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8 Key Takeaways | Part One – 2024 Roundup: Key Takeaways from U.S. Sanctions Enforcement Actions and 2025 Predictions

by Mauricio Escobar

Throughout 2024, the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC") published 12 enforcement actions regarding alleged sanctions violations by foreign and domestic persons and entities. In a two-part series, Kilpatrick's **Mauricio Escobar** provides some notable takeaways from those enforcement actions including perspectives on what the sanctions enforcement landscape for 2025 and beyond may look like.

Here is part one, which includes four of the eight key takeaways:

1. U.S. entities doing business with non-blocked entities must ensure that they comply with all aspects of the sectoral sanctions regime.
In July, OFAC announced a settlement agreement with a Massachusetts-based Financial Institution, on behalf of itself and its non-bank technology subsidiary. The Financial Institution agreed to pay over $7.4 million to settle potential civil liability for 38 apparent violations of OFAC's Ukraine-/Russia-Related Sanctions Regulations. The apparent violations involved conduct prohibited by Directive 1 of Executive Order 13662. Directive 1 is considered a "less-than-blocking" measure that prohibits U.S. persons from certain dealings in new debt of entities identified by OFAC under the directive beyond specified periods of maturity—90, 30, or 14 days depending on when the new debt was issued. Under OFAC's guidance in FAQ 419, the issuance of an invoice represents a dealing in debt for Directive 1 purposes. Between 2014 and 2020, the Subsidiary received invoice payments from its customers subject to the Directive 1 prohibitions ("SSI Customers") through U.S. financial institutions. The U.S. financial institutions requested copies of related payment documentation from the Subsidiary, including applicable invoices and underlying customer contracts. The Subsidiary staff redated and reissued old invoices, which disguised their original dates of issuance and made them appear more recent. The Subsidiary submitted the altered invoices to the U.S. financial institutions to prevent them from rejecting the SSI Customers' late payments. The Subsidiary also accepted multiple late payments that occurred outside of the payment windows established under Directive 1. OFAC noted that this enforcement action is a reminder that companies cannot avoid the "new debt" restrictions imposed under Executive Order 13662 by simply reissuing and redating older, unpaid invoices.

2. International transactions that touch U.S. commerce or in which a U.S. person is involved are likely subject to U.S. sanctions.

In March, OFAC announced its first enforcement action involving sanctions designation under Executive Order 14024, which has been implemented in the Russian Harmful Foreign Activities Sanctions Regulations ("RuHSR"). The enforcement action involved a Swiss-based private banking conglomerate and its settlement of civil liability arising from 873 securities-related transactions involving the bank's sanctioned customers in violation of the RuHSR and other sanctions regimes. The bank offered wealth management services, including trading in securities, and relied on consolidated omnibus accounts in the names of its foreign subsidiaries (and not its underlying clients) to manage securities held for the benefit of its customers. Given the structure of the omnibus accounts, U.S. custodians and other U.S. counterparties (including a U.S. subsidiary of the bank) did not have visibility into the ultimate beneficiaries of the trading activities. OFAC alleged that between approximately January 2014 and September 2023 the bank caused U.S. parties to process 873 securities-related transactions on behalf of sanctioned parties. OFAC indicated that foreign financial institutions should ensure risk-based controls are in place to prevent U.S. parties from inadvertently providing services to sanctioned parties or jurisdictions, such as where account structures are involved that lack direct insight into underlying sub-accounts.

In a separate June enforcement action, OFAC settled with an Italian animation company for its potential civil liability for alleged violations of North Korean sanctions. Between May 2019 and November 2021, the Italian company had business dealings with a North Korean government-owned animation firm. The Italian Company remitted payments by initiating wire transfers ultimately destined to the North Korean firm that were processed by or settled at U.S. financial institutions. In making these payments, the Italian company violated U.S. sanctions by causing a U.S. financial institution to deal in the blocked property or interests in property of the North Korean government and exporting financial services to North Korea, which would have been prohibited by U.S. sanctions if engaged by a U.S. person directly.

In December, OFAC announced a settlement reached with a Germany-based company to resolve its potential civil liability for an alleged violation of OFAC sanctions relating to Iran. In or around 2015, an Australian-incorporated company contracted with an unnamed U.S. broker to broker the resale of a decommissioned polypropylene plant located in Australia. The U.S. broker identified the German company as the purchaser and entered into an agreement with the company to sell the plant. The German company was tasked with dismantling the plant. On multiple occasions, the German company represented to the U.S. broker that the plant would be set up in Turkey and run as a joint venture with a Turkish company. But instead, the German company conspired with its Iranian subsidiary and Petro-Iranian Downstream Industries Development Co. ("PIDID") to divert the plant to Iran. The U.S. broker

repeatedly reminded the German company of its obligations under U.S. law, including, as stated in the purchase agreement, to comply with U.S. sanctions. In 2018, after receiving an anonymous tip indicating that the German company had entered into an agreement with PIDID to divert the plant parts, the U.S. broker suspended the German company's access to the plant, which was still being dismantled. The German company used falsified bills of lading, declarations, and other documents to reassure the U.S. broker and access to the plant was restored. OFAC's jurisdiction over this matter was based on the German company having "cause[d] a U.S. Company to indirectly sell and supply an Australian polypropylene plant to Iran" and making payments to the U.S. broker's U.S. bank, including two payments to the London branch of that bank.

3. U.S. companies acquiring non-U.S. firms should establish appropriate compliance controls and training as soon as possible after acquisition; Violations of Iran and Cuba sanctions regimes can apply to foreign subsidiaries of U.S. entities and expose U.S. owners to potential civil liability, even if the import or export activities do not involve the U.S.

In December, OFAC announced a settlement reached with a Minnesota-based global transportation and logistics company to settle its potential civil liability for alleged violations of U.S. sanctions against Iran and Cuba by five of its non-U.S. subsidiaries. The Company acquired foreign freight brokerage and transport subsidiaries in China, Spain, Peru, Canada, and Australia. Due to a lag in transitioning the subsidiaries' brokerage management systems into the company's systems, the subsidiaries failed to screen adequately for U.S. sanctions violations. The violations occurred over a period of 3 years, consisting of freight brokerage and transportation services for 82 shipments to or from Iran, involving Iranian- or Cuban-origin goods as well as transactions with an Iranian airline. OFAC found that the subsidiaries used their own operating systems from the time of their acquisitions until at least 2022, when an audit by the company's export compliance team discovered the alleged OFAC violations by the acquired subsidiaries.

4. Companies operating in sensitive industries and high-risk jurisdictions should implement ongoing risk-based screening over the course of a transaction's life cycle to avoid inadvertent violations.

In December, OFAC announced a settlement reached with a New York-based company that supplies aviation products including avionic equipment and instruments, engine parts and tools, to resolve its potential civil liability related to 6 alleged sanctions violations involving Russia's aerospace and technology sectors. Between January 10, 2024, and March 18, 2024, the company made shipments and attempted refunds to two UAE based entities after they had been added to OFAC's Specially Designated Nationals and Blocked Persons List ("SDN List") for operating in the technology and aerospace sectors of the Russian economy. The two entities had been onboarded and screened prior to their designations on the SDN List. OFAC noted that the company had, at one point, a compliance protocol that did not

require the re-screening of previously approved entities. As a result, when the company made shipments and attempted refund payments to the two blocked entities, it did so without re-screening for sanctions issues and without any other sanctions compliance measures with respect to the refund payments. The downstream bank subsequently blocked the refund payment transactions.

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