



US Economic Sanctions and Export Controls

September 18, 2024

US Sanctions – Overview

- ◆ Primary US Sanctions generally apply to US Persons and to transactions that occur from, through, or within the US.
- ◆ Primary US Sanctions prohibit or restrict both direct and indirect transactions with any person, country, or territory targeted by such sanctions.
- ◆ OFAC General Licenses may authorize activities otherwise prohibited by sanctions.
- ◆ US nexus requirement:



US sanction focus prohibitions on conduct of “persons” (*i.e.*, individuals and entities).

Items to Note:
Strict liability
Facilitation

US Sanctions – Overview (cont.)

Blocking sanctions

- Require US Persons to freeze (*i.e.*, “block”) the assets of persons appearing on OFAC’s Specially Designated Nationals and Blocked Persons List (the **SDN List**, and persons appearing thereon, **SDNs**).
- All property and interests in property of any SDN that are in, or later come within, the US or the possession or control of a US Person, are blocked and cannot be transferred, paid, exported, withdrawn, or otherwise dealt in unless authorized by OFAC.
- Derivative designation risk for non-US persons.

Comprehensive sanctions

- Certain countries / territories targeted with sanctions broadly prohibiting US persons from transacting in / with targeted jurisdictions.
- Cuba, Iran, North Korea, Syria, Crimea / Donetsk / Luhansk.

Secondary Sanctions:
Non-US Persons risk being targeted with sanctions for engaging in “sanctionable conduct”

E.g., providing “material support” to an SDN

US Sanctions – Other Sanctions Programs

1. Sectoral Sanctions

- ◆ Sectoral sanctions prohibit certain, but not all, transactions by US Persons or from, through, or within the US that involve persons determined by the US government to be operating in certain sectors of the economy
- ◆ *E.g.*, Financial, oil, mining

2. NS-CMIC Sanctions

- ◆ Non-SDN Chinese Military-Industrial Complex Companies List: limited financial sanctions targeting companies linked by OFAC to PRC government / military (*i.e.*, **CMICS**).
- ◆ Prohibits dealings in the publicly traded securities (or derivatives thereof) of CMICs

3. Various Russia Sanctions

- ◆ Range of non-blocking sanctions applied to Russian persons and sectors:
 - oil price cap;
 - import and export restrictions;
 - new investment prohibition
 - prohibition on certain dealings involving debt/equity.

Sanctions Enforcement – Digital Assets / Derivatives

- Rising US government concern on use of digital assets by sanctions targets to avoid US sanctions prohibitions
- Issues in identifying and characterizing digital asset-related sanctions issues (*e.g.*, transaction valuation)
- Violations often identified through IP information; arise due to lack of IP screening and other controls

BINANCE (NOV. 2023)

- Matched and executed trades between US person users and users targeted by US sanctions
- 1.667M apparent violations
- Appx. \$969M settlement for violations

POLONIEX (MAY 2023)

- Export services to persons in Crimea, Iran, Cuba, Sudan, and Syria
- 65,942 “digital asset transactions” constituting apparent violations
- \$7,591,630 settlement for violations

KRAKEN (PAYWARD INC.) (NOV. 2022)

- Export of services to users in Iran
- 826 apparent violation
- \$362,158.70 settlement for violations + \$100,000 required investment in controls

ZULUTRADE (SEPT. 2014)

- CFTC-registered Introducing Broker and Commodity Trading Advisor with electronic platform for FX
- 400 accounts in Iran, Sudan, and Syria + 8 funds transfers for individuals in Iran
- \$200,000 settlement for violations

U.S. EXPORT CONTROLS

Export controls follow the item (exports, reexports, or transfers), not the person.

- Administered by the U.S. State Department and the U.S. Commerce Department.
- Two primary legal authorities for export controls:
 - International Traffic in Arms Regulations (**ITAR**) – US Munitions List;
 - Export Administration Regulations (**EAR**) – Commerce Control List.
- Prohibited End-Users / End-Uses (e.g., the Entity List, Military End-Users, etc.).
- Licenses from the Bureau of Industry & Security (**BIS**) and Directorate of Defense Trade Controls (**DDTC**).



Questions?