



# Sanctions Risk Management Symposium

in cooperation with **COMPLIANCE WEEK** 

September 18, 2017 1:30 PM – 2:30 PM

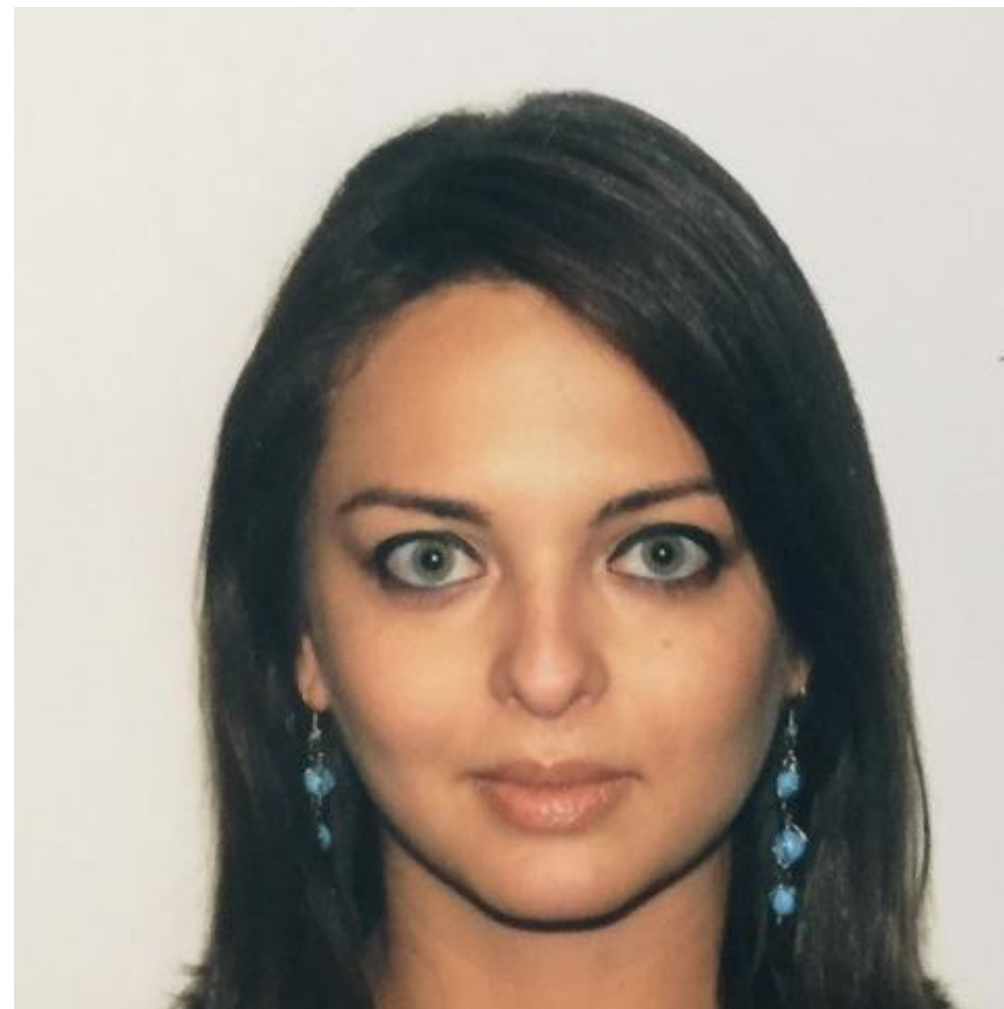
## **Navigating Increasingly Complex Sanctions Regimes Against Iran, Russia and Cuba: Hot Button Issues**

**Elika Eftekhari**  
Director of Trade  
Compliance  
US-Iran Chamber of  
Commerce

**John Boscariol,**  
Partner  
McCarthy Tétrault  
*(Moderator)*

**Andy Gelinis**  
Executive Director, Global  
Financial Crimes Legal  
Advisory Group  
Morgan Stanley

**Richard Nephew**  
Adjunct Professor & Senior  
Research Scholar, School of  
International and Public Affairs  
Columbia University

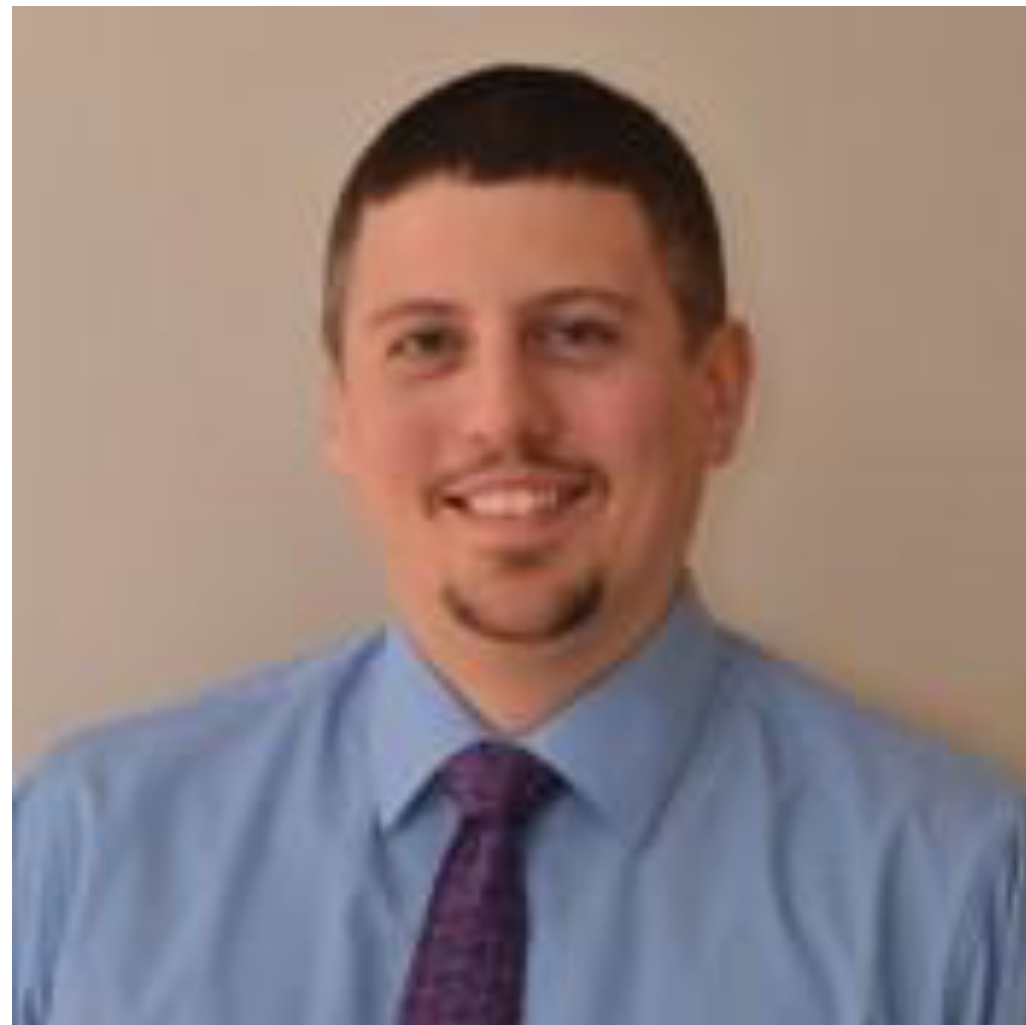


**Erika Eftekhari**

**Director of Trade Compliance**

**US-Iran Chamber of Commerce**

**Overview of Iran Sanctions and How to  
Do Due Diligence**



## **Richard Nephew**

Adjunct Professor & Senior Research  
Scholar, School of International and Public  
Affairs  
Columbia University

**Issues that arise with Iran Sanctions: What happens if the JCPOA is not certified and beyond**

## Joint Comprehensive Plan of Action – Relevant U.S. Deadlines and Timetable

15 October 2017	Certification of Iranian JCPOA compliance due under Iran Nuclear Agreement Review Act of 2015 (INARA)
31 October 2017	Mandatory imposition of sanctions on the Iran Revolutionary Guard Corps (IRGC) for terrorism and against human rights violators under Countering Iranian Destabilizing Activities (CIDA) Act; report on U.S. citizens detained in Iran due
14 November 2017	Renewal of 1979 U.S. National Emergency with Respect to Iran
12 January 2018	Next waiver of U.S. sanctions on Iranian oil exports due
13 January 2018	Certification of Iranian JCPOA compliance due under INARA, as well as next waiver of rest of relevant U.S. sanctions





## **Andy Gelinis**

**Executive Director, Global Financial  
Crimes Legal Advisory Group  
Morgan Stanley**

### **Russia Sanctions: Transactional Due Diligence Considerations for Financial Institutions**

The Russia/Ukraine-related sanctions program is highly complex and evolving, posing unique due diligence challenges for Russia-related lending/financing transactions, asset sales, capital markets and M&A transactions, etc.

- “Comprehensive” sanctions /embargo (Crimea)
- “Selective” blocking sanctions (SDN designations of numerous individuals and entities)
- “Sectoral” sanctions (“SSI Entities”)
  - Directive 1 (Financial Services): new debt > 30/14\* days; new equity
  - Directive 2 (Energy): new debt > 90/60\* days
  - Directive 3 (Defense): new debt > 30 days
  - Directive 4 (Energy): deepwater, Arctic-offshore and shale oil projects involving SSI Entities -- both inside and outside of Russia\*
  - CAATS 2017: Russian energy export pipelines, intelligence and defense, etc.\*

\* Upon implementation required by the Countering America’s Adversaries Through Sanctions Act



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# Questions?

## **Bonus Slides**

Provided by



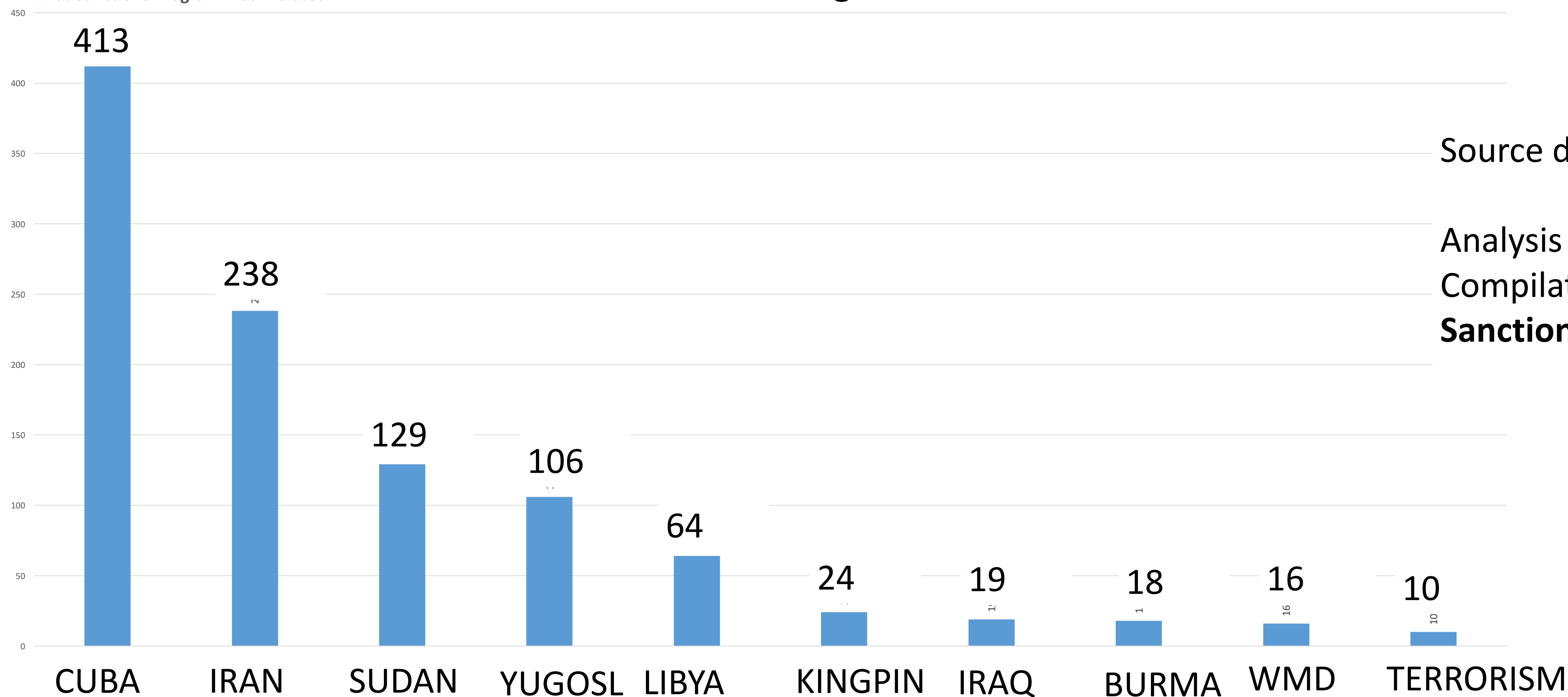
**SanctionsAlert.com**



# OFAC Enforcement Actions 2003 – Sept. 2017

## What Sanctions Program Was Violated?

What Sanctions Program Was Violated



Source data: OFAC

Analysis and  
Compilation by  
**SanctionsAlert.com**

## Joint Comprehensive Plan of Action (JCPOA)

- July 2015
- Phased sanctions relief for Iran
- P5+1 (China, France, Germany, Russia, UK and US), EU and Iran
- January 2016: “Implementation Day”
- U.S. sanctions relief under the JCPOA can be “snapped back” if Iran fails to comply with the JCPOA.
- <http://www.state.gov/e/eb/tfs/spi/iran/jcpoa/index.htm>

## August 2017 U.S. Sanctions Against Venezuela

Impacting oil company Petroleos de Venezuela (PdVSA), and other Venezuelan government entities.

As sanctions were *not* “list-based” they place heavy burdens on compliance and due diligence programs for companies and financial institutions doing business with the Venezuelan government and related entities.

## U.S. Sanctions Against Cuba

- Based on Trading with the Enemy Act (TWEA)
- Several regulatory amendments since December 2014
- Embargo still in place
- U.S. depository institutions can maintain correspondent accounts at Cuban financial institutions to facilitate authorized transactions (Travel related, permitted export)
- Does *not* permit Cuban financial institution to open correspondent account at U.S. financial institution



## Customer Due Diligence (CDD)

- Compilation of facts about a customer, prospect or business partner
- Enables a company or financial institution to assess the extent to which this entity or person exposes it to a range of risks
- Includes money laundering, terrorist financing and sanctions risks.
- Use of risk-based approach

## Secondary Sanctions

- Also called “**extraterritorial**” sanctions;
- Extend power of U.S. law indirectly, to non-U.S. firms;
- May directly prohibit **foreign subsidiaries** of U.S. companies from engaging in certain types of activity;
- May indirectly target **non-U.S. firms** by trying to restrict their access to the U.S. market;
- Create risk areas for non-U.S. companies.



## Sectoral Sanctions Identifications (SSI) List

- Entities on SSI List do not face asset freezes, and U.S. persons are *not* strictly prohibited from dealing with them.
- They are subject to restrictions regarding access to certain types of financing and, in some cases, access to U.S. exports.
- Entities of which 50 % or more is owned by a SSI listed entity are also subject to “sectoral” sanctions pursuant to OFAC’s 50 % rule.

## OFAC's 50% Rule

- Any entity **owned** in the aggregate, directly or indirectly, 50 % or more by one or more blocked persons, is itself considered to be a blocked person.
- Rule speaks only to ownership and not to control.
- A U.S. person may not engage in any transactions with such an entity, unless authorized by OFAC.
- Rule applies to entities on both the SDN List and SSI List.