Insights: Alerts

How to Promote Compliance and Mitigate Risks from Task Force KleptoCapture During the Evolving U.S. Economic Campaign

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The U.S. sanctions and restriction landscape is evolving as the invasion of Ukraine continues. The U.S. interagency law enforcement task force, announced by the DOJ last week, will target crimes of Russian officials, government-connected individuals, some of their family members as well as entities that unlawfully support them. As the Biden administration continues with its economic campaign against Russia, Task Force KleptoCapture will investigate matters and enforce those economic regulations and restrictions along with other related crimes. Late last week, the Biden administration asked Congress for $10 billion to aid Ukraine, which includes $59 million for the new task force.[1]

The task force is made up of prosecutors, agents, analysts and professional staff across the DOJ, who are experts in:

- Sanctions;
- Export controls enforcement;
- Anti-corruption;
- Asset forfeiture;
- Anti-money laundering;
- Tax enforcement;
- National security investigations; and
- Foreign evidence collection.[2]

The task force will investigate and prosecute violations of:

- Current, new and future sanctions imposed due to Russian aggression, corruption and the Ukraine invasion;
- Actions to undermine the restrictions against the Russian financial institutions, including false statements to financial institutions and bank fraud; and
- Efforts to use cryptocurrency to evade U.S. sanctions, launder corruption proceeds or evade U.S. responses to Russian aggression.

It will also use civil and criminal asset forfeiture laws to seize assets from unlawful conduct, including real estate as well as commercial and financial assets.[3]

The DOJ made clear that the task force will rely on data analytics, cryptocurrency tracing, foreign intelligence sources, and information from financial regulators and private sector partners to identify sanctions evasion and related criminal conduct.[4] The task force will coordinate with the transatlantic task force, initiated on February 26, 2022, with representatives from the European Commission, France, Germany, Italy, the United Kingdom and Canada,

which will focus on identifying, freezing and seizing assets of sanctioned individuals and companies.[5]

How can entities continue to protect themselves from the impact of the evolving U.S. sanctions and economic campaign?

1) Map out your corporate touchpoints with Russian, Ukrainian and Belarusian entities, customers, vendors, suppliers and agents.

- As recommended by our firm's recent Legal Alert “Revisiting Sanctions and Export Control Compliance in the Face of Conflict,” determine whether any of these individuals, entities or their financial institutes are identified on any applicable sanctions lists.[6]
- Double-check whether the applicable sanctions lists prohibit certain transactions with or services to the industries with which the entities and individuals are associated. For example, without a license, a U.S. person/entity cannot directly or indirectly export certain types of U.S. technology to the Russian defense, aerospace and maritime sectors even if specific Russian entities in those sectors are not listed explicitly on the lists.
- Reach out to high-risk distributors and dealers to understand whether they have appropriately checked how your indirect customers (their direct customers) are affected by the applicable sanctions prohibitions.
- Ensure that your company has a solid understanding of where raw materials originate, and whether any suppliers in their supply chain are affected by the applicable sanctions.

2) After you've identified your touchpoints, determine who within and outside of the company needs to be aware of these prohibitions and challenges as well as what your corporate values and standards require.

- Departments such as Accounts Payable, Accounts Receivable, Procurement, Sales, and Risk Management all need to understand any restrictions and red flags to raise to the Compliance and Legal departments.
- Externally, ensure your high-risks business partners, such as distributors, dealers and agents understand and comply with the restrictions.

3) If based on your mapping, your company discovers it needs to mitigate any compliance risks with customers and business partners, determine whether any of these tools can provide your company further protection:

- Training or compliance reminders to key internal departments on the importance of due diligence (including “know your customer”), sanctions screening and raising compliance red flags. If your company is switching business partners given the sanctions or for other reasons, be sure to follow your due diligence procedures and that you receive the appropriate compliance certifications.
- Remind key business partners of your Supplier Code of Conduct or specific contractual provisions related to compliance with laws, international trade, anti-corruption, anti-bribery and anti-money laundering.
- Remind internal personnel, business partners and customers that all business-related communications should be on company platforms and company-approved devices.
- Review your Supplier Code of Conduct, business partner and customer-related policies as well as other high-risk agreements to understand whether there are any compliance gaps that need to be filled.

Footnotes

[1] Robert Schroeder, *White House's $10 billion Ukraine-aid request would help fund 'KleptoCapture' task force targeting Russian oligarchs*, MARKETWATCH (March 3, 2022, 2:20 pm ET), https://www.marketwatch.com/story/white-houses-10-billion-ukraine-aid-request-would-help-fund-kleptocapture-task-force-targeting-russian-oligarchs-11646323771.

[2] Press release, U.S. Department of Justice, Attorney General Merrick B. Garland Announces Launch of Task Force KleptoCapture (March 2, 2022), https://www.justice.gov/opa/pr/attorney-general-merrick-b-garland-announces-launch-task-force-kleptocapture.

[3] *Id*.

[4] *Id*.

[5] *Id*. Press release, The White House, Joint Statement on Further Restrictive Economic Measures (February 26, 2022), https://www.whitehouse.gov/briefing-room/statements-releases/2022/02/26/joint-statement-on-further-restrictive-economic-measures/.

[6] Gunjan Talati, Mauricio Escobar and Emilia Stromberg, Revisiting Sanctions and Export Control Compliance in the Face of Conflict (February 25, 2022).