Agenda

- Overview of OFAC and Economic Sanctions
- Current Sanctions Programs and Recent Updates
- OFAC Compliance Programs
- OFAC Enforcement Process
- OFAC Enforcement Case Study
- Q&A

The information in this presentation is provided for training purposes and does not have the force of law. It is current as of September 14, 2016.
OFAC administers and enforces economic and trade sanctions against targeted:

- Foreign governments
- Individuals
- Entities
- Practices
Who and What Must Comply with OFAC Regulations?

- **Individuals**
  - U.S. citizens and permanent residents located anywhere in the world
  - All individuals – regardless of citizenship – located in the United States

- **Entities**
  - U.S.-incorporated entities (including foreign branches) located anywhere in the world (*plus foreign subsidiaries for Cuba/Iran*)
  - All entities located in the United States

- **Transactions**
  - All transactions that involve – directly or indirectly – the United States or a U.S. person
Comprehensive Sanctions Programs

• Typically entail broad export/import prohibitions targeting a country or geographic region.

• Programs often “block” a sanctioned country’s government and certain parties on OFAC’s SDN List.

• U.S. persons and transactions involving the United States must comply with prohibitions.

• Current comprehensive sanctions programs:
  – Crimea, Cuba, Iran, North Korea, Sudan, Syria.
Targeted / List-Based Sanctions Programs

- Typically entail asset blocking measures targeting individuals and entities identified on OFAC’s SDN List
- U.S. persons are prohibited from dealing with blocked persons: provision or receipt of funds/goods/services prohibited
- *Do not typically involve* export/import prohibitions on a country or region
- *Do not typically involve* many exemptions or general licenses

The information in this presentation is provided for training purposes and does not have the force of law. It is current as of September 14, 2016.
OFAC’s SDN List

• The List of Specially Designated Nationals and Blocked Persons is OFAC’s prohibited parties list

• Identifies several thousand Specially Designated Nationals (SDNs) and blocked persons located all over the world

• Includes individuals, entities, vessels, and banks

• Transactions by U.S. persons and in the United States with blocked persons or SDNs are prohibited

• Updated FREQUENTLY
Exemptions and Licenses

• **Exemption**
  – A category of transaction or activity exempt from prohibition

• **General License**
  – A broad authorization related to a category of transactions or type of conduct – no specific authorization required
  – **Example:** personal remittances authorized under most comprehensive sanctions programs

• **Specific License**
  – A specific authorization issued on a case by case basis
OFAC Overview

Current Comprehensive Sanctions Programs

- Crimea
- Cuba
- Iran
- North Korea
- Sudan
- Syria

The information in this presentation is provided for training purposes and does not have the force of law. It is current as of September 14, 2016.
OFAC Overview

Current Targeted/List-Based Sanctions Programs

- Balkans-Related
- Belarus
- Burma
- Burundi
- Central African Republic
- Counter Narcotics
- Counter Terrorism
- Cyber-Related
- Democratic Republic of the Congo-Related
- Iraq-Related
- Lebanon-Related
- Libya
- Magnitsky
- Non-Proliferation
- Rough Diamond Trade Controls
- Somalia
- South Sudan-Related
- Transnational Criminal Organizations
- Ukraine-/Russia-Related
- Venezuela-Related
- Yemen-Related
- Zimbabwe

The information in this presentation is provided for training purposes and does not have the force of law. It is current as of September 14, 2016.
Sanctions Program Updates

CUBA Updates:
• 2015 – 2016 regulatory changes
• Increased authorizations for U.S. businesses and persons
• **Highlight for MTRA**: remittance dollar limits removed

IRAN Updates:
• 2015 Joint Comprehensive Plan of Action (JCPOA)
• 2016 Implementation Day for JCPOA
• **Highlight for MTRA**: comprehensive sanctions remain in place, but personal remittances remain authorized

NORTH KOREA Updates:
• 2016 shift into a comprehensive sanctions program
• **Highlight for MTRA**: personal remittances authorized

The information in this presentation is provided for training purposes and does not have the force of law. It is current as of September 14, 2016.
OFAC Compliance Programs

- Independent function
- Evaluate controls adequacy
- Identify and remediate program deficiencies

Risk Assessment
- Customer Risk
- Product Risk
- Geographic Risk

Independent Testing/Audit
- Frequency and scope
- Clear goals and objectives
- Adequate staffing levels

Internal Controls
- Policies and procedures
- Screening (trns & accts)
- CDD/KYC/DD/EDD

Training & Personnel

The information in this presentation is provided for training purposes and does not have the force of law. It is current as of September 14, 2016.
OFAC Risk Assessment

• Size and location
  – The company and its business operations

• Customer base
  – How well does the company know its customers?

• Partners
  – Brokers, intermediaries, suppliers

• Products and Transactions
  – Complexity, cross-border, potential diversion, transparency

The information in this presentation is provided for training purposes and does not have the force of law. It is current as of September 14, 2016.
<table>
<thead>
<tr>
<th>Policies</th>
<th>Procedures</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>What the company should be doing (or not doing)</em></td>
<td><em>Steps to ensure compliance with policies and mitigate risk</em></td>
</tr>
<tr>
<td>• Can be broad or narrow</td>
<td>• Easy to follow, step-by-step instructions for each process</td>
</tr>
<tr>
<td>• Clearly communicate goals</td>
<td>• Work in tandem with policies</td>
</tr>
<tr>
<td>• Support from senior management – creation and implementation</td>
<td>• Staff input helps develop effective procedures</td>
</tr>
<tr>
<td>• Evolve as needed</td>
<td>• Evolve with policies &amp; systems</td>
</tr>
</tbody>
</table>

The information in this presentation is provided for training purposes and does not have the force of law. It is current as of September 14, 2016.
OFAC Internal Controls

OFAC Procedures

1. Identify suspect transactions/parties
2. Investigate potential sanctions nexus
3. Initiate contact with OFAC (as appropriate)
4. Document the incident

The information in this presentation is provided for training purposes and does not have the force of law. It is current as of September 14, 2016.
Designating a Compliance Officer

• Should be knowledgeable about OFAC regulations

• Should maintain strong lines of communication within the company and across business units

• Should develop a written compliance program that includes policies and procedures

• Should have authority over the business lines, senior management support, and a designated back-up officer
OFAC Training and Personnel

OFAC Training Program

- General training to all employees
- Comprehensive training to all employees in high risk areas
- Annual (or more frequent) refreshers
- Timely updates when OFAC issues a new sanctions program, changes an existing program, or publishes new guidance
- Incentivize employees so that they invest in their OFAC training

The information in this presentation is provided for training purposes and does not have the force of law. It is current as of September 14, 2016.
OFAC Testing and Audit

Testing and Audit Goals

Evaluate effectiveness of program
- What is working and what needs improvement?

Identify deficiencies and test remedial measures
- Did the measures fix the problem?
- Will they prevent future problems?

Understand emerging risks and trends
- Informs necessary updates
OFAC Testing and Audit

OFAC Compliance Program Components Subject to Testing

- Filtering program
- System performance
- Risk assessment and matrices
- Policies and procedures
- Escalation process

- Internal communication
- External communication
- Record-keeping
- OFAC licenses
- Training program
- Plans for improvement

The information in this presentation is provided for training purposes and does not have the force of law. It is current as of September 14, 2016.
OFAC Enforcement Process

How Does OFAC Learn of an Apparent Violation?

- **Reports** of Blocked or Rejected Property
- Voluntary self-disclosures (**VSDs**)
- Ongoing or existing **cases**
- Informants and **tips**
- **Research** or other publicly available information
- **Referrals** from other agencies – including yours!
  - Federal and state regulators, foreign regulators, law enforcement

The information in this presentation is provided for training purposes and does not have the force of law. It is current as of September 14, 2016.
OFAC Enforcement Process

OFAC’s Subpoena Authority

If OFAC requires additional information regarding an apparent violation, it may compel information from the Subject Person or third parties by issuing an administrative subpoena pursuant to 31 CFR part 501.602.

OFAC subpoenas typically require a response within 30 calendar days of the date of issuance.

OFAC may issue an extension to the response deadline pursuant to a written request from the Subject Person.

The information in this presentation is provided for training purposes and does not have the force of law. It is current as of September 14, 2016.
OFAC’s Economic Sanctions Enforcement Guidelines

• OFAC’s Enforcement Guidelines are a general framework for the enforcement of all sanctions programs administered by OFAC.

• The Enforcement Guidelines clarify critical components of OFAC’s enforcement process:
  – Definitions
  – Types of enforcement responses
  – Factors OFAC will evaluate
  – Civil penalties information

• The Enforcement Guidelines apply to both OFAC’s financial sector and non-financial sector enforcement processes.
OFAC Enforcement Process

Sanctions Enforcement Options: By Severity

- No Action Letter
- Cautionary Letter
- Finding of Violation
- Civil Penalty
- Criminal Referral

The information in this presentation is provided for training purposes and does not have the force of law. It is current as of September 14, 2016.
OFAC Enforcement Process

Sanctions Enforcement Options: By Volume

- No Action Letter
- Cautionary Letter
- Civil Penalty: Settlement
- Civil Penalty: Penalty
- Finding of Violation
- Criminal Referral

The information in this presentation is provided for training purposes and does not have the force of law. It is current as of September 14, 2016.
OFAC Enforcement Process

OFAC’s Penalty Matrix

<table>
<thead>
<tr>
<th>Egregious Case</th>
<th>Voluntary Self-Disclosure</th>
</tr>
</thead>
<tbody>
<tr>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>1</td>
<td>One-Half of Transaction Value</td>
</tr>
<tr>
<td></td>
<td>Capped at $125,000 per violation</td>
</tr>
<tr>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>2</td>
<td>Applicable Schedule Amount</td>
</tr>
<tr>
<td></td>
<td>Capped at $250,000 per violation</td>
</tr>
<tr>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>3</td>
<td>One-Half of Statutory Maximum</td>
</tr>
<tr>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>4</td>
<td>Statutory Maximum</td>
</tr>
</tbody>
</table>

*The base penalty amount will not exceed the applicable statutory maximum amount.*

The information in this presentation is provided for training purposes and does not have the force of law. It is current as of September 14, 2016.
Statutory Maximum Penalties

- **TWEA (Trading With the Enemy Act)**
  - Statutory maximum penalty: **$65,000 per transaction**
  - Sanctions program affected: Cuban Assets Control Regulations

- **Foreign Narcotics Kingpin Act**
  - Statutory maximum penalty: **$1,075,000 per transaction**
  - Sanctions program affected: Foreign Narcotics Kingpin Sanctions Regulations

  - Statutory maximum penalty: **$250,000 per transaction OR twice the value of the transaction (whichever is greater)**
  - Sanctions programs affected: all others

The information in this presentation is provided for training purposes and does not have the force of law. It is current as of September 14, 2016.
**OFAC Enforcement Process**

**Sample Penalty Calculation (IEEPA Violations)**

<table>
<thead>
<tr>
<th>Amount</th>
<th>Box #1</th>
<th>Box #2</th>
<th>Box #3</th>
<th>Box #4</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1,000</td>
<td>$500</td>
<td>$10,000</td>
<td>$125,000</td>
<td>$250,000</td>
</tr>
<tr>
<td>$10,000</td>
<td>$5,000</td>
<td>$25,000</td>
<td>$125,000</td>
<td>$250,000</td>
</tr>
<tr>
<td>$100,000</td>
<td>$50,000</td>
<td>$170,000</td>
<td>$125,000</td>
<td>$250,000</td>
</tr>
<tr>
<td>$1,000,000</td>
<td>$125,000</td>
<td>$250,000</td>
<td>$1,000,000</td>
<td>$2,000,000</td>
</tr>
<tr>
<td>$10,000,000</td>
<td>$125,000</td>
<td>$250,000</td>
<td>$10,000,000</td>
<td>$20,000,000</td>
</tr>
</tbody>
</table>

**Total Trn Value:** $11,100,000

**Box 1 Penalty:** $305,500

**Box 2 Penalty:** $705,000

**Box 3 Penalty:** $11,375,000

**Box 4 Penalty:** $22,750,000

*Note: the same set of transactions could result in very different penalty amounts*

The information in this presentation is provided for training purposes and does not have the force of law. It is current as of September 14, 2016.
The General Factors Affecting Administrative Action

- OFAC’s Enforcement Guidelines outline 10 **General Factors Affecting Administrative Action** that OFAC must analyze.
- OFAC’s egregiousness determination relies primarily on General Factors A, B, C, and D.
- The base penalty amount may be adjusted to reflect applicable General Factors.
- Each factor may be considered mitigating or aggravating, resulting in a lower or higher proposed penalty amount.
- Neither the Base Penalty nor the Proposed Penalty can exceed the applicable statutory maximum amount.

The information in this presentation is provided for training purposes and does not have the force of law. It is current as of September 14, 2016.
General Factors Affecting Administrative Action

• A. Willful or Reckless Violation of Law
• B. Awareness of Conduct at Issue
• C. Harm to Sanctions Program Objectives
• D. Individual Characteristics
• E. Compliance Program
• F. Remedial Response
• G. Cooperation with OFAC
• H. Timing of Apparent Violation in Relation to Imposition of Sanctions
• I. Other Enforcement Action
• J. Future Compliance/Deterrence Effect
• K. Other Relevant Factors

The information in this presentation is provided for training purposes and does not have the force of law. It is current as of September 14, 2016.
# OFAC Enforcement Process

## Non-Public Enforcement Actions
- No Action Letter
- Cautionary Letter
- Pre-Penalty Notice

## Public Enforcement Actions
- Settlement
- Civil Monetary Penalty
- Finding of Violation

### Non-public actions are available only to the subject institution and OFAC

Pursuant to a **Memoranda of Understanding (MOU)** OFAC may share non-public (and public) actions with an institution’s regulator.

### Public actions are posted on OFAC’s website with a summary of the transactions giving rise to the violations or apparent violations and related conduct.

OFAC may also publish settlement agreements.

---

The information in this presentation is provided for training purposes and does not have the force of law. It is current as of September 14, 2016.
OFAC Enforcement Process

**OFAC/Regulator MOUs**

Examination authority for OFAC compliance programs is delegated to state and federal regulatory agencies.

MOUs are formal agreements that set out procedures for the exchange of certain information between regulatory authorities and OFAC.

Information can go either from **OFAC to the regulator** or from the **regulator to OFAC**.

---

**MEMORANDUM OF UNDERSTANDING**

U.S. Department of the Treasury, Office of Foreign Assets Control
Arizona Department of Financial Institutions

I. Background

A. Purpose

This Memorandum of Understanding ("MOU") sets forth procedures for the exchange of specified information between the Arizona Department of Financial Institutions ("State Agency") and the Office of Foreign Assets Control ("OFAC"), an office within the U.S. Department of the Treasury (collectively, the "Agencies").

State Agency has examination and enforcement authority for the financial condition, safe and sound operation, and compliance with laws and regulations of the banking organizations it supervises. Under delegated authority from the Secretary of the Treasury, OFAC furthers U.S. foreign policy and national security goals by administering and enforcing economic and trade sanctions against targeted foreign countries, groups, and persons subject to 31 C.F.R. Ch. V, Office of Foreign Assets Control Regulations.¹

Information to be shared under this MOU includes information about OFAC’s administration and enforcement of economic sanctions, information about compliance with OFAC requirements by banking organizations supervised by State Agency, and to the extent permitted by law, including the Right to Financial Privacy Act (12 U.S.C. 3401, et seq.), information about possible violations of OFAC sanctions by banking organizations supervised by State Agency. As used in this MOU, the term "banking organizations" means Arizona state-chartered banks, state-chartered trust companies, state-chartered credit unions, and state-chartered money service businesses.

The sharing of information under this MOU is intended to help OFAC in fulfilling its role as administrator and enforcer of economic sanctions and to assist State Agency in fulfilling its roles as banking organization supervisors.

B. Assessment of MOU Operation

The Agencies shall meet, as necessary, to discuss the operation of the MOU and to identify any issues or adjustments that may be required. During such meetings, OFAC will provide an update on how the information provided by State Agency under this MOU has been used or applied by OFAC. The Agencies will also evaluate the effectiveness of the information sharing in meeting the goals outlined above.

¹ See 31 C.F.R. Part 501.
Enforcement Case Study

2015 Settlement Between OFAC and an MSB

- As part of a larger settlement with the MSB, OFAC highlighted a specific set of problematic transactions in its public web posting:
  - **136 transactions** totaling approximately $7,000
  - Transactions occurred between **October 2009 and April 2013**
  - OFAC determined the transactions were **voluntarily self-disclosed** and constituted an **egregious case**
  - The base penalty amount was **$17,000,000**
  - OFAC published a statement of facts and its analysis of the MSB’s conduct

The information in this presentation is provided for training purposes and does not have the force of law. It is current as of September 14, 2016.
Enforcement Case Study

Timeline of Events

- **Pre-January 12, 2009** – MSB opens account for Kursad Zafer Cire
- **January 12, 2009** – Cire is designated and added to SDN List
- **July 30, 2009** – MSB’s filter flags account holder as a potential SDN
- **September 3, 2009** – MSB’s filter flags account holder again
- **October 21, 2009** – MSB’s filter flags account holder again
- **October 24, 2009** – MSB’s filter flags account holder again
- **November 16, 2009** – MSB’s filter flags account holder again
- **February 14, 2013** – MSB’s filter flags account holder again
- **April 3, 2013** – MSB’s filter flags account holder again and the MSB appropriately blocks the account and reports it to OFAC

The information in this presentation is provided for training purposes and does not have the force of law. It is current as of September 14, 2016.
Enforcement Case Study

Egregiousness Determination

• ...the MSB demonstrated a reckless disregard for U.S. economic sanctions requirements...

• ... employees cleared name matches against Cire’s account on six separate occasions...

• The conduct was particularly reckless... after September 3, 2009 – the date that an MSB agent dismissed the second alert...

• ... engaged in a pattern of conduct by repeatedly ignoring certain warning signs about potential matches to the SDN List...

• ... the MSB provided economic benefit to Cire...

• ... multiple MSB agents failed to adhere to the MSB’s policies and procedures pertaining to SDN match escalation.

The information in this presentation is provided for training purposes and does not have the force of law. It is current as of September 14, 2016.
OFAC adjusted the base penalty amount of the case after evaluating the General Factors.

The final settlement amount (which also included a separate set of apparent violations) was approximately **$7.6 million**
Thank you!

OFAC Compliance Hotline Contact Information
1-202-622-2490
1-800-540-6322
OFAC_Feedback@treasury.gov