Sanctions Risk Management Symposium


September 18, 4:45 – 5:30 PM
Sanctions Risk Management Symposium

in cooperation with COMPLIANCE WEEK

Moderator

Ross Marrazzo
Managing Director, Chief Compliance Officer
Treliant Risk Advisors

Panelists

Julie Myers Wood
Chief Executive Officer
Guidestep Solutions LLC

Karen Robertson
Global Trade Compliance Manager
Uber Technologies, Inc.
Karen Robertson

Global Trade Compliance Manager
Uber Technologies, Inc.
Most Common Risk Assessment Missteps with Regulators

• Incorrect Risk Rating Methodology
  • Assessing Relevant Risk Areas

• Failing to Assess Topics of Interest to Regulators
  • OFAC
  • AML, Export, Anticorruption

• Misrepresenting Data or Results
  • Data Quality
  • Expert Judgment

• Lack of Senior-Level Ownership
  • Must Show Involvement

• Failing to Act on the Results
  • Implementation of Action Plans
Sanctions Risk Management Symposium

Questions?
### Base Penalty Matrix from OFAC Enforcement Guidelines

#### BASE PENALTY MATRIX

<table>
<thead>
<tr>
<th>Egregious Case</th>
<th>NO</th>
<th>YES</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>YES</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Voluntary Self- Disclosure</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>NO</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1. **One-Half of Transaction Value**
   - (1) (capped at $125,000 per violation/ $32,500 per TWEA violation)

2. **Applicable Schedule Amount**
   - (2) (capped at $250,000 per violation/ $65,000 per TWEA violation)

3. **One-Half of Applicable Statutory Maximum**
   - (3)

4. **Applicable Statutory Maximum**
   - (4)
Financial Crimes Enforcement Network (FinCEN)

- Part of U.S. Treasury
- Established in 1990
- Safeguards the financial system from illicit use and combats money laundering and promotes national security through the collection, analysis, and dissemination of financial intelligence and strategic use of financial authorities.

www.fincen.gov
**BIS Enforcement Guidelines**

- **Guidance on Charging and Penalty Determinations in Settlement of Administrative Enforcement Cases**
- Revised June 22, 2016
- Promotes greater transparency and predictability to the administrative enforcement process.
### OFAC Enforcement Actions 2003 – Sept. 2017

#### What Sanctions Program Was Violated?

<table>
<thead>
<tr>
<th>Program</th>
<th>Violations</th>
</tr>
</thead>
<tbody>
<tr>
<td>CUBA</td>
<td>413</td>
</tr>
<tr>
<td>IRAN</td>
<td>238</td>
</tr>
<tr>
<td>SUDAN</td>
<td>129</td>
</tr>
<tr>
<td>YUGOSL</td>
<td>106</td>
</tr>
<tr>
<td>LIBYA</td>
<td>64</td>
</tr>
<tr>
<td>KINGPIN</td>
<td>24</td>
</tr>
<tr>
<td>IRAQ</td>
<td>19</td>
</tr>
<tr>
<td>BURMA</td>
<td>18</td>
</tr>
<tr>
<td>WMD</td>
<td>16</td>
</tr>
<tr>
<td>TERRORISM</td>
<td>10</td>
</tr>
</tbody>
</table>

Source data: OFAC

Analysis and Compilation by SanctionsAlert.com
Inherent Risk

Represents the exposure to money laundering, **sanctions** or bribery and corruption risk in the absence of any control environment being applied.

Source: Wolfsberg FAQs on Risk Assessments for ML, Sanctions and Bribery & Corruption
Residual Risk

The risk that remains after controls are applied to the inherent risk. It is determined by balancing the level of inherent risk with the overall strength of the risk management activities/controls. The residual risk rating is used to assess whether the ML risks within the FI are being adequately managed.

Source: Wolfsberg FAQs on Risk Assessments for ML, Sanctions and Bribery & Corruption
Risk Assessment

An exercise used to identify key risks faced by the firm and to test the controls that a firm has in place to mitigate these risks. Risks can be both external and internal to the firm. The risk assessment aims to measure the total exposure a firm has to the risks it faces and to plan actions to reduce these risks.

Source: Wolfsberg FAQs on Risk Assessments for ML, Sanctions and Bribery & Corruption
Wolfsberg: Conventional ML/TF/Sanctions/ABC Risk Assessment Methodology

Inherent Risk
- Control Effectiveness
  - Governance
  - Policies & Procedures
  - KYC/Due Diligence
  - Other Risk Assessments
  - Management Information
  - Record Keeping/Retention
  - AML Unit
  - SAR Filings
  - Monitoring & Controls
  - Controls
  - Training
  - Independent Testing

Residual Risk
- Strategic Actions
- Tactical Actions
- Risk Appetite

Source: Wolfsberg FAQs on Risk Assessments for ML, Sanctions and Bribery & Corruption
### 3-tier Residual / Risk Rating Approach

<table>
<thead>
<tr>
<th>Inherent Risks</th>
<th>Controls Strength</th>
<th>Residual Risks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low</td>
<td></td>
<td></td>
</tr>
<tr>
<td>90-100%</td>
<td>Low</td>
<td>Low</td>
</tr>
<tr>
<td>89-80%</td>
<td>Moderate</td>
<td>Moderate</td>
</tr>
<tr>
<td>&lt;80%</td>
<td>High</td>
<td>High</td>
</tr>
<tr>
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<td></td>
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Source: Wolfsberg FAQs on Risk Assessments for ML, Sanctions and Bribery & Corruption
## APPENDIX M: QUANTITY OF RISK MATRIX—OFAC PROCEDURES

<table>
<thead>
<tr>
<th>Low</th>
<th>Moderate</th>
<th>High</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stable, well-known customer base in a localized environment.</td>
<td>Customer base changing due to branching, merger, or acquisition in the domestic market.</td>
<td>A large, fluctuating client base in an international environment.</td>
</tr>
<tr>
<td>Few higher-risk customers; these may include nonresident aliens, foreign individuals (including accounts with U.S. powers of attorney), and foreign commercial customers.</td>
<td>A moderate number of higher-risk customers.</td>
<td>A large number of higher-risk customers.</td>
</tr>
<tr>
<td>No overseas branches and no correspondent accounts with foreign banks.</td>
<td>Overseas branches or correspondent accounts with foreign banks.</td>
<td>Overseas branches or multiple correspondent accounts with foreign banks.</td>
</tr>
<tr>
<td>No electronic banking (e-banking) services offered, or products available are purely informational or nontransactional.</td>
<td>The bank offers limited e-banking products and services.</td>
<td>The bank offers a wide array of e-banking products and services (e.g., account transfers, e-bill payment, or accounts opened via the Internet).</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Low</th>
<th>Moderate</th>
<th>High</th>
</tr>
</thead>
<tbody>
<tr>
<td>Limited number of funds transfers for customers and noncustomers, limited third-party transactions, and no international funds transfers.</td>
<td>A moderate number of funds transfers, mostly for customers. Possibly, a few international funds transfers from personal or business accounts.</td>
<td>A high number of customer and noncustomer funds transfers, including international funds transfers.</td>
</tr>
<tr>
<td>No other types of international transactions, such as trade finance, cross-border ACH, and management of sovereign debt.</td>
<td>Limited other types of international transactions.</td>
<td>A high number of other types of international transactions.</td>
</tr>
<tr>
<td>No history of OFAC actions. No evidence of apparent violation or circumstances that might lead to a violation.</td>
<td>A small number of recent actions (e.g., actions within the last five years) by OFAC, including notice letters, or civil money penalties, with evidence that the bank addressed the issues and is not at risk of similar violations in the future.</td>
<td>Multiple recent actions by OFAC, where the bank has not addressed the issues, thus leading to an increased risk of the bank undertaking similar violations in the future.</td>
</tr>
</tbody>
</table>

Source: FFIEC BSA/AML Examination Manual
### Export Compliance

**COMMON RISKS**

<table>
<thead>
<tr>
<th>EXPORT ITEM</th>
<th>ORGANIZATION OPERATIONS</th>
<th>CUSTOMER(S)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Export without a license</td>
<td>Weak or no compliance structure</td>
<td>Unknown End-User or End-Use</td>
</tr>
<tr>
<td>Unauthorized release of sensitive information or controlled technology</td>
<td>Lack of communication within the organization</td>
<td>Unaware of diversion risk</td>
</tr>
<tr>
<td>Servicing items located outside the U.S.</td>
<td>Poor relationships with export facilitators</td>
<td>Violating Anti-boycott Laws</td>
</tr>
<tr>
<td></td>
<td>No or Underdeveloped Export Clearance Procedures</td>
<td></td>
</tr>
</tbody>
</table>

Source: Department of Commerce, BIS: 2017 Export Compliance Guidelines: The Elements of an Effective Compliance Program  
Export Compliance Risks and Ways to Mitigate

<table>
<thead>
<tr>
<th>COMMON RISKS</th>
<th>TOOLS TO MITIGATE RISKS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Export without a license</td>
<td>Develop a License Determination Matrix</td>
</tr>
<tr>
<td>Unauthorized release of sensitive information or controlled technology</td>
<td>Understand Deemed Exports and Technology Control Plan, view the online training module</td>
</tr>
<tr>
<td>Servicing items located outside the U.S.</td>
<td>Develop a License Determination Matrix</td>
</tr>
<tr>
<td>Week or no compliance structure</td>
<td>Build more decision making tools, check lists, automate processes, assign roles and responsibilities</td>
</tr>
<tr>
<td>Lack of communication within the organization</td>
<td>Develop Training Program and Written SOPs, Get Senior Management Involved</td>
</tr>
<tr>
<td>Poor relationships with export facilitators</td>
<td>Publication: Freight Forwarder Guidance Review of Compliance Activities, Shipping Documents, Conduct audits of Electronic Export Information, AES Best Practices</td>
</tr>
<tr>
<td>No or underdeveloped export clearance procedures</td>
<td>Create Export Authorization Process</td>
</tr>
<tr>
<td>Unknown End-User or End-Use</td>
<td>Develop Screening Process, Publication: Know your Customer, Request an end-use statement, Use Consolidated Screening List</td>
</tr>
<tr>
<td>Unaware of Diversion Risk</td>
<td>Use Destination Control Statement, Publication: Best Practices for Transshipments</td>
</tr>
<tr>
<td>Violating Anti-boycott Laws</td>
<td>Detect and Report Anti-boycott Issues</td>
</tr>
</tbody>
</table>

Sample Deficiencies in Sanctions Risk Assessment

- Not properly documented
- Did not incorporate all lines of business or entities
- Did not consider all major risk categories
- Policies did not specify frequency of risk assessment updates
- No documented methodology for assigning risk rankings
- Policies, procedures not commensurate with bank/company’s risk profile
- Not aligned to policies and procedures
Sample Deficiencies in Configuration Sanctions List Screening

- Scanning against inapplicable watch lists offered by vendor
- Scanning against more lists than necessary
- Not scanning against relevant lists
- Inadequate mapping of data fields to watch lists
- Data integrity issues
- Inadequate algorithms/fuzzy logic
New York Department of Financial Services (DFS) Part 504 Rule

- Rule effective January 1, 2017
- First certification due on April 18, 2018
- Who is subject?
  - Banks and non-bank institutions licensed or chartered under NY law
  - Banks
  - Branches and agencies of foreign banks
  - Trust companies
  - Private bankers
  - Savings banks
  - Savings and loan associations

Requirements of Filtering Program

*Reasonably designed* for purpose of *interdicting transactions that are prohibited by OFAC*.

Based on on-going, enterprise wide *Risk Assessment*

Based on technology, processes or tools *reasonably designed* to *identify prohibited transactions* through name and account matching or otherwise

*End-to-end pre- and post-implementation testing* of various factors including mapping risks to OFAC sanctions lists, matching logic detection scenarios and other factors, *as relevant*

*Documentation* of the program and its tools and processes
How sure are you about the effectiveness of your OFAC/sanctions filtering tools?

- Very sure
- Somewhat sure
- Not really sure
- Not sure at all
- Don't know/not applicable

Source: Audience Poll from SanctionsAlert.com August 2017 Webinar on NYDFS Part 504 Rule (238 attendees)
Who will certify at your institution?

- Board Member
- Chief Compliance Officer
- Chief Executive Officer/Business
- Legal
- Don’t know/not applicable

Source: Audience Poll from SanctionsAlert.com August 2017 Webinar on NYDFS Part 504 Rule (238 attendees)