



Sanctions Compliance in an Uncertain World – A Guide for Shipowners, Charters and Financiers

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U.S. Sanctions

Comprehensive:

Crimea, Cuba, Iran, North Korea, Syria

Limited:

Belarus, Burundi, Central African Republic, Democratic Republic of the Congo, Iraq, Lebanon, Libya, Russia, Somalia, Sudan, South Sudan, Venezuela, Yemen and Zimbabwe

“U.S. Person”

Most Sanctions programs:

“The term United States person or U.S. person means any United States citizen, permanent resident alien, entity organized under the law of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.”

Cuba:

“The terms person subject to the jurisdiction of the United States and person subject to U.S. jurisdiction include:

- (a) Any individual, wherever located, who is a citizen or resident of the United States;
- (b) Any person within the United States as defined in Section 515.330;
- (c) Any corporation, partnership, association, or other organization organized under the laws of the United States or of any State, territory, possession or district of the United States; and
- (d) Any corporation, partnership, association, or other organization, wherever organized or doing business, that is owned or controlled by persons specified in paragraphs (a) or (c) of this section.”

Common Sanctions Provisions in Loan Agreements

Key provisions:

1. What is included in Sanctions?

US?

EU?

UK?

Others?

2. Limits on transactions with persons subject to Sanctions - are the loan provisions more stringent than required?

Ex. Russia

3. What about changes to Sanctions programs?

Ex. Venezuela

How Non-U.S. Persons May Be Subject to U.S. Sanctions

1. Secondary Sanctions
 - Cuba - 180 day rule
 - Iran?
2. Other connections to the U.S.
 - Financial system
 - U.S. courts
 - “Facilitation”

Challenges – the SDN List

50% rule:

- An entity owned 50% or more by a person named on a sanctions list is subject to the same sanctions as the named person.
- If owned by more than one sanctioned person, the entity is subject to the same sanctions as the sanctioned persons in the aggregate.
 - Must be under same sanctions program
 - Must be subject to same sanctions (ex: Ukraine-related Directives)

Challenges

But that is not always the case –

Cuba is different.

Section 515.201 of the Cuban Assets Control Regulations prohibits any dealings in property in which any Cuban “has at any time on or since the effective date of this section had [sic] any interest of any nature whatsoever, direct or indirect.”

Halliburton penalty of \$304,706 for exports to jv operating in Angola in which Unión Cuba-Petróleo (CUPET) owns a 5% interest