Rising Sanctions Compliance Expectations for Non-Banks

PRESENTED BY

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Rising Sanctions Compliance Expectations

- Understanding the U.S. government's expectations
- Assessing the current administration's enforcement posture
- Avoiding common sanctions compliance pitfalls

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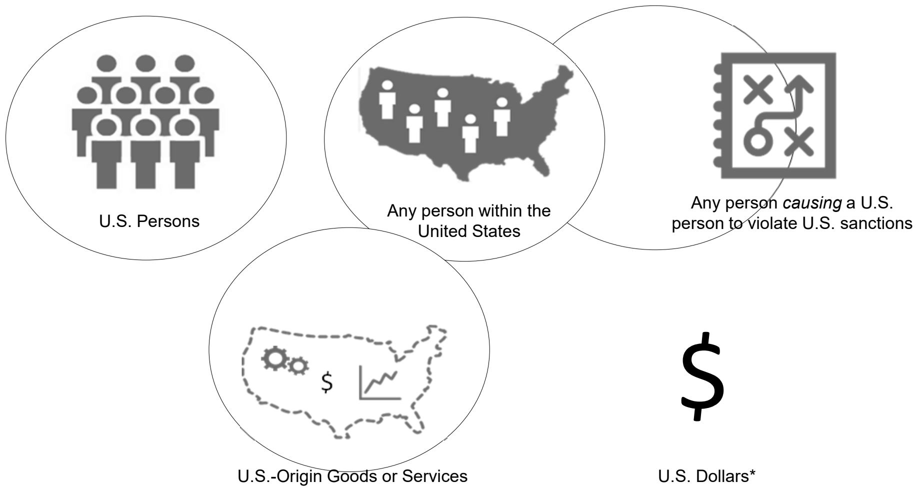
U.S. Sanctions Protect the United States and its Financial System



* Transactions denominated in U.S. dollars almost always involve U.S. jurisdiction.

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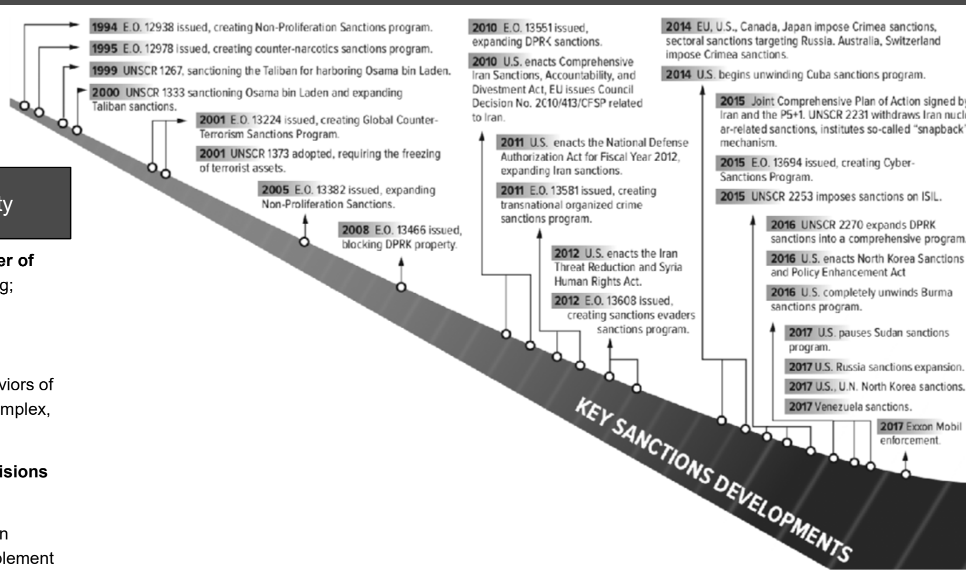
U.S. Sanctions are Becoming Increasingly Complex

Sources of Growing Complexity

- The **number of programs** and the **number of designations** has been steadily increasing;
- An increasing number of programs have incorporated **secondary sanctions**;
- To more surgically target actors and behaviors of concern, programs are becoming more complex, including extensive **general licenses**;
- Programs also incorporate **complex provisions** such as debt and equity restrictions; and
- More U.S. bodies are becoming involved in sanctions and sanctions are used to complement or in conjunction with **tools of economic statecraft.**



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The Current Administration Uses Sanctions Aggressively

The Economist

Weapons of mass disruption

America is deploying a new economic arsenal to assert its power

Financial carpet-bombing

Donald Trump uses sanctions more keenly than any of his predecessors

The Washington Post — Democracy Dies in Darkness

Politics

Trump uses sanctions as a favorite form of retribution — against friend and foe alike

FINANCIAL TIMES

Sanctions are Donald Trump's new way of war

Trump administration leans on sanctions to shape foreign policy

Trump weaponises the dollar in drive to put America first

Bloomberg

Politics

Trump Uses Sanctions to Spark Painful Market Moves for Adversaries

The New York Times

Trump's Embrace of Sanctions Irks Allies and Prompts Efforts to Evade Measures

THE WALL STREET JOURNAL.

POLITICS

Trump Wields U.S. Economic Might in Struggles With Allies and Adversaries Alike

Sanctions and tariffs are deployed for geopolitical objectives

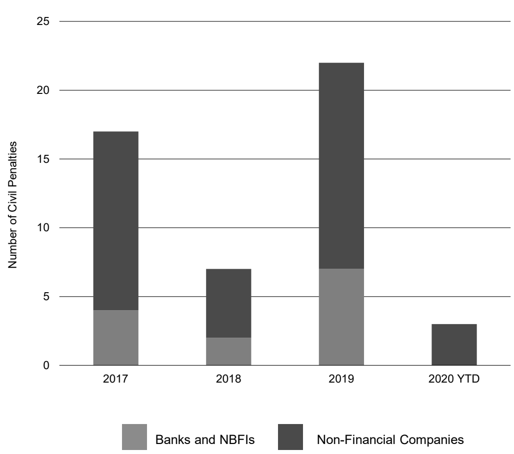
FP

SHADOW GOVERNMENT

Trump's Use of Sanctions Is Nothing Like Obama's

Non-Banks Face Increasing Compliance Scrutiny

Number of OFAC Civil Penalties
2017 – 2020 YTD



- Although large fines and actions targeting banks have grabbed headlines, OFAC assesses more civil monetary penalties against non-banks and non-financial companies
- The largest civil monetary penalty OFAC has assessed since President Trump took office exceeded $100 million
- OFAC's civil actions have targeted companies in diverse industries, from those dealing in more obviously sensitive goods and services related to energy, telecommunications, and shipping, to companies engaged in less obvious lines of business such as cosmetics, consumer goods, medical instruments, and paper

OFAC-Provided Guidance on Sanctions Compliance Expectations

"OFAC strongly encourages organizations subject to U.S. jurisdiction, as well as foreign entities that conduct business in or with the United States, U.S. persons, or using U.S.-origin goods or services, to employ a risk-based approach to sanctions compliance by developing, implementing, and routinely updating a sanctions compliance program. While each risk-based sanctions compliance program will vary depending on a variety of factors—including the company's size, sophistication, products and services, customers and counterparties, and geographic locations—each program should be predicated on and incorporate at least five essential components of compliance…."

A Framework for OFAC Compliance Commitments, May 2019

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Common Sanctions Compliance Pitfalls and Examples

1. Lack of a formal OFAC sanctions compliance program
2. Misinterpreting, or failing to understand the applicability of, OFAC's regulations
3. Facilitating transactions by non-U.S. persons (including through or by overseas subsidiaries or affiliates)
4. Exporting or re-exporting U.S.-origin goods, technology, or services to OFAC-sanctioned persons or countries
5. Utilizing the U.S. financial system, or processing payments to or through U.S. financial institutions, for commercial transactions involving OFAC-sanctioned persons or countries

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Common Sanctions Compliance Pitfalls and Examples

6 Sanctions screening software or filter faults

7 Improper due diligence on customers or clients (e.g., ownership, business dealings, etc.)

8 De-centralized compliance functions and inconsistent application of a sanctions compliance program

9 Using non-standard payment or commercial practices

10 Individual liability

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Gail Fuller is a Vice President at the Financial Integrity Network. At FIN, Gail focuses on developing, refining, and implementing FIN's quantitative and qualitative risk-rating tools. She leads engagements focused on helping FIN's jurisdictional and private sector clients understand their exposure to AML/CFT, sanctions, and ABC risk, and develop and implement tailored risk-mitigation strategies.

Gail joined FIN in 2017 after nearly eight years of Federal Government service focused on combating illicit finance. In her most recent position at the Treasury Department, she deepened her expertise in topics such as global AML/CFT standards, illicit finance typologies, global sanctions regimes, and the intersection between illicit finance and national security threats. In her position, Gail provided decision-making and briefing support to senior Treasury officials, Cabinet members, and the U.S. Congress.

Prior to government service, Gail worked in management and strategy consulting and provided best practices research and competitive intelligence insights to Fortune 500 clients in highly regulated industries such as consumer finance, aerospace and defense, and pharmaceuticals.

Gail graduated with high honors from Georgetown University's McDonough School of Business.

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K2 Intelligence & Financial Integrity Network: A Powerful Combination

Our newly combined firm sits at the intersection of public and private sectors as a trusted source of expertise and sound judgment.

K2 Intelligence

Investigations · Compliance Solutions · Cyber Defense

K2 Intelligence, an industry-leading investigative compliance, and cyber defense firm, helps clients manage risk and address problems in complex situations, gathering intelligence to enhance critical decisions.

Financial Integrity Network

Financial Integrity Network (FIN) is a globally trusted strategic advisory firm dedicated designing and implementing best-in-class strategies, policies, and controls to protect against the full range of illicit financing threats.

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