

SANCTIONS IN 2017: WHERE ARE WE NOW

As we approach the one-year anniversary of the Trump Administration, it is important to take stock of what has changed within [OFAC](#) regulations. This past year has seen several major changes to sanctions regulations, including the [removal of most sanctions against Sudan](#) (except for some list based programs), rollback of certain travel authorizations under the Cuban sanctions program, and a much-increased focus on [North Korea](#) and [Venezuela](#).

In many respects, OFAC has not significantly changed their pace of designations, but has shown a willingness to utilize “sectoral” sanctions or other non-list based sanctions programs. In other instances, however, sanctions programs have become more complicated. Take, for example, the debt and equity-based sanctions against Venezuela, or the forthcoming tightening and secondary sanctions against Russia under the [Countering America’s Adversaries Through Sanctions Act](#).

In the case of Cuba, Trump’s tightening of Cuba regulations promises to create much smaller waves in the sanctions world than originally anticipated, generally only rolling back authorizations relating to [travel](#), but not rolling back authorizations that help streamline the Cuba sanctions program. Indeed, while the new Cuba regulations prohibit dealings with certain entities controlled by the Cuban Communist Party, the State Department published a [list](#) supporting this provision that helps draw a bright red line on who is a bad actor on the island.

Regardless of any current administration, the pattern is clear: sanctions programs are becoming more nuanced and not simply relegated to [OFAC’s Specially Designated Nationals list](#) or a list of embargoed countries.

It is also evident that OFAC, as well as state and federal regulators, are showing increased expectations that companies must understand the environment in which they operate. Sanctions are predicated on strict liability and regulators are keen not only to place penalties on businesses that have committed violations, but also those that lack sufficient controls. We saw this in the cases of both Habib Bank, ultimately kicked out of New York, and Agricultural Bank of China, now subject to a monitorship and hundreds of million in fines. Simply having a screening solution, i.e. a transaction filtering tool, is not sufficient to maintain compliance with relevant regulations. In fact, while the filter may be one of the more robust elements of a sanctions program, it is a company’s last chance to catch a transaction before it becomes a violation. Instead, a good OFAC compliance program looks to examine compliance both before and after the filtering stage.

One area that has not changed substantially is the risks presented by different geographies and industries. The Middle East (the UAE and Turkey in particular) still remains a key geographic risk concentrated around the sanctions imposed against [Iran](#) and [Syria](#).

At the same time, the nature of Sectoral Sanctions brings about challenges throughout all of Europe, particularly within the energy industry. The changes to [Russian sectoral sanctions](#) that will be implemented in January 2018 further expand the scope of sanctions enforcement to certain oil and gas projects involving prominent Russian entities around the entire globe, as opposed to just those in Russian territory. This expansion only increases the overall risk associated with oil and gas businesses.

One final area that we expect to see sanctions risks intensify is the Chinese cities of [Dalian](#) and [Dandong](#), as those cities are the main conduits to North Korean trade.

Processing all these sanctions risks can be a daunting task. Therefore, it is critical to **first** conduct a [risk assessment](#) of your company and understand where your clients are located, the structure of transactions relating to your business, and the types of products or services in which you deal.

Next, you should inventory your control environment and determine if the risk presented by your business is sufficiently matched with the control environment. If you have numerous clients in the UAE or Turkey, i.e. two major trading partners of sanctioned countries (and Iran in particular), make sure that your Know-Your-Customer (“KYC”) and customer and transaction screening controls are robust. If you distribute oil and drilling equipment, you need to ensure that you know your customer’s activities. You should even know your customer’s top buyers to make sure your customers aren’t re-exporting your products to entities in Iran or Russian entities subject to sectoral sanctions.

With all these changes to sanctions programs and increasing risks, please join us in reading our next post where we will take a prominent North Korean case and show how sanctions compliance should not just rely on using a filter to screen your transactions.



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As the Chief Executive Officer of Guidepost Solutions, I focus on helping corporations resolve problems with government agencies, and ensure they are proactively addressing compliance requirements. Prior to joining the private sector, I held leadership positions with the U.S. Departments of Homeland Security, Commerce, Treasury and Justice. This includes serving as the Head of Immigration and Customs Enforcement, Homeland Security’s largest investigative component, as well as the Assistant Secretary for Export

Enforcement and the Chief of Staff for the Criminal Division at the Department of Justice. Throughout my government and private sector career, I have helped develop, implement and execute compliance programs and crisis management plans and responses across a wide range of industries for numerous companies. I am nationally recognized as a speaker for my expertise on compliance, security, immigration and other law enforcement issues and have testified before Congress.