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US Agencies Issue Joint Compliance Note on Russia-Related Sanctions and Export Controls Evasion

The first-ever tri-seal Note highlights tactics used to circumvent Russia-related restrictions, while NSD adds 25 prosecutors focusing on sanctions and export controls.

In May 2022, shortly after hostilities in Ukraine began, Deputy Attorney General Lisa Monaco first announced, “Sanctions are the new [Foreign Corrupt Practices Act] FCPA.” Over the past several weeks, the Department of Justice has issued a series of announcements that provide additional context on what that pronouncement will mean in practice.

First, on March 2, 2023, the US Departments of Justice (DOJ), Commerce, and Treasury issued a first-ever [Joint Compliance Note](#) on “cracking down on third-party intermediaries used to evade Russia-related sanctions and export controls.” The Joint Compliance Note describes how Russia uses third-party intermediaries and transshipment points to circumvent restrictions, and lists common red flags that can indicate a third-party intermediary may try to evade sanctions or export controls.

Second, in a March 2, 2023, [speech](#), Deputy Attorney General Lisa Monaco announced that DOJ’s National Security Division (NSD) will hire 25 new prosecutors in its Counterintelligence and Export Control Section “who will investigate and prosecute sanctions evasion, export control violations and similar economic crime.” The new hires will include NSD’s first-ever Chief Counsel for Corporate Enforcement.

These announcements come shortly after DOJ and the US Commerce Department launched the Disruptive Technology Strike Force (Strike Force), a joint task force co-led by NSD and BIS, on February 16, 2023. See Latham’s [Client Alert](#) for additional details on the Strike Force.

The Joint Compliance Note: Best Practices and Red Flags

The Joint Compliance Note outlines measures that parties engaged in international business should consider to guard against efforts to evade sanctions and export controls. Effective compliance programs should employ a risk-based approach that incorporates management commitment, risk assessments, internal controls, testing, auditing, and training. Companies should tailor their controls to the specific risks affecting them, such as third-party intermediaries’ diversion. Best practices include screening new and existing customers against restricted party lists, conducting risk-based due diligence on counterparties, and consulting guidance issued by the Treasury Department’s Office of Foreign Assets Control (OFAC)

and the Commerce Department's Bureau of Industry and Security (BIS). Companies should also stay vigilant for evasion-related red flags, such as:

- using shell companies to obscure ownership, source of funds, or countries involved;
- reluctance to share information about a product's end use;
- using shell companies to conduct international wire transfers;
- declining customary installation, training, or maintenance of purchased items;
- IP addresses that do not correspond to a customer's reported location data;
- last-minute changes to shipping instructions;
- payment from a third-party source not listed on the end-user form;
- using personal email accounts or residential addresses;
- changes to standard letters of engagement that obscure the ultimate customer;
- transactions involving entities with little or no web presence; or
- routing purchases through transshipment points commonly used to illegally redirect items to Russia or Belarus, such as China, Armenia, Turkey, and Uzbekistan.

Related Enforcement Actions

DOJ's Joint Compliance Note follows recent OFAC and BIS actions targeting parties involved in Russia-related sanctions and export control evasion. In November 2022, OFAC [designated](#) individuals and entities involved in a global procurement network maintained by a Russian microelectronics company, AO PKK Milandr, as Specially Designated Nationals. In January 2023, BIS similarly [added](#) seven Iranian entities to its Entity List for producing unmanned aerial vehicles that Russia had used against Ukraine. Both agencies have also pursued civil enforcement actions against parties involved in sanctions evasion and shipments of controlled items to Russia.

In addition, DOJ has pursued criminal charges against those who it alleges have used shell companies and third-country transshipment points to evade sanctions and procure dual-use items for the Russian military. For example, in December 2022, DOJ [charged](#) five Russian nationals and two US citizens with violating US sanctions and export controls in a global procurement and money laundering scheme for the Russian government. According to DOJ, the defendants employed tactics such as dividing shipments into multiple, smaller conveyances, using aliases, rapidly forwarding or distributing funds to obfuscate the money source, and making false or misleading statements on shipping forms to evade detection.

The Joint Compliance Note encourages parties who believe they may have violated sanctions or export control laws to voluntarily self-disclose the conduct to OFAC or BIS, and to disclose all potentially criminal violations of sanctions and export control laws to NSD.

Conclusion

The new Strike Force, NSD's hiring of 25 new prosecutors, and the Joint Compliance Note seem to mark an inflection point in the Biden Administration's increased focus on civil and criminal enforcement of the robust sanctions and export control measures implemented to stem and deter Russian military aggression. Companies should recognize this change and assess their compliance programs in light of the specific red flags in the Joint Compliance Note and the potential risks resulting from more proactive DOJ investigative activities.

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