Sanctions Update

20 minutes with terrorists, dictators & criminal networks

ACAMS

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What is OFAC and what are Sanctions?

- Office of Foreign Assets Control, part of the U.S. Treasury Department: implements and enforces economic and trade sanctions (means of cutting off access to U.S. markets) based on U.S. foreign policy and national security goals

- Targets
  - Countries and regions
  - Regimes
  - Individuals
  - Entities
  - Activities

- Form
  1. Comprehensively sanctioned regions
  2. Listed names (comprehensive ban)
  3. Listed names (partial ban)
What makes OFAC unique?

Regulatory Characteristics and Challenges

- U.S. Persons
  - Definition
  - Responsibility
- Strict Liability
  - Processing 1 transaction = enforcement action
- Regulators increasingly focused on sanctions compliance
OFAC Penalties

- Civil Penalties
  - Up to $65,000 for each violation Trading With the Enemy Act
  - Up to $250,000 or twice the amount of the underlying transaction for each violation International Emergency Economic Powers Act
  - Up to $1,075,000 for each violation Foreign Narcotics Kingpin Designation Act

- Criminal Penalties
  - Up to $20 million
  - Imprisonment up to 30 years

- Reputational Damage
Recent Examples

• **PayPal**
  - $7.7M OFAC settlement for 486 transactions valued at approximately $43,934
  - “Failed to employ adequate screening technology and procedures”
  - Where automated systems caught SDN account, analysts repeatedly ignored alerts (seven times!)

• **Commerzbank**
  - $259M settlement for 1,596 apparent violations
  - For systematically engaging “in payment practices that removed, omitted, obscured, or otherwise failed to include references to U.S.-sanctioned persons”

• **First Data Resources**
Comprehensively Sanctioned Regions

- Burma/Myanmar*  
- Cuba  
- Crimea  
- Iran  
- North Korea*  
- Sudan  
- Syria  

* Some technical exceptions

List-Based Sanctions Programs (SDNs & SSIs)

- Balkans  
- Belarus  
- Central African Republic  
- Ivory Coast  
- Counter Narcotics Trafficking  
- Counter Terrorism  
- Democratic Republic of the Congo  
- Iraq  
- Lebanon  
- Former Liberian Regime of Charles Taylor  
- Libya  
- Magnitsky  
- Non-Proliferation  
- Rough Diamond Trade  
- Somalia  
- South Sudan  
- Transnational Criminal Organizations  
- Ukraine (includes SSIs)  
- Yemen  
- Zimbabwe
OFAC Programs

New and Exciting Changes!

Oh, great! I was Hoping for another compliance reg.
OFAC Programs – Iran

Comprehensive Sanctions

Targets

• Government of Iran and sectors of Iran’s economy

General Prohibitions

• Exports/Imports of goods and services (including financial services and transactions involving vessels)
• Operation of accounts for individuals permanently residing in Iran
• Any transaction or dealing related to petroleum or petroleum products of Iranian origin
• Implications for indirect relationships with Iran: Extension of sanctions/penalties beyond U.S. jurisdiction
• All payments directly from Iranian financial institutions
• Export of security services or related technologies used in human rights abuses
• Sanctions evaders
Comprehensive Sanctions

Exceptions

- Non-Commercial personal remittances
- Licenses to complete certain personal transactions in Iran
- Humanitarian aid transactions under license
- International organizations operating in Iran
- General and specific licenses provide authorizations for diplomats
- Travel to Iran and operation of accounts for traveler (includes payments to the Interests Section of the Islamic Republic of Iran)
OFAC Programs – North Korea

Comprehensive Sanctions

Targets

• Government of North Korea, senior government officials, Workers' Party of Korea and individuals/entities trafficking in arms and related materials

• List-based (SDN) program

General Prohibitions

• Importing goods and services

• Exporting luxury goods

• Illicit economic activity (i.e., narcotics and arms trafficking, money laundering) that benefits the North Korean government

• Blocks property of traffickers in arms or narcotics, or facilitators of money laundering or counterfeiting

• Any exports to blocked parties

• Ownership, lease, or operation of any vessel flagged by North Korea
OFAC Programs – North Korea

Comprehensive Sanctions

Exceptions

• North Korean goods, services and technology may be imported but the buyer must secure an OFAC license

• Banks processing L/C’s or documentary collections must obtain copy of license before proceeding

• No prohibitions on exporting goods to non-blocked parties in North Korea
OFAC Programs – Burma/Myanmar

Comprehensive Sanctions

Targets

• Government of Burma and ruling military junta

General Prohibitions

• No importation of Burmese jade and rubies

• Burmese Ministry of Defense, state or non-state armed groups (i.e., military) in connection with provision of security services

Exceptions

• Non-commercial remittances

• Exportation or re-exportation of financial services and other exports to Burma

• New Investment

• Importation of most Burmese products

• Maintain correspondent accounts for four named FIs

Aung San Suu Kyi
OFAC Programs – Cuba

Comprehensive Sanctions

Targets

• Government of Cuba

General Prohibitions

• Dealing in property in which Cuba or a Cuban national has or has had an interest

• Most exports and imports

• Financial services

Image courtesy of www.bustedtees.com/Cuba
OFAC Programs – Cuba

Comprehensive Sanctions

Exceptions

- April: pending removal as State Sponsor of Terrorism
- January: easing Cuba sanctions, expanded exceptions
- Regulatory amendments include
  - Increased remittances
  - Minimal Cuban imports permitted
  - Credit/debit card use for travel-related transactions
  - Greater banking ties (U.S. correspondent accounts in Cuba) and micro-financing projects
  - Expanded travel: generally licenses travel for 12 categories that used to require a specific license (i.e., educational, journalism, religious, and humanitarian activities)
  - *Tourism still prohibited*
OFAC Programs – Ukraine

Hybrid Sanctions

Targets

• Former Ukrainian regime, undermining peace and stability of Ukraine,

• Energy/defense sectors of Russian economy

General Prohibitions

• SDNs

• Crimea – NEW!
  • Regional prohibition on financial transactions

• Sectoral Sanctions Identifications (SSI) – NEW!
  • Carve-out prohibition (not complete ban like SDN)
  • Focus on nature of relationship and transactions

Exceptions

• Non-commercial personal remittances

• Medical and agricultural and telecom supplies
What does Compliance do?

Helps:

• Comply with U.S. federal and state law
• Prevent costly OFAC violations and reputational damage
• Protect company/bank and larger U.S. financial system from rogue states, criminals, and terrorist financiers
• Interdict and block the assets of identified criminals, terrorists, proliferators of WMDs and rogue states
• Foster understanding and communication within company and ensure escalation of OFAC matters
How does Compliance comply?

**Compliance Tools**

- Education, training, oversight
- Policies and procedures
- Monitoring and testing
- Screening
  - Automated, with manual review
  - OFAC list and internal watch lists
  - Escalate complex issues
- Due Diligence
  - Proactively identifying exposure
  - Monitor patterns
- Online filters
- Reporting, Statistics and Records
- Clear communication with OFAC (i.e. single point of contact)
- All U.S. persons responsible
Key Takeaways

- Compliance is shared responsibility
- Stiff OFAC penalties – create zero tolerance compliance environment
- Comprehensively sanctioned regions:
  - Crimea
  - Cuba
  - Iran
  - Sudan
  - Syria
  - Burma/Myanmar*
  - North Korea*
- SDNs are off-limits, no exceptions
- SSIs are off-limits, depending on each transaction or relationship
- Please *don’t visit Cuba*
Questions?

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http://www.treasury.gov/resource-center/sanctions/Pages/default.aspx