.²⁶ Sirajuddin

²⁰ Sanctions Information, United Nations Security Council, <https://www.un.org/securitycouncil/sanctions/1988/materials/summaries/individual/mohammad-hassan-akhund>.

²¹ Sanctions Information, United Nations Security Council, <https://www.un.org/securitycouncil/sanctions/1988/materials/summaries/individual/abdul-ghani-baradar-abdul-ahmad-turk>.

²² *Profile: Mullah Baradar, new deputy leader in Afghan gov't*, Al Jazeera (Sept. 7, 2021), <https://www.aljazeera.com/news/2021/9/7/profile-mullah-baradar-afghanistans-new-leader>.

²³ Matthew Aikins & Jim Huylebroek, *Taliban Appoint Stalwarts to Top Government Posts*, New York Times (Sept. 21, 2001), <https://www.nytimes.com/2021/09/07/world/asia/taliban-women-protest-kabul-afghanistan.html>.

²⁴ Sanctions Information, United Nations Security Council, <https://www.un.org/securitycouncil/sanctions/1988/materials/summaries/>.

²⁵ Aikins & Huylebroek, *supra* note 23.

²⁶ *Haqqani*, Sanction List Search, OFAC, <https://sanctionssearch.ofac.treas.gov/Details.aspx?id=10743> (last visited Apr. 28, 2022).

Haqqani is also sanctioned as a Specially Designated Terrorist by OFAC, and he is on the FBI's Most Wanted List.²⁷ He is subject to UN sanctions.²⁸

- e. Amir Khan Muttaqi was appointed as the Taliban's acting foreign minister in September 2021.²⁹ Muttaqi is subject to UN sanctions.³⁰

IV. Da Afghanistan Bank

A. Background

41. Founded in 1939, DAB was the central bank of Afghanistan and responsible for the implementation of Afghanistan's monetary policy.³¹

42. The Taliban previously exerted control over DAB during its 1996–2001 rule over Afghanistan. On October 22, 1999, the United States added Da Afghanistan Bank to the list of sanctioned actors under Executive Order 13129. President Clinton “found [DAB] to be controlled by the Taliban” and an “entit[y] in which the Taliban has an interest.”³²

43. Under the Islamic Republic of Afghanistan, which ruled the country from 2004 until 2021, DAB was the “independent ... central bank of the state” and was responsible for “[c]urrency issuance as well as formulating and implementing the monetary policy of the country.”³³

²⁷ Most Wanted List, FBI, <https://www.fbi.gov/wanted/terrorinfo/sirajuddin-haqqani> (last visited Apr. 28, 2022).

²⁸ Sanctions Information, *supra* note 24.

²⁹ Aikins & Huylebroek, *supra* note 23.

³⁰ Sanctions Information, *supra* note 24.

³¹ DAB History, Da Afghanistan Bank, <https://www.dab.gov.af/dab-history> (last visited Apr. 28, 2022).

³² H.R. Doc. No. 107-16, Periodic Report on the National Emergency with Respect to the Taliban in Afghanistan (Jan 17, 2001), <https://www.govinfo.gov/content/pkg/CDOC-107hdoc16/html/CDOC-107hdoc16.htm>.

³³ Afghanistan Constitution of 2004, Art.12, Constitute, https://www.constituteproject.org/constitution/Afghanistan_2004.pdf?lang=en (last visited Apr. 28, 2022).

44. In 2006, the Islamic Republic of Afghanistan established the Financial Transactions and Reports Analysis Center (“FinTRACA”) of Afghanistan, the financial-intelligence arm of DAB.³⁴

45. Prior to the Taliban takeover, DAB had what the United States government deemed “a comprehensive [anti money laundering] law with significant provisions on the criminalization of money laundering, customer due diligence (CDD) and suspicious activity reporting (SAR) provisions, and asset seizure and forfeiture authority.”³⁵ Indeed, DAB regulations “requir[ed] all financial institutions to develop effective frameworks, preventive measures, systems, controls, and practices to manage their potential money laundering/terrorist financing risks.”³⁶

B. The Taliban Presently Controls DAB

46. The Taliban regained control over DAB following its 2021 overthrow of the Islamic Republic of Afghanistan and its establishment of an unrecognized de facto government. It eroded DAB’s independence by purging prior leadership and technocrats and installing its own unqualified loyalists, some of whom are sanctioned terrorists.

47. When the Taliban returned to power in 2021, much of DAB’s leadership fled the country or went into hiding. These leaders included Ajmal Ahmady, the Acting Governor of

³⁴ FinTRACA Overview, Da Afghanistan Bank, <https://www.dab.gov.af/Financial-Intelligence-Unit> (last visited Apr. 28, 2022).

³⁵ International Narcotics Control Strategy Report Vol. II – Money Laundering, U.S. Dep’t of State, at 33 (Mar. 2022), <https://www.state.gov/wp-content/uploads/2022/03/22-00768-INCSR-2022-Vol-2.pdf>.

³⁶ *Id.*

DAB,³⁷ and numerous members of FinTRACA.³⁸ Ahmady has publicly stated that he would not feel safe if he were to return to work in Afghanistan.³⁹

48. The Taliban replaced DAB's former leadership with terrorists. On August 23, 2021, the Taliban appointed Haji Mohammed Idris as Acting Governor of DAB.⁴⁰

49. Ahmady has described Idris as a "loyalist to the Taliban [without] a background in banking or finance."⁴¹ Indeed, the Taliban has touted Idris as having worked closely with Akhtar Mansour, the second leader of the Taliban, who was killed in an American drone strike in 2016.⁴²

50. As of March 30, 2022, Idris remains acting governor according to posts on DAB's official Twitter account.⁴³

51. The Taliban installed Ahmad Zia Agha a/k/a Noor Ahmad Agha as DAB's first deputy governor—the bank's second-ranking official.

³⁷ Ajmal Ahmady, *Why Afghanistan Fell, An Insiders Account of What Went Wrong*, Foreign Affairs (Oct. 11, 2021), https://www.foreignaffairs.com/articles/afghanistan/2021-10-11/why-afghanistan-fell?check_logged_in=1.

³⁸ Tom Arnold, *Anti-laundering unit goes off-grid, fraying Afghan ties to global finance*, Reuters (Sept. 15, 2021), <https://www.reuters.com/business/finance/anti-laundering-unit-goes-off-grid-fraying-afghan-ties-global-finance-2021-09-15/>.

³⁹ David Beckworth, *The Bridge: Ajmal Ahmady on the Afghan Economy and the Challenges Facing the Nation's Future*, Mercatus Policy Digest Podcast Transcript (Nov. 15, 2021), <https://www.mercatus.org/bridge/podcasts/11152021/ajmal-ahmady-afghan-economy-and-challenges-facing-nation%E2%80%99s-future>.

⁴⁰ *Taliban name acting head of central bank as economic turmoil grows*, Reuters (Aug. 23, 2021), <https://www.reuters.com/world/asia-pacific/taliban-name-acting-head-central-bank-economic-turmoil-grows-2021-08-23/>.

⁴¹ Beckworth, *supra* note 39.

⁴² *Taliban name acting head of central bank as economic turmoil grows*, *supra* note 40.

⁴³ Da Afghanistan Bank- Afghanistan (@AFGCentralbank), Twitter (Mar. 31, 2022, 6:39 AM), <https://twitter.com/AFGCentralbank/status/1509480382491725833>.

52. Agha has previously managed assets used for bombmaking and the funding of Taliban terrorists outside of Afghanistan.⁴⁴ According to the United Nations Security Council, which added Agha to its 1988 Sanctions List on January 6, 2012, Agha is a “[s]enior Taliban official with military and financial responsibilities.”⁴⁵ He was the “[l]eader of The Taliban’s Military Council” and has “served as a Taliban finance officer and distributed money to Taliban commanders.”⁴⁶

53. Agha is a Specially Designated Global Terrorist pursuant to a June 21, 2011, OFAC designation under Executive Order 13224.⁴⁷

54. As first deputy governor, Agha is in charge of regulations designed to combat the financing of terrorism.⁴⁸ Under the Afghanistan Bank Law, the first deputy governor is responsible for the operations of DAB should the DAB governor be absent, and only the governor or first deputy governor may call a meeting of the DAB’s Supreme Council.⁴⁹

55. The Taliban installed Abdul Qadeer Ahmad a/k/a Abdul Qadeer Basir Abdul Baseer as the second deputy governor of DAB. Abdul Qadeer Ahmad is a known alias for Abdul Qadeer Basir Abdul Baseer according to the OFAC sanction designation.⁵⁰

⁴⁴ Ian Talley, et al., *Sanctioned Taliban Financier Holds Leadership Post at Afghan Central Bank*, Wall Street Journal (Mar. 11, 2022), <https://www.wsj.com/articles/sanctioned-taliban-financier-tapped-to-help-lead-afghan-central-bank-11647003720>.

⁴⁵ Press Release, *Security Council 1988 Sanctions Committee Adds Four Individuals to Its Sanctions List*, United Nations (Jan. 6, 2012), <https://www.un.org/press/en/2012/sc10512.doc.htm>.

⁴⁶ *Id.*

⁴⁷ Designation of Four Individuals Pursuant to Executive Order 13224, 76 Fed. Reg. 37,891 (June 28, 2011), www.federalregister.gov/documents/2011/06/28/2011-16185/designation-of-four-individuals-pursuant-to-executive-order-13224.

⁴⁸ Talley, et al., *supra* note 44.

⁴⁹ The Afghanistan Bank Law, Da Afghanistan Bank, https://dab.gov.af/sites/default/files/2018-12/DABLaw1English_2.pdf (last visited Apr. 28, 2022).

⁵⁰ *Abdul Baseer*, Sanction List Search, Castellum.AI, <https://search.castellum.ai/search?name=abdul%20baseer>.

56. According to the United Nations Security Council, Baseer was previously the military attaché for the Taliban in Pakistan. He has also “served as a treasurer for the Taliban in Peshawar, Pakistan, [and] the financial advisor to the Taliban’s Peshawar Military Council. . . . He personally deliver[ed] money from the Taliban’s leadership shura [council] to Taliban groups throughout Pakistan.”⁵¹

57. Baseer is a Specially Designated Global Terrorist pursuant to a January 25, 2018, OFAC designation under Executive Order 13224.⁵² According to OFAC, “Baseer led the Finance Commission of the Taliban Peshawar Shura, which was responsible for the Taliban’s military and political activities in northern and eastern Afghanistan. Baseer was responsible for collecting financial aid from domestic and foreign sponsors. As of early 2014, Baseer disbursed funds directly to Taliban shadow governors and was responsible for approving large expenses. As of early 2014, Baseer collected all the money from narcotics trafficking, precious stone sales, tithing, and almsgiving.”⁵³

58. The Taliban has also removed other important staff members throughout DAB. In November 2021, it fired thirteen high-ranking officials including the director-general of information technology, the deputy-director of banking operations, the director-general of zone coordination, the director of international relations, and the head of the payment system.⁵⁴

⁵¹ *Abdul Qadeer Basir Abdul Baseer*, United Nations Security Council Summary, <https://www.un.org/securitycouncil/sanctions/1988/materials/summaries/individual/abdul-qadeer-basir-abdul-baseer>.

⁵² News Release, U.S. Dep’t of Treasury, Treasury Sanctions Taliban and Haqqani Network Financiers and Facilitators (Jan. 25, 2018), <https://home.treasury.gov/news/press-releases/sm0265>.

⁵³ Press Release, Treasury Sanctions Taliban and Haqqani Network Financiers and Facilitators, U.S. Dep’t of Treasury (Jan. 25, 2018), <https://home.treasury.gov/news/press-releases/sm0265>.

⁵⁴ Sakhi Khalid, *The Taliban Fire 13 Senior Central Bank Employees*, Hashte Subh Daily (Nov. 29, 2021), <https://8am.af/eng/the-taliban-fire-13-senior-central-bank-employees/>.

59. Many lower-level but important technocrats fled during the collapse of Afghanistan’s democratic government. Of those who remained, women have been ordered to stay home.⁵⁵ As a result, as Special Representative West has explained, “certain [DAB] functions have atroph[ied] or altogether disappear[red].”⁵⁶ The United States attempted to “engage[] in dialogue with these technocrats and Taliban leadership over steps that they can take to enhance functionality ... and also to enhance the central bank’s independence.”⁵⁷ West called for “professional Afghans,” not the Taliban, to be “involved in this process.”⁵⁸

60. In addition to supplanting formerly independent DAB officials, the Taliban directly controls DAB decision-making via the Economic Commission. According to a Taliban spokesman, the Taliban’s Council of Ministers instructed the Taliban’s Economic Commission to “take urgent steps to ensure the stability of the afghani.”⁵⁹ Currency stability has long been a paramount function of DAB, which responded by meeting with foreign exchange dealers and issuing a statement that it “has always tried to avoid volatility that could be harmful to the purchasing power of the people.”⁶⁰

61. On September 25, 2021, the Taliban’s Deputy Prime Minister Mawlawi Abdul Salam Hanafi chaired a meeting at DAB headquarters with DAB Acting Governor Idris. Other Taliban officials like the Minister of Commerce and Industries, the Deputy Minister of Finance,

⁵⁵ Beckworth, *supra* note 39.

⁵⁶ U.S. Engagement with Afghanistan After Six Months of Taliban Rule, A discussion with U.S. Special Representative Tom West, U.S. Institute of Peace (Feb. 15, 2022), <https://www.usip.org/events/us-engagement-afghanistan-after-six-months-taliban-rule>.

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Afghan central bank moves to stabilize collapsing currency*, Al Jazeera (Dec. 14, 2021), <https://www.aljazeera.com/economy/2021/12/14/afghan-central-bank-working-to-stabilise-collapsing-currency>.

⁶⁰ *Id.*

and the Advisor to the Minister of Finance also attended.⁶¹ Hanafi has been sanctioned by the United Nations Security Council for his involvement in drug trafficking on behalf of the Taliban.⁶² He was the minister of education in the pre-2001 Taliban regime and more recently helped the Taliban negotiate its peace deal with the United States.⁶³

62. Several posts made by the Taliban on DAB's Twitter, including one on April 21, as well as previous ones,⁶⁴ reveal that the Taliban flag is displayed at DAB leadership meetings, further symbolizing the Taliban's control over DAB.⁶⁵ In DAB's first Twitter post after the Taliban's takeover, on August 23, 2021, a photograph clearly shows attendees making gestures for prayer. These gestures, and the absence of women in the photograph, suggest that the Taliban already had seized control of DAB at this point. The first Twitter post from the DAB account clearly showing the Taliban flag was posted on September 21, 2021 in a series of photos introducing the new Taliban leadership of DAB.⁶⁶

⁶¹ Mpoya, *Efforts For Improving And Strengthening The Banking Sector Of The Country*, Da Afghanistan Bank (Sept. 26, 2021), <https://dab.gov.af/efforts-improving-and-strengthening-banking-sector-country>.

⁶² Press Release, Security Council Committee Approves Amendments to Identifying Information of Eight Individuals on Consolidated List, United Nations Security Council (Feb. 11, 2008), <https://www.un.org/press/en/2008/sc9245.doc.htm>.

⁶³ Abdul Salam Hanafi Profile, Counter Extremism Project, <https://www.counterextremism.com/extremists/abdul-salam-hanafi> (last visited Apr. 28, 2022).

⁶⁴ Da Afghanistan Bank- Afghanistan (@AFGCentralbank), Twitter (April 21, 2022, 1:50PM), https://twitter.com/FDPM_AFG/status/1517017903060733954/photo/1; Da Afghanistan Bank- Afghanistan (@AFGCentralbank), Twitter (Mar. 29, 2022, 8:37 AM), <https://twitter.com/AFGCentralbank/status/1508785361400610870>.

⁶⁵ Da Afghanistan Bank- Afghanistan (@AFGCentralbank), Twitter (Mar. 27, 2022, 4:17 AM), <https://twitter.com/AFGCentralbank/status/1507995303508594689?cxt=HHwWgsCyyaTvV00pAAAA>; Da Afghanistan Bank- Afghanistan (@AFGCentralbank), Twitter (Feb. 19, 2022, 3:53 AM), <https://twitter.com/AFGCentralbank/status/1494958204987617281>; Da Afghanistan Bank- Afghanistan (@AFGCentralbank), Twitter (Mar. 10, 2022, 6:10 AM), <https://twitter.com/AFGCentralbank/status/1501878055534481410>.

⁶⁶ Da Afghanistan Bank- Afghanistan (@AFGCentralbank), Twitter (Sept. 21, 2021, 6:46 AM), <https://twitter.com/AFGCentralbank/status/1440266275964342273>.

63. The consistent presence of the Taliban flag and photographic evidence of prayer at official DAB meetings is a post-Taliban-takeover development. Previously, there were zero posts demonstrating this on DAB's official Twitter account.

64. Further, a review of all Twitter posts by DAB's account since August 15, 2021 shows the absence of female employees. This aligns with demands by the Taliban that women not return to work.⁶⁷ Prior to the Taliban's takeover, female DAB employees were clearly visible in social media posts as recently as August 1, 2021, 14 days before the Taliban took control of Kabul.⁶⁸

65. Further evincing its control, the Taliban has implemented requirements that DAB comply with strict sharia rules. In September 2021, the Taliban established the Ministry for the Propagation of Virtue and Prevention of Vice. The body took over the previous Ministry for Women's Affairs offices in Kabul.⁶⁹ The Taliban has created a Propagation of Virtue and Prevention of Vice section at DAB. DAB employees are required to have beards and pray five times a day, lest they lose their salaries.⁷⁰

66. The Taliban has also established a committee to revise Afghanistan's central banking laws to eliminate the modern, conventional framework of DAB and replace it with traditional Islamic banking, which has stringent limitations on loans and credits. According to

⁶⁷ *Afghanistan: Taliban tell working women to stay at home*, BBC News (Aug. 24, 2021), <https://www.bbc.com/news/world-asia-58315413>.

⁶⁸ Da Afghanistan Bank- Afghanistan (@AFGCentralbank), Twitter (Aug. 20, 2021, 10:48 AM), <https://twitter.com/AFGCentralbank/status/1421845286754865158>.

⁶⁹ Kathy Gannon, *Taliban replace ministry for women with 'virtue' authorities*, AP News (Sept. 18, 2021), <https://apnews.com/article/middle-east-afghanistan-womens-rights-kabul-taliban-eee5a8c73dd5d58acfda008582ef77bb>.

⁷⁰ *Afghanistan dispatch: the Taliban want to replace the conventional banking system with Islamic banking*, Jurist (Mar. 20, 2022), <https://www.jurist.org/news/2022/03/afghanistan-dispatch-the-taliban-want-to-replace-the-conventional-banking-system-with-islamic-banking/>.

reports, DAB has correspondingly instructed all commercial banks to develop and provide plans to convert their operations to traditional Islamic banking.⁷¹

67. DAB has considerably devolved under Taliban control. Former Acting Governor of DAB Ahmady has observed “a loss or degradation of institutional capability.”⁷² DAB is unable to print afghanis, and it is unclear whether it will be able to obtain more.⁷³ DAB previously supported the value of the afghani by auctioning dollars, but those auctions have been curtailed.⁷⁴ According to the State Department, “FinTRACA currently is non-operational.”⁷⁵

68. Previously, DAB itself had sanctioned the Taliban. The Taliban was included on DAB’s list of Prohibited Entities, on which it was labeled as a terrorist organization. The Prohibited Entities list, which was maintained by DAB and posted on FinTRACA’s website while the institution was operational, mandated that named entities be barred from “depositing or withdrawing USD banknotes.”⁷⁶ Based on my expertise, I understand that the action by former DAB leadership to list the Taliban as a terrorist entity reflected DAB’s strong political will to combat the terrorist organization.

69. In addition to including the Taliban as a terrorist organization on DAB’s own Prohibited Entities list, FinTRACA previously had committed to implementing UN sanctions

⁷¹ *Id.*

⁷² Beckworth, *supra* note 39.

⁷³ *Planet Money: Afghanistan’s Money Problem*, NPR Podcast, Transcript (Sept. 15, 2021), <https://www.npr.org/transcripts/1037594470>.

⁷⁴ Charlie Savage, *U.S. Eases Sanctions to Allow Routine Transactions With Afghan Government*, N.Y. Times (Feb. 25, 2022), <https://www.nytimes.com/2022/02/25/us/politics/us-sanctions-afghanistan.html>.

⁷⁵ International Narcotics Control Strategy Report Vol. II – Money Laundering, *supra* note 35, at 33.

⁷⁶ List of Entities Prohibited by DAB from Depositing or Withdrawing USD Banknotes, Financial Transactions and Reports Analysis Center of Afghanistan, <http://web.archive.org/web/20210815225011/http://www.fintraca.gov.af/ListOfProhibitedEntities.html> (last visited Apr. 28, 2022).

against the Taliban.⁷⁷ Those UN sanctions apply to DAB's current first deputy governor Ahmad Zia Agha and current second deputy governor Abdul Qadeer Ahmad (a/k/a Abdul Qadeer Basir Abdul Baseer).

70. Concurrent with evidence that FinTRACA is no longer operational and that Taliban loyalists have supplanted DAB leadership, the situation at DAB is unprecedented. In effect, an organization designated as a terrorist entity by DAB has taken control over DAB, and DAB no longer serves the functions of an independent central bank. DAB is an instrument of the Taliban.

71. The erosion of DAB's capabilities led Graeme Smith, a senior consultant at the International Crisis Group, to testify before Congress that there is a need to "reviv[e] Da Afghanistan Bank," thus signifying that DAB is currently defunct in all but name.⁷⁸ Smith suggested "'ring-fencing' DAB to keep it independent from the Taliban-controlled government."⁷⁹

72. Upon ISIS's capture of Mosul in June 2014, the terrorist organization stole \$429 million from the Central Bank of Iraq's local branch.⁸⁰ Likewise, if DAB funds currently frozen by the federal government are made accessible to DAB, it is my expert opinion that the Taliban will misappropriate the funds for terrorist activities.

⁷⁷ UN Sanctions List 1988, Financial Transactions and Reports Analysis Center of Afghanistan, <https://web.archive.org/web/20210815225012/http://www.fintraca.gov.af/UNList1988.html> (last visited Apr. 28, 2022).

⁷⁸ Graeme Smith, *Afghanistan: The Humanitarian Crisis and U.S. Response*, International Crisis Group (Feb. 10, 2022), <https://www.crisisgroup.org/asia/south-asia/afghanistan/afghanistan-humanitarian-crisis-and-us-response>.

⁷⁹ *Id.*

⁸⁰ *Report: ISIS steals \$429m from central bank after capturing Mosul*, Al Arabiya News (June 13, 2014, updated May 20, 2020), <https://english.alarabiya.net/News/middle-east/2014/06/13/Report-ISIS-steals-429mn-in-Mosul-capture>.

V. Foreign Entities Avoid Transacting with DAB

73. Because of the Taliban’s control over DAB, foreign banks, governments, and nonprofit organizations have found alternative means of shipping money to Afghanistan.

74. Adam Smith, the former Senior Advisor to the Director of the United States Treasury Department’s Office of Foreign Assets Control, has observed that “the international community and international private banks suspended their relationships with DAB. Foreign banks are no longer willing to interact with the central bank, in large part because of perceptions of sanctions risks.”⁸¹ Moreover, the presence of Taliban terrorists in high leadership positions “adds a wrinkle and a challenge to an already challenging environment” and is a “slap in the face to the international community.”⁸²

75. Smith has also noted in congressional testimony that he is aware of no case “in which a designated terrorist group has assumed the control of an entire jurisdiction. Exactly what the Taliban’s status as a sanctioned entity means for the Afghanistan government ... is uncertain.”⁸³ This “uncertainty is anathema to the private sector.”⁸⁴

76. Foreign currency arriving in Afghanistan is bypassing DAB, illustrating that DAB is no longer functioning as a central bank. Foreign aid flowing into Afghanistan in physical USD bills are being transferred to private banks, not DAB. For example, on March 26, 2022, \$5 million in USD bills were shipped to Afghanistan for humanitarian assistance. The bills were transferred

⁸¹ Jacob Kurtzer, *Assessing Economic Crisis Response Options for Afghanistan*, Center for Strategic & International Studies (Feb. 9, 2022), <https://www.csis.org/analysis/assessing-economic-crisis-response-options-afghanistan>.

⁸² Talley et al., *supra* note 44.

⁸³ *Afghanistan’s Future: Assessing the National Security, Humanitarian, and Economic Implications of the Taliban Takeover*: Hearing before the Committee on Banking, Housing, and Urban Affairs, Testimony of Adam Smith (Oct. 5, 2021), <https://www.banking.senate.gov/imo/media/doc/Smith%20Testimony%2010-5-21.pdf>.

⁸⁴ *Id.*

to the Afghanistan International Bank (“AIB”), widely recognized as the most reputable bank in Afghanistan, not DAB.⁸⁵ AIB is an independent bank partly owned (7.5%) by the International Finance Corporation, an investment institution within the World Bank.⁸⁶ In a April 5, 2022 post to DAB’s official Twitter account, DAB reported another \$5 million cash assistance delivered to AIB and noted it was the twentieth cash assistance delivery to AIB as part of international humanitarian efforts.⁸⁷

77. United Nations Secretary-General Antonio Guterres has described how the United Nations has used “creative authorized arrangements” to transfer funds into Afghanistan in lieu of directly interacting with the DAB.⁸⁸ For instance, it has used the World Bank’s Afghanistan Reconstruction Trust Fund to finance \$280 million of humanitarian aid.⁸⁹ Guterres has also noted the need to “re-engage Afghanistan’s Central Bank,” demonstrating the current lack of meaningful engagement with DAB.⁹⁰

⁸⁵ Mpoya Tue, *Another 5 Million Dollar Package Of Humanitarian Aid To Afghanistan Has Arrived, Da Afghanistan Bank* (Apr. 5, 2022), <https://bit.ly/3vbhnUx>; see also Da Afghanistan Bank- Afghanistan (@AFGCentralbank), Twitter (Apr. 7, 2022 3:39 AM), <https://twitter.com/AFGCentralbank/status/1511972025501421571>.

⁸⁶ *IFC Invests in Afghanistan International Bank to Strengthen Banking Sector and Boost Financial Inclusion*, International Finance Corporation (Nov. 27, 2017), <https://pressroom.ifc.org/all/pages/PressDetail.aspx?ID=18270>.

⁸⁷ Da Afghanistan Bank- Afghanistan (@AFGCentralbank), Twitter (Apr. 5, 2022 4:52 AM), <https://twitter.com/AFGCentralbank/status/1511265609908113408>.

⁸⁸ Secretary-General’s press encounter, United Nations (Jan. 13, 2022), <https://www.un.org/sg/en/content/sg/press-encounter/2022-01-13/secretary-generals-press-encounter>.

⁸⁹ *Id.*

⁹⁰ *UN chief General Antonio Guterres tells Security Council: Afghanistan 'hanging by thread'*, Economic Times (Jan. 27, 2022), <https://economictimes.indiatimes.com/news/international/world-news/un-chief-general-antonio-guterres-tells-security-council-afghanistan-hanging-by-thread/articleshow/89142849.cms?from=mdr>.

78. The World Bank has more recently approved a plan to use United Nations agencies and international aid groups to disburse over \$1 billion in the Afghanistan Reconstruction Trust Fund.⁹¹

79. Some NGOs transfer money to Afghanistan using hawala, an informal funds transfer system, or other informal avenues.⁹² They may employ “humanitarian swap facilities” under which, for example, an NGO deposits funds in an Afghan entity’s United States-based accounts, and the entity transfers the same amount of funds from its Afghan bank accounts into the NGO’s Afghan bank accounts.⁹³ Some large NGOs have used AIB to make limited electronic transfers into Afghanistan.⁹⁴

80. Some countries have entirely ceased monetary payments to Afghanistan. For instance, Qatar, China, Iran, and Pakistan have elected to deliver humanitarian goods rather than currency to Afghanistan’s people.⁹⁵ That governments like Iran (a state sponsor of terrorism) and Pakistan (which has armed and financed the Taliban) are choosing to avoid the formal Afghan financial system is a remarkable vote of no-confidence in DAB by governments that agree in part with the Taliban’s ideology and methods.

81. It is my expert opinion that if DAB were a functioning central bank, it would be responsible for accepting cash assistance deliveries of humanitarian aid. Due to DAB’s control by

⁹¹ *Id.*

⁹² A hawala is an informal remittance system that relies on trust and personal connections to facilitate transfers of money between dealers known as hawaladars.

⁹³ *Life and Death: NGO access to financial services in Afghanistan*, Norwegian Refugee Council 33 (Jan. 2022), https://reliefweb.int/sites/reliefweb.int/files/resources/life-and-death_0.pdf.

⁹⁴ *Id.*

⁹⁵ Natasha Turak, *Donors pledging billions in aid to Afghanistan face a challenge: Navigating the Taliban*, CNBC (Sept. 17, 2021), <https://www.cnbc.com/2021/09/17/aid-funding-for-afghanistan-at-risk-of-taliban-misuse-corruption.html>.

the Taliban, it cannot execute central bank functions. Instead, government transactions that would be the mandate of central banks are being routed through third party institutions, like AIB.

VI. The Taliban Is Intentionally Dismantling DAB’s AML Controls in Order to More Efficiently Launder Drug Money Used to Finance Terrorism

82. The Taliban’s control over DAB enables it to further its illicit financial activities, including narcotics trafficking, terrorist financing, and money laundering. The degradation of anti-money laundering (“AML”) and combatting the financing of terrorism (“CFT”) capabilities within DAB, the replacement of DAB staff with sanctioned terrorists, and the de facto disbanding of FinTRACA have effectively eliminated all practical means of combatting the Taliban’s illicit financial practices. In my expert opinion, these facts guarantee that the Taliban will leverage its control over DAB to facilitate illicit transactions.

83. Afghanistan’s economy is heavily dependent on the illicit trafficking of opium, which generated approximately \$1.8–2.7 billion in 2021—roughly 10% of Afghanistan’s entire economic output.⁹⁶ Afghanistan produces 85% of the world’s opium.⁹⁷

84. The Taliban has historically derived much of its revenue from the opium trade. A 2012 report of the United Nations Security Council Taliban Sanctions Monitoring Committee found that the Taliban earned \$100 million—or 25% of its revenue—from opioids. In 2016, General John Nicholson, commander of United States forces in Afghanistan, said that the Taliban receives 60% of its funding from the drug trade.⁹⁸ As of June 2021, the UN 1988 Sanctions Committee monitoring team’s report estimated that the trade in opium “represent[s] the most

⁹⁶ Sabnam von Hein, *Afghanistan opium trade booms since Taliban takeover*, DW (Oct. 12, 2021), <https://www.dw.com/en/afghanistan-opium-trade-booms-since-taliban-takeover/a-60081725>.

⁹⁷ *Id.*

⁹⁸ *Id.*

significant source of income for the Taliban, with one estimate giving it at a total of approximately \$460 million during 2020.”⁹⁹

85. The Taliban has historically laundered profits of the opium trade. For instance, senior leaders in the Taliban used financial services called Rahat Ltd. and Roshan Money Exchange to store, transfer, and receive money associated with narcotics trafficking. One of these officials was Mullah Naim Barich, a specially designated global terrorist, who instructed Taliban commanders to use improvised explosive devices to thwart government efforts to eliminate the opium trade. Barich stated that “the funds from the poppy harvest would permit the Taliban to survive, and therefore, it must be protected at all costs.”¹⁰⁰ Mid-level Taliban commanders have also individually laundered their share of proceeds.¹⁰¹

86. A 2014 report from the FATF, concluded that “drug profits clearly provide a significant increase in [the Taliban’s] income[,] and this can be directly translated into an increase in their ability to conduct lethal attacks.”¹⁰²

87. Afghanistan’s anti-narcotics regime did not survive the Taliban takeover. The United States government has concluded that “there is at present no indication of an existing mechanism for investigating, prosecuting, and adjudicating narcotics trafficking.”¹⁰³ Furthermore,

⁹⁹ Twelfth report of the Analytical Support and Sanctions Monitoring Team submitted pursuant to resolution 2557 (2020) concerning the Taliban and other associated individuals and entities constituting a threat to the peace stability and security of Afghanistan, United Nations, at 15 (June 1, 2021), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N21/107/61/PDF/N2110761.pdf>.

¹⁰⁰ *Financial flows linked to the production and trafficking of Afghan opiates*, Financial Action Task Force (June 2014), <https://www.fatf-gafi.org/media/fatf/documents/reports/Financial-flows-linked-to-production-and-trafficking-of-afghan-opiates.pdf>.

¹⁰¹ *Morning Edition: Where Are Taliban Officials Getting The Money To Run Afghanistan?*, NPR Podcast Transcript (Aug. 19, 2021), <https://www.npr.org/2021/08/19/1029174025/where-are-taliban-officials-getting-the-money-to-run-afghanistan>.

¹⁰² *Financial flows linked to the production and trafficking of Afghan opiates*, *supra* note 100.

¹⁰³ International Narcotics Control Strategy Report Vol. II – Money Laundering, *supra* note 35, at 33.

the United States government has noted that “the Taliban are unlikely to enforce international sanctions and regulate the hawala money transfer system,” and acknowledged that “Taliban representatives now oversee these organizations that previously investigated Taliban finances and coordinated responses through law enforcement and other channels.”¹⁰⁴

88. In my expert opinion, it is impossible for Afghanistan’s AML and CFT capabilities to have survived the Taliban takeover given that it is now helmed by terrorists. In addition to DAB, the Taliban now indirectly controls the one-quarter of Afghan banks that are state-owned.¹⁰⁵ In my expert opinion, the Taliban, through DAB, is neither able nor willing to ensure that these banks abide by AML and CFT protocols.

89. Given the Taliban’s history of using narcotics trafficking as a major source of income to fund its terrorist activities, and its use of money laundering to obfuscate its funds and hide transactions, it is my expert opinion that the Taliban materially benefits from the dismantling of DAB’s AML and CFT controls, which will allow the Taliban to significantly expand its laundering of drug proceeds and its access to drug-related financing. In the case of AML and CFT functions, dismantling them does not require a concerted effort, rather a simple halting of certain functions, such as requiring the filing of SARs, audits of banks, requiring screening of customers and verification that cash deposits are obtained from legal sources. With previous DAB leadership having fled the country and FinTRACA no longer operational, the Taliban is now able to freely conduct business without oversight by independent authorities. Moreover, through its control of DAB, the Taliban can misuse DAB to launder its drug proceeds and legitimize its financial transactions.

¹⁰⁴ *Id.*

¹⁰⁵ *Reassessing Counter Terrorism Financing in a Taliban-Controlled Afghanistan*, *supra* note 14.

VII. The Taliban Is Using DAB to Coopt FinTRACA and to Gain Access to Private Financial Information

90. FinTRACA’s “main objective ... [wa]s to deny the use of the Afghani financial system to those who obtained funds as the result of illegal activity, and to those who would use it to support terrorist activities.”¹⁰⁶ To this end, FinTRACA gathered suspicious activity reports and reports of cash transactions above a certain threshold.¹⁰⁷ In cooperation with foreign counterparts, it investigated and aided in the prosecution of illegal activities, including against the Taliban.¹⁰⁸ FinTRACA “ha[d] access to all related Afghani government information and databases.”¹⁰⁹ Crucially, FinTRACA was designed to play a role as an “*independent* intermediary between reporting entities and law enforcement.”¹¹⁰

91. FinTRACA had listed the Taliban as a terrorist group and limited its financial abilities.¹¹¹ Commentators have observed that this is a “likely cause” of FinTRACA’s demise,¹¹² and I agree. The United States government has determined that FinTRACA is currently “non-operational” and “may experience major changes as Taliban representatives now oversee these organizations that previously investigated Taliban finances and coordinated responses through law enforcement and other channels.”¹¹³

¹⁰⁶ Financial Intelligence Unit, DAB, <http://old.dab.gov.af/en/page/about-the-bank/departments/financial-intelligence-unit> (last visited Apr. 28, 2022).

¹⁰⁷ *Id.*

¹⁰⁸ *Reassessing Counter Terrorism Financing in a Taliban-Controlled Afghanistan*, *supra* note 14.

¹⁰⁹ Financial Intelligence Unit, *supra* note 106.

¹¹⁰ *Id.* (emphasis added).

¹¹¹ *Reassessing Counter Terrorism Financing in a Taliban-Controlled Afghanistan*, *supra* note 14.

¹¹² *Id.*

¹¹³ International Narcotics Control Strategy Report Vol. II – Money Laundering, *supra* note 35, at 33.

92. As the institution charged with compiling and investigating Suspicious Activity Reports (“SARs”) (government-mandated reports of suspicious financial transactions) filed by private financial institutions in Afghanistan, FinTRACA had access to sensitive financial information regarding investigations into money laundering and terrorist financing, including investigations into the Taliban. Because of the sensitive nature of SARs, many banks are barred from acknowledging their existence; the detailed financial information contained in SARs represent a high risk if misused.¹¹⁴ Given the rapid removal of FinTRACA staff and rapid fall of the former government of Afghanistan, it is my expert opinion that the Taliban has gained access to sensitive information in SARs.

93. DAB also maintained sensitive financial information about financial institutions in Afghanistan as part of its financial supervisory powers. The Banking Supervision Department of DAB oversaw financial institution licensing and was responsible for on-site audits of financial institutions, banking system stability analysis (including macroprudential reporting), regulatory supervision and enforcement, and previously AML investigations and terrorist financing investigations. In its routine work, the Banking Supervision Department would have received and analyzed non-public financials. In particular, this would include any work product or confidential source information concerning AML and terrorist financing investigations conducted by DAB.¹¹⁵

94. The Non-Banking Financial Institutions Department of DAB fulfilled similar roles as the Banking Supervision Department for foreign exchange (“FX”) traders and hawalas. This

¹¹⁴ Valentina Pasquali, *FinTRACA, Afghanistan’s Financial Intelligence Unit, Faces Bleak Future*, MoneyLaundering.com (Sept. 13, 2021), <https://www.moneylaundering.com/news/fintraca-afghanistans-financial-intelligence-unit-faces-bleak-future/>.

¹¹⁵ Banking Supervision Directorate, Da Afghanistan Bank, <https://www.dab.gov.af/Financial-Supervision-Department> (last visited Apr. 28, 2022).

included investigating violations and enforcing AML and terrorism-financing laws for hawalas.¹¹⁶ It would similarly have access to non-public information gathered and prepared in the course of these investigations.

95. Moreover, FinTRACA was mandated to collect and investigate SAR reports on hawala traders. FinTRACA required hawala traders to report transactions totaling more than AFN 500,000 (approximately \$5,600) as part of its efforts to combat money laundering.¹¹⁷ The United States State Department in its March 2022 International Narcotics Control Strategy Report noted that DAB was successful in enforcing rules to “corporatize” hawala traders in 2021, prior to the Taliban takeover, as part of an ongoing effort to improve AML compliance and reporting among hawala traders.¹¹⁸

96. Given the Taliban’s historic reliance on hawala money transfer networks, it is my expert opinion that transactions reported to FinTRACA by hawala traders concerning the Taliban are likely now accessible to the Taliban.

97. Commentators have noted that the Taliban’s access to sensitive documents held at FinTRACA presents a clear danger. The Taliban may exert revenge on FinTRACA personnel and personnel from other institutions which filed SARs pertaining to the Taliban. It may also use SARs and other sensitive financial investigatory materials related to the former government of Afghanistan to exert pressure, blackmail, or otherwise punish.¹¹⁹ The Taliban’s access to SARs

¹¹⁶ Directorate Of Non-Banking Financial Institutions Supervision, Da Afghanistan Bank, <https://dab.gov.af/directorate-non-banking-financial-institutions-supervision> (last visited Apr. 28, 2022).

¹¹⁷ Money Service Providers (Hawala), Financial Transactions and Reports Analysis Center of Afghanistan, <http://web.archive.org/web/20210815225015/http://www.fintraca.gov.af/MSPs.html> (last visited Apr. 28, 2022).

¹¹⁸ International Narcotics Control Strategy Report Vol. II – Money Laundering, *supra* note 35, at 33.

¹¹⁹ Pasquali, *supra* note 114.

defeats the purpose of these sensitive financial documents, which were intended for legitimate regulatory and law enforcement authorities.

98. FinTRACA previously provided intelligence to its foreign counterparts and the international community as a whole via the Egmont Group.¹²⁰ The Egmont Group is a global organization of financial intelligence units. It uses a secure platform to facilitate the exchange of AML and counterterrorism information.

99. In response to the Taliban's takeover of Afghanistan, the Egmont Group disconnected FinTRACA from its servers.¹²¹ As a result of FinTRACA's disconnection, foreign financial intelligence units ("FIUs") no longer have access to SARs from FinTRACA and vice versa. In my expert opinion, this immediate stoppage in the flow of information to and from FinTRACA and partner FIUs coordinating on AML and terrorist financing investigations shows that FinTRACA is not viewed as a trusted party by any other global financial intelligence units.

100. As a result of the Taliban takeover of DAB, a terrorist organization—the Taliban—now has access to confidential financial information available concerning prior investigations into said organization conducted under the previous government. This situation is unprecedented and prevents clear opportunities for abuse.

¹²⁰ *Afghanistan's anti-laundering unit goes off-grid, fraying ties to global finance*, The Straits Times (Sept. 15, 2021), <https://www.straitstimes.com/asia/south-asia/afghanistans-anti-laundering-unit-goes-off-grid-fraying-ties-to-global-finance>.

¹²¹ Pasquali, *supra* note 114.

VIII. The Taliban Is Using Control Over DAB to Erode Oversight of and Exploit Hawalas

101. A hawala is “alternative or parallel remittance system [that] exists and operates outside of, or parallel to, traditional banking or financial channels.”¹²² It relies on “trust and the extensive use of connections such as family relationships or regional affiliations” to facilitate transfers of money between dealers known as hawaladars.¹²³ Hawalas are cost-effective, efficient, reliable, and rely on a lack of bureaucracy.

102. Hawalas can be used for illegitimate purposes because they leave “a sparse or confusing paper trail if any” and therefore are conducive to tax evasion, illegal currency speculation, and money laundering.¹²⁴

103. The State Department has observed that “Afghanistan’s financial system relied heavily on hawala” during the first period of Taliban rule and that the Taliban “are unlikely to enforce international sanctions and regulate the hawala money transfer system.”¹²⁵ As “many Afghans conduct[] financial transactions outside of the formal banking system, irregular cash transactions and transfers through hawaladars [will] form the nexus of Afghanistan’s money laundering problems.”¹²⁶

104. In 2013, the Financial Action Task Force issued a lengthy study on the use of hawala to finance terrorism. The Task Force found that “the less regulated and supervised the *hawala* and other similar service providers market is, the greater the money laundering and terrorist

¹²² *The Unintended Consequences of Using Hawalas*, OFAC Lawyer (Sept. 19, 2014), <https://ofaclawyer.net/blog/unintended-consequences-using-hawalas/>.

¹²³ *Id.*

¹²⁴ Gil Feiler, *The Globalization of Terror Funding* 30 (2007).

¹²⁵ International Narcotics Control Strategy Report Vol. II – Money Laundering, *supra* note 35, at 32.

¹²⁶ *Id.*

financing vulnerability.”¹²⁷ The Task Force concluded that hawala can “pose a terrorist financing vulnerability” for several reasons “including: a lack of supervisory will or resources; settlement across multiple jurisdictions through value or cash outside of the banking system in some cases; the use of businesses that are not regulated financial institutions; the use of net settlement and the commingling of licit and illicit proceeds.”¹²⁸ While the settlement through value or trade that masks the individual fund transfers is a source of vulnerability, the most significant reason for concern is *lack of supervisory resources and commitment to effective regulation*. ... Inadequate efforts of outreach to the unregulated sector to pull them into the regulated sphere in some countries plus limited or no enforcement actions against unregistered entities also minimizes the incentives for unregulated entities to subject themselves to regulation and supervision, making them more vulnerable to terrorist abuse.”¹²⁹

105. Regulation of the hawala system in Afghanistan was already weak prior to the Taliban takeover. The State Department concluded that hawaladars “have a history of and preference for opacity, a lack of technical capacity, and an unwillingness to implement [customer due diligence] requirements” but as of 2021, prior to the Taliban takeover, “FinTRACA [wa]s working to expand supervision and implementation of the MSB/hawala licensing program.”¹³⁰ Further, DAB instituted a policy of “corporatization” of hawala operators, to ensure that hawaladars were correctly registered as corporations rather than sole proprietorships. This effort

¹²⁷ *The role of hawala and other similar service providers in money laundering and terrorist financing*, Financial Action Task Force, at 26 (Oct. 2013), <https://www.fatf-gafi.org/media/fatf/documents/reports/Role-of-hawala-and-similar-in-ml-tf.pdf>.

¹²⁸ *Id.* at 41.

¹²⁹ *Id.* at 10, 41 (emphasis added).

¹³⁰ International Narcotics Control Strategy Report Vol. II – Money Laundering, U.S. Dep’t of State, at 36 (Mar. 2021), https://www.state.gov/wp-content/uploads/2021/02/21-00620-INLSR-Vol2_Report-FINAL.pdf.

enabled increased AML and counter terrorist financing enforcement by DAB.¹³¹ This included requiring hawaladars to record information about customers for standard compliance measures including know your customer (“KYC”) procedures and filing of SARs.¹³²

106. Progress on improving AML compliance within the hawala system has halted under Taliban control of DAB. FinTRACA is not operational, and the United States government assesses that the Taliban is unlikely to regulate the hawala sector.¹³³

107. It is my expert opinion that the Taliban’s proven historic use of hawala, combined with its current control over the state regulator for hawaladars, raises the risk that hawala will be used for terrorist financing by the Taliban and affiliate terrorist organizations operating within the territory of Afghanistan or cooperating with the Taliban outside of Afghanistan’s borders. A hawala sector overseen by DAB, which is in turn controlled by the Taliban, is not an independent institution operationally capable of combating money laundering or terrorist financing.

108. It is my expert opinion that the Taliban will continue to utilize the hawala system for illicit financial activities. It benefited from the hawala system prior to taking control. With DAB under Taliban control, money laundering and other illicit financial activities by other terrorist organizations operating in Afghanistan will continue to grow.

IX. Conclusion

109. Based on my research, expertise in money laundering, and personal experiences in Afghanistan, it is my expert opinion that DAB is an alter ego of the Taliban. Further, DAB has ceased to exist as an independent central bank and is unable to perform core functions; it cannot transact internationally on behalf of a recognized government, and it is materially unable to execute

¹³¹ *Id.*

¹³² *Reassessing Counter Terrorism Financing in a Taliban-Controlled Afghanistan*, *supra* note 14.

¹³³ *International Narcotics Control Strategy Report Vol. II – Money Laundering*, *supra* note 35, at 33.

its responsibility to enforce legislation and regulations combating money laundering and terrorist financing. It is my expert opinion that DAB, contrary to its original purpose, is utilized by the Taliban primarily to pursue illicit activities.

I declare that the foregoing is true under penalty of perjury of the laws of the United States.

Executed this 29th day of April, 2022 in New York, New York

By:



Peter M. Piatetsky