

Davis Polk

U.S. Sanctions and anti-money laundering developments

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Presenters



Uzo Asonye

Uzo is a partner in Davis Polk's Litigation Department, based in Washington, D.C. He has spent more than a decade prosecuting complex financial crimes and public corruption. He advises companies and individuals in connection with government, grand jury and internal investigations, and represents clients in criminal and civil trials. He has deep experience in matters involving insider trading, market manipulation, public corruption and other areas of financial fraud. He was previously the Acting Chief of the Financial Crimes and Public Corruption Unit in the U.S. Attorney's Office for the Eastern District of Virginia and served in the Office of Special Counsel Robert Mueller.



Margarita Clarens

Margarita is counsel in Davis Polk's Litigation Department, based in New York. Her practice focuses on internal investigations and criminal and regulatory enforcement matters, in areas such as sanctions, anti-money laundering, fraud, and the FCPA. She also advises clients on related governance and compliance matters.



Paul Marquardt

Paul is a partner in Davis Polk's Financial Institutions Group, based in Washington, D.C. He advises a wide range of clients around the world on the application of U.S. sanctions laws and in export control, anti-money laundering and anti-corruption matters. His practice includes diligence, advisory, compliance, internal investigations and enforcement matters. Paul has more than two decades of experience in national security reviews by CFIUS and other foreign direct investment regimes, and in related issues. He has broad transactional experience, including with respect to mergers and acquisitions, joint ventures, and general corporate matters.

Presenters (cont.)



Will Schisa

Will is counsel in Davis Polk's Financial Institutions Group and economic sanctions and national security practice, based in Washington, D.C. He has extensive experience with the economic sanctions laws and regulations administered by the Treasury Department's Office of Foreign Assets Control, having served for nearly 10 years as an attorney in the Office of the Chief Counsel, Foreign Assets Control, the legal office that supports OFAC.



Daniel Stipano

Dan is a partner in Davis Polk's Financial Institutions Group, based in Washington, D.C. His practice includes representing clients in state, federal and foreign regulatory enforcement actions, and providing assistance in establishing, maintaining and monitoring Bank Secrecy Act and anti-money laundering compliance programs. Dan's extensive regulatory and enforcement experience includes more than 30 years at the Office of the Comptroller of the Currency, where he served as Deputy Chief Counsel, and Director of the OCC's Enforcement and Compliance Division.

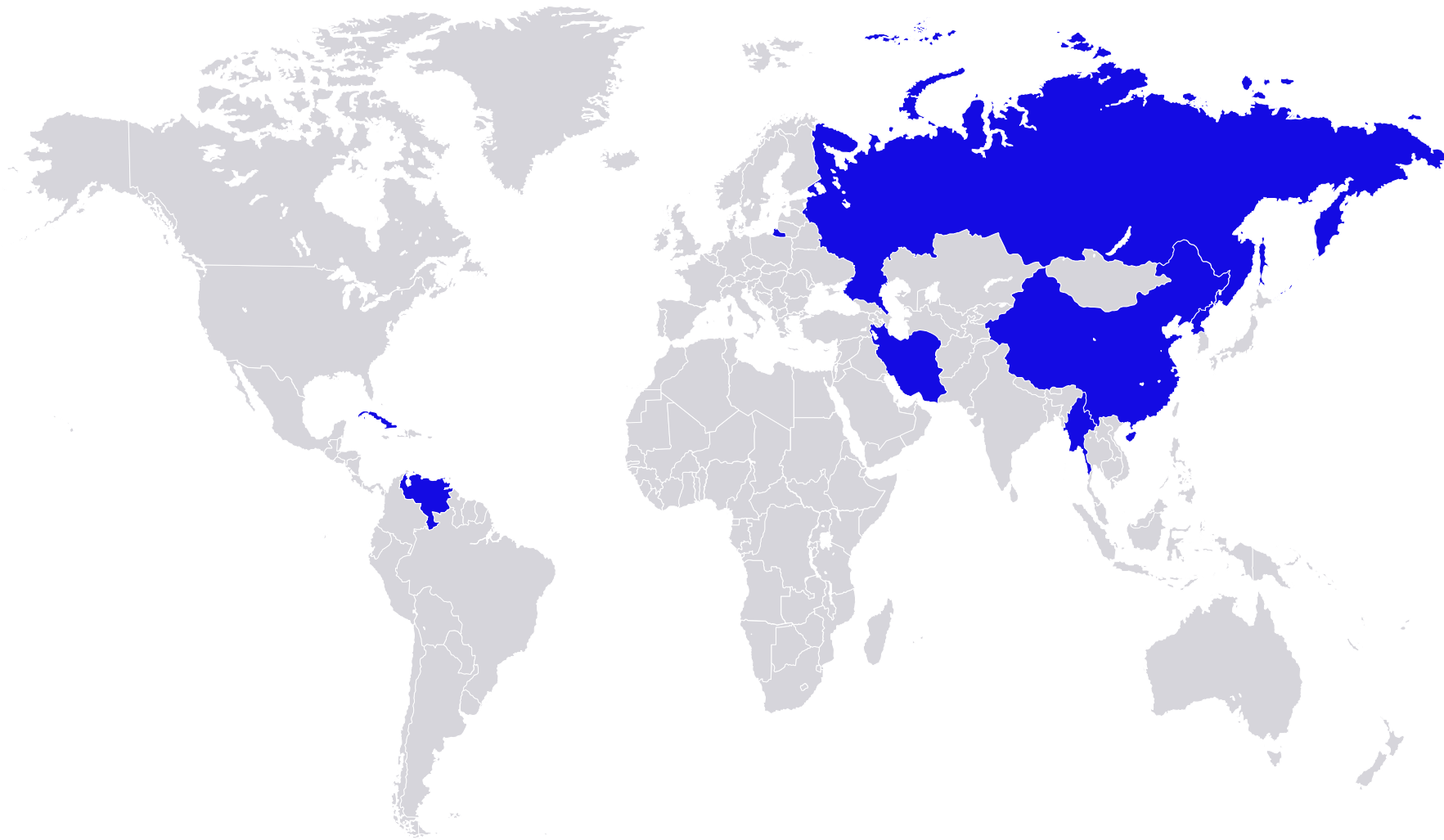
Agenda

Section		Slide
01	Update on U.S. sanctions programs <ul style="list-style-type: none">— Russia— Other sanctions developments	4
02	Update on Anti-Money Laundering Act of 2020 and other AML initiatives	14
03	Recent enforcement trends and developments	23
A	Appendix: Further reading	32

Update on U.S. sanctions programs

01

Update on U.S. sanctions programs



Appointments to Key Government Positions

Department of the Treasury

Financial Crimes Enforcement Network (“FinCEN”), Director Andrea Gacki

- On July 13, 2023 Andrea Gacki was appointed as the Director of FinCEN. As Director, Ms. Gacki:
 - Supervises FinCEN’s efforts to combat domestic and international money laundering, terrorist financing, and other financial crimes; and
 - Manages FinCEN’s enforcement of BSA and coordinates with counterpart organizations abroad

Russia

Overview of key developments in U.S. measures

- Designation of new sectors of the Russian economy, including construction, engineering, architecture, manufacturing, transportation, metals, and mining
- Prohibition on export of architecture and engineering services
- Price cap on Russian Oil and energy products
- New sanctions on Russian financial institutions and key sources of supply
- Expanded focus on facilitators, evasion, and private sector compliance
- Reporting Requirements under Directive 4
- Guidance on Russia's so-called "exit tax"
- Expanded export control restrictions

Sanctions against Russia in response to its invasion of Ukraine

- The United States, United Kingdom, European Union, and other allies continue to impose sweeping sanctions, export controls restrictions and other measures targeting Russia in response to the invasion of Ukraine
 - However, to date, Russia is not subject to comprehensive territorial sanctions—many activities are either not prohibited or authorized by general license
- The U.S. and its allies have increasingly coordinated on enforcement to prevent the evasion and circumvention of Russia sanctions
- The sanctions framework has become somewhat more stable, although key compliance challenges remain:
 - De-risking and market conditions chilling even permissible activities

Overview of key U.S. measures – prohibition on export of certain services and designation of new sectors

- In February 2023, OFAC added the Russian metals and mining sector to the list of over a dozen sectors designated under Executive Order 14024
 - OFAC has authority to sanction individuals and entities that operate or have previously operated in these sectors (but sanctions do not automatically apply to all entities in those sectors)
- In May 2023, OFAC added Russian architecture, engineering, construction, manufacturing, and transportation sectors to the list of designated sectors.
 - Authority extends to entities that provide or receive such services
- In May 2023, OFAC issued a ban on exportation, reexportation, sale, or supply of architecture and engineering services to any person located in the Russian Federation. The ban took effect on June 18.
 - Engineering services include, among other things, assistance, advisory, consultative, design, and recommendation services concerning engineering matters or during any phase of an engineering project
 - Architecture services include advisory services, design services, contract administration, and all other services requiring the expertise of architects

Russia

Overview of key U.S. measures – oil and energy price cap

- In an attempt to limit the revenue that Russia earns from the sale of oil and petroleum products, the United States, in coordination with an international coalition that includes the G7, the E.U., and Australia (the Price Cap Coalition) imposed a price cap on both Russian crude oil and petroleum products
 - The price cap policy allows entities in Coalition countries to continue providing maritime services for the transport of Russian oil only if that oil is sold at or below the price cap level
- In November 2022, OFAC issued a determination that prohibits U.S. persons from providing services related to the maritime transport of Russian oil, but authorized providing these services in connection with Russian oil that is purchased at or below a price cap
- Building on the oil price cap, OFAC published a second determination in February 2023 to implement a price cap policy for Russian petroleum products
- OFAC also issued guidance in November 2022 and February 2023 to create a safe harbor for providers of maritime services who comply with certain recordkeeping and attestation requirements

Overview of key U.S. measures – sanctions targeting financing and sources of supply

- OFAC has continued to designate entities in Russia's financial services sector
 - The Department of the Treasury currently estimates that over 80% of Russia's banking sector by assets are under U.S. sanctions. This includes the ten largest Russian-owned banks.
- In May 2023, OFAC and the State Department collectively designated nearly 300 individuals, entities, vessels, and aircraft, cutting across numerous sectors and jurisdictions
 - Targets include Russian sources of supply for advanced technology, materials, and financing
 - Sanctions cover 20 jurisdictions and demonstrate the willingness of U.S. and allies to target third-country actors that supply technology and materials to Russia
- The Administration has increasingly focused on facilitators of sanctions evasion and emphasized the importance of vigilance by private sector
 - OFAC, the Department of Justice, and the Commerce Department's Bureau of Industry and Security (BIS) released a joint compliance note emphasizing the importance of adequate risk-based controls

Overview of key U.S. measures – reporting requirements under Directive 4

- Under Directive 4 of E.O. 14024, U.S. persons are prohibited from participating in any transaction—including any transfer of assets or foreign exchange—with the Russian Central Bank, National Wealth Fund, or Ministry of Finance
- Consistent with a similar measure adopted by the E.U., OFAC amended Directive 4 under E.O. 14024 to require that any person subject to U.S. jurisdiction report to OFAC any property in their possession or control in which the Russian Central Bank, National Wealth Fund, or Ministry of Finance has an interest
- Treasury stated that the new requirements are intended to allow OFAC to better identify and quantify immobilized Russian government assets held by U.S. persons. Further, OFAC has stated to industry participants that the reporting requirement does not apply to bonds issued by Directive 4 entities.

Overview of key U.S. measures – guidance on Russian “exit tax”

- In February 2023, OFAC released new guidance regarding the permissibility of paying the so-called “exit tax” required by the Russian government. This tax is imposed by the Russian government on those looking to divest their assets in the Russian Federation.
- Because paying this tax may require a transaction involving the Central Bank of Russia and the Ministry of Finance of Russian—both of which are Directive 4 entities —U.S. persons are prohibited from paying this tax.
- OFAC clarified that U.S. persons whose divestment of assets in Russia will result in payment of an exit tax should seek a specific license from OFAC.

Overview of key U.S. measures – expanded export control restrictions

- BIS has continued to expand export control restrictions, imposing licensing requirements for exports of most items on the Commerce Control List to Russia and Belarus
- In February 2023, BIS in conjunction with U.S. allies issued a final rule expanding the scope of the Russian and Belarusian industry sector restrictions and imposing licensing requirements on numerous commercial and industrial items
 - The rule modified the codes that must be used to classify items for exports to Russia or Belarus under the Harmonized Tariff Schedule (HTS) to determine when licensing requirements apply
 - In May 2023, BIS expanded these restrictions to impose licensing requirements on certain electronics, instruments, and advanced fibers
- Over 2023, BIS has added numerous Russian and non-Russian entities to the Entity List for providing support to Russia's military and defense sector and undermining export control restrictions
- In March 2023, BIS jointly released an alert with the Financial Crimes Enforcement Network (FinCEN) listing red flags of export control evasion and reminding institutions of compliance obligations.

Russia

Overview of key developments in E.U. and U.K. measures

- Expanded restrictions on export of certain services, including IT consultancy, certain legal advice, and architecture and engineering services
- Tightening restrictions on imports of iron and steel and revenue-generating goods
- Broad restrictions on trade and investment targeting the non-government controlled areas of the Kherson and Zaporizhzhia regions of Ukraine
- Banning the import, acquisition, supply, and delivery of Russian oil and oil products and associated ancillary services with respect to these activities
- Many measures imposed in conjunction with United States, but there is not complete alignment

Other sanctions developments

- Limited changes in other sanctions programs over the past 12 months, reflective of OFAC focus and commitment of resources to Russia sanctions
 - Myanmar: In June 2023, OFAC designated Myanmar's Ministry of Defense as well as two regime-controlled financial institutions; OFAC has targeted numerous other entities that support Burma's military over the past year
 - Venezuela: The Biden administration has signaled its willingness to ease oil sanctions to encourage negotiations between the Maduro government and its opposition. In November 2022, the Administration issued a general license allowing a major U.S. oil company to resume limited operations in Venezuela; however, existing sanctions otherwise generally remain in place.
 - China: Recently, there have been signs of a thaw in U.S.-China relations, as evidenced by: (1) an increase in diplomatic engagement between the countries; (2) the lack of strong sanctions in response to the China spy balloon incident; and (3) the absence of significant new Hong Kong or CMIC sanctions actions
 - Most notably, in October 2022, BIS imposed new export controls that limit the development and production in China of: advanced node semiconductors; semiconductor production equipment; advanced computing items; and supercomputers
- In July 2023, it was announced that Andrea Gacki would step down as director of OFAC to become director of FinCEN. She is expected to be replaced by Brad Smith, OFAC's current deputy director.

Other sanctions developments: Virtual currency

- In August 2022, OFAC imposed sanctions on Tornado Cash, a decentralized cryptocurrency “mixer” application that OFAC alleges had been used to launder billions of dollars in proceeds of criminal activity, including proceeds stolen by state-sponsored North Korean hacking groups
- This designation has proved controversial, with critics accusing OFAC of overreach. Two lawsuits have been filed in U.S. District Courts by Tornado Cash users and remain pending.
 - In part to address issues raised in the litigation, OFAC “re-designated” Tornado Cash in November 2022
- This designation was broadly consistent with OFAC’s emerging approach to addressing illicit financing and sanctions evasion concerns connected to virtual currency and other digital assets
- On July 19, 2023, Senators Reed and Romney released a bi-partisan bill that would classify DeFi facilitators and backers as financial institutions under the BSA; impose sanctions liability on DeFi facilitators and backers for any sanctions violations committed on their DeFi platform; and require crypto kiosk operators to conduct CIP-like information collection from their customers and counterparties

Update on Anti-Money Laundering Act of 2020 and other AML initiatives

02

Anti-Money Laundering Act of 2020

The Anti-Money Laundering Act of 2020 (AMLA) was enacted as part of the National Defense Authorization Act for Fiscal Year 2020 and includes the most substantial changes to U.S. AML law since the USA PATRIOT Act. Among other things, the AMLA:

- Establishes new beneficial ownership reporting requirements for certain entities doing business in the U.S. along with a beneficial ownership registry;
- Requires the U.S. Treasury to establish National AML and CFT Priorities;
- Modernizes the statutory definition of “financial institution” to include entities that provide services involving “value that substitutes for currency,” including stored value and virtual currency instruments;
- Streamlines and modernizes BSA and AML requirements and regulations;
- Improves coordination and cooperation among international, federal, state, and tribal AML law enforcement agencies; and
- Expands DOJ / Treasury investigative power, including the ability to subpoena non-U.S. banks

Significant AML rulemakings

FinCEN has not completed many of the rulemakings along the timelines prescribed in AMLA, however it has made progress with respect to key regulatory milestones, such as the National Beneficial Ownership Registry

Final Beneficial Ownership Information (BOI) Reporting Rule

- The BOI Reporting Rule is the first of three FinCEN rulemakings that would implement the National Beneficial Ownership Registry
- The BOI Reporting Rule requires reporting companies to submit to FinCEN an initial report containing information related to the beneficial owner and company applicant of the reporting company
 - Reporting companies will also be required to submit an updated BOI report when any BOI changes
- Notably, under the BOI Reporting Rule, the definitions of “beneficial owner” and “control” are much broader than the definitions of those terms under the current Customer Due Diligence (CDD) Rule.
- The BOI Reporting Rule offers a broader set of exemptions from the term “reporting companies” than there are exclusions from the definition of “legal entity customer” in the CDD Rule

Significant AML rulemakings

Proposed Access Rule

- The Access Rule is the second of three rulemakings that would the Corporate Transparency Act and the National Beneficial Ownership Registry
- When finalized, the Access Rule will establish the standards by which certain financial institutions and government entities access the National Beneficial Ownership Registry
- Under the Access Rule, the following entities will be permitted to access the Registry:
 - Federal, State, local and Tribal officials for national security, law enforcement, and intelligence activities; foreign law enforcement, judicial, and government entities;
 - Federal functional regulators acting in supervisory capacity; and
 - Financial institutions subject to the CDD Rule's beneficial ownership requirements
- The Access Rule was met with considerable pushback from both U.S. Congress, financial institutions and small businesses

Significant AML rulemakings

Other AMLA Sections

- **National Priorities.** On June 30, 2021, FinCEN released the first AML/CFT Priorities, as required under the AMLA. The Priorities are high-level, and reflect longstanding AML/CFT concerns that FinCEN and other AML/CFT regulators have previously identified
 - To date, FinCEN has not released the implementing regulations for the National Priorities and thus financial institutions are not currently required to implement the priorities within their AML/CFT Compliance programs
- **SAR sharing pilot program.** On January 24, 2022, FinCEN released an NPR that would establish a limited-duration pilot program that would allow financial institutions to share suspicious activity reports (SARs) with their foreign business units
- **No-Action Letters.** On June 3, 2022, FinCEN issued an ANPRM to solicit comments on questions relating to the implementation of a no-action letter process.
 - A no-action letter process would allow FinCEN to issue regulatory guidance to financial institutions in response to questions from regulated entities

Significant AML developments

Treasury De-Risking Strategy

- On April 25, 2023, the Treasury Department issued the 2023 De-Risking Strategy, which assesses the causes and consequences of financial institutions' de-risking certain customer types
 - The De-Risking strategy also offers recommendations for addressing the drivers of de-risking
- De-risking the practice of financial institutions terminating or restricting business relationships based on a customer's category rather than individual analysis and management of risk
- The categories customers most impacted by de-risking are:
 - Small and medium sized money-service businesses;
 - NPOs operating in high-risk foreign jurisdictions; and
 - Foreign financial institutions with low correspondent banking transaction volumes

Significant AML developments

Treasury De-Risking Strategy (cont'd)

- According to the De-Risking Strategy, the factors that contribute to de-risking are:
 - Profitability;
 - Reputational risk;
 - Lower risk appetite;
 - Regulatory and compliance burdens; and
 - Unclear expectations from regulators

Significant AML developments

Federal Banking Agencies' Third-Party Risk Management (TPRM) Guidance

- On June 6, 2023, the Federal Reserve, FDIC, and OCC released final Interagency Guidance on banking organizations' management of risks associated with third-party relationships
- Bank-fintech partnerships pose significant challenges for both banking organizations and their fintech partners, in particular with respect to BSA/AML compliance
- As evidenced by recent enforcement actions, a banking organization risks enforcement action if a fintech partner does not maintain a compliance program commensurate with the BSA/AML risks posed by the customer
- Financial institutions can manage BSA/AML risks by applying the principles and recommendations provided in the Interagency Guidance, such as:
 - Performing risk assessments of all fintech partners;
 - Conducting risk-based due diligence of fintech partners;
 - Including contractual provisions that clearly address the allocation of compliance responsibilities; and
 - Having adequate monitoring and oversight

Significant AML developments

Russia Sanctions Evasion

- FinCEN and BIS issued a joint alert reminding financial institutions to employ appropriate risk-mitigation measures consistent with their underlying BSA obligations, particularly when encountering one of the nine Harmonized System codes (HS codes) identified by FinCEN and BIS
- FinCEN and BIS also requested that financial institutions conduct due diligence of new customers, focusing on the customer's date of incorporation, lines of business in relation to ordered items, and other trade-related red flags

Commercial Real Estate Investments

- FinCEN issued an alert to financial institutions, highlighting sanctions evasion-related vulnerabilities in the commercial real estate sector, methods of potential sanctions evasion, and red flags to be considered when conducting due diligence
- Methods of sanctions evasion include using pooled investment vehicles to facilitate transactions; using of shell companies and trusts to purchase real estate; and inconspicuous investments that seemingly provide stable returns

Recent enforcement trends and developments

03

Recent enforcement actions at a glance

Sanctions actions in 2022 and 2023 to date

- OFAC continues to act as the primary sanctions enforcer
 - 2022: 16 civil penalties or FOVs totaling over \$42 million
 - 2023 to date: 9 civil penalties totaling over \$556 million
- Largest OFAC settlement against non-financial institution (BAT/BATM) and largest standalone administrative penalty in history of Commerce’s BIS (Seagate)
- DOJ has reiterated that “sanctions are the new FCPA” and will continue to be a key Department priority

AML actions in 2022 and 2023 to date

- Use of non-AML related statutes to enforce AML-related conduct
- Enforcement actions brought against virtual currency-related companies related to AML compliance programs

Enforcement priorities and key takeaways

Significant enforcement priorities

- Sanctions and AML enforcement is top DOJ priority
- Compliance programs continue to be focus, with new guidance and incentives in place for effective compliance programs
- Focus on intermediaries who facilitate sanctions, AML misconduct

Key takeaways from recent enforcement actions consistent with enforcement priorities

- Continued emphasis on effective, risk-based compliance programs, including for companies not otherwise subject to BSA
- Enforcement against facilitators of USD transactions for sanctioned persons and entities

DOJ Guidance: Sanctions and AML enforcement is top Department priority

- Last year, DAG Monaco stated that “sanctions are the new FCPA,” announcing DOJ’s prioritization of sanctions and export control cases
- This year, DOJ has announced a “surge of resources,” including:
 - More than 25 new prosecutors in NSD who will focus on sanctions evasion, export control violations, and similar economic crimes
 - “Substantial investment” in Money Laundering and Asset Recovery Section’s Bank Integrity Unit (BIU)

“Our National Security Division will be elevating its attention to corporate crime through an infusion of personnel and expertise. And we’re doubling down on the successful strategies we have deployed to attack cyber and crypto crime, to harness all tools across government to pursue prevention, deterrence and accountability.”

- Lisa Monaco, Deputy Attorney General (March 2, 2023)

*“Companies are on the front lines of today’s geopolitical and national security challenges. Increasingly, corporate criminal investigations carry profound national security implications. . . . [Events of the last year] elevated the importance of sanctions and export control enforcement. **What was once a technical area of concern for select businesses should now be at the top of every company’s risk compliance chart.**”*

- Lisa Monaco, Deputy Attorney General (March 2, 2023) (emphasis added)

DOJ Guidance: Effective compliance programs continue to be focus

Clarifications and changes to voluntary self-disclosure program emphasize importance of strong compliance programs

- Absent aggravating factors, where company has voluntarily self-disclosed, cooperated, and remediated the misconduct, DOJ will apply presumption of lesser penalty
 - For Criminal Division, result is presumption of declination; for U.S. Attorneys' Offices, result is presumption of declination, Non Prosecution Agreement, or Deferred Prosecution Agreement
 - Remediation requires payment of all disgorgement, forfeiture, and restitution resulting from misconduct
- However, new policy for Criminal Division requires all of the following factors to be met to receive a declination in the presence of aggravating factors:
 - the voluntary self-disclosure made immediately upon the company becoming aware of the allegation of misconduct;
 - at the time of the misconduct and disclosure, the company had an effective compliance program and system of internal accounting controls; and
 - company provided extraordinary cooperation with DOJ's investigation and undertook extraordinary remediation

DOJ Guidance: Effective compliance programs continue to be focus (cont.)

DOJ has proposed additional metrics to consider when evaluating corporate compliance programs

- Use of personal devices and third-party messaging apps for business communications
 - DOJ generally expects: (1) effective policies; (2) clear training on policies; and (3) enforcement of policies
 - A company's ability to collect these forms of communications may affect consideration of cooperation credit
 - DOJ signaled further guidance to come on best practices
- Compensation incentives and clawbacks
 - Under new pilot program, every corporate resolution involving DOJ's Criminal Division will include a requirement that the company develop "compliance-promoting criteria within its compensation and bonus system"
 - Criminal Division will provide fine reductions to companies that try to claw back compensation from corporate wrongdoers, even if they are unsuccessful

"Our goal is simple: to shift the burden of corporate wrongdoing away from shareholders, who frequently play no role in the misconduct, onto those directly responsible."

- Lisa Monaco, Deputy Attorney General (March 2, 2023)

DOJ Guidance: Focus on intermediaries used to evade sanctions, AML laws

First Tri-Seal Compliance Note (DOJ, OFAC, BIS) highlighted common tactic of using third-party intermediaries to circumvent sanctions

Identified common red flags as including, but not limited to:

- Use of corporate vehicles to obscure (i) ownership, (ii) source of funds, or (iii) countries involved, particularly sanctioned jurisdictions
- IP addresses that do not correspond to a customer's reported location data;
- Operation of complex and/ or international businesses using residential addresses or addresses common to multiple closely-held corporate entities;
- Transactions involving entities with little or no web presence

Noted that effective compliance programs needed to adopt controls to minimize the risk of evasion and misuse by third-party intermediaries

Cases: Continued emphasis on effective, risk-based compliance programs

Recent enforcement actions show that foreign companies must consider any nexus to the U.S. financial system and maintain effective compliance and AML controls

- DOJ, SEC: Foreign bank pled guilty for lying to U.S. correspondent banks regarding AML controls and customer population at its Estonian branch (Danske Bank)
 - U.S. correspondent banks had required Estonian branch to provide information about its AML compliance program, transaction monitoring, and customers and transactions
 - While programs existed on paper, no evidence that Estonian branch was following its written procedures or reviewing them for effectiveness
 - Charges brought under bank fraud statutes, not the BSA, which was not available in a case involving a foreign bank that did not have U.S. branches
 - In coordinated resolution, agreed to criminal forfeiture of \$2B, and committed to improving its compliance programs

Cases: Continued emphasis on effective, risk-based compliance programs (cont.)

U.S. and state regulators also continue to bring enforcement actions based on compliance failures

- OFAC: Geolocation tools (e.g., IP blocking, email addresses) should be used to monitor both direct customers and recipients of services, where possible, to determine if they are located in sanctioned jurisdictions (Tango Card)
- OFAC: Foreign entities that interact with U.S. financial system can still be subject to U.S. sanctions and therefore should implement and maintain an effective sanctions compliance program (Danfoss)
- OFAC, BIS: Foreign subsidiaries and intermediaries may require additional monitoring to ensure U.S. sanctions compliance (Microsoft)
- OFAC, FinCEN: Compliance program requirements continue to apply to virtual currency exchanges (Bittrex)
 - NY's Department of Financial Services has brought cryptocurrency enforcement actions based, in part, on BSA/AML compliance shortcomings (BitPay)

Cases: Enforcement against intermediaries of sanctioned persons and entities

Charges brought against intermediaries using complex schemes to facilitate transactions for sanctions persons and entities

- DOJ: Indictment brought against U.K. individual for allegedly facilitating USD transactions for sanctioned oligarch; after oligarch sanctioned in 2018, U.K. individual allegedly set up new company in own name to make payments on oligarch's U.S. properties (Bonham-Carter)
- DOJ: Sanctioned oligarch's associate retained U.S. attorney to manage finances of oligarch's U.S. properties; U.S. attorney pled guilty related to receiving money from oligarch through shell companies to make USD payments (Wise)
- DOJ: Indictment brought against Russian and U.K. individuals for allegedly facilitating money laundering and sanctions evasion scheme; individuals allegedly masked ownership of sanctioned oligarch's yacht, using a "complicated ownership structure of shell companies" (Osipov, Masters)
- DOJ, OFAC: U.K. company appeared to terminate subsidiary's joint venture with North Korean company; however, the terms "purposefully obscured" U.K. company's continued effective ownership and control over JV (BAT/BATMS)
 - As a result, caused U.S. financial institutions to process 228 payments totaling ~\$250M
 - DOJ entered into a DPA and imposed \$629M in penalties/fines and OFAC settled for \$508M (largest with non-financial institution), largely credited against DOJ penalties/fines

Appendix: Further reading

Appendix: Further reading

Webinars

U.S. Sanctions and AML Regulation and Enforcement (July 27, 2022),

<https://www.davispolk.com/insights/webinar/recent-developments-us-sanctions-and-aml-regulation-and-enforcement-2022>

FCPA update: Recent anti-corruption developments and the year ahead (Feb. 28, 2023),

<https://www.davispolk.com/insights/webinar/fcpa-update-recent-anti-corruption-developments-and-year-ahead>

Recent developments in DOJ policy on corporate criminal enforcement (Oct. 6, 2022),

<https://www.davispolk.com/insights/webinar/recent-developments-doj-policy-corporate-criminal-enforcement>

Related client memoranda and publications

Bank risk management of third-party relationships – Final interagency guidance (June 12, 2023),

<https://www.davispolk.com/insights/client-update/bank-risk-management-third-party-relationships-final-interagency-guidance>

Appendix: Further reading

Related client memoranda and publications (cont.)

U.S. targets entities dealing with Russia and Russia's architecture, engineering and other sectors (June 6, 2023), <https://www.davispolk.com/insights/client-update/us-targets-entities-dealing-russia-and-russias-architecture-engineering-and>

DOJ leadership highlights national security focus and previews new corporate enforcement guidance (May 23, 2023), <https://www.davispolk.com/insights/client-update/doj-leadership-highlights-national-security-focus-and-previews-new-corporate>

Treasury Department publishes its first de-risking strategy (May 8, 2023), <https://www.davispolk.com/insights/client-update/treasury-department-publishes-its-first-de-risking-strategy>

FinCEN releases initial beneficial ownership information reporting guidance (Mar. 31, 2023), <https://www.davispolk.com/insights/client-update/fincen-releases-initial-beneficial-ownership-information-reporting-guidance>

Russia sanctions after one year: United States imposes new round of restrictions (Mar. 14, 2023), <https://www.davispolk.com/insights/client-update/russia-sanctions-after-one-year-united-states-imposes-new-round-restrictions>

Appendix: Further reading

Related client memoranda and publications (cont.)

DOJ announces new clawback, messaging and monitorship guidance, national security resources (Mar. 7, 2023), <https://www.davispolk.com/insights/client-update/doj-announces-new-clawback-messaging-and-monitorship-guidance-national>

U.S. Attorneys' Offices release voluntary self-disclosure policy (Feb. 28, 2023), <https://www.davispolk.com/insights/client-update/us-attorneys-offices-release-voluntary-self-disclosure-policy>

DOJ Criminal Division head announces changes to corporate enforcement policy (Jan. 19, 2023), <https://www.davispolk.com/insights/client-update/doj-criminal-division-head-announces-changes-corporate-enforcement-policy>

FinCEN releases proposed rule on access to beneficial ownership registry (Dec. 21, 2022), <https://www.davispolk.com/insights/client-update/fincen-releases-proposed-rule-access-beneficial-ownership-registry>

FinCEN publishes final rule on beneficial ownership (Oct. 6, 2022), <https://www.davispolk.com/insights/client-update/fincen-publishes-final-rule-beneficial-ownership>

Appendix: Further reading

Related client memoranda and publications (cont.)

Treasury Department and Department of Justice signal further regulation of digital asset industry (Sept. 29, 2022), <https://www.davispolk.com/insights/client-update/treasury-department-and-department-justice-signal-further-regulation-digital>

Deputy Attorney General Lisa Monaco announces new guidance on DOJ corporate enforcement (Sept. 19, 2022), <https://www.davispolk.com/insights/client-update/deputy-attorney-general-lisa-monaco-announces-new-guidance-doj-corporate>