

U.S. Sanctions Laws: Dangers Ahead For Foreign Companies

Part I

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Part I

The remainder of this article is available in Part II HERE

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Introduction. International companies are signaling growing concern about the U.S. sanctions laws. These laws impose restrictions on entering business transactions with certain targeted countries, companies and even individual persons anywhere in the world. These apply, of course, to U.S. firms. However they can also apply to non-U.S. parties in certain cases, even in activities that have no connection to the U.S. Many foreign companies ask how the U.S. Government can extend the long arm of its jurisdiction around the world - yet the incidence of U.S. sanctions on non-U.S. parties is increasing. In light of the significant recent penalties imposed on non-U.S. parties for U.S. sanctions violations, including \$8.9 billion for financial institutions¹ and \$1.19 billion for non-financial companies,² every non-U.S. company should be aware of these laws.

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The U.S. sanctions laws can apply to foreign parties in a number of ways - if foreign companies have certain requisite contacts with the U.S., under “secondary sanctions” and for providing material support and assistance to certain parties that have been targeted for sanctions. In addition, foreign persons and entities can be individually designated for sanctions and placed on U.S. List of Specially Designated Nationals and Blocked Persons or other restricted party lists. Problems can come out of nowhere – such as when Huawei Technologies CFO Meng Wanzhou was recently arrested in a Canadian airport lounge for extradition to the U.S. for U.S. sanctions violations.

These laws create a growing legal risk for foreign companies and financial institutions – often without their even knowing it. The following provides a more detailed discussion of the U.S. sanctions laws for non-U.S. companies and steps they can take to reduce these risks.

1. Overview Of The U.S. Sanctions Laws. The U.S. sanctions laws are a complex web of legal requirements designed to achieve the foreign policy goals of the United States. They are administered by the Office of Foreign Assets Control (“OFAC”) within the U.S. Department of the Treasury in Washington, DC, in conjunction with the State Department and other U.S. agencies. Sanctions are typically initiated by the President issuing an Executive Order declaring a national emergency under the International Emergency Economic Powers Act (“IEEPA”), the National Emergencies Act or similar authority and designating parties who will be the target of the sanctions.

There are currently 30 separate sanctions programs administered by OFAC (a list of the current sanctions programs is set forth in Exhibit A and examples of sanctions requirements are set forth in Exhibit B.) Certain of the sanctions programs are focused on individual countries (the “country-based programs”) and others target specific activities such as terrorist and proliferation activities (the “list-based programs”). Under the country-based programs the U.S. maintains comprehensive sanctions programs for Iran, Syria, N. Korea, Cuba and the Crimea region of Ukraine - U.S. parties are prohibited from entering almost all business transactions with the targeted country, its government and its nationals. Under other country-based programs, such as Russia and Venezuela, parties are prohibited from entering certain types of transactions with the targeted country but permitted to engage in others.

Under list-based programs, the U.S. identifies individuals and entities on a global basis who have engaged in activities that are contrary to U.S. policies such as terrorist attacks, nuclear proliferation, human rights abuses and corruption for individual sanctions.

An important component of the U.S. sanctions laws is that OFAC frequently targets individual persons and entities for the imposition of sanctions. Targeted parties are typically placed on the OFAC List of Specially Designated Nationals and Blocked Persons (the “SDN List”) and all property and property interests of the targeted parties are blocked and may not be transferred, paid, exported, withdrawn or otherwise dealt in. As a result, U.S. persons and other parties subject to U.S. jurisdiction are prohibited from entering most types of business transactions with the targeted party anywhere in the world, and it is cut off from the dollar-denominated U.S. financial system. In addition, U.S. persons are required to block the assets of

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the targeted party that come within the U.S. person's possession and not deal in them. In addition to the SDN List, OFAC maintains eight other restricted party lists,³ which place different, sometimes less restrictive requirements related to listed parties. OFAC also promulgates a Consolidated List which includes the identities of parties on the SDN List and a number of the other restricted party lists.⁴

But it gets more interesting. Under OFAC's 50% Rule, if an entity such as a company or partnership is owned 50% or more by one or more parties on the SDN List, that entity is also treated as if it is on the SDN List and subject to blocking and asset freezes, even if it is not itself named on the SDN List. OFAC attempts to block all property and property interests of SDN parties and considers stock in an entity that is owned by an SDN (and the entity itself and its assets if owned 50% or more by SDN's) as subject to the blocking and asset freeze requirements. This can create major complexities if a party is trying to enter a transaction with a foreign company but cannot determine if the foreign company is owned by SDNs and subject to sanctions designations.

Sanctions are often imposed in an incremental fashion. For example, in 2014 President Obama imposed sanctions on a small number of Russian government officials in response to Russia's military activity in Ukraine. When Russia continued its military actions, the sanctions were expanded to cover a wider group of political and business leaders and Russian companies, and a total embargo on the Crimea region of Ukraine. Eventually the U.S. placed "sectoral sanctions" on entering certain transactions with targeted Russian companies in the energy, financial and defense sectors, although many other types of business activities in Russia were still permitted. During this period, the Bureau of Industry and Security ("BIS") also imposed restrictions prohibiting certain activities involving Russian deepwater, Arctic and shale energy production.⁵ More recently the United States has imposed additional sanctions on Russian parties for cybersecurity violations, meddling in U.S. elections, corruption and human rights abuses.

The OFAC restricted party lists are not limited to parties from the countries subject to country-level sanctions programs such as Iran and North Korea - OFAC frequently targets parties in other countries as well. Thus sanctions requirements related to SDN's and other listed parties may arise in effectively any country in the world.

OFAC has issued general license that provide certain exceptions to the sanctions restrictions such as involving information materials and the sale of agricultural products, medicines and medical devices.⁶ In addition, OFAC can grant "specific" licenses in which it provides authority for a party to engage in a particular activity that is otherwise prohibited in response to a specific request.

If a party is placed on the SDN List, it is effectively cut off from a major portion of international business and financial transactions, access to most bank accounts and restrictions on international travel. As a result, the restricted party lists have become a powerful tool for the United States to isolate foreign adversaries and advance its interests around the world short of taking military action.

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If a party is placed on the SDN List there is a procedure under which the party can file a delisting petition with OFAC to request to be removed from the list.⁷ However, when a party is initially designated on the SDN List it is not subject to the same proceedings as in an OFAC enforcement case (see section 2 B below for further discussion of this issue)..

Penalties for violations of the U.S. sanctions laws include civil and criminal penalties of up to twenty years imprisonment and \$1,000,000 in fines per violation.⁸ In addition, foreign parties that engage in activities that undermine or circumvent the U.S. sanctions laws may themselves be subject to sanctions liability. (For additional information on penalties and steps for addressing trade violations see: [Dealing With Violations In Export and Import Transactions](#)).

2. Application Of U.S. Sanctions Laws To Non-U.S. Parties. The U.S. sanctions typically apply to “U.S. persons.” However they can also apply to non-U.S. persons and companies in certain cases – and the incidence of and legal theories behind such applications are expanding.

The term “U.S. person” is generally defined in the U.S. sanctions laws as: (i) U.S. citizens and permanent resident aliens wherever located; (ii) entities organized under the laws of the U.S. or a jurisdiction within the U.S. (including foreign branches of such entities); and (iii) any individual or entity within the U.S.⁹ Also property of foreign parties that is located in the U.S. or comes within the possession or control of any U.S. person anywhere in the world is subject to OFAC jurisdiction.

In addition, however, OFAC has applied the sanctions laws to foreign companies in many instances as well. In fact, the incidence of this is increasing due to recent political events (such as in Iran and N. Korea), and recent legislative enactments such as the Countering America’s Adversaries Through Sanctions Act of 2017 (“CAATSA”).¹⁰ To date there are four principal categories in which non-U.S. parties have been subject to U.S. sanctions: (i) where the foreign party has a requisite level of contacts with the U.S.; (ii) where the foreign party has been designated itself for sanctions and listed on the SDN List or other restricted party lists; (iii) under “secondary sanctions” (i.e., sanctions that specifically apply to non-U.S. persons); and (iv) for providing material support or assistance to or facilitating¹¹ a significant transaction with certain parties that are subject to sanctions. If a foreign company or individual violates a provision of the U.S. sanctions laws, they can be exposed to significant consequences for such actions.

A. Contacts With the United States. To start, if a non-U.S. company has a sufficient level of contacts with the United States, it can become subject to OFAC jurisdiction and the U.S. sanctions laws. Such jurisdiction can arise in a number of ways. If a non-U.S. company engages in a transaction involving U.S. persons or U.S. - origin products, technology or services, or has a presence in the U.S., the transaction can become subject to OFAC jurisdiction.

In addition foreign firms can be found to have “contacts” with the U.S. even if they only have a limited presence in the U.S. and there are no U.S. persons, products, technologies or services involved. The question of what constitutes a sufficient nexus to U.S. jurisdiction is an evolving theory of law and is expanding over time as new OFAC enforcement cases are announced. Examples of OFAC cases involving foreign companies include:

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- OFAC has long held that if a non-U.S. company engages in business transactions in U.S. dollars, the foreign party is availing itself of the U.S. financial system and hence becomes subject to the U.S. sanctions laws. This is even if the company and the transactions are outside the U.S. Some of the largest OFAC enforcement cases have involved foreign financial institutions and their operations involving countries subject to sanctions – see for example cases involving: BNP Paribas (\$8.97 billion in combined forfeiture and penalties),¹² Commerzbank (\$1.45 billion in combined penalties)¹³ and Standard Chartered that were alleged to have violated U.S. sanctions laws.
- In an OFAC enforcement case involving a Singapore oilfield services company COSL Singapore Ltd. and its foreign affiliate companies (collectively “COSL”), the company operated oil rigs and crews for third party owners in Asia and the Arab Gulf region. OFAC alleged that the company exported or attempted to export 55 orders of oil rig supplies from the U.S. to Singapore and the UAE, and then reexported such items to be used on oil rigs located in Iran. OFAC initiated enforcement proceedings against COSL for alleged violation of the Iran sanctions regulations and the company agreed to pay a significant penalty to resolve the charges.
- In a recent OFAC enforcement case involving the Taiwanese shipping company B Whale Corporation (“B Whale”), B Whale engaged in transactions involving Iran that were wholly outside of the U.S. and involved no U.S. parties or products. In such transactions, a vessel owned by B Whale conducted a ship-to-ship transfer of oil with a vessel owned by the National Iranian Tanker Company and identified on the SDN List. Previously, B Whale had filed for bankruptcy in a U.S. bankruptcy court. OFAC concluded that the Taiwanese company was subject to U.S. jurisdiction because the company had previously filed for bankruptcy in a U.S. bankruptcy court.
- In another OFAC enforcement case, a Singapore company CSE Global Limited and its wholly owned Singapore subsidiary were found to be subject to OFAC jurisdiction and \$12,000,000 in penalties when it sold non-U.S. origin communications equipment to Iran. OFAC concluded that the company was subject to U.S. jurisdiction since it originated a number of U.S. dollar wire transfers involving the Iranian project.¹⁴ OFAC claimed that by initiating such transfers CSE “caused” at least six financial institutions to engage in the unauthorized export or reexports of financial services from the U.S. involving Iran in violation of §560.204 of the Iran Transactions and Sanctions Regulations (“ITSR”).
- In the well known case involving Chinese company ZTE Corporation (“ZTE”), the company was charged with selling telecommunications products to Iran in violation of U.S. sanctions laws.¹⁵ The company became the subject of a well-publicized investigation by the U.S. Justice Department, OFAC and BIS for sanctions violations and agreed to settle the case and pay \$1.19 billion in combined criminal and civil penalties.

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Foreign companies with the requisite U.S. contacts that engage in sanctions violations face potential OFAC civil enforcement actions and criminal prosecution by the U.S. Justice Department, and are subject to the penalties discussed in Section 1 above.¹⁶ This is a different consequence than may arise for other types of sanctions violations by foreign companies as discussed in Sections 2.B, C, D and E below.

Thus even if a non-U.S. company has only tangential contacts with the U.S., it runs the risk of becoming viewed by OFAC as a “U.S. person” and/or otherwise subject to U.S. jurisdiction. Whether a company’s contacts with the U.S. rise to the level of establishing U.S. jurisdiction will depend upon the facts of the situation and the most recent OFAC enforcement cases. The question of what constitutes a sufficient nexus to U.S. jurisdiction is likely to continue to evolve as new OFAC cases are announced in the future.

B. Direct Designations For Sanctions. At the core of the U.S. sanctions laws is the actual designation of a specific person or entity as a target for sanctions. If a foreign party engages in activities that violate specific U.S. policy goals, the U.S. can designate the party on the SDN List or target it for other types of sanctions. Since most parties designated under U.S. sanctions are non-U.S. parties, this can be a significant source of liability for foreign companies.

The policy goals behind the 30 sanctions programs are set forth in various Executive Orders issued by the President under IEEPA and other legal authorities, and cover a wide array of activities including terrorist activity, weapons proliferation, human rights violations, election meddling, corruption and narcotics trafficking.¹⁷ For example, the U.S. recently listed 17 Saudi Arabian government officials on the SDN List for their participation in the alleged killing of journalist Jamal Khashoggi based upon human rights violations.¹⁸ Other examples of policy reasons for sanctions designations include:

- Repressing Democracy – Designation of the President of Petroleos de Venezuela, SA for being aligned with Venezuelan President Nicolas Maduro.¹⁹
- Terrorist Support – Designation of two officials of Hizballah for engaging in operational, intelligence and financial activities for Hizballah;²⁰
- Computer Hacking/Cybersecurity – Designation of two individuals for exchanging bitcoin related to the SamSam ransomware cyber-security scheme;²¹
- Undermining Democratic Processes – Designation of Murillo De Ortega in Nicaragua for undermining democratic processes and threatening the peace in Nicaragua;²²
- Ethnic Cleansing – Designation of four Myanmar military officials for actions against the Rohingya Muslims in Rakhine State in Myanmar.²³

One dramatic example of SDN designations was the recent listing of 38 prominent Russian “oligarchs” and government officials. On April 6, 2018 OFAC designated 38 Russian parties on the SDN List under the Russia/Ukraine sanctions program including seven Russian business executives, twelve companies that they owned or controlled, seventeen Russian

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government officials, a state-owned weapons company and a Russian bank. The parties were listed for having close ties to Vladimir Putin and playing a key role in Russia's "malign" activities involving Ukraine, Syria, subversion of western democracy and cyber-activities.²⁴

The designations included many of the most prominent and politically-connected businessmen in Russia. In addition, since the sanctions also apply to companies that are 50% or more owned by these parties, the sanctions flowed down to many of the largest companies across the Russian economy that are owned by these parties including publicly traded United Company Rusal PLC, EN+, GAZ Group and Rosoboronoeksport.²⁵ As a result, many companies around the world that conducted business with these companies quickly wound down their business dealings with these parties or risked being targeted for U.S. sanctions themselves. Thus the sanctions designations cut off a large portion of Russia's political and business elite from mainstream global commerce in a single stroke.²⁶

The designation of a party on the SDN List is a non-public process conducted by OFAC in conjunctions with other federal agencies. According to OFAC guidance, information is collected from U.S. government sources, intelligence reports, foreign governments and open sources. OFAC then reviews the information and prepares a formal evidentiary memorandum setting forth evidence supporting its conclusion that the party meets the criteria under the sanctions authority. OFAC then seeks the concurrence of other federal agencies which may include the Departments of the Treasury, Justice, State and other agencies.

Designation of a party on the SDN List is not a civil or criminal enforcement proceeding or the imposition of a penalty thereunder. Rather it is an extra-judicial process for violation of a U.S. policy. Consequently SDN's are not afforded the full procedural protections and due process rights normally provided in U.S. civil or criminal legal proceeding prior to the designation. (However as discussed above parties on the SDN List are permitted to file a delisting petition with OFAC to request to be removed from the list.) Notwithstanding, the "penalty" of being listed on the SDN List can be as bad or worse than the penalty in an enforcement case.

As referenced above, once a party is listed on the SDN List it is cut off from a large portion of international business and banking transactions, international travel and subject to a worldwide asset freeze. Consequently these designations can have a truly devastating impact on individuals and business organizations. Thus by designating parties on the SDN List, the U.S. extends its influence over foreign parties who have no contacts with the U.S. for simply having engaged in activity that is contrary to U.S. policy goals.

The remainder of this article is available in Part II HERE

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This article contains general, condensed summaries of actual legal matters, statutes and opinions for information purposes. It is not meant to be and should not be construed as legal advice. Readers with particular needs on specific issues should retain the services of

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competent counsel. For more information, please visit our website at www.williamsmullen.com or contact Thomas B. McVey, 202.293.8118 or tmcvey@williamsmullen.com.

EXHIBIT A

LIST OF U.S. SANCTIONS PROGRAMS

Balkans-Related Sanctions
Belarus Sanctions
Burundi Sanctions
Countering America's Adversaries Through Sanctions Act of 2017 (CAATSA)
Central African Republic Sanctions
Counter Narcotics Trafficking Sanctions
Counter Terrorism Sanctions
Cuba Sanctions
Cyber-Related Sanctions
Democratic Republic of the Congo-Related Sanctions
Foreign Interference in a United States Election Sanctions
Global Magnitsky Sanctions
Iran Sanctions
Iraq-Related Sanctions
Lebanon-Related Sanctions
Libya Sanctions
Magnitsky Sanctions
Nicaragua-Related Sanctions
Non-Proliferation Sanctions
North Korea Sanctions
Rough Diamond Trade Controls
Somalia Sanctions
Sudan and Darfur Sanctions
South Sudan-Related Sanctions
Syria Sanctions
Transnational Criminal Organizations
Ukraine-/Russia-Related Sanctions
Venezuela-Related Sanctions
Yemen-Related Sanctions
Zimbabwe Sanctions

EXAMPLES OF SANCTIONS REQUIREMENTS

Examples of recent sanctions requirements include²⁷:

- Iran – Restrictions on U.S. persons entering most types of business and financial transactions with Iran, the Government of Iran and persons in Iran with limited exceptions; certain secondary sanctions apply to non-U.S. parties;
- Russia/Ukraine – Multiple restrictions on U.S. persons including (i) restrictions on entering transactions with designated Russian and Ukrainian government officials and private parties; (ii) a complete trade and investment ban for the Crimea region of Ukraine; (iii) restrictions on entering certain transactions with targeted Russian companies in specific industry sectors including energy, banking and defense;²⁸ (iv) restrictions on entering transactions with certain Russian “oligarchs” and companies in which they have ownership interests of 50% or more; and (v) restrictions on entering transactions with Russian individuals and entities that have been designated for sanctions for cybersecurity violations, election meddling, corruption and other activities; certain secondary sanctions apply to non-U.S. parties;
- Syria, Cuba, N. Korea – For U.S. persons, comprehensive sanctions similar to Iran sanctions program; certain secondary sanctions may apply in certain instances to foreign parties;
- Venezuela - Restrictions on entering certain transactions with the Government of Venezuela, Petroleos de Venezuela, S.A., other designated Venezuelan parties and transactions involving cryptocurrency issued by the Government of Venezuela;
- Chinese Banks, Trading and Shipping Companies – In addition to restrictions on dealing with N. Korean parties, the N. Korean sanctions program imposes restrictions on U.S. and foreign parties in dealing with designated Chinese and other non-U.S. banks, industrial companies, trading companies and shipping companies that do business with N. Korea;
- Cybersecurity – Restrictions on entering transactions with parties that have been sanctioned for involvement in cyber-security attacks against the U.S. including N. Korean parties in the Sony Pictures cyber-attack and Russian parties in connection with the 2016 U.S. Presidential elections;
- Global Magnitsky Sanctions – Prohibition on entering transactions with parties designated by the U.S. for human rights and corruption violations;
- Cryptocurrencies – The prohibition on entering transactions involving cryptocurrencies issued by the Government of Venezuela (including the newly established Venezuelan cryptocurrency the “Petro”);
- Global Terrorist Sanctions – Restrictions on entering transactions with parties designated for sanctions for engaging in acts of terrorism, and with entities controlled 50% or more

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by such parties and parties that sponsor, provide financing or material or technological support for such parties;

- Vessels - Restrictions on chartering certain vessels that have been designated by OFAC for participation in sanctions evasion under various sanctions programs;
- Sanctions Evaders – Restrictions on U.S. and foreign parties providing material support, assistance, financing and other resources for certain parties that are listed on the OFAC List of Specially Designated Nationals and Blocked Persons.

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¹ On May 1, 2015 the U.S. Justice Department announced the conviction of BNP Paribas S.A. for conspiring to violate the U.S. sanctions laws with a total financial penalty (including forfeiture and criminal fine) of \$8.9 billion. See Justice Department release at: <https://www.justice.gov/opa/pr/bnp-paribas-sentenced-conspiring-violate-international-emergency-economic-powers-act-and>.

² In March 2017 ZTE Corporation agreed to pay \$1.19 billion in combined civil and criminal penalties for violations of U.S. sanctions laws regarding sales of products to Iran. See: <https://www.justice.gov/opa/pr/zte-corporation-agrees-plead-guilty-and-pay-over-4304-million-violating-us-sanctions-sending>.

³ These include the: Consolidated Sanctions List; Sectoral Sanctions Identifications List; Foreign Sanctions Evaders List; Non-SDN Palestinian Legislative Council List; Non-SDN Iranian Sanctions List; List of Foreign Financial Institutions Subject to Part 561 (the "Part 561 List"); 13599 List (see technical notice at: <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/20181105.aspx>); and List of Foreign Financial Institutions Subject to Correspondent Account or Payable-Through Account Sanctions (CAPTA List).

⁴ The US government also maintains other restricted party lists such as the BIS Entity List, Denied Persons List and the Unverified List, and the State Department's Statutory Debarred Parties List, Administrative Debarred Parties List, Nonproliferation Sanctions List, Countering America's Adversaries Through Sanctions Act of 2017 (CAATSA) Section 231 List (or Section 231 Guidance) and the Cuba Restricted List.

⁵ In addition to the Ukraine/Russia sanctions administered by OFAC, the Bureau of Industry and Security within the Commerce Department maintains a number of sanctions involving Russia including the Russian Industry Sector Sanctions set forth at 15 CFR §746.5, restrictions on dealings with certain Russian parties under 15 CFR §744.10 and restrictions on dealing with military end use and military end users in Russia under 15 CFR §744.21.

⁶ The scope of these general licenses may vary under certain of the sanctions programs.

⁷ In order for legal counsel to represent an SDN in filing a delisting petition and receiving payment therefor a specific or general OFAC license must be in effect. Counsel are prohibited from receiving payment from the SDN as well as from family members and other representatives of the SDN unless such licenses are in effect.

⁸ Penalties for violations include civil and criminal penalties. Criminal penalties are up to twenty years imprisonment, \$1,000,000 in financial fines, or both per violation. Civil penalties are up to the greater of \$295,141 or twice the amount of the underlying transaction, per violation. OFAC has a robust enforcement division which initiates civil enforcement cases. In addition, the U.S. Justice Department in Washington, D.C. and individual U.S. Attorneys' offices initiate criminal prosecutions of sanctions violations, sometimes in conjunction with OFAC or independent of the agency. Judicial review of OFAC determinations is authorized under most of the sanctions programs, but cases are limited. (See, e.g., Epsilon Electronics Inc. v. U.S. Dept. of the Treasury Office of Foreign Assets Control, Et. Al., In the U.S. Court of Appeals for the District of Columbia Circuit, No. 16-5118, May 26, 2017.).

⁹ In addition, foreign subsidiaries of U.S. entities are subject to OFAC requirements in certain instances (See for example provisions under the Iran and Cuba sanctions programs).

¹⁰ Public Law 115-44.

¹¹ The concept of “facilitation” by foreign parties in assisting others in sanctions violations is separate from OFAC’s well known doctrine of “facilitation” by U.S. persons in assisting foreign parties in sanctions violations. See Section 2.D. below.

¹² See Department of Justice release at: <https://www.justice.gov/opa/pr/bnp-paribas-agrees-plead-guilty-and-pay-89-billion-illegally-processing-financial>.

¹³ See Department of Justice release at: <https://www.justice.gov/opa/pr/commerzbank-ag-admits-sanctions-and-bank-secrecy-violations-agrees-forfeit-563-million-and>

¹⁴ In this case, CSE was contracted to supply telecommunications equipment for projects in Iran, and retained numerous non-U.S. vendors to assist on the project. OFAC alleged that CSE made payments to such vendors through CSE’s U.S. dollar-denominated accounts in non-U.S. financial institutions. OFAC charged that originating such wire transfers in U.S. dollars violated the Iran Transactions and Sanctions Regulations (“ITSR”). Specifically, OFAC claimed that by initiating such transfers CSE “caused” at least six financial institutions to engage in unauthorized exports or reexports of financial services from the U.S. to Iran in violation of ITSR §560.204.

¹⁵ ZTE was alleged to have purchased certain U.S.-origin telecommunications components, incorporated such components into ZTE telecommunications equipment and sold the equipment to Iran.

¹⁶ Parties subject to civil enforcement proceedings are entitled to the procedural protections under OFAC’s enforcement regulations and judicial review of adverse determinations, and for criminal prosecutions the constitutional protections for criminal prosecution.

¹⁷ Many of the list-based sanctions programs are focused around such policy goals such as the Counter Narcotics Trafficking Sanctions, Counter Terrorism Sanctions, Cyber-Related Sanctions, Foreign Interference In U.S. Elections Sanctions, Global Magnitsky Sanctions, Non-Proliferation Sanctions, Rough Diamond Trade Sanctions and Transnational Crime Sanctions.

¹⁸ The designations were for human rights violations under the Global Magnitsky Human Rights Accountability Act and Executive Order 13818.

¹⁹ See OFAC SDN designation February 15, 2019.

²⁰ See OFAC SDN designation November 27, 2018.

²¹ See OFAC SDN designation November 28, 2018.

²² See OFAC SDN designation November 27, 2018.

²³ See OFAC SDN designation August 17, 2018.

²⁴ The 38 parties were designated under Executive Orders 13661 and 13662 pursuant to CAATSA as well as Executive Order 13582, following the Treasury Department’s issuance of the CAATSA Section 241 Report regarding senior foreign political figures and oligarchs in the Russian Federation under CAATSA §231 in January 2018.

²⁵ On December 19, 2018 OFAC submitted its Notification to Congress of its intention to terminate sanctions imposed on United Company Rusal plc, EN+ Group plc and JSC EuroSibEnergo after thirty days as the individual party identified on the SDN List that owned 50% of such entities had restructured his ownership and reduced his holdings in such entities below 50%. On January 27, 2019 OFAC removed United Company Rusal plc, EN+ Group plc and JSC EuroSibEnergo from the SDN List.

²⁶ Technically, designation of a party as an SDN does not impose direct legal requirements on the targeted party, rather it imposes obligations on U.S. persons (and possibly other foreign parties) to not engage in transactions with such party and to block such party’s assets.

²⁷ This is not a complete list of the U.S. sanctions programs nor the requirements under such programs; a list of the OFAC sanctions programs in effect on the date of this article is in Exhibit A.