

# A Gibson Dunn National Security Presentation: Global Sanctions Update

## Presenters:

Judith A. Lee  
Mark Handley

José W. Fernandez  
Attila Borsos

Patrick Doris  
David Wolber

Ronald Kirk  
Andrea Farr

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# MCLE CERTIFICATION INFORMATION

- Most participants should anticipate receiving their certificate of attendance in 3 to 4 weeks following the webcast.
- Virginia Bar members should anticipate receiving their certificate of attendance in 6 weeks following the webcast.
- Questions regarding MCLE information should be directed to Jeanine McKeown (National Training Administrator) at 213-229-7140 or [jmckeown@gibsondunn.com](mailto:jmckeown@gibsondunn.com).

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- **UNITED STATES**
  - **EUROPEAN UNION AND UNITED KINGDOM**
  - **LOOKING FORWARD**



# OFAC SANCTIONS

- **U.S. Response to Ukraine-Related Developments**
- U.S. Sanctions and Cuba
- U.S. Sanctions and Iran
- Other U.S. Sanctions



# **OFAC: UKRAINE-RELATED DEVELOPMENTS**

- Legislation
- Executive Orders
- Sectoral Sanctions and Crimea
- General Licenses



# UKRAINE-RELATED DEVELOPMENTS

## LEGISLATIVE RESPONSE

### **Support for the Sovereignty, Integrity, Democracy, and Economic Stability of Ukraine Act of 2014 (April 3, 2014)**

- Calls for enhanced assistance to and cooperation with Ukraine and other Central and Eastern European countries.
- Authorizes visa revocation/bans and asset blocking of:
  - persons who perpetrated or directed significant acts of violence and human rights abuses in Ukraine, or acts intended to undermine the peace and security of Ukraine.
  - officials of the Russian government and their families or close associates complicit in acts of significant corruption in Ukraine or the Russian Federation.
  - individuals who materially assist or support the above activities.
- Provides for costs of loan guarantees for Ukraine as well as efforts to assist the recovery of assets linked to corruption under the Yanukovich regime.



# UKRAINE-RELATED DEVELOPMENTS

## LEGISLATIVE RESPONSE-cont'd

### Ukraine Freedom Support Act of 2014 (Dec. 18, 2014)

- The law contains a number of other provisions related to providing Ukraine with military assistance and other forms of aid.
- Targets foreign persons engaging in certain activities in the energy and defense sectors of the Russian economy.
- Mostly provides president with discretionary sanctions authority.
  - Only one mandatory provision.
  - Most provisions allow the President from a list of authorized sanctions.
  - No action taken yet under the law.

# UKRAINE-RELATED DEVELOPMENTS

## LEGISLATIVE RESPONSE-cont'd

### Ukraine Freedom Support Act of 2014-cont'd

- Defense Sector sanctions
  - President shall impose sanctions for:
    - any entity determined by the President to be owned by the Russian government or controlled by its nationals that transfers or brokers the transfer to, or knowingly manufactures or sells defense articles transferred into Syria or the territory of a “specified country” without its government's consent.
      - “specified country” currently includes Ukraine, Georgia and Moldova, although President is authorized to designate others.
    - a person (individual or entity) determined to knowingly sponsor or provide support for the above activities.



# UKRAINE-RELATED DEVELOPMENTS

## LEGISLATIVE RESPONSE-cont'd

### Ukraine Freedom Support Act of 2014-cont'd

- Defense Sector sanctions-cont'd
  - The President must impose sanctions against Russian defense firm Rosoboronexport.
- Energy Sector sanctions
  - President may impose sanctions on persons determined to have knowingly made a significant investment in a special Russian crude oil.
    - “Russian crude oil project”—project intended to extract crude oil from Russia deepwater, Arctic offshore or shale formations.
  - President may sanction Gazprom if the President determines that Gazprom is withholding significant natural gas supplies from member countries of the NATO, Ukraine, Georgia or Moldova.

# UKRAINE-RELATED DEVELOPMENTS

## LEGISLATIVE RESPONSE-cont'd

### Ukraine Freedom Support Act of 2014-cont'd

- Foreign Financial Institutions
  - Authorizes restrictions on correspondent or payable-through accounts for foreign financial institutions that the President determines have:
    - after passage of the Act, knowingly engaged in significant transactions involving the defense and energy sector activities restricted by the Act (discussed above) with persons sanctioned pursuant to the Act for engaging in those activities.
    - 180 after passage of the Act, knowingly facilitated a significant financial transaction on behalf of any SDN designated pursuant to the panoply of Russian sanctions authorities.



# **EXECUTIVE ORDER NO. 13,660 OF MARCH 6, 2014, BLOCKING PROPERTY OF CERTAIN PERSONS CONTRIBUTING TO THE SITUATION IN UKRAINE**

- Authorizes sanctions on persons that:
  - threaten the peace, security, stability, sovereignty, or territorial integrity of Ukraine;
  - misappropriate Ukrainian state assets or those of a significant entity in Ukraine;
  - assert unauthorized governmental authority over any part or region of Ukraine;
  - materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, any of the activities threatening the democratic processes or peace and stability of Ukraine;
  - are owned or controlled by any such person.
- All transactions involving these person's property or interests in property are prohibited and any such property or interests in property in the U.S. or in the possession of a U.S. person must be blocked.
- Suspends entry into the United States of designated persons.



# **EXECUTIVE ORDER NO. 13,661 OF MARCH 16 2014, BLOCKING PROPERTY OF ADDITIONAL PERSONS CONTRIBUTING TO THE SITUATION IN UKRAINE**

- Authorizes sanctions on:
  - officials of the Government of the Russian Federation;
  - persons operating in the Russian arms, related materiel sector;
  - persons owned or controlled by or having acted on behalf of a blocked person or “senior official” in the Government of the Russian Federation;
  - persons that have materially assisted, sponsored or provided support to, or in support of, any senior Russian government official or blocked person.
- All transactions involving these person’s property or interests in property are prohibited and any such property or interests in property in the U.S. or in the possession of a U.S. person must be blocked.
- Suspends entry into the United States of designated persons.

# **EXECUTIVE ORDER NO. 13,662 OF MARCH 20, 2014, BLOCKING PROPERTY OF ADDITIONAL PERSONS CONTRIBUTING TO THE SITUATION IN UKRAINE**

- Broadly authorizes sanctions on persons:
  - operating in sectors of the Russian economy such as financial services, energy, metals and mining, engineering, and defense and related materiel;
  - providing financial, material or technological support to persons blocked pursuant to the E.O.; or
  - owned or controlled by such blocked persons.
- Targeted implementation through a series of Directives and the creation of a new Sectoral Sanctions Identification (“SSI”) List.
  - prohibits only certain transactions with specified persons.
  - no blocking is required.
- 50 Percent Rule applies.
- Entities may be targeted under multiple Directives.

# SECTORAL SANCTIONS

## Directive 1 – Financial Services Sector

- Prohibits U.S. persons from transacting in, providing financing for, or otherwise dealing in:
  - new debt with longer than 30 days maturity (amended down from 90 days in the original Directive) or
  - new equity for
  - SSI-listed entities in the Russian financial services sector, these entities' property, or their interests in property.
- Prohibits any such transactions occurring in the United States.
- Debt: includes bonds, loans, extensions of credit, loan guarantees, LOCs, drafts, bankers acceptances, discount notes or bills, commercial paper.
- Equity: includes stocks, share issuances, depositary receipts, or any other evidence of title or ownership.

# SECTORAL SANCTIONS (cont.)

## **Directive 2 – Energy Sector**


- Similarly restricts transactions involving new debt with longer than 90 days maturity for SSI-listed entities, their property, or their interests in property.

## **Directive 3 – Defense Sector**

- Similarly restricts transactions involving new debt with longer than 30 days maturity for SSI-listed entities, their property, or their interests in property.

## **Directive 4 – Oil Production**

- Prohibits the provision, exportation, or reexportation, directly or indirectly, of goods, services (except for financial services), or technology in support of exploration or production for deepwater, Arctic offshore, or shale projects that have the potential to produce oil in the Russian Federation or its maritime area:
  - when involving entities designated pursuant to this Directive.



# **EXECUTIVE ORDER NO. 13,685 OF DECEMBER 19, 2014, BLOCKING CERTAIN PERSONS AND PROHIBITING CERTAIN TRANSACTIONS WITH RESPECT TO CRIMEA**

- Region-specific sanctions program.
- Prohibitions include:
  - new investment.
  - direct and indirect imports and exports between the United States and the region.
  - approval, financing, facilitation or guarantee of any such transactions that would be prohibited in the United States or if done by a U.S. person.
- Includes authorization to block persons:
  - operating in Crimea or leading an entity operating in Crimea.
  - owned or controlled by such persons.
  - providing material assistance, sponsoring, financial, material, or technological support.





# UKRAINE-RELATED DEVELOPMENTS

## GENERAL LICENSES

- **General License No. 1A:** authorizes persons to engage in transactions involving derivative products whose value is linked to an underlying debt or equity asset that would itself be restricted pursuant to Directives 1, 2 and 3 of the Sectoral Sanctions.
- **General License No. 2:** authorized a window for winding down operations restricted pursuant to Directive 4 of the Sectoral Sanctions.
- **General License No. 3:** specifically exempted DenizBank from the prohibitions in Directive 1 of the Sectoral Sanctions.
- **General License No. 4:** authorizes the export or reexport to Crimea of certain agricultural commodities, medicine and medical supplies, and replacement parts.



# UKRAINE-RELATED DEVELOPMENTS

## GENERAL LICENSES

- **General License No. 5:** authorizes necessary wind-down transactions involving Crimea.
- **General License No. 6:** authorizes non-commercial, personal remittances to or from Crimea (not involving SDNs).
- **General License No. 7:** authorizes the operation of an account in a U.S. financial institution by a non-SDN individual ordinarily resident in Crimea as long as the transactions:
  - are personal in nature (not for use in supporting or operating a business);
  - do not involve transfers directly or indirectly to Crimea or for the benefit of individuals ordinarily resident in Crimea unless authorized by General License No. 6, and
  - are not otherwise prohibited by the four Ukraine-related E.O.s.

# UKRAINE-RELATED DEVELOPMENTS

## GENERAL LICENSES

- **General License No. 8:** authorizes:
  - transactions of common carriers incident to the receipt or transmission of mail and packages between the United States and Crimea, provided that the importation or exportation of such mail and packages is authorized,
  - transactions with respect to the receipt and transmission of telecommunications involving Crimea provided no SDN is involved.
- GL No. 8 does not authorize “the provision, sale, or lease of telecommunications equipment or technology,” or “the provision, sale, or lease of capacity on telecommunications transmission facilities (such as satellite or terrestrial network activity).”



# OFAC SANCTIONS

- U.S. Response to Ukraine-Related Developments
- **U.S. Sanctions and Cuba**
- U.S. Sanctions and Iran
- Other U.S. Sanctions



# U.S. SANCTIONS AND CUBA

- Policy changes announced on December 17, 2014
- Amended regulations issued January 16, 2015 include:
  - Travel: Authorizes travel and incidental transactions in connection with the 12 existing travel categories
    - Use of U.S. credit and debit cards authorized
  - Financial: General license authorizes depository institutions to open correspondent accounts at Cuban financial institutions
  - Telecommunications: Transactions in connection with commercial telecommunications between third countries and Cuba and in Cuba.
  - Internet: Certain services authorized including the export or reexport, directly or indirectly, from the U.S. or by a person subject to U.S. jurisdiction to Cuba of services incident to the exchange of communications over the Internet.

# U.S. SANCTIONS AND CUBA-cont'd

- Amended regulations-cont'd
  - Humanitarian activities: Expanded to include projects in connection with small business growth and entrepreneurial development.
  - Remittances:
    - Increased to \$2,000 per quarter
    - Authorized to independent non-governmental groups for projects to benefit the Cuban people and in support of the development of private businesses
  - Cuban Nationals outside Cuba:
    - U.S. owned businesses in third countries may provide goods and services to Cuban nationals outside Cuba
    - Unblock accounts of Cuban nationals permanently relocated outside Cuba.
    - U.S. sponsorship of meeting in third country authorized



# OFAC SANCTIONS

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# U.S. SANCTIONS AND IRAN

- Joint Plan of Action
  - Guidance following the extension of JPOA Relief Period to June 30, 2015
    - Other than humanitarian and civil aviation activities as described, temporary sanctions relief may not involve U.S. persons or U.S.-owned foreign entities
    - Temporary relief of sanctions related to:
      - petrochemical exports, auto industry, sales and purchases of gold and other precious metals, and certain associated services
      - civil aviation
      - crude oil exports
      - humanitarian transactions
  - FAQs relating to the extension of the JPOA Relief Period
  - Civil aviation licensing policy





# U.S. SANCTIONS AND IRAN

- General License D-1
  - Expands authorization to include exportation, reexportation, or provision, directly or indirectly, to Iran of certain personal communications software, hardware, and related services subject to the EAR
  - Authorizes fee-based services including instant messaging, chat and email, social networking, sharing of photos and movies, web browsing, and blogging
    - Authorized software classified EAR99 or 5D992.c
  - Annex lists additional authorized software and hardware

# U.S. SANCTIONS AND IRAN

- General License D-1-cont'd
  - Authorizes export or reexport from the U.S. to Iran of consumer-grade Internet connectivity services and the provision, sale, or leasing of capacity on telecommunications transmission facilities incident to personal communications; excludes commercial endeavors or domain name registration services
  - Excludes blocked persons.
  - Excludes the Government of Iran, unless they are widely available to the public and free for the user.
  - Authorizes U.S. depository institutions and U.S. registered brokers or dealers in securities to transfer funds from Iran for or on behalf of a person in Iran for a transaction authorized by General License D-1 as long as the transfer is consistent with all federal regulations.

# U.S. SANCTIONS AND IRAN

- General License G
  - Authorizes academic exchange agreements between U.S. and Iranian universities.
    - Undergraduate and graduate educational courses
    - Scholarships for Iranian students to attend U.S. academic institutions.
  - Authorizes U.S. persons to administer professional certificate examinations and university examinations
  - Authorizes U.S. students to attend classes or conduct noncommercial academic research at Iranian universities at the undergraduate level, and at the graduate level in the humanities, social sciences, law, or certain business subjects.



# U.S. SANCTIONS AND IRAN

- Amended Iranian Transactions and Sanctions Regulations and FAQs
  - expands existing general license that authorizes the exportation or reexportation of food to individuals and entities in Iran to include broader category of agricultural commodities.
  - adds a new general license authorizing the exportation or reexportation of certain replacement parts for certain medical devices.
- Updated FAQ relating to payments in connection with overflights of Iran and emergency landing in Iran



# OFAC: OTHER U.S. SANCTIONS

- **Legislation**
- Executive Orders
- Significant Regulations
- Guidance
- Significant Designations
- Select Enforcement Actions


# Venezuela Defense of Human Rights and Civil Society Act of 2014, Public Law No: 113-278

- **Persons Targeted**

- Any foreign person including any current or former official or any person acting on behalf of the Government of Venezuela that the President determines:
  - 1) perpetrated, or is responsible for ordering or directing significant acts of violence or serious human rights abuses in Venezuela against persons associated with antigovernment protests that began on February 4, 2014;
  - 2) has ordered or otherwise directed the arrest or prosecution of a person in Venezuela primarily because of the person's legitimate exercise of freedom of expression or assembly; or
  - 3) has knowingly materially assisted, sponsored or provided significant financial, material or technological support for, or goods or services in support of, the commission of acts described above.

- **The nature of the restrictions on U.S. persons transacting with sanctioned persons**

- Block property and interests in property in the United States or that come within the possession or control of a United States person
- The exclusion from the United States and revocation of visa or other documentation of the sanctioned person.



# Venezuela Defense of Human Rights and Civil Society Act of 2014, Public Law No: 113-278 *cont'd*

- **The President's authority and mandate**
  - The President shall have the authority to issue regulations, licenses and orders necessary to carry out the sanctions.
- Executive Order Blocking Property and Suspending Entry of Certain Persons Contributing to the Situation in Venezuela (March 9, 2015)
  - Seven designated individuals including current and former intelligence, law enforcement and military personnel

# EXECUTIVE ORDER 13,664

## South Sudan

- “Blocking Property of Certain Persons with Respect to South Sudan.”
- Signed on April 3, 2014.
- The E.O. declared a national emergency to deal with the “threat to the national security and foreign policy of the United States” resulting from violence and instability in South Sudan.
- The E.O. requires the blocking of property of those persons that are responsible for, lead, or materially assist with:
  - Human rights abuses;
  - Violent acts against women and children;
  - Interference with humanitarian aid or peacekeeping missions;
  - The recruitment or use of child soldiers; and
  - Actions that threaten stability or peacekeeping.
- FAQ clarified that an entity in South Sudan that is commanded or controlled by an individual designated under E.O. 13,664 is not considered blocked by operation of law.
  - payments, including “taxes” or “access payments,” to non-designated individuals or entities under the command or control of an individual designated under E.O. 13,664 do not, in and of themselves, constitute prohibited activity.



# EXECUTIVE ORDER 13,667

## Central African Republic

- “Blocking Property of Certain Persons Contributing to the Conflict in the Central African Republic.”
- Signed on May 12, 2014.
- The E.O. declared a national emergency based on the breakdown of law and order, inter-sectarian tension, widespread violence and atrocities, and the pervasive, often forced, recruitment and use of child soldiers in the Central African Republic.
- The E.O. blocks the property of persons who, *inter alia*, engage in, lead, sponsor, or assist:
  - Activities that threaten peace, stability, the political transition process, or democratic processes and institutions;
  - Targeted violence against civilians; the use or recruitment of child soldiers; and
  - Persons or groups that threaten the country’s security through illicit trade of natural resources.



# EXECUTIVE ORDER 13,668

## Iraq

- “Ending Immunities Granted to the Development Fund for Iraq and Certain Other Iraqi Property and Interests Pursuant to E.O. 13,303, as amended.”
- Signed on May 27, 2014.
- Terminated certain immunities from the judicial process granted by previous executive.
- This E.O. recognized the progress of Iraq’s government “in resolving and managing the risk associated with outstanding debts and claims arising from actions of the previous regime.”
- The previously declared national emergency remains in place.



# EXECUTIVE ORDER 13,671

## Democratic Republic of the Congo

- “Taking Additional Steps to Address the National Emergency With Respect to the Conflict in the Democratic Republic of the Congo.”
- Signed on July 8, 2014.
- The Executive Order requires the blocking of all property and interests in property of those persons determined to be:
  - Political or military leader of a foreign armed group or Congolese group that impedes the disarmament, demobilization, voluntary repatriation, resettlement, or reintegration of combatants.
  - Responsible for or complicit in, *inter alia*, actions that threaten the peace, security, or stability of the country.



# **EXECUTIVE ORDER 13,687**

## **North Korea**

- “Imposing Additional Sanctions with Respect to North Korea.”
- Signed on January 2, 2015.
- Responds to North Korea’s provocative, destabilizing, and repressive actions and policies.
  - E.g., the cyber-attack targeting Sony Pictures Entertainment and related threats to movie theaters and their patrons.
- Blocks designated persons’ property or interests in the U.S. or under the control of a U.S. person, as well as their access to U.S. financial systems.
- Designation of three entities and 10 individuals connected to North Korea’s defense and intelligence capacities.



# GOVERNMENT AGENCY GUIDANCE

Revised Guidance on Entities Owned by Persons Whose Property and Interests in Property are Blocked (August 31, 2014) (“50 Percent Rule”)

- Blocking extends to entities owned by SDNs whether or not the owned entities are on the SDN List.
- Generally accepted that ownership was defined as owned 50 percent or more by a single SDN.
- Revised guidance clarified that any entity is SDN owned if :
  - a single SDN has a 50 percent or more interest or
  - the interest of SDNs when aggregated is 50 percent or more
- Ownership can be direct or indirect (*i.e.*, through other entities that are owned 50% or more).



# OFAC ENFORCEMENT

- OFAC announced 23 civil enforcement actions/settlements in 2014
  - One individual; primarily companies
- Aggregate value of these actions/settlements is \$1,209,298,807
- Two largest single actions represent 92.25% of aggregate total
  - BNP Paribas SA (\$963,619,900)
  - Clearstream Banking, S.A. (\$151,902,000)
- Smallest single settlement amount was for \$19,125 (Branch Banking & Trust Co.)



# OFAC ENFORCEMENT

## **Sanctions Programs Involved** (some settlements involved multiple programs)

- Iran (12) (52.17%)
- Cuba (7) (30.43%)
- Sudan (5) (21.74%)
- Narcotics Trafficking or Foreign Narcotics Kingpin (4) (17.39%)
- Weapons of Mass Destruction Proliferators (3) (13.04%)
- Burma (1) (4.35%)
- Global Terrorism (1) (4.35%)
- Syria (1) (4.35%)



# OFAC ENFORCEMENT

## Underlying Conduct Sanctioned

- Banking/Financial Services (34.78%)
  - Conduct included transferring funds to or through the United States on behalf of sanctioned entities/individuals
- Iran Maritime/Shipping Industry (17.39%)
  - Conduct included:
    - Supplying bunker fuel for an Iranian vessel
    - Exporting marine antenna systems to Iran
    - Transactions involving the Islamic Republic of Iran Shipping Lines





# OFAC ENFORCEMENT

## Underlying Conduct Sanctioned (cont.)

- Other conduct included:
  - Provision of insurance to individuals and entities in apparent violation of Cuba, Narcotics Trafficking, and Foreign Narcotics Kingpin sanctions programs
  - Provision of travel services to Cuba
  - Exporting information technology products to Iran



# OFAC ENFORCEMENT

## Voluntary Self-Disclosure

- 10 entities (43.48%) voluntarily self-disclosed at least some of the apparent sanctions violations at issue

## Egregious Cases

- OFAC determined that 5 of the enforcement actions (21.74%) constituted cases that were, at least in part, egregious
  - Egregious cases are determined by an examination of a number of General Factors published in Appendix A to Part 501 of the OFAC regulations

# OFAC ENFORCEMENT

- **Civil Monetary Penalties**

- Base penalty assessed per violation based on two main factors:

		Egregious Case?	
		No	Yes
Voluntary Self-Disclosure?	Yes	1/2 the transaction value (capped at \$125,000 per IEEPA violation/\$32,500 per TWEA violation)	1/2 the statutory maximum
	No	Schedule amount (capped at \$250,000 per IEEPA violation/\$65,000 per TWEA violation)	Statutory maximum

- Modification of base based on general factors (see following slides)

- **Criminal Penalties** – IEEPA and TWEA contain criminal provisions, and although OFAC will not itself pursue criminal enforcement, it may refer the matter to other federal authorities.
  - *IEEPA*: \$1 million fine, 20 years imprisonment or both.
  - *TWEA*: \$1 million fine (\$100k for individuals), 10 years imprisonment or both.



# OFAC ENFORCEMENT

## *Selected Actions*

### **BNP Paribas SA** (Jun. 30, 2014)

- \$963 million to OFAC as part of an overall \$8.9 billion settlement with various federal and state agencies
  - Largest OFAC Settlement ever
  - First bank to plead guilty to criminal sanctions charges
- Conduct involved over 3,800 payment transactions processed from 2005 to 2012 in apparent violation of Sudan, Iran, Cuba and Burma sanctions regulations
- Statutory maximum and base civil monetary penalties: \$19.27 billion
- Aggravating Factors Included:
  - No self-disclosure
  - Violations constituted an egregious case



# OFAC ENFORCEMENT

## *Selected Actions*

### **BNP Paribas SA** (cont'd)

- Mitigating Factors Included
  - Cooperation
  - No recent sanctions history
  - Remedial response
- Global Settlement
  - U.S. Department of Justice (“DOJ”), New York County District Attorney’s Office (“NYDA”), Federal Reserve Board of Governors, Department of Financial Services of the State of New York, and OFAC
    - New York receives over \$4 billion including \$2.2 billion to the NYDA to satisfy state charges of conspiracy and falsifying business records

# OFAC ENFORCEMENT

## *Selected Actions*

### **Fokker Services B.V.** (June 5, 2014)

- FSBV entered into a global settlement with the U.S. Department of Commerce's Bureau of Industry and Security ("BIS"), the U.S. Attorney's Office ("USAO") for the District of Columbia, and OFAC
- FSBV agreed to settle potential civil liability to OFAC for \$50,922,208, which was to be deemed satisfied by payment of \$10.5 million to OFAC and BIS, a \$10.5 million forfeiture pursuant to a DPA with the USAO, acceptance of responsibility for its conduct, and adherence to all other terms and conditions of FSBV's agreements with OFAC, USAO, and BIS
- Conduct involved exporting/reexporting aircraft spare parts on over 1,000 occasions that FSBV "either procured or had repaired in the U.S., specifically to fill an Iranian [or Sudanese] customer's [or end user's] order" from 2005-2010 in apparent violations of Iran and Sudan sanctions

# OFAC ENFORCEMENT

## *Selected Actions*

### Fokker Services B.V. (cont'd)

- Base penalty: \$145,492,023
- Voluntary Self-Disclosure
- Aggravating Factors Included:
  - Willful and reckless conduct
  - Company knowledge of conduct
  - Sophisticated and experienced aerospace services provider
  - No formal compliance program for majority of time over which alleged violations transpired
  - Failed to “institute sufficient controls to completely stop the conduct at issue upon discovering the alleged violations”

# OFAC ENFORCEMENT

## *Selected Actions*

### **Fokker Services B.V.** (cont'd)

- Mitigating Factors Included:
  - No recent sanctions penalty actions
  - Remedial action
  - Cooperation
    - Internal investigation; agreed to toll the statute of limitations
- On February 5, 2015, U.S. District Judge Richard Leon rejected the proposed DPA between FSBV and USAO
- FSBV noticed an appeal



# OFAC ENFORCEMENT

## *Selected Actions*

### Commerzbank AG (March 12, 2015)

- Combined payment to regulators \$1.45 Billion
- Involving Department of Justice; Board of Governors of the Federal Reserve System; NY State Department of Financial Services; and OFAC
- OFAC civil settlement: \$258.7 million
  - “Stripping”
  - 1,596 transactions between 2005-2010
  - Apparent violations of Iran, Sudan, Burma, Cuba and WMD proliferator sanctions
- Entered into Deferred Prosecution Agreement in connection with criminal violations of IEEPA



# OFAC Enforcement

## *Lessons Learned*


- Settlement values are on the rise
  - Multiple federal and state enforcement agencies are getting involved (rise of DFS)
  - Recent judicial involvement may affect settlements upwards (FSBV)
- A strong compliance program is vital
  - Companies are at risk when compliance programs are inadequate or do not function properly to identify problematic transactions
  - Failures of compliance programs can have enormous consequences
    - Multiple missed transactions lead to higher penalties
    - Failures to correct may be seen as reckless or lead to OFAC finding other aggravating factors present



# OFAC Enforcement

## *Lessons Learned*

- Voluntary self-disclosure and cooperation with OFAC can greatly reduce ultimate settlement values
  - Many companies agree to toll the statute of limitations
  - Importance of conducting and reporting on results of robust internal investigations
- Taking strong remedial actions can also help mitigate penalties
  - Identify and close compliance gaps and weaknesses as soon as feasible after discovery

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- UNITED STATES
  - **EUROPEAN UNION AND UNITED KINGDOM**
  - LOOKING FORWARD



# EUROPEAN UNION AND UNITED KINGDOM

- Regulations
- Main Case Law
- Major Enforcement Actions and Assessments

# E.U. REGULATIONS - RUSSIA AND UKRAINE

Four distinct E.U. sanctions regimes in place for Ukraine/Russia:

## Russian sectoral sanctions

### a. Restricting access to **EU capital markets**:

- Listed majority state-owned Russian banks
  - *Sberbank, VTB Bank, Gazprombank, Russian Agricultural Bank and Vnesheconombank*
  - including their majority-owned entities, ***except for*** EU subsidiaries
- Extended in September 2014 to other entities in defense and oil sectors
  - *United Aircraft Corp, Rosneft, Transneft, Gazpromneft, Ural Vagonzavod and OPK Oboronprom*
- Ban on (in)direct purchase, sale, provision of brokering / assistance in the issuance of (or otherwise deal with):
  - transferable securities and money-market instruments with +90-day maturity (issued after August 1, 2014)
  - expanded in September 2014 to instruments with +30-day maturity (issued after September 12, 2014)
  - purposely broad definitions of money-market instruments, transferable securities and brokering

# E.U. REGULATIONS - RUSSIA AND UKRAINE

## Russian sectoral sanctions

### b. Sanctions targeting **Russian defense sector**:

- Military goods and dual-use goods to Russian entity/person or for use in Russia:
  - ban on (in)direct sale, supply, transfer or export
  - ban on (in)direct provision of technical, brokering or financial assistance
- License possible for contracts concluded before August 1, 2014
- Different implementing approaches in different Member States:
  - Germany: also licence for transfer to other EU state if it is known that goods are destined for Russia
  - UK: only licence for ultimate exporter

# E.U. REGULATIONS - RUSSIA AND UKRAINE

## Russian sectoral sanctions

### c. Sanctions targeting **Russian oil sector**:

- Equipment/technology used in deep water or Arctic Exploration & Production or shale oil projects in Russia
  - expanded in September 2014 to also include associated services (e.g. drilling, completions, specialized vessels)
  - Ban on (in)direct sale, supply, transfer or export and technical, brokering and financial assistance
  - No license for export, but some discretion for authorization of export under contract concluded before August 1, 2014



# E.U. REGULATIONS - RUSSIA AND UKRAINE

## Misappropriation (Regulation 208/2014):

- currently 18 listed Ukrainian individuals, all senior officials within the former Ukrainian government
- commenced on March 6, 2014 was added to on April 15, 2014
- 4 removed on March 9, 2015



## E.U. REGULATIONS - RUSSIA AND UKRAINE

Currently pending challenges to misappropriation listings before European Court:

- *Arbuzov v Council* (T-434/14)
- *Klymenko v Council* (T-494/14)
- *Klyuyev v Council* (T-340/14 and T-341/14)
- *Kurchenko v Council* (T-339/14)
- *Pshonka v Council* (T-380/14 and T-381/14)
- *Stavytskyi v Council* (T-486/14)
- *Yanukovych v Council* (T-346/14, T-347/14 and T-348/14)

This constitutes challenges by 11 of the 18 individuals listed under the Ukraine (Misappropriation) sanctions

# E.U. REGULATIONS - RUSSIA AND UKRAINE

## Sovereignty and Territorial Integrity (Regulation 269/2014):

- currently 150 listed individuals (Russians and Ukrainians), and 37 entities including 25 separatist organisations, and 12 companies and businesses
- commenced on March 17, 2014, and regularly added to since then
- most recently 19 individuals and 9 separatist organisations added on February 16, 2015
- one deceased person removed on March 14, 2015



# E.U. REGULATIONS - RUSSIA AND UKRAINE

## Asset Freeze:

- *“All funds and economic resources belonging to, owned, held or controlled by any natural persons or natural or legal persons, entities or bodies associated with them as listed ... shall be frozen”*
- *“Freezing of funds” – broadly defined: “preventing any move, transfer, alteration, use of, access to, or dealing with funds in any way that would result in any change in their volume, amount, location, ownership, possession, character, destination, or other change that would enable the funds to be used, including portfolio management”*
- *“Funds” – broadly defined: “financial assets and benefits of any kind”*
- *“Economic resources” – broadly defined: “assets of every kind whether tangible or intangible, movable or immovable”*



# E.U. REGULATIONS – RUSSIA AND UKRAINE

## Crimean Sanctions (Regulation 692/2014):

- June 23, 2014: the EU imposed an import ban on many goods originating in Crimea or Sevastopol, unless certified by Ukrainian Government (existing contracts had until September 26)
- July 30, 2014: prohibition on investment, financial assistance, technical assistance re the transport, energy, telecoms, oil and gas, and minerals sectors
- Annex of material and equipment prohibited from export to Crimea and Sevastopol – limited to oil and gas sectors



## **E.U. REGULATIONS – RUSSIA AND UKRAINE**

### **Crimean Sanctions (Regulation 692/2014): extended on December 18, 2014**

- prohibition on the acquisition of real estate in Crimea;
- prohibition on investment in any entity in Crimea;
- formation of any joint venture in or with any entity in Crimea;
- prohibition on services re tourism activities including EU cruise ships from docking in Crimea
- Annex of prohibited equipment expanded considerably
- prohibition on transport, telecoms, energy, oil and gas and minerals sectors expanded to include brokering and construction and engineering services

# E.U. RUSSIAN SANCTIONS – SWISS RESPONSE

## Response:

- announced on April 2, 2014 that it would not adopt the EU's sanctions
- adopted its own measure preventing Swiss financial intermediaries from entering into new business relationships with listed individuals and entities
- also adopted the E.U.'s travel ban against those listed
- another 30 added on December 15, 2014, and 28 added on March 6, 2015
- August 27, 2014 adopted a similar variant to the EU ban on accessing capital markets, later reduced from 90 day maturity to 30 days

## Result:

- assets already in Switzerland of those sanctioned by the E.U. would not be frozen
- Switzerland can not be used as a means of circumventing the E.U. sanctions




# THE EU'S IRAN SANCTIONS

- Trade sanctions and export controls - targeted at:
  - Nuclear technology
  - Military and dual-use goods
  - Iranian petroleum, petrochemical and natural gas products
  - Precious metals, diamonds, Iranian banknotes and bonds
  - Insurance or financing any of the above







# IRAN SANCTIONS – CURRENT STATUS

- January 2014: temporary suspension of certain restrictive measures originally for 6 months.
- The suspension has been prolonged twice and will be applicable until June 30, 2015.
- Currently, the EU has temporarily suspended the import ban on petrochemical products, the prohibition on transport of Iranian crude oil, the ban on the provision of certain services where related to petrochemical products or Iranian crude oil, the ban on trade in gold and precious metals with the Iranian government, and the ban on the supply of certain vessels to Iran.
- The amendments also temporarily increase the thresholds of the restrictions on transfers of funds to and from Iranian persons and provide temporary exceptions to the freezing of funds and economic resources.
- All other EU sanctions and restrictions remain in place and in force.

# IRAN SANCTIONS – TRANSFER THRESHOLDS

To / from Iranian banks	To / from Iranian persons
Transfers over €10,000 and under €1m for foodstuffs, healthcare, medical equipment, humanitarian purposes – <b>prior notification</b>	Transfers over €10,000 for foodstuffs, healthcare, medical equipment, humanitarian purposes – <b>prior notification</b>
Transfers over €1m for foodstuffs, healthcare, medical equipment, humanitarian purposes – <b>prior authorisation</b>	All other transfers over €10,000, under €400,000 – <b>prior notification</b>
Personal remittance over €10,000, under €400,000 – <b>prior notification</b>	All other transfers over €400,000 – <b>prior authorisation</b>
Personal remittance over €400,000 – <b>prior authorisation</b>	
All other transfers over €10,000, under €100,000 – <b>prior notification</b>	
All other transfers over €100,000 – <b>prior authorisation</b>	

# OTHER EU SANCTIONS - AFRICA

## *Côte d'Ivoire:*

- import ban on diamonds repealed and arms embargo exceptions extended

## *Guinea:*

- embargoes on arms and equipment internal repression lifted
- travel bans and asset freezes extended until October 27, 2015

## *Libya:*

- clear non-liability and no-claim clauses for good-faith asset freezes
- additional measures targeting illicit oil exports
- arms embargo and asset/travel restrictions extended after escalation of hostilities

## *Sudan & South Sudan:*

- Sanctions separated into two sets targeting (i) Sudan and (ii) South Sudan
- embargo on arms and related technical assistance and brokering/other services
- prohibition of financing/financial assistance
- in force until July 12, 2015

## OTHER EU SANCTIONS – MIDDLE EAST

### *Syria:*

- exception asset freezes to enable OPCW verification mission
- asset/travel restrictions on cabinet ministers and other individuals/entities
- list of designated individuals/entities extended in June and October 2014

### *Yemen:*

- UN sanctions implemented in December 2014
- asset/travel restrictions, incl. former president Saleh and military leaders

### *Dual Use List:*

- complete revision of Dual-Use List items came into force on December 31, 2014
- list of equipment/technology *capable* of military use

# U.K. LEGISLATION - SANCTIONS AND DEFERRED PROSECUTION AGREEMENTS

- DPAs introduced in England and Wales by the *Crime and Courts Act 2013*
- Now available as a prosecutorial tool, including for conduct committed before the introduction of DPAs.
- Seemingly by oversight DPAs are not, however, available for all sanctions offences:
  - Are available for offences relating to the export of goods that “*would be contrary to any prohibition or restriction for the time being in force*”
  - Not available for offences relating to the importation of sanctioned goods – e.g. goods from Crimea, or Iranian crude oil
  - Not available for breaches of financial sanctions
- *Crime and Courts Act* allows for additional offences to be added in time by the Secretary of State, so there is scope for this to change in the future.



# EUROPEAN UNION AND UNITED KINGDOM

- Regulations
- Main Case Law
- Major Enforcement Actions and Assessments

# MAIN CASE LAW – EUROPEAN COURTS

*Europäische -Iranische Handelsbank AG v Council* (C-585/13 P)

- Decision on March 5, 2015
- EIH challenged its sanctions listing relying on a General Licence from the German Bundesbank which had authorised it to carry transactions of the type in question (several billion dollars of transactions with sanctioned Iranian banks)
- The Court of Justice said that such a licence was insufficient and that only specific licences granted after a case-by-case analysis could provide lawful authorisation - concluded that EIH had been properly listed
- A harsh decision in light of EIH having a Bundesbank licence
- A warning to ensure that the proper licences are obtained

# MAIN CASE LAW – EUROPEAN COURTS

- Revised draft Rules of Procedure General Court (Dec. 2014):
  - EU institutions may rely on undisclosed evidence in actions for annulments
  - if necessary for security of EU / MS or conduct of international relations
  - no required minimum disclosure of essence of grounds
- Sanction regime *Egypt*: first ruling by GC (T-256/11 Ezz a.o. v Council)
  - rejected applications for annulment designation for asset/travel restrictions for misappropriation of State funds
  - no disproportional restriction of fundamental rights to respect of property, freedom to conduct business and rights of defense
- Sanction regime *Libya*: GC annuls designation of Colonel Gaddafi
  - designated for planning operations against rebels, organising army unit
  - relisting in 2013 not sufficiently reasoned as after overthrow of Gaddafi regime and applicant had resigned



# MAIN CASE LAW – EUROPEAN COURTS

- Sanction regime *Iran*:
  - GC awarded *damages* for sanctions designation (*T-384/11 Safa v Council*)
    - reasoning for designation factually incorrect and insufficient evidence
    - damages suffered to reputation affected behavior of 3rd parties: c. USD 60,000
    - no damages for termination of accounts, payments, or commercial relations
  - successful actions for annulments by banks and bankers
    - bankers of Melli Bank Plc (UK) (*T-66/12 Sedghi & Azizi v Council*)
      - only designate employees supporting/acting on behalf/at direction of listed entity
      - management power “as a general rule” indicates provision of support
      - insufficient evidence bankers acted as link for Melli Bank Plc / Bank Melli Iran
    - Sina Bank (*T-67/12 Sina Bank v Council*): not informing target of reasons for continued designation after annulment is a breach of defense rights
    - Central Bank of Iran (*T-262/12 CBI v Council*): repeating listing criterion « involvement in circumventing sanctions » without supporting evidence how this applies is not sufficient

# MAIN CASE LAW – EUROPEAN COURTS

- Sanction regime *terrorist organizations*:
  - Yusef (*T-306/10 Yusef v Commission*): in line with CJEU's Kadi I and Kadi II
    - GC annulled asset freeze for breach of defense rights
    - designation on sole basis of U.N. Sanctions Committee press release is not sufficient → must provide target with evidence used
    - obligation to state reasons: identify individual, specific and concrete reasons why target must be subject to restrictive measures
  - LTTE (*T-208/11 LTTE v Council*): listing annulled on procedural grounds
    - EU law on prevention of terrorism does apply in situations of armed conflicts
    - Council's reliance on decision of 3rd country for designation is valid if sufficient protection defense rights is ensured
      - Council did not carry out this assessment
      - listing based on acts not examined and confirmed as required under EU law
    - procedural grounds → no substantive assessment of classification of LTTE as terrorist group

# U.K. – MAIN CASE LAW

## *Bank Mellat v HM Treasury*

- In June 2013 the U.K. Supreme Court quashed the sanctions listing of Bank Mellat (*Bank Mellat v Her Majesty's Treasury (No. 2)* [2013] UKSC 39)
- **February 2014:** Bank Mellat commenced proceedings against HM Treasury seeking damages of £2.3bn (\$3.9bn) for lost business incurred as a result of being sanctioned between 2009 and 2013
- **November 2014:** the UK High Court held that the essence of allegations justifying designation of a person in a sanctions regime must be disclosed to that person, even where national security concerns prevent full disclosure (*Bank Mellat v HM Treasury* [2014] EWHC 3631 (Admin)).



## U.K. – MAIN CASE LAW

*R (on the application of OJSC Rosneft Oil Company) v HM Treasury* [2014] EWHC 4002 (Admin)

- **December 2014:** Rosneft brought a challenge to the implementation of the EU's Russian sanctions in the UK,
- argued that undefined terms such as “deep water” and “arctic” were too vague and infringed the requirements of legal certainty under the European Convention of Human Rights
- Challenge rejected by the Courts, just a few days after the EU amended the regulation to add definitions of the above terms and provide other clarifications, but now referred to CJEU in February 2015 (*R (on the application of OJSC Rosneft Oil Company v HM Treasury* [2015] EWHC 248 (Admin))

*R (on the application of Privacy International) v HMRC* [2014] EWHC 1475 (Admin)

- **May 2014:** challenge by a privacy NGO of HMRC's decision not to prosecute Gamma International Limited for alleged breaches of export controls in shipping surveillance equipment to Bahrain and Ethiopia
- Court ordered disclosure of information from HMRC re its decision



# EUROPEAN UNION AND UNITED KINGDOM

- Regulations
- Main Case Law
- Major Enforcement Actions and Assessments

## E.U. ENFORCEMENT – UNITED KINGDOM

- **April 2014:** *Gary Hyde v R* [2014] EWCA Crim 713.
  - dismissal of an appeal against 7-year custodial sentence and 7-year director disqualification order handed down in 2012 in relation to the shipment of weapons from China to Nigeria in breach of export control bans.
  - no appeal against a confiscation order for £782,142.
- **April 2014:** Serious Fraud Office announced money laundering/sanctions investigation into \$23m in Ukrainian-sourced funds
  - the freeze was successfully challenged in the English courts and the funds have now been released



## E.U. ENFORCEMENT – UNITED KINGDOM

**March 2014:** Delta Pacific Valves Limited convicted of breaching Iran trade sanctions:

- company was fined £225,000
- entire profits from exports of £1,072,000 confiscated
- company director, Gary Summerskill, pleaded guilty and after a discount was sentenced to 30 months' jail with a possible additional 15 months if he failed to pay a confiscation order of £68,000



**May 2014:** press reported that National Crime Agency was investigating *Reed Business Information* for possible breaches of Iran sanctions

- Reed Business Information continued to contract with at least three sanctioned Iranian banks (Bank Melli, Bank Sepah, and Export Development Bank of Iran), after their designations
- the investigation is on-going

# E.U. ENFORCEMENT – UNITED KINGDOM

## Financial Conduct Authority

November 2014:

- Thematic Review: *How Small Banks manage money laundering and sanctions risk*
- investigated 21 banks and found serious failings at 6 banks and commenced enforcement proceedings against 2 of these
- FCA listed examples of good and bad practice:



Good practice	Bad practice
Use of “four eye” checks on alerts	Searches run on out of date lists of designations
Periodic quality assurance checking	Failure to screen all payment types
Fuzzy searches of existing and new customers	Manual searches on new customers only
Sanctions handlers having access to KYC documents	Lack of sanctions knowledge and expertise

**January 2015:** promised crackdown on financial crime, including sanctions, by the FCA



## E.U. ENFORCEMENT - SPAIN



One of the more active Member States in terms of enforcement of trade sanctions – especially in relation to Iran:

- **February 2014:** agreement between ONA Electroerosión S.A. and prosecutors
  - in relation to export of seven shipments of turbine equipment for energy plants to Iran in breach of sanctions
  - settlement included payment of a fine, as yet undisclosed, but previously estimated at €6,000,000
- **April 2014:** Operation Terracotta
  - 3 Spanish nationals and 1 Iranian arrested, numerous business premises raided by the Guardia Civil
  - in relation to attempted export of dual-use machinery to Iran, possibly for use in missiles manufacture
  - investigation is ongoing



## E.U. ENFORCEMENT – GERMANY



- **February 2014:** prosecutors arrested 1 German-Iranian
  - for exporting equipment to sanctioned Iranian company between 2011 and 2013.
  - including the attempt to mask exports through non-EU corporations
- **June 2014:** start of trial for export breaching sanctions
  - two individuals charged with supplying 61 engines to Iran suitable for use in military drones between 2008 and 2009
  - first arrested in February 2013, and trial continues with the hearing continuing today
- **March 2015:** no announced investigation into Commerzbank by the German authorities

## E.U. ENFORCEMENT – AUSTRIA



- **July 2014:** Austrian court froze Austrian land held by Liechtenstein company because Oleksii Azarov (then listed under the Ukraine misappropriation sanctions) had an interest in that company, although he was not a registered shareholder
  - the court ignored the legal ownership of the land and of the non-E.U. company LADA Holding Anstalt, and held that the land belonged to Mr Azarov, or to a company “associated with” Mr Azarov through a beneficial interest
- **December 2014:** Austrian authorities investigated Raiffeisenbank, after its Russian subsidiary advised Vnesheconombank on a 10 billion rouble bond sale – potentially in breach of the prohibition regarding the EU capital markets.
  - Raiffeisenbank announced in January 2015 that the investigation had concluded there had been no wrongdoing

# E.U. ENFORCEMENT – ITALY/FRANCE



## Italy - September 2014:

Italian Guardia di Finanza seized several properties valued at approximately €30m belonging to Arkady Rotenberg:

- He had been listed under the Russian sanctions in July 2014.
- Property seized included:
  - a villa in Sardinia was owned directly by Mr. Rotenberg;
  - a hotel in Rome and other properties held through the Italian company Aurora 31
  - Aurora 31 itself owned by two Cypriot companies, Olpon Investment Limited, and Logotax Developments Limited



**France** – no announced investigation into BNP Paribas


# SWITZERLAND



## BNP Paribas sanctioned by FINMA

- July 1, 2014: 2-year ban from engaging with any person/entity designated by E.U. or U.S. as target for sanctions
- BNP Suisse assisted breach of U.S. Sudan sanctions by “*seriously violat[ing] its duty to identify, limit and monitor the risks involved in making transactions with business partners in countries under US sanctions*”
  - handling transactions of Sudanese customers, using third-party banks to mask activities
  - providing significant credits destined for Sudanese oil trading
- No evidence of any violations of Swiss sanctions,
  - but under Swiss law banks must at all times “*assure proper business conduct and risk management*”
  - BNP had “*exposed itself to unduly high legal and reputational risks and violated requirements for adequate organisation*”
- Investigations continue into board members, management and employees involved



- 
- UNITED STATES
  - EUROPEAN UNION AND UNITED KINGDOM
  - **LOOKING FORWARD**



# LOOKING FORWARD—UKRAINE-RELATED SANCTIONS

## **The near certain prospect of further E.U. sanctions?**

- Likely to include more individuals and companies on sanctions lists
- Crimea-style prohibitions may be extended to other disputed areas such as Donetsk
- Sectoral sanctions may be expanded into new sectors
- Prohibition on accessing the E.U. capital markets broadened to wider group of state-owned enterprises

## **U.K. sanctions?**


- From Nov. 2011 to Jan. 2013 the U.K. had its own Iran sanctions that were stricter than the E.U's. As yet, there has been no talk of this option against Russia



# LOOKING FORWARD—UKRAINE-RELATED SANCTIONS

- The tension between the US/EU and Russia continues to simmer, and while additional sanctions are not imminent, U.S. and European companies should be aware that a deterioration in relations could lead to the quick imposition of more sanctions.
  - OFAC has made it clear that it stands ready to increase sanctions pressure, and can quickly impose additional sectoral sanctions.
  - Could see expansion of types of sanctions, or additional designations.
- US and EU leaders have made it clear that if the ceasefire between Ukraine and separatists in the eastern part of the country holds, they will be reluctant to impose more sanctions.
- Note that under the Ukraine Freedom Support Act, which President Obama signed into law in late December, the United States can impose Iran-style sanctions on foreign financial institutions conducting certain business in Russia.





# LOOKING FORWARD—UKRAINE-RELATED SANCTIONS

- U.S. and European companies should continue conducting extensive due diligence to ensure that they are not inadvertently dealing with the property of designated persons.
  - This can be difficult to do, as many of the designated persons have extensive—and often opaque—international holdings.
- High risk of enforcement actions.
  - OFAC has not yet commenced public enforcement proceedings against U.S. persons for violating the recent sanctions on Russia, but may be looking to show that these sanctions have teeth.
  - U.S. companies should avoid engaging in any activities that could run afoul of OFAC regulations and that garner significant public attention, as this may result in increased OFAC scrutiny.



# LOOKING FORWARD—CUBA-RELATED SANCTIONS

- The President's historic move to relax tensions with Cuba and permit certain transactions, particularly in the finance and telecommunications sectors, has created significant excitement among companies eager to enter the Cuban market.
- Some legislators are working to lift additional sanctions on Cuba, including some related to the decades-long embargo.
- U.S. companies and their subsidiaries should be aware however that most sanctions on Cuba remain in place, and OFAC will continue aggressively enforcing them.
- Companies considering conducting now-permitted transactions should be cautious and ensure that they do not inadvertently run afoul of remaining U.S. sanctions.

# LOOKING FORWARD—IRAN-RELATED SANCTIONS

## Joint Plan of Action

- Agreement between Iran and P5+1 to relax sanctions on Iran in exchange for concessions on its nuclear program.
- Sanctions relaxation while parties try to negotiate a comprehensive agreement.
- Deadline extended on November 24, 2014
  - Main items decided in the coming weeks
  - Final agreement in place by June 30, 2015

The vast majority of U.S. and EU sanctions still apply to Iran.

- The sanctions relief is narrow, limited, and reversible.
- It only applies to sectors specified in the Joint Plan of Action.
- All other sanctions remain in force.

Recent reports suggest that discussions are currently underway between the P5+1, including a potential draft resolution for the 15-nation Security Council in relation to UN sanctions and the prospect of a historic deal.

# LOOKING FORWARD—IRAN-RELATED SANCTIONS

- Regulators will aggressively enforce remaining sanctions.
- Businesses—both U.S. and foreign—should exercise abundant caution in conducting transactions in Iran or with Iranian persons.
- U.S. Congress is considering passing a number of bills, some of which would impose additional sanctions in case negotiators fail to reach a deal. Other bills provide Congress with the opportunity to review and approve any deal. Expect discord between the Administration and Congress in the coming months, even if the framework of an agreement is reached in the next few weeks.
- Any comprehensive agreement with Iran will likely pertain *only* to nuclear-related sanctions. Other sanctions will likely remain in place. Businesses should be exceedingly cautious about returning to the Iranian market, as they could easily run afoul of non-nuclear-related sanctions.
- Businesses should pay close attention to which sanctions are lifted; while transactions could be permitted under US and EU law, they may still be prohibited under UN regulations.
- Even if a deal is struck, the lifting of United Nations, American and EU sanctions is likely to occur in phases as Iran complies with the terms.

# TODAY'S PRESENTERS



**Judith Alison Lee**  
202-887-3591  
jalee@gibsondunn.com



**Jose Fernandez**  
212-351-2376  
jfernandez@gibsondunn.com



**Patrick Doris**  
44(0)20 7071 4276  
pdoris@gibsondunn.com



**Ronald Kirk**  
214-698-3295  
rkirk@gibsondunn.com



**Mark Handley**  
44(0)20 7071 4277  
mhandley@gibsondunn.com



**Attila Borsos**  
32 2 554 72 11  
aborsos@gibsondunn.com



**David Wolber**  
202-887-3727  
dwolber@gibsondunn.com



**Andrea Farr**  
202-955-8680  
afarr@gibsondunn.com

# OUR OFFICES

## **Beijing**

Unit 1301, Tower 1  
China Central Place  
No. 81 Jianguo Road  
Chaoyang District  
Beijing 100025, P.R.C.

## **Brussels**

Avenue Louise 480  
1050 Brussels  
Belgium  
+32 (0)2 554 70 00

## **Century City**

2029 Century Park East  
Los Angeles, CA 90067-3026  
310.552.8500

## **Dallas**

2100 McKinney Avenue  
Suite 1100  
Dallas, TX 75201-6912  
214.698.3100

## **Denver**

1801 California Street  
Suite 4200  
Denver, CO 80202-2642  
303.298.5700

## **Dubai**

Building 5, Level 4  
Dubai International Finance Centre  
P.O. Box 506654  
Dubai, United Arab Emirates  
+971 (0)4 370 0311

## **Hong Kong**

32/F Gloucester Tower, The Landmark  
15 Queen's Road Central  
Hong Kong  
+852 2214 3700

## **London**

Telephone House  
2-4 Temple Avenue  
London EC4Y 0HB  
England  
+44 (0)20 7071 4000

## **Los Angeles**

333 South Grand Avenue  
Los Angeles, CA 90071-3197  
213.229.7000

## **Munich**

Widenmayerstraße 10  
D-80538 München  
Germany  
+49 89 189 33-0

## **New York**

200 Park Avenue  
New York, NY 10166-0193  
212.351.4000

## **Orange County**

3161 Michelson Drive  
Irvine, CA 92612-4412  
949.451.3800

## **Palo Alto**

1881 Page Mill Road  
Palo Alto, CA 94304-1125  
650.849.5300

## **Paris**

166, rue du faubourg Saint Honoré  
75008 Paris  
France  
+33 (0)1 56 43 13 00

## **San Francisco**

555 Mission Street  
San Francisco, CA 94105-0921  
+1 415.393.8200

## **São Paulo**

Rua Funchal, 418, 35° andar  
Sao Paulo 04551-060  
Brazil  
+55 (11)3521.7160

## **Singapore**

One Raffles Quay  
Level #37-01, North Tower  
Singapore 048583  
+65.6507.3600

## **Washington, D.C.**

1050 Connecticut Avenue, N. W.  
Washington, D.C. 20036-5306  
202.955.8500