



BETWEEN A ROCK AND A HARD PLACE: HOW TO NAVIGATE THE US SANCTIONS REGIME AND THE EU'S BLOCKING STATUTE

Join this webinar on September 29th at 12 p.m. EDT with Natalia San Juan, an Associate in Hunton Andrews Kurth's litigation team, and Xavier Codina, Senior Attorney at Ibero-American law firm Uría Menéndez to explore the seemingly opposing United States' sanctions regime and the European Union's Blocking statute.

Our panelists will provide an overview of both regimes and offer guidance for companies impacted by these regulations that will help them navigate this complex environment.

SPEAKERS:

- Natalia San Juan | Associate | Hunton Andrews Kurth
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Between a Rock and a Hard Place: How to Navigate the US Sanctions Regime and the EU's Blocking Statute

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What are US Sanctions?

- Economic sanctions are governmental measures designed to deprive a targeted entity of financial and economic assets.
- The Office of Foreign Assets Control (“OFAC”) of the US Department of the Treasury administers and enforces economic and trade sanctions based on US foreign policy and national security goals.



- For information on OFAC’s sanctions programs, please visit OFAC’s website at: <https://home.treasury.gov/policy-issues/office-of-foreign-assets-control-sanctions-programs-and-information>

How do the US Sanctions Programs Operate?

- Comprehensive: prohibit nearly all transactions with a specific country
- Targeted: prohibit transactions with specific sanctioned entities or individuals

What Countries Are or Have Been Affected?

- The Balkans
- Belarus
- Burundi
- The Central African Republic
- Cuba
- The Democratic Republic of the Congo
- Iran
- Iraq
- Lebanon
- Libya
- Nicaragua
- North Korea
- Russia
- Somalia
- South Sudan
- Syria
- Ukraine
- Venezuela
- Yemen
- Zimbabwe



Do the Sanctions Programs Only Apply to Countries?

- Specially Designated Nationals and Blocked Persons List (“SDN List”): OFAC’s list of individuals and companies owned or controlled by, or acting for or on behalf of, targeted countries
- 50 Percent Rule



Who do the Sanctions Requirements Apply to?

“US persons”

**US citizen,
domicile, or
resident**

**for certain
sanctions programs,
foreign subsidiaries
owned or
controlled by US
companies**

**entities organized
under the laws of
the US or any
jurisdiction within
the US and their
foreign branches**

**any person or
entity in the US**

Can the Sanctions Requirements Apply to Non-US Persons?

- Secondary sanctions
 - Providing material support to certain sanctioned countries, entities, and individuals
- Facilitation
- Causing a sanctions violation

What are Key Components of Effective OFAC Compliance Programs?

- Management Commitment
- Risk Assessment
- Internal Controls
- Testing and Auditing
- Training

M&A Transactions

- Issue: Insufficient transaction due diligence and conduct of overseas entities



Supply Chains

- Issue: Export of goods, technology, or services from the United States to third-country distributors with the knowledge or reason to know that such goods are specifically intended for companies and individuals in a sanctioned country



Money Services

- Issue: Allowing individuals located in sanctioned jurisdictions to use platform to transact with merchants in the United States and elsewhere



Sanctions programs may authorize a private right of action or grant the US government the authority to deny visas to and exclude persons from the United States.



EU Blocking Regulation



BLOCKING REGULATION

1

ACTION: Foreign Sanction program with extraterritorial effects

Certain US sanctions: US nexus?

2

CONSEQUENCES: adverse effects

EU Nationals affected by extraterritorial adverse effects

3

RESPONSE: block effects

EU Council Regulation nº 2271/96
“removing, neutralising, blocking or otherwise countering the effects of the foreign legislation concerned”

4

ENFORCEMENT

Member States: sanctions and disputes

EU Commission: authorizations



In 1990s redux, EU to consider blocking U.S. sanctions over Iran



EU sets course for US clash with law blocking Iran sanctions

The New York Times

Europe Struggles to Defend Itself Against a Weaponized Dollar

Despite warm words from Biden, U.S. secondary sanctions against Iran, Russia and others punish European companies and prompt new calls for strategic autonomy.

Le Monde

Les Européens livrent du matériel médical à l'Iran

Il s'agit de la première transaction de la structure Instex mise en place par Berlin, Londres et Paris pour commercer avec Téhéran malgré les sanctions américaines.

Council Regulation nº 2271/96

Main obligations

- To communicate to the Commission
- To not recognize, enforce nor comply with certain legislation
- Authorization proceeding before the Commission

Broad right for seeking compensation (clawback right)

- In any Member State
- Against any entity causing the damages or from any person acting on its behalf or intermediary

Enforcement is a task for **Member States** (except for authorizations)

Commercial relations, investment decisions, ... (**private enforcement**)

- Disputes: compensate + (re-) establish the status quo

Inspection, control and sanction proceedings (**public enforcement**)

- Each Member State sets forth a sanction regime



C-124/20: *Bank Melli Iran*

- Case
- Decision pending; Opinion of AG available [here](#)
- Decision pending (see [file](#))



InfoCuria
Case-law

T-8/21: *IFIC Holding v. Commission* (and *Clearstream Banking*)

- Case
- Decision pending (see [file](#))

In the near future...

The Lexology logo consists of the word "LEXOLOGY" in a white, sans-serif, uppercase font, followed by a registered trademark symbol (®). The text is centered within a solid black rectangular background.

European Commission considers amendments to the EU Blocking Statute and seeks public feedback

¡ Gracias por su atención !

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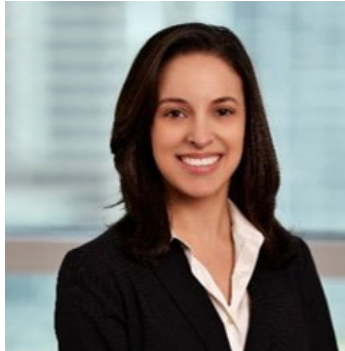
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Thank you