



# GLOBAL TRADE & GOVERNMENT AFFAIRS

Financial institutions  
Risk management: sanctions compliance

# FINANCIAL SANCTIONS AND TRADE FINANCING RESTRICTIONS

Compliance with an ever expanding network of economic sanctions and financing restrictions is a challenge for any financial institution. The financial sector plays a vital role in underpinning global trade and facilitating international investment activity. Efforts to counter terrorism, prevent illegal trade, resolve regional conflict and respond to international crises increasingly focus on economic measures. Against this backdrop, financial institutions are tasked with implementing a wide range of complex economic sanctions measures and financing restrictions.

The criminal, financial and reputational consequences of any failure to comply with sanctions requirements and the additional risks associated with indirect violations triggered by the actions of third parties have been all too apparent in recent years.

With the expansion of economic sanctions into wider financial services and financing related activities, together with the strict criminal liability nature of sanctions offences and "zero tolerance" approach taken by relevant competent authorities and enforcement agencies, financial institutions are increasingly expected to adopt and implement a sophisticated "risk based" approach to sanctions compliance. Such procedures include an ability to carry out "deep dives" into the corporate ownership and control structures of potentially high risk counter-parties and the capacity to be able to identify and manage "red flags" associated with underlying transactions or payment processing activity which may involve high risk jurisdictions or sectors.

Many banks, financial institutions and wider financial services providers seek to leverage off existing anti-money laundering (AML) procedures and know-your-customer (KYC) checks in order to identify and manage sanctions risk. However, common practices, such as automated screening processes, the deployment of "fuzzy logic" protocols and enhanced due diligence to identify persons designated under applicable sanctions lists provide a limited degree of risk management in relation to traditional asset freezing measures.

# ONE TEAM TO GUIDE YOU ON SANCTIONS COMPLIANCE WHEREVER YOU OPERATE

We have a dedicated global sanctions compliance team, who fully understand the various regulatory frameworks and the clear expectations of financial regulatory bodies and supervisory authorities. We support major global financial services providers and boutique advisory firms on the development and implementation of appropriate policies and procedures to manage financial crime and economic sanctions risk.

We keep our clients fully up to date with the changing regulatory framework to ensure that they understand and meet their legal requirements and regulatory obligations. We advise on the complex and often nuanced interpretation of economic sanctions law and regulation and its implementation by relevant competent authorities.

Partnering with an experienced sanctions compliance specialist, attuned to the financial services sector and able to service your particular needs in relevant jurisdictions, helps to ensure that your business is well placed to meet its associated regulatory obligations, stay one step ahead of the competition and secure the best commercial outcome for your company.

Our worldwide network of sanctions advisors cooperates seamlessly across national boundaries, allowing you to access the best legal advice from one source. We remain partner-led, client-orientated and commercially-focused to provide rapid, professional support to assist your decision making and deliver innovative trade compliance strategies and effective risk management.

## OUR CAPABILITIES

Our detailed knowledge of economic sanctions and wider financial restrictions regimes across the globe and experience in handling complex transactions and commercially sensitive investigations means that we are experienced in working with clients at all levels to manage sanctions related financial, criminal and reputational risk.

Our experience is deep and diverse and includes representing major global financial services providers and boutique firms. We are equally comfortable operating across a range of financial services sectors, our clients include those operating in: retail and corporate banking; investment management and custody services; payment service providers; insurance and re-insurance companies; placement agents and distributors; traders and brokers; and wider platform support and ancillary service companies.

We regularly advise clients on the handling and coordination of multijurisdictional investigations involving potential or alleged violations of economic sanctions and financing restrictions. We have developed a number of innovative tools to assist clients with the assessment of their sanctions compliance risk profile and the implementation of risk mitigation policies and procedures.

# OUR EXPERIENCE

Banks, financial institutions, insurance companies and wider financial services companies involved in financial transactions need to comply with a wide range of restrictions which either prohibit or subject to licensing requirements a complex range of financing and financial assistance, such as trade financing, loan agreements or credit facilities and payment processing which may support restricted activities in sensitive jurisdictions or high risk sectors. Furthermore, financial restrictions also apply to a range of trade and investment activity and capital market transactions involving, for example participation in energy infrastructure projects, trade in petroleum or petrochemical products, the sale of arms and related materials and dealing with transferable securities and money market instruments issued by certain Russian companies.

DLA Piper's financial sanctions expertise includes:

## Retail Banking:

- Coordination of a multijurisdictional investigation into alleged sanctions violations and the provision of strategic advice in relation to disclosure and implementation of mitigation measures.
- Assisting an international bank with its risk profiling and the development of policies and procedures for screening and enhanced due diligence in relation to client take on, account management and payment processing.
- Advising a financial service provider on its legal obligation to screen customers, counter-parties and payment transactions and the management of potential "hits" and "false positives".
- Assisting a global financial institution with its reporting obligations with regards to funds held in frozen accounts, the receipt of funds from a sanctioned party, fund transfer restrictions and blocked payments.
- Engagement with relevant competent authorities on behalf of our client to secure necessary authorisations to release funds from frozen accounts for payment of pre-existing obligations, to meet fees for the maintenance of frozen accounts and to support humanitarian transactions.

## Corporate Banking:

- Advising a European bank on the operation of trade financing instruments and implications with regards to economic sanctions in relation to transactions and financing involving a sanctioned third party or transactions which are restricted due to wider trade embargo measures.
- Advice for a trade financing bank with regards to extend or pay demands in relation to performance bonds and advance payment guarantees triggered due to the underlying contract becoming frustrated due to international sanctions measures.
- Advising a financial services provider on compliance with sanctions related obligations in relation to the operation and servicing of an existing loan facility arrangement involving designated Russia entities.

- Assisting an international bank with training and awareness raising in order to support the identification and management of potential "red flags", streamline enhanced due diligence activities and enhance operational effectiveness with regards to transaction decision making.

## Asset Management:

- Advising a number of major international investment managers and wider financial service providers such as custodians, administrators, brokers, intermediaries, placement agents, and distributors on the scope and application of economic sanctions and trade financing restrictions to fund management activities in primary and secondary markets.
- Assisting a fund manager with regards to institutional clients part owned by sanctioned government entities, mutual funds/collective investment schemes maintaining subscriptions from sanctioned persons and risk mitigation with regards to omnibus accounts.
- Advising European fund managers in relation to risk management and sanctions compliance in relation to trading activity on primary markets, IPO transactions, representations and warranties in offering memoranda and secondary market trading on both traditional and emerging market exchanges.
- Strategic engagement with relevant competent authorities on behalf of a client where the client held securities brought to market by issuers which are listed under international sanctions regimes, or which operate in a sanctioned jurisdiction.
- Developing a financial sanctions related risk assessment tool for a major international fund manager to identify and manage: Jurisdiction risk; Client risk; Product risk; Transaction risk; Distribution risk; and Organisation and Process risk and advice on the implementation of robust risk mitigation measures.

## Insurance

- Advising a global insurance company on the investigation and disclosure of a number of violations of Iran sanctions in relation to the provision of protection and indemnity cover for ship owners transporting Iranian origin oil, gas and petrochemical products.
- Assisting a major reinsurance company with regards to the drafting of appropriate sanctions related clauses for both property and protection and indemnity cover to cover global shipping risk.
- Assisting a European travel insurance provider in relation to the effect of EU counter measures aimed at minimising the impact of US sanctions on Cuba.
- Advising a global insurance company on its legal obligation to screen clients and third party payment claims and the management of potential "hits" and "false positives".



