Department of Justice

STATEMENT OF

ANDREW ADAMS
DIRECTOR
TASK FORCE KLEPTOCAPTURE

BEFORE THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

AT A HEARING ENTITLED

"KLEPTOCAPTURE: AIDING UKRAINE THROUGH FORFEITURE OF RUSSIAN OLIGARCHS' ILLICIT ASSETS"

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Good morning, Chairman, Ranking Member, and members of the Committee. I appreciate the opportunity to appear before you today on behalf of the United States Department of Justice and in my capacity as Director of the Department's Russian sanctions Task Force – KleptoCapture – to discuss the Task Force and to discuss federal asset forfeiture, both civil and criminal, as it relates to Russia's unprovoked and illegal war of aggression in Ukraine. Today, I will summarize the Task Force's structure, scope, and strategic priorities, before turning to particular tools utilized by the Task Force in its work to date and tools that, if provided, would further enhance the Task Force's ability to accomplish those strategic goals.

Task Force: Structure

As this Committee is well-aware, the Department's response to Russia's invasion of Ukraine included the launch of Task Force KleptoCapture. The Task Force is an interagency law enforcement endeavor led by Justice Department prosecutors and dedicated to enforcing the sweeping sanctions and export restrictions that the United States has imposed, along with allies and partners, in response to Russia's unprovoked military invasion. The Task Force sits within the Office of the Deputy Attorney General and draws on the expertise and energy of agents, analysts, translators, and prosecutors throughout the Department. Two deputy directors have joined to aid in running the task force, both experienced attorneys within the Department of Justice, one hailing from the National Security Division, and the other from the Criminal Division's Money Laundering and Asset Recovery Section, with particular experience and expertise from his work with that Section's Kleptocracy Unit. In support of its mission, the Task Force draws on dedicated teams at FBI, Homeland Security, the IRS-Criminal Investigations, the U.S. Postal Inspection Service, the Commerce Department, the State Department, every relevant component of the Treasury Department, and from the intelligence community, military branches, and our international partners.

The Department has long targeted sanctions evasion, Russian organized crime and global kleptocracy, both through trial attorneys at Main Justice and through the extensive efforts of the

United States Attorney's Office community. The efforts of those departmental components have been robust and successful. Charges targeting sanctions evasion and export control violations by individuals and major financial institutions; money laundering charges and seizures involving everything from cryptocurrency to trade-based money laundering; charges targeting kleptocracy and laundering of foreign bribes; and willful failures of anti-money laundering systems in both traditional and novel financial institutions — all are cases well within the experience of the Department.

The Department's historical focus and past success informs the work of the Task Force in two ways. First – and as a core challenge to be met through our work — past action means that the fruits of corruption that might be found *in the United States* are likely to be buried deep beneath layers of sham owners and shell companies — while the most obvious and ostentatious forms of kleptocracy will be located outside of the United States, as the world has already seen.

Second, those past efforts mean that cases under the ambit of the Task Force will continue to benefit from the leadership of the U.S. Attorney's Office community across the country, as well as from teams within Main Justice, who have been working in this space for several years. Subpoenas, search warrants, and the like will flow from grand juries and courts around the country, and prosecutors across the U.S. Attorney community and Main Justice will take part in running individual investigations under the Task Force's coordination.

Task Force: Scope

The work of the Task Force is based on the sanctions and export controls imposed in response to Russian aggression since 2014. It is no exaggeration to say that, as of the early months of this year, the scope, intended impact, and international alignment of those measures are without precedent. The Committee will be familiar with the key categories of actions taken to date, but here I will summarize the principal measures undertaken to date for context and to emphasize the breadth and impact of those measures:

First, the Treasury Department has rolled out lists of sanctioned individuals and entities subject to asset freezes, and sanctions targeting services that might be provided to, or transactions with, those listed targets. These are the classic sanctions that form the basis for most historical casework and figure most prominently in the public imagination. When we talk about locking down an oligarch's yacht as the fruit of a sanctions violation, for example, these measures are the tool to hand.

Second, the Task Force's scope will be based in part on the Commerce Department's series of export controls placed on particular U.S. goods and technologies bound for Russia, and on actors within the global supply chain who provide Russia with the raw material for conducting wars of aggression.

Third, the United States — in close coordination with foreign partners — has rolled out a series of sanctions targeting economically critical infrastructure within the Russian state and the

Russian military industry. Perhaps most prominently those measures have included immobilizing the Russian Central Bank's assets, held in coffers around the world.

Against the backdrop of those sanctions and controls the Task Force's goals are, first, to bring *any appropriate* charge against any individual or entity sanctioned under the Treasury Department designations, or limited through the Commerce Department's export controls, rolled out in response to Russian aggression. With respect to people and entities on those lists, we will pursue *any* charge or seizure theory available. Sanctions evasion and money laundering are obvious charges and theories in this space, but if opportunities to bring charges for bank fraud, visa fraud, narcotics trafficking, or any other federal crime, are presented as to a listed person or entity, that is a charge that the Task Force will support and pursue.

The Task Force's scope goes beyond those specifically designated persons, however. The Task Force will target those who would *facilitate* the evasion of economic sanctions and export controls. The Department has a track record of success in this vein that we will continue in our efforts today: For banks, real estate agents, broker-dealers, exporters, manufacturers, and others, our goal is to shine a light where sanctioned actors may operate in shadow.

Strategic Priorities in the Short- and Long-Term

The Task Force's immediate focus has been on disruption, disgorgement, and discomfiture of those individuals and entities who have aided and supported the corrupt Russian regime. The aim was to bring criminal charges and seize assets linked to particularly prominent, and often extravagantly wealthy, enablers of the Russian state. Since the Task Force's establishment in March, the Justice Department has worked with international partners to seize a sanctioned Russian oligarch's $90 million luxury yacht in Spain, to seize and transport a nearly half-billion-dollar yacht belonging to a sanctioned oligarch from Fiji to San Diego, and to seize millions of dollars associated with sanctioned parties held at multiple U.S. financial institutions. Those seizures are based on sanctions violations, bank fraud, and money laundering by several designated Russian nationals and their proxies. The Justice Department has also charged Russian oligarchs and their associates for evading sanctions, as well as for conducting foreign malign influence operations arising from illegal efforts to promote Russian propaganda and undermine Ukrainian democracy and society.

These acts of immediate, significant, and public disruption of oligarchs' wealth and networks will continue apace. They have already had a tangible deterrent effect, including in some cases the push toward active cooperation with the United States. The message of support underscored our seriousness of purpose and encouraged our international partners to align with our robust sanctions regime and to propose their own analogues to our law enforcement tools.

As we have passed the first hundred days of Russia's most recent, illegal aggression, it is appropriate that we reaffirm our commitment to the goals of immediate disruption, disgorgement, and discomfiture of those individuals and entities who have aided the corrupt Russian regime, while also turning attention to the longer-term targeting of those actors who

would facilitate the evasion of economic sanctions and critical export controls. Referred to here as "Facilitators," these are individuals and entities across the economic spectrum who are not themselves sanctioned, but who assist sanctioned individuals or entities or those who wish to engage in export control violations in those illegal endeavors. Targeting Facilitators is a strategic priority for mid- to long-term success of the Task Force's mission, aimed at dismantling routes through which criminals would otherwise undermine the efficacy of the sanction and export control programs.

As to these strategic priorities, first, the primary obstacle to identifying illicit proceeds and the actors for whom, and by whom, those funds are transmitted, is the use by criminal networks of shell corporations found in multiple, often offshore and relatively non-cooperative, jurisdictions. Banks, accountancy firms, law firms, real estate agents, financial advisors and other traditional and non-traditional financial services firms are key gatekeepers for, and access points into, the global financial system, including favored U.S. markets. The Task Force is therefore directing particular attention to attempts by foreign individuals and entities, including off-shore shell corporations, to move funds through correspondent accounts at U.S. banks. In its simplest form, this may involve stripping critical information (or inserting affirmatively false information) from international wires, thereby undermining the anti-money-laundering, countering-the-financing-of-terrorism, and sanctions-enforcement programs of U.S. financial institutions. In more complex form, we are examining the use of nested bank accounts and the U.S. dollar funding of offshore "nostro" accounts dedicated to use by sanctioned actors. If U.S. banks are unable to accurately determine the originator, beneficiary, purpose, or source of funds with respect to a transaction, through whatever means of obfuscation and omission, their ability to investigate, report, or block a suspicious transaction is compromised in material respects.

Second, in order to help maximize the efficacy of strong federal export controls, the Task Force has deployed a three-prong plan: (1) investigate and prosecute criminal violations of U.S. export control laws; (2) support interagency partners' efforts to deploy civil and administrative tools as enforcement mechanisms; and (3) collaborate with our partners to identify procurement networks and facilitators who seek to assist Russian end-users in their efforts to circumvent U.S. export control laws.

The Task Force is committed to investigating and prosecuting individuals and entities who facilitate or conduct transactions designed to evade sanctions and export control regimes or otherwise protect or obscure the assets of sanctioned parties, and to highlight the breadth and international reach of those federal laws. This is an effort that extends well beyond the subset of targets commonly recognized as the "oligarch" set, and one that will require continuous effort to maintain inter-departmental and inter-agency cooperation and communication.

Tools to Hand and Legislative Proposals

Fundamentally, this Task Force is investigating entrenched, well-funded, organized crime; and the means, methods, and approach for dealing with the mission of this Task Force must be grounded in the approach taken to successfully combat organized crime. We recognize

that the offenses we are investigating are generating real — even if widely dispersed — victims. We must pursue aggressive, muscular investigations that will encompass not only the full financial picture of a subject's business, but will dive into their historical affairs, family offices, and deeply held personal motivations. We must be prepared to offer the opportunity for substantive, significant cooperation to individuals with serious criminal exposure, and be prepared to require accountability as part of that cooperation, understanding that reconciliation begins and ends in truth and candor. We must maintain a clear-eyed understanding that our targets will attempt to exploit people and institutions of good faith in efforts to intimidate witnesses into silence and to present false narratives to investigators and courts.

Among the more prominent tools used to date has been the use of seizure warrants — authorized by federal magistrate judges — to effect the seizure of criminal property and to begin the process of forfeiting that property through the federal criminal and civil asset forfeiture laws, and liquidating forfeited property when appropriate. For many years I have been a federal prosecutor focusing on organized crime, money laundering, and the recovery of assets. My home office is the United States Attorney's Office for the Southern District of New York, which sits in Manhattan, but its cases span around the United States and, indeed, around the world. One example of the global reach of that Office is the work done by New York prosecutors in the area of recovery of looted and stolen works of art and cultural property and the return of those works to rightful owners in Europe — all of this is done through the tools available through the federal civil asset forfeiture laws. In 2019, those tools were specifically used to aid Ukraine: A painting, known as "Amorous Couple," was stolen from the National Museum of the Arts in Kyiv in the closing days of World War II. For decades, the painting was sought by the Museum for return, but remained missing until this past decade, when it began circulating in London and the United States under a new title. In 2019, the painting was identified by federal investigators as the same piece stolen many decades prior. A warrant for the painting's seizure was authorized on the basis that the painting was tainted property — stolen property that had crossed into the United States after its theft. Without a thief to prosecute, or a criminally knowledgeable importer, that criminal investigation could not be resolved through the standard criminal processes of an indictment, a criminal trial, and a criminal sentencing. But because U.S. prosecutors have both criminal tools and civil asset forfeiture tools available to them, the painting was seized for civil forfeiture; notice was provided to the then-current owner, the auction house engaged in its sale, and to the world at large; and a proceeding to determine who had the right to ownership under U.S. law commenced. The answer in that case was clear, and the parties quickly resolved the issue — the painting had to be, and swiftly was, returned to Ukraine.

That case was just one of many involving the return of tainted, criminal proceeds or facilitating property that would have been impossible without the tools available through the U.S. asset forfeiture procedures and without the human resources available to conduct those cases — the prosecutors, analysts, agents, and linguists that drive our Justice Department forward.

As the Committee knows, federal prosecutors utilize both criminal and civil forfeiture in cases across the Department. Criminal forfeiture is a penalty imposed following a criminal prosecution and following conviction. In criminal forfeiture, only the specific defendant's interest in an asset can be divested — other owners or persons claiming interests in the asset may petition the Court to protect their rights even as a convicted defendant's rights are divested. In criminal cases, the highest burden of proof under the U.S. legal system is applied — we must prove a person's guilt "beyond a reasonable doubt" before they are subject to any penalties, including incarceration or forfeiture. However, once convicted of a crime, the Government need only demonstrate that property is tied to that crime through the lower standard of proof, essentially whether it is more likely than not tainted. In criminal proceedings, as in civil proceedings, the Government provides notice of its intent to forfeit property to any possible claimants or owners, through direct notification and through broad publication of the intent to forfeit the property.

Civil forfeiture is an adjunct to criminal forfeiture. In a civil forfeiture proceeding, the United States files a lawsuit against property itself — *United States v. One Looted Painting by Pablo Picasso* or *United States v. $1,000,000 in Bank Account 1234*, for example. We use this tool in several situations — where a criminal charge is unlikely to succeed because the criminal is either concealed to the point of anonymity or is located in a jurisdiction beyond the reach of extradition (in Russia, for example), or where the only person with criminal intent has died, and yet the proceeds of the crime live on.

Regardless of the reason for proceeding through civil forfeiture, the United States must still demonstrate to the satisfaction of a court that property has a nexus to an identified crime, for example that the property is involved in a money laundering transaction or is the proceeds of a fraud, theft, or extortion. These "theories" of forfeiture are specific to the statute providing for forfeiture as to particular crimes — not all crimes carry forfeiture of property "involved in" that offense, or "facilitating" that offense, as a component of their forfeiture penalties.

Moreover, the Department must again provide notice to claimants and potential claimants *and also* provide notice to the world at large through publication of our intent to forfeit. The notion here is one of due process and respect for legitimate property rights — although criminal actors forfeit their rights in property generated through crime, everyone (including innocent owners) must be afforded notice and the opportunity to request a hearing prior to the divestment of rights in property.

The Department greatly appreciates the efforts to date to craft proposals that, if passed, would augment the Justice Department's resources and tools to impose serious costs for Russia's unjustified aggression, and to isolate and target the crimes of Russian officials, government-aligned elites, and those who aid or conceal their unlawful conduct. In addition to the Administration's announced proposal to apply administrative civil forfeiture proceedings to new classes of assets, the Department continues to advocate that the following critical proposals would strengthen the Justice Department's efforts:

- **Enabling the Transfer of the Proceeds of Forfeited Kleptocrat Property to Ukraine to Remediate Harms of Russian Aggression**. The proposal would improve the United States' ability to use forfeited funds to remediate harms caused to Ukraine by Russia's war of aggression against Ukraine. Generally, existing statutory and regulatory authorities require that forfeited funds are used to compensate victims of the crimes underlying the forfeitures and for law enforcement purposes. This proposal would permit the Departments of Justice, the Treasury, and State to work together to return funds forfeited to the U.S. government to remediate harms of Russian aggression toward Ukraine. Providing this authority requires amendments to multiple statutes governing the use of forfeited funds.

- **Clamping Down on Facilitation of Sanctions Evasion**. This proposal would expand forfeiture authorities under the International Emergency Economic Powers Act ("IEEPA") to reach property used to facilitate sanctions violations enabling the Government to take away the violators' "tools of the trade." This proposal would amend IEEPA's penalty provision to extend the existing forfeiture authorities to facilitating property, not just to proceeds of the offenses. With this change, assets that are used to mask sanctions evasion, without themselves being the proceeds of that evasion, would be within the ambit of our forfeiture authorities, just as under current authorities we can forfeit a medical license held by a doctor who used the license to distribute controlled substances in violation of the Controlled Substances Act, or a vehicle used by a drug dealer to transport narcotics to or from a drug transaction.

- **Modernizing Racketeering to Include Sanctions Evasion**. This proposal would improve the United States' ability to investigate and prosecute sanctions evasion and export control violations by adding criminal violations of IEEPA and the Export Control Reform Act ("ECRA") to the definition of racketeering activity in the Racketeer Influenced and Corrupt Organizations ("RICO") Act. This proposal would extend a powerful forfeiture tool against racketeering enterprises engaged in sanctions evasion.

- **Expanding the Time Limit to "Follow the Money."** This proposal would ensure that the United States can prosecute violators and seek forfeitures based on foreign offenses more effectively by extending the statute of limitations from five years to 10 years. The change would also extend the statute of limitations for seeking forfeiture of property based on these offenses, as a critical tool to deprive criminals of their ill-gotten gains.

- **Leveraging Foreign Partners' Ability to Recover Oligarch Wealth**. This proposal would improve the United States' ability to work with our international partners to recover assets linked to foreign corruption. As kleptocrats and other criminals commit crimes and launder money in multiple jurisdictions, this

proposal would expand upon existing U.S. law to facilitate enforcement of foreign restraint and forfeiture orders for criminal property. The proposal would improve our ability to take these actions here in the United States in support of international efforts to forfeit criminal property.

The Department is deeply appreciative of the effort and attention that the Committee's membership has devoted to these and other proposals that would strengthen the Department's immediate and longer-term projects in support of Ukraine. The Task Force, and the Department writ large, stand ready to continue partnering with Congress to craft legislation that is diligent in its respect for the fundamental rights of Americans and robust in its response to what amounts to Russia's network of sophisticated and international organized crime.