

A Gibson Dunn International Trade and National Security Presentation

# Global Sanctions Update

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- Virginia Bar members should anticipate receiving their certificate of attendance in 6 weeks following the webcast.
- Questions regarding MCLE information should be directed to Jeanine McKeown (National Training Administrator) at 213-229-7140 or [jmckeown@gibsondunn.com](mailto:jmckeown@gibsondunn.com).

# Discussion Topics

## **Iran Sanctions**

- Joint Comprehensive Plan of Action (JCPOA)
- U.S., E.U., and U.N. actions

## **Other United States Sanctions Developments**

- **Cuba**
- **Russia**
- **Burma**
- **North Korea**
- **Recent Enforcement Actions**
- **Other Developments**

## **Other United Kingdom and European Union Developments**

- Regulations and Legislation; Case Law; E.U. Enforcement Actions; Additional U.K. Developments



**Sanctions on Iran**  
**Restrictions and Risks after Sanctions Relief**

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# Iran – Nuclear Deal – Sanctions Relief

“Implementation Day” January 16, 2016



## Calendar

SUNDAY MONDAY TUESDAY WEDNESDAY THURSDAY FRIDAY SATURDAY

1 2 3

7 8 9 10

13 14 15 16

20 21 22 23

27 28 29 30

### Implementation Day

January 16, 2016

- **U.S.:** Substantial sanctions relief – hundreds of entities removed from sanctions list; many sanctions waived; licenses issued
- **U.N.:** Termination of U.N. sanctions
- **E.U.:** Termination / suspension of first (and largest) set of E.U. sanctions

### Adoption Day

October 18, 2015

Prep for Sanctions Relief

### Majlis Endorses Deal

October 13, 2015

### Congressional Review Concludes

September 17, 2015

### U.N. and E.U. Endorsement

July 20, 2015

### Finalization Day

July 14, 2015

# Iran – Nuclear Deal – Sanctions Relief

## Trade Delegations, Negotiations, and Deals



PEUGEOT



TOTAL



FINMECCANICA



ACCOR



HELLENIC  
PETROLEUM

GIBSON DUNN

# Iran – Nuclear Deal – Sanctions Relief

## Trade Delegations, Negotiations, and Deals

### Significant commercial deals done since the lifting of sanctions:

- Iranian purchase of 118 aircraft from Airbus for \$22 billion
- Italian steel company Danieli signed €5.7 billion deal with Iranian mining company
- Saipem concluded €3.5 billion deal to upgrade two Iranian refineries
- Saipem concluded €4-5 billion deal to build an oil and gas pipeline in Iran
- Royal Dutch Shell repaid €1.77 billion to Iran in pre-sanctions debt
- Peugeot signed €400 million joint venture agreement to manufacture cars in Iran
- Total contracted with National Iranian Oil Company for up to 220,000 barrels of oil per day

# Iran – Nuclear Deal – Sanctions Relief

## Sanctions Relief Divides the World into Three Types of Companies



### U.S. Firms

(Firms with U.S. Nexus)

**1**



### Foreign Subsidiaries of U.S. Firms

**3**



### Non-U.S. Firms

(Firms without U.S. Nexus)

**2**

Each has a different ability to engage with Iran and faces different risks and limitations in doing so.

# Iran – Nuclear Deal – Sanctions Relief

## **Relief Granted on Implementation Day – U.S. Firms, Non-U.S. Firms, and Foreign Subs of U.S. Firms**

### United States



Principal relief is on sanctions with extra-territorial reach (the “innovations”). Iran sanctions still largely in effect for U.S. persons:

- U.S. citizens, U.S. companies and any individual or entity within the U.S.

For **non-U.S. persons:**

- Parts of several sanctions laws have been waived and hundreds of entities have been removed from the sanctions list
- Engaging with many Iranian entities no longer endangers U.S. market access

*Some* **U.S. persons and related entities** will benefit:

- Civil aviation companies may export to Iran
- Imports of Iranian foodstuffs and carpets authorized
- Foreign subsidiaries of U.S. companies can resume work in Iran
- Potential for new licenses depending upon commercial/political atmosphere

### European Union



No secondary sanctions exist - principal focus is removing primary sanctions:

- A broad spectrum of European firms are able to enter (or re-enter) the Iranian market
- Hundreds of Iran-linked entities removed from the E.U. sanctions lists
- Pre-authorization / pre-notification regime lifted
- Primary sanctions regulations suspended, terminated, or eased including measures concerning:
  - Finance, banking, and insurance
  - Oil, gas, and petrochemical
  - Shipping and transport
  - Gold and banknotes
  - Metals
  - Software

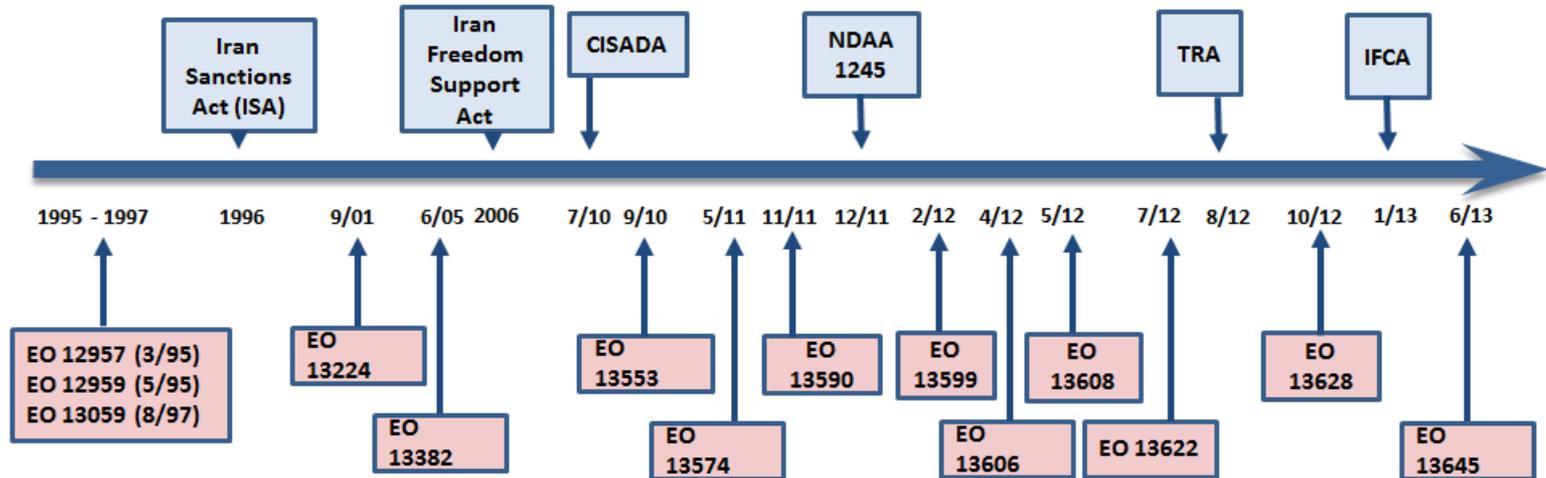
# U.S. Sanctions

## The Iran Baseline – Before and After Implementation Day

Most comprehensive U.S. sanctions regime: black-lists hundreds of organizations, entities and individuals, as well as targets the jurisdiction of Iran generally and specific sectors of Iran's economy – especially the energy sector

- Impacts U.S. firms, non-U.S. firms and foreign subsidiaries of U.S. firms.

### Timeline of Iran-Related U.S. Sanctions



- No statutes have been repealed or amended.

- President has revoked some E.O.s and waived or otherwise committed not to enforce some laws.

# U.S. Sanctions

## Iran Sanctions Innovations Still in Force after Implementation Day

### Secondary Sanctions



Non-U.S. / Non-Iranian  
Entities

Transactions



Iran



United States

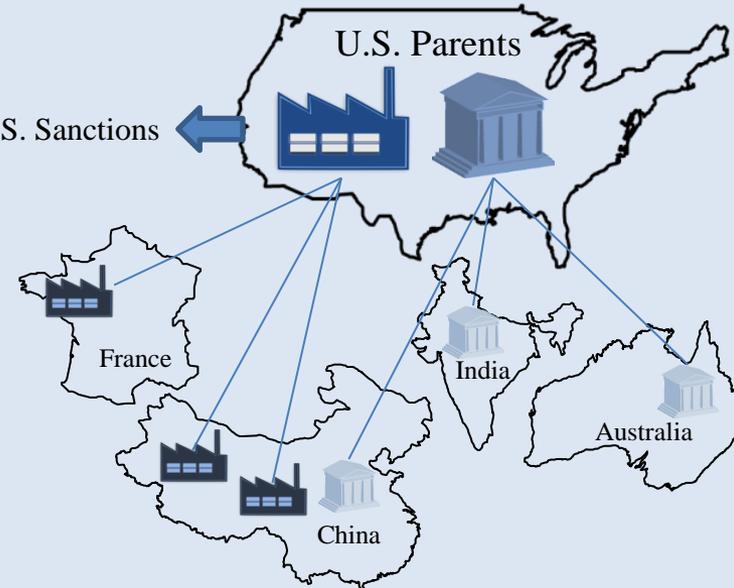
- If a non-U.S. / non-Iranian company, organization, or entity engages in *nearly any sort* of transaction:
  - with specified Iran-linked entities (e.g. certain sanctioned banks), or
  - or in support of specified Iran-linked activities (e.g. nuclear development)
- That non-U.S. / non-Iranian entity could lose their access to the U.S. market or face even more severe consequences.

Subject to U.S. Sanctions

U.S. Parents



Foreign  
Subsidiaries



- In nearly every other sanctions program, foreign subsidiaries operating without U.S. persons and incorporated in third countries are NOT subject to U.S. sanctions.
- Legislation passed in 2013 makes these entities – in the case of Iran sanctions – subject to the same U.S. sanctions as their parents.

# Iran – Challenges and Best Practices after Implementation Day

## Core U.S. Sanctions Relief for non-U.S. firms – Secondary Sanctions

### Description of Relief



The United States shall “cease the application of secondary sanctions for transactions with individuals and entities” that the U.S. had sanctioned for “nuclear-related” reasons.

JCPOA, Annex II, para 7.9

### Opportunities



- Non-U.S. firms can again engage with many of Iran’s largest banks, corporations, and organizations without risking their U.S. market access.
- U.S. parties that are allowed to engage with Iran will find more willing and potential counterparties for Iran transactions.

### Challenges / Questions



- Can you limit use of the U.S. dollar / financial system / personnel / expertise in your Iran business?
- How do you find partners that do not expose you to secondary sanctions?
- Will U.S. regulators / counterparties will react negatively if you enter the Iranian market?
- How do you repatriate funds?

### Best Practices



- Enhanced and continual due diligence – combining corruption, AML, and sanctions
- Pro-active compliance outreach to business partners and potentially regulators to share information and gain comfort
- Broader contract provisions – e.g. enhanced reps and warranties, foreign law provisions

# Iran – Challenges and Best Practices after Implementation Day

## Core U.S. Sanctions Relief – Sanctions on Foreign Subs of U.S. Companies

### Description of Relief



The United States shall “license non-U.S. entities that are owned or controlled by a U.S. person to engage in activities within Iran that are consistent with the JCPOA.”

JCPOA, Annex II, para 5.1.2

### Opportunities



- Foreign-domiciled subsidiaries/affiliates of U.S. companies will be able to operate in Iran as they were prior to the 2013 legislation.
- Non-U.S. companies will be able to partner with these subsidiaries to engage in Iranian business.

### Challenges / Questions



- “Consistent with the JCPOA” means that transactions with SDNs shall remain prohibited – finding comfort with the identity of Iranian counterparties could be difficult.
- Though some connections with the U.S. will be allowed, subs will need a firewall separating Iran and U.S. business.

### Best Practices



- “Preponderance” test will be critical
- Enhanced and continual due diligence – sanctions, corruption, AML, and export control
- Review of recusal policies for U.S. persons and sanctions opt-out contractual clauses
- Exercise caution even though certain U.S. back office procedures will *not* need to be firewalled.
- Perform periodic internal and third-party audits

# Iran – Challenges and Best Practices after Implementation Day

## Risks for non-U.S. Firms – Dealing with “Pass Through”

### Description of Challenge

Even if a bank or company chooses *not* to engage with Iran, increasingly their customers and clients will engage with Iran.

### Opportunities



- Indirect exposure to Iran may be “safer” than direct entry – some of the benefits without the same costs.
- May provide institutions thinking about market entry business intelligence about the Iranian market.

### Risks and Questions



- Your customers’ Iran business increases their risk profile – does it increase your risk profile as well?
- OFAC requires “risk-based” due diligence – what does that mean?
- How can you find comfort that a customer is not using your services as a pass through to Iran?

### Best Practices



- Enhanced due diligence – know your customers’ customers’ (customers’...)
- In certain circumstances OFAC will not pursue actions against entities for indirect involvement with Iran or even with sanctioned parties.
- Compliance diplomacy will be critical – how much indirect exposure before your partners find you at risk?

# Iran – Nuclear Deal – Sanctions Relief

## Sanctions Relief Divides the World into Three Types of Companies

Risks and Limitations	Company Type and Potential Iran Opportunities		
	U.S. Firms	Foreign Subsidiaries of U.S. Firms	Non-U.S. Firms
	Limited opportunities; most require an OFAC specific or general license to engage	Significant opportunities; Can engage with Iran under “General License H”	Substantial opportunities: No significant legal impediments but risks / challenges remain
Primary Sanctions	✓		
Secondary Sanctions		✓	✓
Practical Limitations	✓	✓	✓
Reputational Risk	✓	✓	✓

# Iran – Continuing Risk

## U.S. Primary Sanctions Are Continuing Concern Abroad

A recent survey of London-based insurers, reinsurers, and brokers found:\*

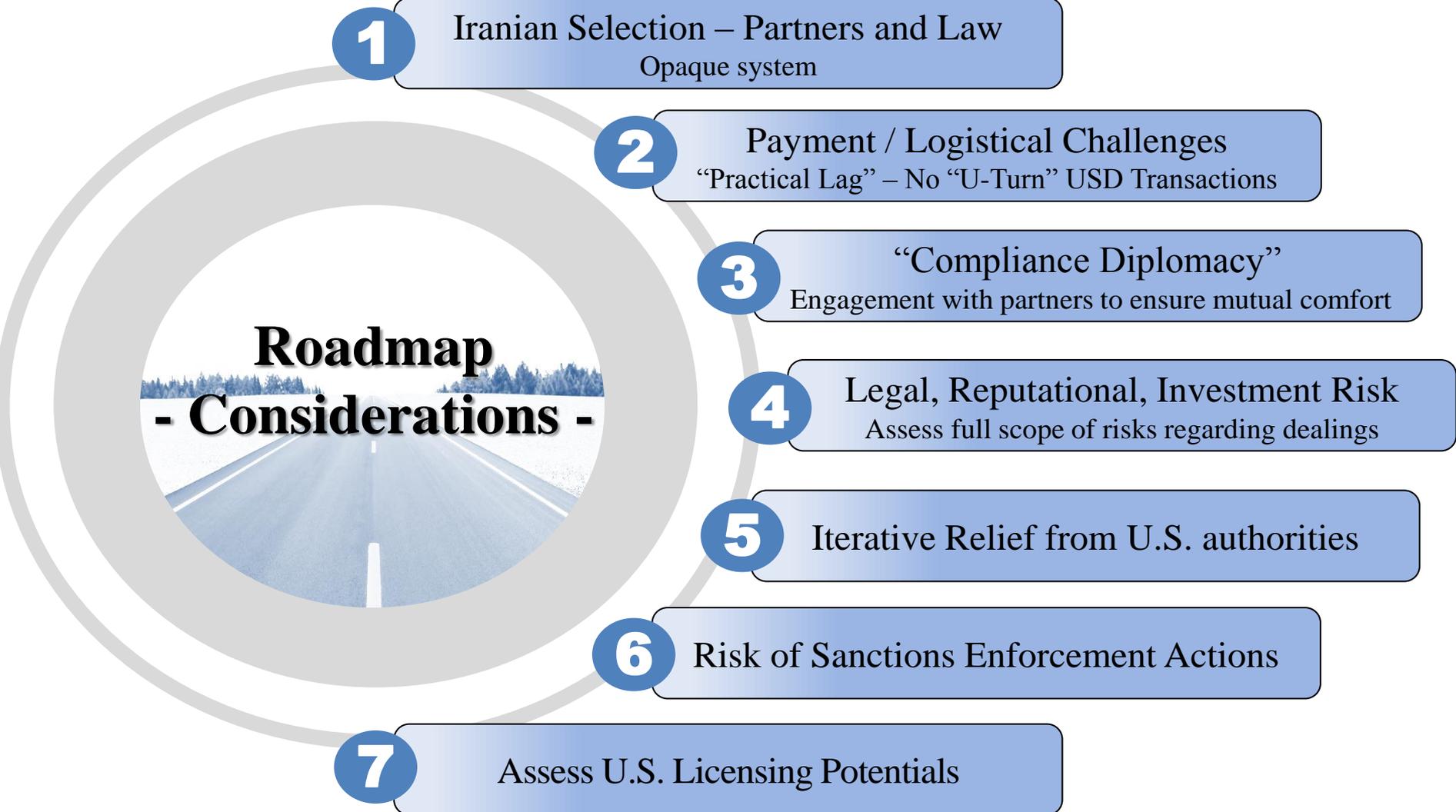
- **85%** said that the remaining U.S. sanctions continue to negatively impact their risk appetite for Iran-related business
- **67%** said their risk appetite for Iran-related business had increased in light of the easing of sanctions
  - **25%** said their risk appetite remained unchanged by Implementation Day
- **63%** of respondents said they had operations based in the U.S.



\* *Clyde & Co., London Market's Risk Appetite for Iran Business Weighed Down by Remaining US sanctions*

# Iran – The Way Ahead

## Considerations for Non-U.S. Firms and Foreign Subs of U.S. Firms



### Roadmap - Considerations -

1

Iranian Selection – Partners and Law  
Opaque system

2

Payment / Logistical Challenges  
“Practical Lag” – No “U-Turn” USD Transactions

3

“Compliance Diplomacy”  
Engagement with partners to ensure mutual comfort

4

Legal, Reputational, Investment Risk  
Assess full scope of risks regarding dealings

5

Iterative Relief from U.S. authorities

6

Risk of Sanctions Enforcement Actions

7

Assess U.S. Licensing Potentials

# Exceptions and Exemptions: Licenses

## U.S. Sanctions – Both U.S. and non-U.S. Firms are Eligible



### Core Questions for Obtaining a License

Could your proposed activities implicate U.S. sanctions?

If “No”

If “Yes”

Are you / your activities “subject to U.S. jurisdiction?”

- Using U.S. dollars? / clearing with U.S. parties?
- U.S. persons involved? (banks, insurers, suppliers)

If “No”

If “Yes”

Does an existing exemption cover the activities?

If “Yes”

If “No”

Likely No License Required

Is there a compelling reason to allow your activities?

- Is it in line with U.S. foreign policy?
- Could a Specific License weaken or undermine the purpose of the sanctions program?
- Do you have sufficient controls in place to limit the benefits of the proposed activities to other sanctioned parties?

If “Yes”

### Policymaker Engagement

How do you engage policymakers?

Who do you engage?

What arguments do you raise?

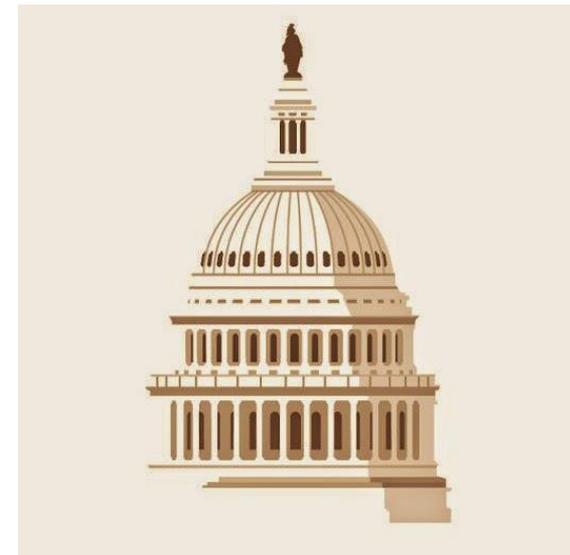
When do you engage?

# Iran Sanctions Relief – An Uncertain Future

## U.S. Congress and Presidential Candidates Urge Additional Sanctions

There have been ongoing calls from Capitol Hill and Presidential hopefuls pushing for new sanctions against Iran in response to ongoing ballistic tests by Iran.

“Iran’s complete disregard for the ballistic missile restrictions that remain in place must be met with swift and immediate consequences from the U.S. and the U.N. Security Council.” – Bob Corker on March 8, 2016



“Iran should face sanctions for these activities and the international community must demonstrate that Iran's threats toward Israel will not be tolerated.” – Hillary Clinton on March 9, 2016



**Sanctions on Iran**  
**United Nations and European Union Relief**

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# Iran Sanctions Relief – United Nations



Termination of all but one of the existing United Nations Security Council (“UNSC”) resolutions, including:

- **UNSC Resolution 1929**: previously imposed restrictions on core elements of Iranian economy, such as:
  - restrictions on Iran Air and state-owned shipping line
  - limitations on provision of insurance/re-insurance to Iranian parties
  - prohibition of opening Iranian bank branches or subsidiaries outside of Iran
  - limiting banks from U.N. member states from opening bank branches or subsidiaries in Iran
  
- **Remaining restrictions**
  - Arms embargo remains in place for another five years (countries can petition UNSC for authorisation to sell certain weapons systems)
  - Sanctions on individuals previously designated for participating in Iran nuclear and ballistic missile programmes
    - *Note*: “snap-back” is possible in case of significant non-performance of Iran’s JCPOA undertakings

# Iran Sanctions Relief – European Union

## Legislative amendments

- E.U. regime broadly follows U.N. approach
- Council Decision (CFSP) 2015/1863 now:
  - suspends prior Decision dealing with economic and financial sanctions following Iran’s implementation of JCPOA commitments
  - suspends related asset freeze and visa bans
  - establishes authorisation regime for certain transfers of metals, software and nuclear-related matters
- The Decision was implemented by two E.U. Regulations, thus directly applicable in all Member States
- Lifting of the Iran sanctions given effect in the U.K. through U.K. regulations
- Like with the U.N., E.U. sanctions will snap back in case of significant non-performance by Iran of JCPOA commitments



# Iran Sanctions Relief – European Union

## E.U. sanctions lifted

- **Oil & gas restrictions:**
  - Imports of Iranian oil/hydrocarbons
  - Exports to Iranian oil and gas sector
  - Insurance restrictions on Iranian shipping industry and fuel shipments
- **Financial restrictions:**
  - **Public financing:** restrictions on Iranian state and entities entering bond market lifted
  - **Unfreezing of assets:** hundreds of individuals and companies de-listed from SDN List and their E.U. accounts unfrozen
  - **Financial transfers & banking:** broad prohibitions of financial transfers to and from all “Iranian Persons” lifted
  - **SWIFT:** Regulation removing Iran banks from SWIFT repealed and non-sanctioned banks have been reconnected

## E.U. sanctions still in force

- Certain E.U. sanctions regimes will remain in force post-Implementation Day, including in relation to:
  - human rights violations
  - terrorism
  - the arms embargo
  - certain limited restrictions on software and rare metals related to nuclear proliferation



# Iran Sanctions Relief – Continued Risks (E.U.)

Several risks exist for E.U. businesses, including:

## ➤ Possibility of sanctions snap-back

- Can be addressed by contractual protections
- NOTE: no grandfathering of contracts under U.S. regime

## ➤ Potential liability for past violations

- Increase in transactions increases likelihood of authorities becoming aware of past violations (via reporting obligations and incentives for notifications)
- Sanctions relief does not absolve persons for past violations – prosecution remains a possibility
- Businesses must consider legacy liabilities when investing in Iran

## ➤ Domestic criminal offences

- Despite sanctions relief at E.U.-level, some criminal offences imposed at national level will remain in force until repealed
- Whilst enforcement of these is unlikely (and perhaps illegal), businesses should take such laws into consideration



# Iran Sanctions Relief – Difficult Balancing Exercise

## Barclays Criticised

- David Cameron recently challenged Barclays for declining to process payments from Iran, stating that the bank was in opposition to the policy of the U.K. government
- Barclays response:
  - There is a “**considerable divergence** in both approach and intention **between the EU... and the US**, where primary sanctions remain in place”
  - As Barclays offers banking services through its U.S. operations, it must continue to abide by U.S. sanctions requirements
- Anthony Browne, Chief Executive of the British Bankers’ Association: “International banks are likely to **need considerably more clarity** from US authorities... **before engaging with Iran**”





# **Sanctions on Cuba**

## **Continued Easing of Sanctions**

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# Cuba

## How Far? How Fast?

**December 17, 2014:** President Obama announces "the most significant changes in [U.S. Cuba] policy in more than fifty years."

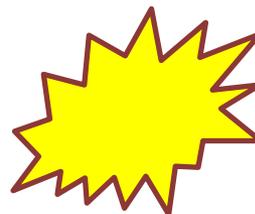
### Since then:

- Cuba removed from State Sponsor of Terrorism List.
- Diplomatic relations restored.
- Several rounds of sanctions relief in 2015 and early 2016.

Country	Designation Date
Iran	January 19, 1984
Sudan	August 12, 1993
Syria	December 29, 1979
Cuba	<del>March 1, 1982</del>

### How much farther can it go?

- Many sanctions frozen in place by Congress (e.g., Cuban Democracy Act; Helms-Burton)
- Nearly all of the recent Cuban sanctions relief has been granted by general license pursuant to Executive's power.
- Can the President effectively end the embargo through general license authority? When does Congress push back?



# Cuba

## Summary of Other Key Sanctions Relief to Date

### Travel

- 12 available categories for U.S. travelers. Increasingly expanded but still no straight tourism.
- Travel and related transactions for the creation of artistic works and other informational materials
- Travel and carrier services authorized
- A host of activities related or “incident to” authorized travel

### Exports and Imports

- Imports of select Cuban goods/services from Cuban entrepreneurs
- Authorizes vessels to transport cargo from U.S. to Cuba and on to third countries
- BIS general licensing for exports to support small business, civil aviation, media, communications and humanitarian projects
- Restrictions still in place when dealing with Cuban government or military

### Financial Services

- Opening of U.S. banks’ correspondent accounts in Cuba
- Authorized personal bank account services expanded – in Cuba, U.S. and abroad
- Credit and debit card use in Cuba
- Cuban access to U.S. financial system (U-turn transactions, processing of U.S. monetary instruments)
- Payment of salaries to Cubans in the U.S.
- Expansion of allowable remittances and remittance services
- Transactions involving newly authorized imports/exports, including expanded financing options

# Cuba

## Summary of Other Key Sanctions Relief to Date

### Establishing a Presence in Cuba

- Establishment of physical or commercial presence in Cuba to support certain authorized activities
  - E.g., provision and establishment of telecommunications and Internet-based services and facilities; authorized travel services or export activities; mail and cargo transportation; humanitarian projects

### U.S. Persons Abroad

- Can provide goods and services to Cuban nationals in third countries as long as it does not involve an export to Cuba
- Can purchase Cuban-origin goods for personal consumption in third country
- Can purchase services from Cuba/Cuban national incident to travel or maintenance in third country

### Miscellaneous

- Payment for certain legal services
- Additional education-related activities, including provision of grants
- Supporting diplomatic relations
- “transactions ordinarily incident to...”

# Cuba

## Navigating the Waters – A Few Examples

Can a U.S. Person...	Yes, because...	Can a U.S. Person...	No, because...
<b>Pay for a hotel room in Cuba with a U.S.-issued credit card?</b>	Card use is incident to valid travel. U.S. institutions are authorized to enroll merchants and process valid payments.	<b>Use a credit card for a deposit on the rental of luxury sailboat in Havana.</b>	Likely involves unauthorized recreational travel/tourism.
<b>Meet with Cuban business leaders in the automotive sector in Cuba?</b>	Travel for professional meetings/research is authorized.	<b>Sign an agreement to explore trade development options once the embargo is lifted?</b>	Cannot enter into contracts, even if executory. Auto not a sector generally licensed.
<b>Build a retail outlet in Cuba to sell telecommunications equipment and services?</b>	Physical presence allowed for authorized goods/services	<b>Build a hotel?</b>	Hospitality is not authorized good or service; construction is not a transaction incident to travel
<b>Offer a checking account from a bank's subsidiary in Spain to a Cuban national in Spain?</b>	Goods and services can be provided by U.S. foreign subs to Cubans in third countries.	<b>Provide accounting services to a Cuban national in Spain for a business in Cuba.</b>	Likely involves an export of services to Cuban.
<b>Process a remittance to a friend in Cuba for \$10,000?</b>	No limit on donative remittances.	<b>Process a \$50 remittance to a friend in the Cuban government to buy Castro-era memorabilia</b>	No remittances to government officials; remittance is commercial.
<b>Import a Cuban cigar?</b>	Limited tobacco imports under \$100 authorized.	<b>Import a crate of Cuban cigars from a municipal-owned distributor.</b>	Tobacco not fully authorized for import by State. Import is not from an independent Cuban entrepreneur.



# **Sanctions on Russia**

## **The “New New” Sanctions**

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# Russia Sanctions

## A New Sanctions and Economic Challenge

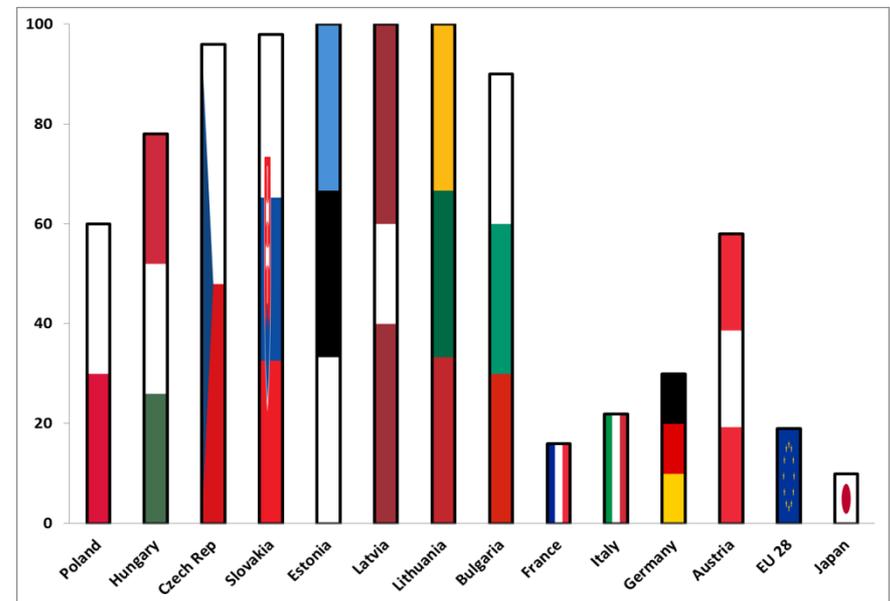
**Two principles guiding U.S. response to President Putin's incursion into Ukraine:**

- Maximize impact on Russia while minimizing pain on allies and broader economy
- As far as possible, move “in lock step” with closest allies and partners

**Difficult because the Russian economy is more globally linked and significantly larger than any country the U.S. has ever sanctioned.**

- Size of Russian economy: [\\$3.6 trillion](#)
- Combined size of all other economies U.S. have sanctioned: [\\$2.6 trillion](#)
- Several core allies rely on Russia for energy and trade

**Imports of National Gas from Russia**  
(% total domestic supply, av. 2011-13)



# U.S. Sanctions on Russia

## A Three-pronged Approach

### Implemented through a series of four Executive Orders

- Executive Order 13,660 (Mar. 6, 2014)
- Executive Order 13,661 (Mar. 17, 2014)



### List-Based Sanctions

120+ individuals, companies and organizations are blocked, e.g.:

ЧЕРНОМОРНЕФТЕГАЗ  
ЗАКРЫТОЕ АКЦИОНЕРНОЕ ОБЩЕСТВО  
CHERNOMORNEFTGAZ  
CLOSED JOINT STOCK COMPANY



### Region-Based Sanctions

Crimea is essentially off-limits to U.S. persons



- Executive Order 13,685 (Dec. 19, 2014)



# U.S. Sanctions on Russia

## A Three-pronged Approach (cont.)

### ➤ Executive Order 13,662 (Mar. 20, 2014)

#### “Sectoral” Sanctions

Targets core drivers of the Russian economy in the finance, energy, and defense sectors - Rather than blocking/freezing companies, the sanctions seek to prevent growth in certain sectors.

- Innovative, targeted approach.
- Implemented through a series of “Directives” targeting specific entities in specific sectors.
- Creation of the Sectoral Sanctions Identifications (“SSI”) List
- “50% Rule” applies.

#### Finance Sector

Unable to raise capital via new long-term debt or equity



#### Energy Sector

Unable to raise capital via new long-term debt or acquire U.S. technology for key projects



#### Defense Sector

Unable to raise capital via new long-term debt



# U.S. Sanctions on Russia

## Closer Look at U.S. Sectoral Sanctions

### Directive 1, 2 and 3

- Prohibits U.S. persons from transacting in, providing financing for, or otherwise dealing in:
  - New debt with >30 days maturity or new equity **of** SSI-listed entities in the Russian financial services sector
  - New debt with >90 days maturity for SSI-listed entities in the Russian energy sector
  - New debt with >90 days maturity for SSI-listed entities in the Russian defense sector
- Scope -- the definition of “of” matters.
  - The prohibition is intended to limit the ability of targeted financial institutions to grow, not conduct business.
  - Only those transactions that involve capital raising for the targeted institution itself are covered.

### Directive 4 – Oil Production

- Prohibits the provision, exportation, or reexportation, directly or indirectly, of goods, services (except for financial services), or technology in support of exploration or production for deepwater, Arctic offshore, or shale projects that have the potential to produce oil in the Russian Federation or its maritime area and when involving SSI-listed entities designated pursuant to this Directive.
- Some terms defined but many ambiguities remain.

# U.S. Export Controls Addressing Russia

## End-Use and End-User Controls

### Project-specific Controls

- A license is required for export of items included under specified ECCNs or listed in a separate Supplement No. 2 to Part 746...

#### IF

- ...the exporter knows or is unable to determine whether the item will be used directly or indirectly in exploration for, or production of, oil or gas in Russian deepwater (greater than 500 feet) or Arctic offshore locations or shale formations in Russia.

*Requests treated with a presumption of denial.*

### Entity List Controls

60+ entities added so far, primarily in the defense, energy and transportation sectors.

- **Full controls on most** – no items subject to EAR allowed for export.
- **Limited controls on a handful of energy sector companies** – no items authorized for export if the item is to be used by the restricted entity in a restricted project (*see* Project Controls above).

### Miscellaneous Restrictions

- License required for exports if it is known the item is for military end-use or military end-user.
- License required for 9x515 and “600 Series” items.
- Reviewed under “material contribution” standard.

# E.U. Sanctions on Russia

## An Ally Working in Tandem

### Four distinct E.U. sanctions regimes in place for Russia/Ukraine/Crimea

- Ukraine – Misappropriation
  - Freezing assets of former Ukrainian government officials
- Ukraine – Sovereignty and Territorial Integrity
  - Mostly targeted asset freezes of Ukrainian separatists
- Russian sectoral sanctions
  - Focused on state-owned entities, and the oil and gas sector
  - Restricting access to EU capital markets, imports and technology
- Crimea – Sectoral and Trade Sanctions
  - Broad ranging sectoral, economic and trade sanctions on Crimea and Sevastopol

*~ to U.S. ...*

*Executive Orders  
13660 and 13661*

*Executive Order  
13662*

*Executive Order  
13685*

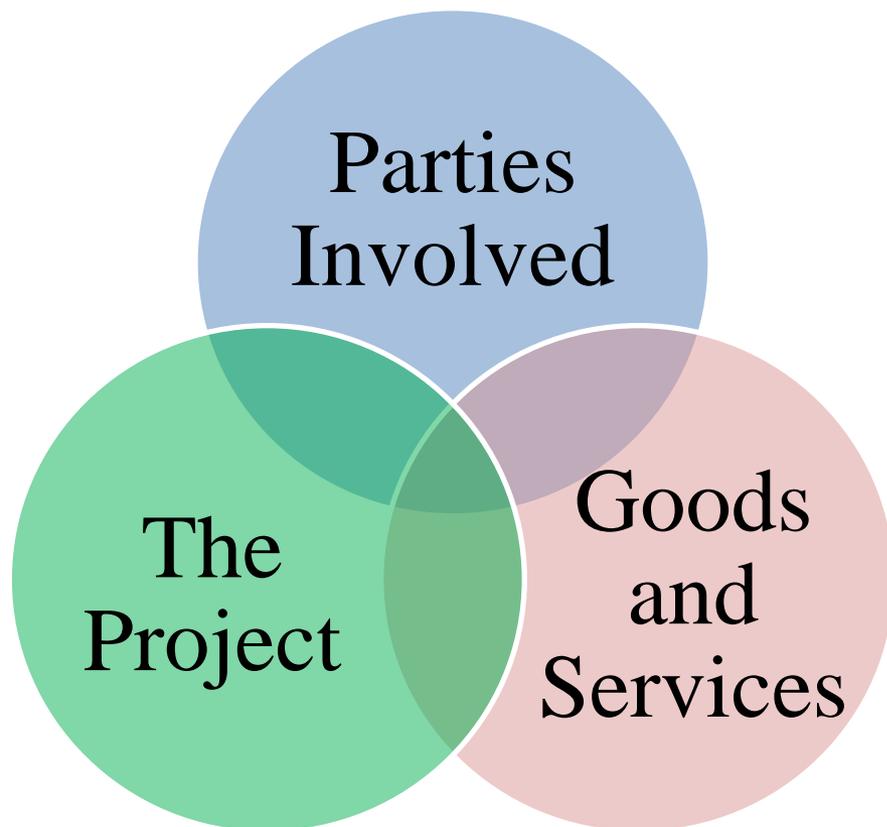
**The E.U. has also imposed export controls similar to the U.S., but the list of restricted items and applicable restrictions vary in several aspects.**

# Compliance with Russia Sanctions and Export Controls

## Navigating the Waters

Identifying possible OFAC and BIS restrictions requires a cross-analysis of several overlapping considerations.

- What entities are involved?  
What OFAC or BIS lists, if any, are they, or the entities that own them, on?
- What is the nature of the underlying project? Is it capital-raising? Is it oil or gas-related in one of the three prohibited areas?
- What specific goods or services are being provided?



# Russian Sanctions Update

## U.S. Actions in 2015

**No major structural changes in the Russia Program, but a few adjustments.**

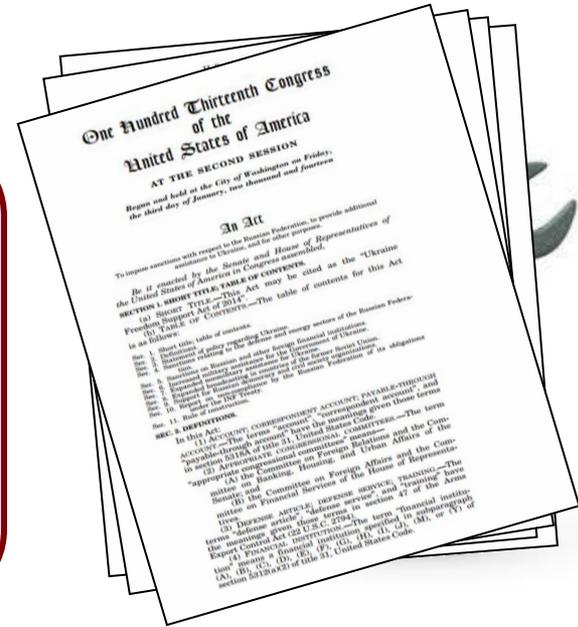
- **Crimea-related General Licenses**
  - Non-commercial, personal remittances.
  - Operation of banking accounts in the U.S.
  - Telecommunications and mail services
  - Internet-based services and software.
  
- **New Designations**
  - Several rounds of additions from the U.S., E.U. and other allies.
  - Many subsidiaries of SSI-listed entities already covered pursuant to the 50% Rule.
  
- **Crimea Sanctions Advisory (July 30, 2015)**
  - Warning action.

# U.S. Sanctions

## Russia – What's next?



- On March 3, 2016, President Obama announced extension of the Russian sanctions for another year
- Ukraine Freedom Support Act, with secondary sanctions available, but unlikely to be used



- In December 2015, the E.U. extended sanctions against Russia until July 31, 2016
- On March 10, 2016, E.U. sanctions against individuals and entities were similarly extended for six months
- The accompanying asset freeze and travel ban have been extended through September 15, 2016



**Sanctions on Burma**  
**Political Landscape and Further Relaxing**

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# Burma

## Most U.S. Sanctions Have Been Lifted



Through a series of **general licenses**, now incorporated as such into the regulations, and **Executive Order 13651**, OFAC has authorized:

- Exports of financial services to Burma
- Imports of Burmese goods into the U.S. (except certain gemstones)
  - On December 7, 2015, the U.S. temporarily eased restriction on certain trade-related transactions with Burma. Under the terms of a temporary general license, U.S. persons can be involved in transactions that go through ports and facilities that are owned or controlled by SDNs new investment in Burma (with reporting requirements to Dept. of State).
- *Most* transactions with four financial institutions previously designated as SDNs:
  - Asia Green Development Bank, Ayeyarwady Bank, Myanmar Economic Bank, and Myanmar Investment and Commercial Bank
  - NOTE: This is a unique license, explicitly allowing broad dealings with these specific SDNs (including opening and maintaining accounts and conducting certain other financial services). The SDN List still contains the names of an estimated 200 individuals and entities related to Burma whose property in the U.S. is blocked and with which U.S. persons are broadly prohibited from dealing.

# Burma

## Some Restrictions Still in Place

Companies looking to do business in Burma need to be aware that some sanctions still exist.

### What Can't You Do in Burma?

- 115 Burmese entities or individuals remain designated as SDNs. Dealings with these entities or individuals, or their property remains prohibited (this includes core players in the Burmese economy including military conglomerates and port operators).
  - The designated port operator has been a major problem
- Certain exports of financial services and new investments involving the Burmese Ministry of Defense, state or non-state armed groups (including the military).
- Certain transaction involving the four SDN banks noted above:
  - No new investment in or with these four banks.
  - Any property of these banks blocked prior to issuance of the general license remains blocked.
  - Funds transfers between U.S. financial institutions and these banks must be routed through a third country.
- And remember the “50% Rule.”



# **Sanctions on North Korea Recent Developments**

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# North Korea

## Increasing Tension in the Peninsula

### January

- **Jan. 6:** North Korea detonates what experts say was a fission bomb; Pyongyang alleges hydrogen bomb

### February

- **Feb. 7:** North Korea launches long-range space missile, believed to be front for ballistic missile test
- **Feb. 18:** Further round of U.S. sanctions imposed



### March

- Largest-ever joint military exercises between South Korea and the U.S. are being carried out
- **Mar. 2-4:** Adoption of U.N., E.U. and further U.S. sanctions against North Korea
- **Mar. 10:** Short-range missiles fired by North Korea into sea off its east coast
- **Mar. 15:** Announcement by Kim Jong Un that North Korea will test nuclear warhead and ballistic missiles capable of carrying nuclear warheads

# North Korea

## Summary of Existing Regulations

- North Korea has been the target of dozens of U.S. sanctions measures over the past several years, although there is no comprehensive ban on all interactions with the country. Most of the relevant OFAC regulations block the assets of certain North Korean individuals and entities.
- The bulk of those designated have been linked to the DPRK's nuclear program or illicit activities such as money laundering, arms sales, counterfeiting, narcotics, and luxury goods.
- Goods, services, and technology from North Korea may not be imported into the United States, directly or indirectly, without a license from OFAC or an applicable exemption.
- OFAC regulations also prohibit exporting goods and services to persons whose property and interests in property are blocked.



# North Korea

## North Korea Sanctions and Policy Enhancement Act of 2016 ("NKSPEA")



- Requires the President to sanction entities found to have contributed to North Korea's WMD program, arms trade, human rights abuses, or other illicit activities;
- Provides mandatory sanctions for entities involved in North Korea's mineral or metal trade;
- Provides discretionary authorization to the President to sanction entities that provide support to persons sanctioned by the U.N. Security Council;
- Requires the Treasury Department to determine whether North Korea should be listed as "a jurisdiction of primary money laundering concern," which would entail the application of new financial restrictions by August 2016;
- Blocks property belonging to the North Korean government, the Korean Workers' Party, or a person acting on their behalf, if it comes under U.S. jurisdiction;
- Provides new sanctions authorities related to human rights abuses and violations of cybersecurity;
- Authorizes the President to waive sanctions contained in the Act in order to facilitate humanitarian activities in North Korea; and
- Certain activities including operations related to POW/MIA remains recovery missions are exempt from sanctions, and the President may also waive the application of sanctions contained in the Act on a case-by-case basis for national security or for other reasons.

# North Korea

## Executive Order (March 16, 2016)

### *Blocking Property of the Government of North Korea and the Workers' Party of North Korea, and Prohibiting Certain Transactions with Respect to North Korea*

- Blocks property of the Government of North Korea and the Workers' Party of North Korea, including individuals and entities engaged in North Korea's:
  - transportation, mining, energy or financial service sectors
  - sale or supply of metal, graphite, coal or software
  - human rights abuses
  - exportation of workers
  - undermining of cybersecurity
  - censorship
- Prohibits:
  - exportation or reexportation of any goods, services or technology to North Korea
  - new investment in North Korea
  - any approval, financing, facilitation, or guarantee by a United States person, wherever located, of a transaction by a foreign person where the transaction by that foreign person would be prohibited if performed by a United States person or within the United States
- Suspends entry into U.S. for blocked individuals and certain humanitarian donations to blocked individuals

# United States Sanctions

## General Licenses (March 16, 2016)

Also on March 16, 2016, OFAC issued nine general licenses authorizing certain transactions with North Koreans, including:

- 1) Provision of goods and services, and payment for such goods and services in the United States to the DPRK's mission to the U.N. and employees of the same (not including a blocked individual or entity);
- 2) Provision of certain legal services to the DPRK, the Workers' Party of Korea, and other blocked persons (provided that payment for those services are licensed);
- 3) Debits to any blocked account in payment or reimbursement for normal service charges;
- 4) Noncommercial, personal remittances, and the processing of the same, to or from individuals in North Korea;
- 5) Certain services in support of nongovernmental organizations' activities, including the support of humanitarian projects, democracy building, education, non-commercial development, and environmental protection;
- 6) Third-country diplomatic and consular funds transfers and processing of the same (provided that the transfer does not involve a blocked financial institution);
- 7) Transactions related to telecommunications and mail (not including the provision, sale or lease of telecommunications equipment or technology or capacity on telecommunications transmission facilities such as a satellite network, and provided that the transfer does not involve a blocked financial institution);
- 8) Certain transactions related to patents, trademarks, and copyrights; and
- 9) Provision and receipt of emergency medical services.

# North Korea

## New U.N. Sanctions

### UNSC Resolution 2270

- Drafted by agreement between the U.S. and China and unanimously passed by the UNSC
- Imposes far-reaching sanctions, including:
  - inspection of all cargo leaving or entering North Korea by sea or air
  - asset freezes and travel bans on 16 people and 12 entities
  - Member states required (previously only encouraged) to impose asset freezes on entities linked to North Korea's nuclear and missile programmes
  - bans on import/export of, *inter alia*, small arms; aviation fuel; coal, iron, and iron ore used for nuclear/missile programmes; gold and rare earth minerals; and luxury items
  - Member states required to expel North Korean diplomats who engage in “illicit activities”
  - Member states must close North Korean banks in their jurisdictions and terminate banking relationships with them within 90 days
  - Prohibits new branches, subsidiaries or representative offices of North Korean banks in Member states and against financial institutions establishing new joint ventures or establishing or maintaining correspondent relationships with North Korean banks



# North Korea

## New E.U. Sanctions



### The E.U. response so far:

- E.U. Council has added the 16 people and 12 entities targeted in UNSC Resolution 2270 to its designated persons sanctions list
- This includes the country's top space, intelligence, atomic energy and munitions agencies
- First strengthening of measures against North Korea by E.U. since April 2013
- The E.U.'s implementation of the rest of the UNSC resolution is awaited.



# **United States**

## **Recent OFAC Enforcement Actions**

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# U.S. Sanctions

## 2016 OFAC Enforcement Actions

“We assume industry reads our enforcement actions .... They are **our way to teach lessons**,” [said Michael Dondarski, the chief of regulated industries, oversight and evaluation at OFAC] who noted that enforcement actions often contain tips on what type of misconduct OFAC is looking out for as well as enforcement priorities... “OFAC’s **primary focus is teaching compliance with sanctions**” [.]

Samuel Rubinfeld  
*OFAC Uses Enforcement to Teach Compliance*  
WALL STREET JOURNAL  
(Mar. 9. 2016)



### 2016

1. WATG Holdings (Jan. 20)
2. **Barclays Bank Plc (Feb. 8) (\$2,485,890)**
3. CCG Services S.A. (Feb. 22) (\$614,250)
4. Halliburton (Feb. 25) (\$304,706)

*(4 settlements*

*\$3.5 million total penalties and*

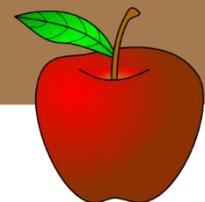
*1 settlement over \$1 million to date)*

# U.S. Sanctions

## 2015 OFAC Enforcement Actions

1. **Commerzbank AG (Mar. 12) (\$258,660,796)**
2. Life for Relief and Development (Mar. 25) (\$780,000)
3. **PayPal Inc. (Mar. 25) (\$7,658,300)** (Apr. 15) (\$23,336)
4. National Bank of Pakistan (June 18) (\$28,800)
5. John Bean Technologies Corp. (June 19) (\$391,950)
6. Great Plains Stainless Co. (July 24) (\$214,000)
7. Blue Robin (July 29) (\$82,260)
8. Production Products Inc. (Aug. 5) (\$78,750)
9. Navigators Insurance (Aug. 6) (\$271,815)
11. **UBS (Aug. 27, 2015) (\$1,700,100)**
12. **Credit Agricole (Oct. 20) (\$329,593,585)**
13. Gil Tours Travel (Oct. 27) (\$43,875)
14. OctBanco do Brasil (Nov. 4) (\$139,500)
15. Barracuda Networks (Nov. 24) (\$38,930)

*(15 settlements  
\$599 million total penalties, and  
4 settlements over \$1 million)*



# U.S. Sanctions

## OFAC Enforcement Actions Involving Financial Institutions

Over the last several years, OFAC's settlements with several multinational financial institutions involved similar conduct, such as intentionally disguising transactions with sanctioned entities by "stripping" out the relevant identifying information from the transfer documentation and routing instructions prior to processing the transactions through U.S. financial institutions:

- **Barclays Bank Plc:** \$2.48 million (Feb. 8, 2016)
- **UBS:** \$1.7 million (Aug. 27, 2015)
- **Credit Agricole:** \$329 million (Oct. 20, 2015)
- **Commerzbank AG:** \$258 million (Mar. 12, 2015)
- **BNP Paribas SA:** \$963 million (June 30, 2014)
- **HSBC:** \$375 million (Dec. 11, 2012)
- **Standard Chartered Bank:** \$132 million (Dec. 10, 2012)
- **ING Bank, N.V.:** \$619 million (June 12, 2012)

# U.S. Sanctions

## OFAC Enforcement Actions: Barclays Bank Plc

- On February 8, 2016, OFAC fined Barclays Bank Plc **\$2.48 million** to resolve potential civil liability for **159 apparent violations** of the **Zimbabwe** sanctions regulations.
  - Barclays faced a maximum penalty close to \$5 million, but OFAC reduced the penalty due to the bank's cooperation
- **Fifty Percent Rule:** The transactions at issue were for corporate customers of Barclays Bank of Zimbabwe Ltd ***owned 50 percent or more***, directly or indirectly, by a company on the SDN list
  - The violations were based on clients that were not on the SDN list, but majority owned by an individual or entity on the SDN list
  - Barclays Bank of Zimbabwe's electronic customer records and sanctions screening did not accurately capture or screen for ***beneficial ownership information*** for corporate customers



# U.S. Sanctions

## Other 2016 OFAC Enforcement Actions: What NOT to do in Cuba...

- **Dealings in property in which a Cuban national had an interest (oil and gas).** On February 25, 2016, **Halliburton Atlantic Limited** (“HAL”) agreed to pay OFAC \$304,706 on behalf of itself and its affiliate, Halliburton Overseas Limited (“HOL”), for alleged violations of the Cuba sanctions. HAL and HOL appeared to have dealt in property in which Cuba or a Cuban national had an interest when they exported goods and services in support of oil and gas exploration and drilling activities within the Cabinda Onshore South Block oil concession (the “Concession”) in Angola. Cuba Petroleo, a state-owned Cuban company, held a five percent interest in an oil and gas production consortium and corresponding interests in the Concession and any oil or gas procured within the Concession.
- **Exports (oil and gas).** On February 22, 2016, **CGG Services S.A.**, formerly known as CGGVeritas S.A. (“CGG France”), an oil services company, agreed to pay \$614,250 on its own behalf and on behalf of its affiliated companies for alleged violations of the Cuba sanctions. Specifically, CCG France and its affiliated companies exported spare parts and other equipment from the United States to vessels operating in Cuba’s territorial waters. Furthermore, between 2010 and 2011, a Venezuelan subsidiary of CGG engaged in five transactions at the request of CGGVeritas France involving the processing of data from seismic surveys conducted in Cuba’s Exclusive Economic Zone benefiting a Cuban company.
- **Dealings in property in which a Cuban national had an interest (tourism).** On January 20, 2016, **WATG Holdings, Inc.** (WATG) and its U.K. subsidiary agreed to pay \$140,400 for alleged violations of the Cuba sanctions. WATG-U.K. dealt in property in which Cuba or its nationals had an interest by entering into a contract to perform architectural and design work for a hotel project in Cuba, for which it received three payments from a Qatari company, from on or about October 13, 2009 to on or about May 20, 2010, totaling \$284,515. WATG further provided the Qatari company a \$72,199 write-off of the contract’s original value of \$356,714. These violations supported Cuba’s tourism industry in violation of U.S. sanctions, and WATG had no OFAC compliance program at the time of the violations.

**HALLIBURTON**



**WATG**

**GIBSON DUNN**

# U.S. Sanctions

## Criminal Settlements (2014-2016)

- **Crédit Agricole Corporate and Investment Bank:** \$312 million forfeiture for criminal violations of the IEEPA and TWEA (October 20, 2015)
- **Schlumberger Ltd.:** \$232.7 million criminal penalty for conspiring to violate the IEEPA and TWEA (March 25, 2015)
- **Commerzbank AG:** \$563 million forfeiture and \$79 million criminal penalty for criminal violations of the IEEPA and TWEA (March 25, 2015)
- **BNP Paribas:** \$8.9 billion penalty and guilty plea for conspiring to violate the IEEPA and TWEA (June 30, 2014)





# **United States Other Developments**

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# United States Sanctions

## U.S. Congressional Action

- **The U.S. Congress passed a resolution condemning Iran's persecution of its Baha'i minority in December 2015 to:**
  - Condemn the government of Iran's state-sponsored persecution of its Baha'i minority and its continued violation of the International Covenants on Human Rights;
  - Call on the government of Iran to release the seven imprisoned Baha'i leaders, the nine imprisoned Baha'i educators, and all other prisoners held solely on account of their religion;
  - Call on the President and Secretary of State, in cooperation with responsible nations, to condemn the government of Iran's continued violation of human rights and demand the release of prisoners held solely on account of their religion; and
  - Urge the President and the Secretary to utilize available authorities, including the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, to impose sanctions on officials of the government of Iran and other individuals directly responsible for serious human rights abuses, including abuses against the Baha'i community of Iran.
  
- **Global Magnitsky Human Rights Accountability Act, passed by the U.S. Senate in December 2015, would:**
  - Extend the principles of the *2012 Sergei Magnitsky Rule of Law Accountability Act*, inspired by the death of Sergei Magnitsky, a Russian lawyer who blew the whistle on the largest known tax fraud in Russian history;
  - Authorize the administration to identify foreign nationals responsible for significant corruption, extrajudicial killings, torture, or other gross violations of human rights committed against individuals seeking to promote human rights;
  - Prohibit or revoke U.S. entry visas or other entry documentation for those foreign nationals; and
  - Freeze U.S. financial assets of those individuals and prohibit their use of the U.S. financial system.

# United States Sanctions

## Executive Orders

### ➤ Executive Order 13,692

- Blocking Property and Suspending Entry of Certain Persons Contributing to the Situation in Venezuela
- 80 Fed. Reg. 12,747 (Mar. 11, 2015)

### ➤ Executive Order 13,694

- Blocking the Property of Certain Persons Engaging in Significant Malicious Cyber-Enabled Activities
- 80 Fed. Reg. 18,077 (Apr. 2, 2015)
- *See also* Frequently Asked Question # 444 (April 2015)

### ➤ Executive Order 13,710

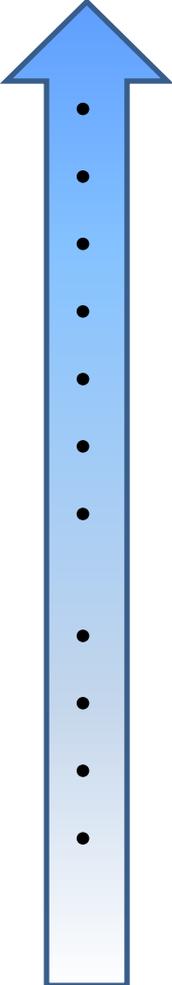
- Termination of Emergency With Respect to the Actions and Policies of Former Liberian President Charles Taylor
- 80 Fed. Reg. 71,679 (Nov. 16, 2015)

### ➤ Executive Order 13,712

- Blocking Property of Certain Persons Contributing to the Situation in Burundi
- 80 Fed. Reg. 73,633 (Nov. 22, 2015)

# U.S. Sanctions

## 2016 Designations

- 
- Counter Terrorism Designations (March 10, 2016)
  - Kingpin Act Designations and Sudan Designation Removal (March 9, 2016)
  - Zimbabwe and Counter Terrorism Designations (March 8, 2016)
  - North Korea and Non-proliferation Designations (March 2, 2016)
  - Transnational Criminal Organizations Designations (February 16, 2016)
  - Counter Terrorism Designation (February 10 and 11, 2016)
  - Kingpin Act and Zimbabwe Designations Removals; Burundi and Counter Terrorism Designations Updates (February 3, 2016)
  - Magnitsky-related Designations (February 1, 2016)
  - Counter Terrorism Designation (January 21 and 28, 2016)
  - Non-proliferation Designations (January 17, 2016)
  - Counter Terrorism Designations and Counter Narcotics Removals (January 7, 2016)

# Enforcement Priorities

## Banks, banks, and more banks



Recent cases at the federal and state levels suggest a rising importance of other sectors:

- **Insurance:** Insurance is a sector similar to banking; it is highly regulated, critical for international trade, and has both a history of enforcement actions and a distinct US nexus giving US sanctions unique power;
- **Technology:** Authorities have begun to look closely at tech – due to the sector’s global exposure and lack of sanctions history; OFAC has new cyber sanctions and DFS is examining cyber security in relation to its bank and insurance supervision;
- **Energy:** Sector is very active in jurisdictions where sanctions are at play. The Iran Deal may increase scrutiny depending upon investment in the sector.
- **“Structures”:** Parent-Sub firewall sufficiency; IRGC connections, etc.

## **Different Member States have different goals**



- The U.K. promises to become even more active, with existing authorities and the creation of a standalone, dedicated sanctions implementation and enforcement body – the Office of Financial Sanctions Implementation

# United States Sanctions

## OFAC Compliance

OFAC requires compliance with all sanctions rules and regulations, **but**:

- The agency does not mandate the existence of, or provide robust guidance on the required form of, an adequate programme.
- There is no one-size-fits-all approach – and each institution’s programme needs to be tailored to address specific needs, risks, and transactions.
  - How big is your company? Where is it located?
  - How well do you know your customers?
  - Who are your partners, brokers, and suppliers?
  - How complicated are your transactions? Are they cross-border? Is there potential for diversion?

### OFAC Compliance Tips

- Exercise caution when dealing with entities owned 50% or less by sanctioned parties – they may be sanctioned in the future
- Treat entities owned more than 50% by sanctioned parties as blocked – even if they are not officially listed
- Conduct comprehensive due diligence to determine beneficial ownership
- Consider all potential restrictions on sanctioned entities – multiple sanctions programs may apply in different ways
- Do not overstate any reduction in sanctions (e.g. Iran)



# **United Kingdom and European Union Recent Sanctions Developments**

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# Russia and Ukraine

- **Sovereignty and Territorial Integrity of Ukraine Sanctions:** In March 2016, the E.U. extended these for 6 months until September, 2016). its asset freezes and travel bans against around 146 Russian officials and pro-Russia separatists and around 37 entities (Council Regulation 2016/353, March 10, 2016).
- **Misappropriation Sanctions:** As of March 2016, the E.U. has extended the separate regime (for up to a year) which imposes asset freezes against 16 people said to have been involved in the misappropriation of Ukrainian state funds (1 person will be de-listed having repaid funds that were allegedly misappropriated)
- **Sectoral Sanctions:** Continuing
- **Crimea / Sevastopol Sanctions:** Continuing

## Form of Sanctions

- E.U.-wide asset freeze on individuals and entities
- Travel ban on individuals and entities
- Prohibition on E.U. companies providing financial services to Russian banks, *etc.*



# Belarus

- E.U. foreign ministers agreed, in October 2015, to suspend targeted sanctions on Belarus for 4 months from October 31, 2015 until February 29, 2016
- This will “suspend” their application for everyone on the Belarus list (171 people and 10 entities) except for 4 people involved in “unresolved disappearances” (Council Regulation 2015/1948, October 29, 2015)
- The E.U. extended sanctions until February 28, 2017 against 4 people (Council Regulation 2016/276, February 25, 2016)

## Form of Sanctions

- E.U.-wide asset freeze on individuals and entities
- Travel ban on individuals and entities
- Embargo on arms and material that can be used for internal repression



# Libya

- On March 7, 2015 in response to a UN Security Council Resolution, the restrictive measures against Libya were expanded to include those engaged in, or those who provide support for, acts that threaten the peace, stability, or security of Libya, or those who undermine the successful completion of its political transition
- On May 27, 2015 the measures were then further expanded in response to the changes made by the UNSC Security Council to its sanctions
- The E.U. has added a new exception to its arms embargo on Libya for military equipment that will not be used for internal repression and is solely intended for security or assistance to the Libyan government
- On January 18, 2016 the E.U. consolidated its Libya sanctions measures into a single regulation (listing 34 individuals and 16 entities) (Council Regulation 2016/44, January 18, 2016)
- Categories of individuals and entities targeted by the restrictive measures are:
  - Those responsible for repression in Libya (members of the Gaddafi family and senior members of the Gaddafi regime).
  - Businesses and institutions associated with the Gaddafi regime.

## Form of Sanctions

- E.U.-wide asset freeze on individuals and entities
- Travel ban on individuals and entities
- Embargo on arms



# Syria

- On May 29, 2015 the E.U. extended the sanctions regime against Syria until June 1, 2016
- The E.U. travel ban and asset freeze target list for individuals and entities involved in the repression and violations of human rights perpetrated by the Syrian regime has been variously amended on January 27, March 6, March 19, May 20, May 29, and June 23, 2015
- In addition, on October 12 2015, the E.U. imposed sanctions on a number of different Syrian individuals (Council Regulation 2015/1828)
  - leading business persons operating in Syria
  - members of the Assad or Makhlouf families
  - Syrian Government Ministers in power after May 2011
  - members of the Syrian Armed Forces of the rank of colonel or higher in post after May 2011
  - members of the Syrian security and intelligence services in post after May 2011
  - members of regime-affiliated militias
  - persons operating in the chemical weapons proliferation sector, and their associates



## Form of Sanctions

- EU-wide asset freeze on individuals and entities
- Travel ban on individuals and entities
- Embargo on arms

# Other E.U. Sanction Regime Updates

## **Côte D'Ivoire:**

- On February 10, 2015 the sanctions on Côte D'Ivoire prohibiting the sale, supply, transfer or export of equipment capable of being used for internal repression were relaxed - construction equipment with ballistic protection for civilian use in mining or infrastructure projects and non-lethal equipment solely for enabling Ivorian security forces to maintain public order, supporting the Ivorian Security Sector Reform or helping the UN are now permitted in certain circumstances

## **Egypt:**

- On March 22, 2016, the restrictive measures on Egypt were extended until March 22, 2017
- The sanctions, introduced in March 2011, target those allegedly responsible for the misappropriation of Egyptian state assets

## **Moldova:**

- On October 28, 2015 E.U. sanctions against Moldova, imposing an EU-wide travel ban on people who are responsible for designing or implementing the campaign of intimidation and closure against Latin-script schools in the Transnistria region of Moldova, have been extended until October, 31 2016

# Other E.U. Sanction Regime Updates

## **South Sudan:**

- On May 12, 2015 the existing E.U. sanctions on South Sudan were amended through the addition of measures set out by the UN Security Council
- The new criteria includes actions or policies that have the purpose or effect of continuing South Sudan's conflict, that threaten transitional agreements, that undermine the country's political process or that violate human rights

## **Tunisia:**

- On January 28, 2015 the sanctions against 48 listed individuals were extended until January 31, 2016
- The E.U. has since then extended its targeted asset freezes against Tunisia for one year, until January, 31 2017 against the same 48 individuals

## **Zimbabwe:**

- On February 20, 2015 the E.U. sanctions against Zimbabwe were renewed until February 20, 2016
- These sanctions bar the sale or transfer of arms, any technical or financial assistance related to military activities, asset freezes and travel bans on listed individuals and entities



# **United Kingdom and European Union Main Case Law**

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# E.U. Case-law - Belarus



Case T-163/12, *Ternavsky v Council*, Judgment of the General Court, May 12, 2015

## ➤ Facts:

- It was argued by the Council that because Mr. Ternavsky had employed the daughter of President Lukashenko, Anna Lukashenko, and that his involvement in the oil and petroleum sectors (through Uninvest-M), conveyed that he had the support of the regime, thus being sufficient to establish “close ties” with the President thus justifying the imposition of restrictive measures
- The Council submitted that because Mr. Chyzh is one of the leading businessmen in Belarus he had “*close and mutually beneficial ties*” with President Lukashenko. The Council was unable to provide material evidence of the payment of bribes, but held that it was ‘most unlikely’ that the favours granted by the regime would not have been returned in one way or another
- The Council further argued that “*tax payments by Triple and Mr. Chyzh are an obvious form of financial support to the regime which, combined with Mr. Chyzh ties to the regime*”, demonstrated his support for the regime

# E.U. Case-law - Belarus



Case T-163/12, *Ternavsky v Council*, Judgment of the General Court, May 12, 2015

## ➤ Judgment:

- Being a leading businessman in Belarus is insufficient on its own
- The public awards and concessions that his companies had won could not be evidenced that they were not awarded purely by merit: “*[the] evidence which allowed the Council to state that Triple had obtained public awards and concessions on the basis of considerations which were not related to merit, the Council merely replied that it had no evidence to support the conclusion that, in Belarus, public awards were granted through an open, transparent and fair procedure for the award of contracts. In so doing, the Council has failed to establish that Triple obtained public awards and concessions because of Mr. Chyzh's links to the regime*” (paragraphs 172-176)
- “*[S]uch an argument would lead to the inclusion of the names on the lists of persons and entities subject to restrictive measures, any undertaking who is a party, in Belarus, to a public procurement contract, even where that contract was awarded following a lawful procedure for the award of contracts, which would exceed, evidently, the objective pursued by the E.U. legislature*” (paragraph 175)
- The need to respect the principle of legal certainty when listing individuals subject to restrictive measures

# E.U. Case-law - Egypt



Case C-220/14 P, *Ezz & Ors v Council*, Judgment of the European Court of Justice, March 5, 2015

## ➤ **Facts:**

- Mr. Ezz and his spouses were listed as “*persons subject to judicial proceedings by the Egyptian authorities in respect of the misappropriation of State Funds on the basis of the United Nations Convention against corruption*” (Article 1(1) of Decision 2011/172 and Article 2(1) of Regulation No 270/2011)

## ➤ **Judgment:**

- The European Court of Justice, upheld the General Court’s Judgment, confirming that the Council had the legal authority to enforce the measures (to assist the Egyptian authorities in their fight against the misappropriation of State funds– see paragraph 70), that they are not a ‘disproportionate interference’ on the appellants’ property and/or freedom to conduct a business, neither a breach of their rights of defence (paragraphs 95-114)
- The European Court of Justice agreed with the General Court’s findings and Mr. Ezz and his spouses were subject to “*judicial proceedings connected to criminal proceedings for misappropriation of Egyptian State funds*”, based on the evidence provided by the Egyptian prosecutor (paragraph 84)

# E.U. Case-law - Iran



Case T-158/13, *Iranian Aluminium Co v Council*, Judgment of the General Court, September 15, 2015

## ➤ **Facts:**

- Iranian Aluminium Co (“Iralco”) name was subsequently added to Annex II of Decision 2010/413 and to Annex IX to Regulation No 267/2012, respectively
- The Council justified the restrictive measures on Iralco (the freezing of the Iralco’s funds and economic resources) by holding that: “[t]he Iran Aluminium Company (aka Iralco, Iranian Aluminium Company) is assisting designated entities to violate the provisions of UN and E.U. sanctions on Iran and is directly supporting Iran’s proliferation sensitive nuclear activities. As of mid-2012 Iralco had a contract to supply aluminium to EU-designated Iran Centrifuge Technology Company (TESA)” (paragraph 10)

## ➤ **Judgment:**

- The Council had failed to reason in the statement of reasons for the listing of Iralco, where the Council had not presented any evidence for them, the listing of Iralco was based on “unsubstantiated assertions” (paragraph 46)
- “[i]t is the task of the competent European Union authority to establish, in the event of challenge, that the reasons relied on against the person concerned are well founded, and not the task of that person to adduce evidence of the negative ... If that material is insufficient to allow a finding that a reason is well founded, the Courts of the European Union shall disregard that reason as a possible basis for the contested decision to list or maintain a listing” (paragraph 43)
  - The General Court disagreed finding no evidence that Iralco was supplying metals for Iran's nuclear program
  - Iralco’s listing was held to be a clear “error of assessment”

## E.U. Case-law - Iran



**The National Iranian Oil Company (“NIOC”) Cases, concerning the 2012 listing of several Iranian entities, on the grounds of alleged connections with the National Iranian Oil Company NIOC:**

Case T-5/13, *Iran Liquefied Natural Gas v Council*, Judgment of the General Court, September 18, 2015

- **Iran Liquefied Natural Gas Co. (“ILNC”)**: The General Court annulled the Council’s listing of ILNC, as it had made an error of assessment on concluding that it was a subsidiary of NIOC. PIPF, *de facto*, holds 51% of the ILNC share capital and is thus the majority shareholder and not NIOC (paragraphs 56 and 57)

Joined Cases T-156/13 and T-373/14, *Petro Suisse Intertrade v Council*, Judgment of the General Court, September 18, 2015

- **Petro Suisse Intertrade Co. SA (“PSIC”)**: The General Court held that the mere fact that PSIC is evidently a front company set up and controlled by NIOC, constituted a sufficient statement of reasons with respect to the criterion of ownership and control: “[e]ven if the notion of ‘front company’ has no specific legal meaning, it nevertheless expresses the idea of ownership and control by a parent company and therefore enabled the specific reasons that led the Council to freeze the applicant’s funds to be understood in this case” (paragraph 82)

# E.U. Case-law - Iran



## The National Iranian Oil Company (“NIOC”) Cases:

Case T-121/13, *Oil Pension Fund Investment Company v Council*, Judgment of the General Court, September 18, 2015

- **Oil Pension Fund Investment Company (“OPFIC”)**: The General Court upheld OPFIC’s claim that OPFIC “*does not provide any financial support to the Iranian government and is not controlled, directly or indirectly, neither by the Iranian oil ministry nor by the NIOC*”. In relation to the financial support that OPFIC would bring to the Iranian government, the General Court held that no evidence had been produced that was capable of supporting the allegation. In addition, the existence of control was not established by the Council (paragraphs 36 and 37). As a result, the General Court upheld that the restrictive measures against OPFIC were to continue to take effect until the expiry of the appeal period.

Case T-577/12, *NIOC and Others v Council*, Judgement of the General Court, September 4, 2015 (an appeal is pending before the European Court of Justice in Case C-595/15 P)

- **National Iranian Oil Company Ptd Ltd. (NIOC)**: NIOC and sixteen other applicants lost the appeal, as they “[*did*] not dispute that they are fully owned and controlled by NIOC” (paragraph 183).

# E.U. Case-law - Iran



## Human Rights Sanctions Cases:

- Case T-273/13, *Mohammad Sarafraz v Council of the European Union*, Judgment of the General Court, December 4, 2015
- Case T-274/13, *Hamid Reza Emadi v Council of the European Union*, Judgment of the General Court, December 4, 2015

### ➤ **Facts:**

- Both Mr. Sarafraz and Mr. Emadi were listed for, among other things, for being directors of Press TV in Iran
- Press TV was believed to have cooperated with Iranian security forces and prosecutors to “*disseminate the forced confessions of detainees, including those of Canadian-Iranian journalist and filmmaker Maziar Bahari*”
- They were accused of being associated with violations to Mr. Bahari’s right to a fair trial

### ➤ **Judgments:**

- The Court held that the E.U. Council had met the required standard of proof to establish that Mr. Bahari’s forced confession was broadcasted under the directorship of Mr. Sarafraz and Mr. Emadi
- The Court rejected their argument on freedom of expression
- The argument that OFCOM had already fined Press TV (£100,000) for the dissemination of Mr. Bahari’s confession, was also thrown out by the Court

# E.U. Case-law - Syria



Case T-509/11, *Mohammad Makhlouf v Council*, Judgment of the General Court, January 21, 2015

## ➤ **Facts:**

- The restrictive measures against Mr. Makhlouf were imposed because he is the “*uncle of Syrian President Bashar Bashar Al-Assad, and a business associate and father of Rami, Ihab and Iyad Makhlouf*” (paragraphs 70 and 73)

## ➤ **Judgment:**

- The conclusion reached was that because Mr. Makhlouf was “*clearly a person related to the leaders of the Syrian regime, [and] because of his family relationship with the president [of Syria]*”, was sufficient evidence to satisfy that he “*has ties with the leaders of the regime or economic support*” (paragraphs 81-88)

*Note:* On January 21, 2016, Mr. Makhlouf lost his second application to withdraw his listing under the E.U.’s sanctions on Syria, because of his family relationship with the President of Syria (Case T-443/13, *Makhlouf v Council*, Judgement of the General Court, January 21, 2016)

# E.U. Case-law - Syria



- Case C-605/13 P, *Anbouba v Council*, Judgment of the European Court of Justice, April 21, 2015
- Case C-630/13 P, *Anbouba v Council*, Judgment of the European Court of Justice, April 21, 2015

## ➤ Facts:

- Mr. Anbouba was listed on the grounds of his position as president of an agro-industry company (SAPCO), and for providing “*economic support for the Syrian regime*”
- Mr. Anbouba submitted that the General Court had erred in law in that it held that “*the Council properly applied a presumption of support for the Syrian regime to the heads of the leading businesses of Syria, when that presumption has no legal basis, is disproportionate to the legitimate aim pursued and is irrebuttable*”

## ➤ Judgment:

- The Court of Justice held that the grounds for including Mr. Anbouba on the list of the persons subject to restrictive measures lie in the fact that he is the president of SAPCO and that he provides economic support for the Syrian regime
- The Court of Justice concluded that the General Court was correct to hold the ‘presumption’ that Mr. Anbouba’s position in Syrian economic life, “*his position as the president of SAPCO, his important functions within both Cham Holding and the Chamber of Commerce and Industry of Homs and his relations with a member of the family of President Bashar Al-Assad constituted a set of indicia sufficiently specific, precise and consistent to establish that he provided economic support for the Syrian regime*” (see paragraphs 48-52 - Case C 630/13 P)

# E.U. Case-law - Syria



- Case T-153/15 R, *Hamcho v Council*, Judgment of the General Court, May 20, 2015
- Case T-154/15 R, *Jaber v Council*, Judgment of the General Court, May 20, 2015
- Case T-155/15 R, *Kaddour v Council*, Judgment of the General Court, May 20, 2015

## ➤ **Facts:**

- In January, 2015 the Council re-listed three Syrian nationals, the applicants applied to annul their listings in March, and in that context applied for interim measures - the party that is invoking damage is thus required to prove the facts which are considered to found the prospect of serious and irreparable damage

## ➤ **Judgments:**

- In the three cases, the applicants did not provide any information and failed to evidence the serious and irreparable damage that they might suffer relating to their current situation to justify the grant of the suspension requested
- The General Court was not able to appreciate the risk of immediate, “*serious and irreparable*” harm
- The General Court rejected all three of the applications

# E.U. Case-law – Ukraine



Case T-290/14, *Andriy Portnov v Council of the European Union*, Judgment of the General Court, October 26, 2015

## ➤ **Facts:**

- The Council had listed Mr. Portnov based on the letter of March 3, 2014 from the Ukrainian public prosecutor which stated that “[t]he Ukrainian law enforcement agencies have initiated a number of criminal proceedings to investigate criminal acts by former senior officials”
- The letter specified, in general terms, that the investigation in question “ha[d] established embezzlement of public funds for large amounts and subsequent illegal transfer outside Ukraine” (paragraph 41)
- The Council had considered that the applicant was under investigation or preliminary investigation, which had not (yet) led to a formal indictment for the misappropriation of state funds

## ➤ **Judgment:**

- The General Court had cited that the letter only contained a “general statement” that Mr. Portnov (with nothing specific), would be subject to an investigation of the facts, not specified further, for the misappropriation of public funds and on the illegal transfer of funds abroad
- It was held that the Council had relied upon the 2014 letter, without conducting its own investigation as to whether Mr. Portnov fulfilled the listing criteria, which was not strong enough evidence to justify his listing

# E.U. Case-law - Zimbabwe



Case T-190/12, *Tomana & Ors v Council & Commission*, Judgment of the General Court, April 22, 2015 (on appeal before the European Court of Justice in Case C-330/15 P)

## ➤ Facts:

- Request for the removal of listings against the Attorney General of Zimbabwe, as well as 121 other individuals and legal entities targeted by the EU's restrictive measures against Zimbabwe (which impose asset freezes & travel bans on those listed)
- It was argued by the applicants, that only entities belonging to, or controlled by, the members of the Government of Zimbabwe can be considered to be associated with them, for the purposes of Article 6(1) of Regulation No 314/2004 and Article 5 of Decision 2011/101

## ➤ Judgment:

- “[E]ntities belonging to, or controlled by, natural persons (or, as may be, legal persons) associated with members of the Government of Zimbabwe may also be subject to the restrictive measures laid down by those provisions is wholly compatible with their wording. The same is true of the interpretation that the entities belonging to, or controlled by, the Government of Zimbabwe itself must be considered to be associated, within the meaning of those two provisions, with the members of that government” (paragraph 282)
- “[I]t would be paradoxical if a natural person associated with members of the Government of Zimbabwe were to be subject to a freezing of his funds and economic resources, without it being possible to extend that freezing to the entities which that natural person controls, directly or indirectly” (paragraph 283)
  - individuals which had jobs unconnected with the Government of Zimbabwe or who were not even associated with Government members, were nevertheless found to have committed acts of violence during the elections in 2008

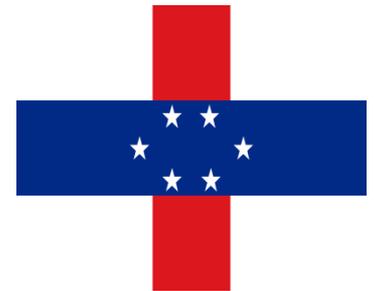


# **United Kingdom and European Union Enforcement – Major Actions and Developments**

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## E.U. Legislation – Netherlands and Offshore

- In the last week the Lower House of the Dutch parliament has passed the Kingdom Sanction Law. The legislation is yet to be passed by the Senate
- The Kingdom Sanction Law will require the former “Dutch Antilles” – Curaçoa, Aruba, Sint Maarten to adopt EU sanctions measures
- Presently these jurisdictions do not implement EU sanctions
- Part of a broader effort across a number of Member States to fill gaps in enforcement regimes and implementation
  - The UK has recently legislated for Implementation Day in its British Overseas Territories, such as BVI, Cayman Islands, Turks and Caicos
  - Bermuda, Jersey, Guernsey, Isle of Man have legislated for Implementation Day themselves



# E.U. Legislation – United Kingdom

## Litvinenko sanctions

- January 2016 - U.K. published the *Andrey Lugovoy and Dmitri Kovtun Freezing Order 2016* (SI 16/2016).
- This froze the U.K. assets of the two key suspects in the murder of Alexander Litvinenko, and imposed a travel ban on the two from entering the U.K.
- Some press reports have suggesting that this might be expanded. Not as yet.



## E.U. Enforcement – United Kingdom

- We are not aware of any criminal investigations or prosecutions in the U.K. arising out of sanctions violations during 2015, or far in 2016
- In November 2015, however, Standard Chartered Bank confirmed that it was the subject of an investigation by the FCA in relation to sanctions compliance. The results of this investigation are as yet unknown

- The Guernsey Financial Services Commission imposed a financial penalty of £150,000 on Bordeaux Services (Guernsey) Limited and on three of its directors (fined £50,000, £30,000 and £30,000, respectively) in connection with a number of failings: “*the sanctions training at Bordeaux did not cover the types of considerations raised by the nature of investments invested in*”



## E.U. Enforcement – Austria / Germany

- In January 2015, Raiffeisen Bank International announced that Austrian authorities had closed their investigation into a possible contravention of the Russian sanctions.
- Raiffeisen's Moscow office had been involved in the sale of a bond issue valued at 10 billion rubles for Vnesheconombank (one of the listed Russian banks under the E.U.'s Russian sanctions). The investigation focused on the potential involvement of the Austrian parent company in the bond sale.

- A German-Iranian individual was convicted for exporting equipment that could be used in Iran's weapons program to a sanctioned Iranian company between 2011 and 2013, as well as attempting to mask those exports through non-E.U. corporations.
- In late 2014, he was sentenced to 4 years and 9 months in prison.



# E.U. Developments



The E.U. has revised its *Best Practices for the effective implementation of restrictive measures*

## Key guidance on test for ownership and control

### Ownership

*“The criterion to be taken into account when assessing whether a legal person or entity is owned by another person is the possession of more than 50% of the proprietary rights of an entity or having majority interest in it”*

(EU Best Practices Note, para 62).



### Control

- a) having the right or power to appoint /remove a majority of the members board of such legal person or entity;
- b) having appointed solely as a result of the exercise of one's voting rights a majority of the members of the board who have held office during the present and previous financial year;
- c) controlling alone, or by agreement with other shareholders, a majority of shareholders' voting rights;
- d) having the right to exercise a dominant influence over a company pursuant to an agreement with that company or its Memorandum or Articles of Association;
- e) having the power to exercise the right to exercise a dominant influence referred to in point (d), without being the holder of that right;
- f) having the right to use all or part of the assets of a legal person or entity;
- g) managing the business of a legal person or entity on a unified basis, while publishing consolidated accounts;
- h) sharing jointly and severally the financial liabilities of a legal person or entity, or guaranteeing them.

Any of these equals a rebuttable presumption of control

# U.K. Developments

2015 has seen two developments of particular significance for the enforcement of financial sanctions in the United Kingdom:

## 1. No new offence of failing to prevent an economic crime

- The U.K. will not be introducing a new offence (modelled on the Bribery Act offence of a corporation failing to prevent bribery by its associated person) of failing to prevent an economic crime.

## 2. Reform of financial sanctions regime

- In the 2015 Summer Budget the U.K. government announced plans to reform the financial sanctions regime, including the creation of a new financial sanctions regulator, the Office of Financial Sanctions Implementation (**OFSI**) within HM Treasury.
- The government's proposed reforms form part of the *Policing and Crime Bill*, which is currently working its way through Parliament.

# U.K. Developments

## Office of Financial Sanctions Implementation ('OFSI')

- The first aspect of the sanctions reform is the formation of a new government body to oversee sanctions enforcement in the U.K.
- The OFSI will form part of HM Treasury and is due to become operational in April 2016.
- The stated purpose of the OFSI is that it "*will provide a high quality service to the private sector, working closely with law enforcement to help ensure that financial sanctions are properly understood, implemented and enforced*".
- OFSI's review will take into account lessons from structures in other countries, including OFAC – though it is as yet unclear what exactly is meant by this.
- It is also unclear whether this organisation will have the ability to commence prosecutions, or what investigatory powers might be given to it – if any.

# U.K. Developments

## Policing and Crime Bill - Financial Sanctions

Part 8 of the pending Policing and Crime Bill makes a number of important legislative changes in relation to financial sanctions:

- the creation of a new civil power by which H.M. Treasury may impose monetary fines on corporates and individuals found to have acted in breach of U.K. financial sanctions;
- increasing the maximum applicable criminal penalties for breaches of financial sanctions to seven years' imprisonment;
- expands the range of methods for alternative disposal, making Serious Crime Prevention Orders and Deferred Prosecution Agreements available for breaches of financial sanctions; and
- permitting HM Treasury to make transitional regulations implementing UN targeted sanctions with immediate effect as in parallel they make their way through the E.U. legislative process.

# U.K. Developments

## **Policing and Crime Bill – Civil Powers and Penalties**

- HM Treasury/OFSI given a wholly-new power to impose a civil penalty for sanctions breaches
- Minimum fine is £1m, but if the value of 50% of the funds transferred is more than £1m, then that higher figure is the fine
- HM Treasury/OFSI needs to satisfy itself “on the balance of probabilities” (i.e. the civil standard) that a sanctions breach has occurred
- A person so fined must be informed and has the ability to make representations to HM Treasury/OFSI.
- If HM Treasury/OFSI still think a fine should be imposed the “defendant” can then seek a review of that decision by a government minister.
- The Minister can uphold the penalty, change the penalty or cancel the penalty.

# U.K. Developments

## **Policing and Crime Bill – Civil Powers and Penalties**

- Where a company is fined there are “consent and connive” rules that mean that senior offices who consented or connived, or who’s neglect allowed the behaviour to occur, will also be liable for a civil penalty.
- Under draft section 93(3) the same scale of penalties will apply for individuals as for companies - the £1m minimum again, or higher if the value of 50% of the funds transferred is more than £1m.
- HM Treasury/OFSI is tasked with the job of publishing guidance on how the civil penalty regime will work.
- This suggests a stepped process of legislation being passed, followed by the publication of guidance, followed later by the legislation coming into force – perhaps much like occurred with the *Bribery Act*.

# U.K. Developments

## **Policing and Crime Bill – Criminal Penalties**

- Sections 89 and 90 of the Policing and Crime Bill significantly increase the maximum sentence for financial sanctions violations, including new offences:
  - on summary conviction **from 6 months to 12 months**; and
  - on conviction on indictment **from 2 years to 7 years**.

# U.K. Developments

## The Policing and Crime Bill – SCPOs

- Under the proposed legislation, Schedule 1 to the Serious Crime Act 2007 (which lists the offences in respect of which **Serious Crime Prevention Orders ('SCPOs')** may be made) is amended to include breaches of financial sanctions.
- SCPOs are civil orders designed to protect the public by preventing, restricting or disrupting involvement by a person (whether an individual or corporate body) in serious crime for a maximum of five years.
- Breach of a SCPO is a criminal offence, punishable by a fine and/or up to 12 months imprisonment (on summary conviction) or 5 years (on conviction on indictment).

# U.K. Developments



## The Policing and Crime Bill – DPAs

- Deferred Prosecution Orders (‘DPAs’) were introduced as a prosecutorial tool in England and Wales by the Crime and Courts Act 2013, but are also available for conduct committed before the introduction of DPAs.
- First DPA in the U.K. entered into in late 2015 for a *Bribery Act* offence
- Section 95 of the Bill amends Part 2 of Schedule 17 to the Crime and Courts Act 2013 (which lists the offences in relation to which a deferred prosecution agreement may be entered into) to include financial sanction breaches in the list of offences for which a DPA is available.

# U.K. Developments



## H.M. Treasury/OFSI – Transitional Regulations

- To mitigate the impact of delays at the E.U. level of implementing U.N. sanctions, the proposed bill will give HM Treasury/OFSI the power to introduce temporary sanctions regulations while the final E.U. regulations are being prepared
- This is designed to avoid capital flight in the days between the passing of a U.N. resolution and its later implementation by the E.U.
- The HM Treasury/OFSI temporary regulation would expire upon the coming into force of the relevant E.U. regulation

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