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## ECONOMIC SANCTIONS ENFORCEMENT: RECENT TRENDS AND LESSONS LEARNED

*Although the number of enforcement actions for violations of sanctions laws has dipped in recent years, the size of penalties has steadily increased. The authors discuss the scope of sanctions and then address three recent cases to illustrate the factors that may increase or decrease penalty amounts.*

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Enforcement actions for violations of U.S. economic sanctions have fluctuated in recent years, though the size of penalties has steadily grown. In this article, we examine trends in enforcement cases, study some recent enforcement actions, and discuss some lessons learned from the missteps of those companies that have seen enforcement actions in recent years.

### WHY WORRY ABOUT SANCTIONS ENFORCEMENT?

The U.S. Department of the Treasury, Office of Foreign Assets Control (“OFAC”) administers and enforces most economic and trade sanctions based on U.S. foreign policy and national security goals. U.S. sanctions apply to U.S. persons including U.S. nationals, permanent residents, and any entity organized under U.S. law, as well as any person physically present on U.S. territory.<sup>1</sup> However, non-U.S. companies also can face enforcement actions for violations of U.S.

sanctions. For Iran and Cuba, foreign entities that are owned or controlled by a U.S. person (foreign subsidiaries of U.S. companies) are also subject to direct prohibitions on certain activities in those countries.<sup>2</sup> Even non-U.S. companies without a U.S. parent must be careful to stay in compliance. Non-U.S. companies can violate U.S. laws by “causing a violation” by involving a U.S. person in a prohibited activity.<sup>3</sup> For example, a European bank could be liable for “causing” a violation by a U.S. bank by transmitting prohibited transactions from a sanctioned jurisdiction. The civil penalties for sanctions violations are strict liability, although OFAC tends to impose the most significant penalties on those companies that have acted knowingly or recklessly.<sup>4</sup>

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<sup>1</sup> See, e.g., 31 C.F.R. 560.314

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<sup>2</sup> 31 C.F.R. §§ 515.329, 560.215.

<sup>3</sup> 50 U.S.C. § 1705.

<sup>4</sup> *Id.*

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