



ACI Economic Sanctions Boot Camp

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Disclaimer

The views expressed in this presentation are those of the presenter, and are not necessarily the views of CIBC.

The contents of this presentation are general in nature. Attendees should obtain independent legal advice tailored to address specific issues.



Agenda

- Context: CIBC AML recap
- Identification of heightened sanctions risk
- Transactions involving Iran
- Transactions involving Cuba
- Blocking legislation - FEMA
- Transactions involving Russia/Ukraine
- Wrap Up - Questions

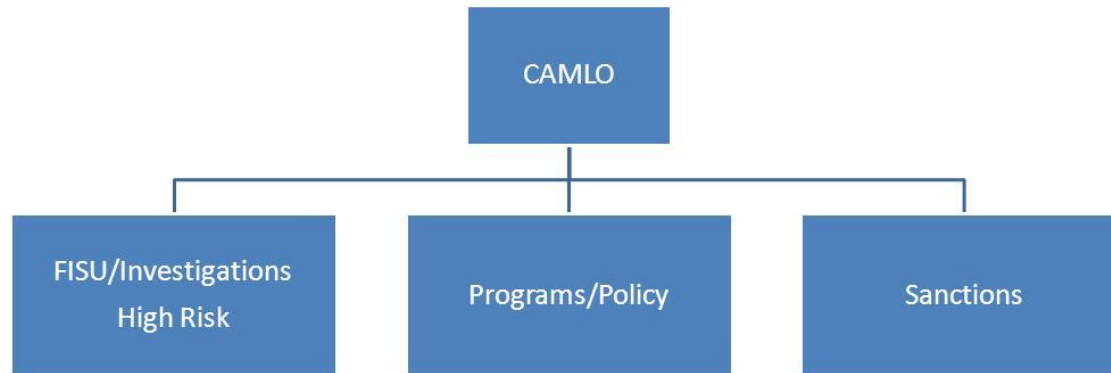


CIBC

- Head office in Toronto, Canada
- Subsidiaries in US; Caribbean (FirstCaribbean International Bank)
- Offices in UK, HK, Singapore, Japan, Australia, South Africa, Columbia



CIBC AML



- Quasi-centralized approach
- Global AML Policy
- Lines of Business have AML Officers
- AML Regional Officers also report to CAMLO, and are responsible for implementation of Regional AML Policies and Procedures



Identification of Heightened Sanctions Risk

Consider:

- Real-time requirements (ie.payments)
- Batch review (ie. client data repositories)
- Jurisdictions involved - nexus
- Varying systems/lists

Approach:

- Systems – automated tools
- Manual intervention
- Procedures / training



Systems

- May encounter challenges with consistency, if using multiple vendors/multiple lists;
- Consider centralized list;
- Advantages and disadvantages to the centralized approach;
- Multiple jurisdictions can increase the number of hits requiring manual intervention – to review a hit, to determine if there is a nexus to a jurisdiction where sanctions may apply;
- Challenges we have seen, where a central office books deals for a client located in a different jurisdiction, and where negotiations or an originating office adds a further jurisdiction;
- Potential privacy issues in some jurisdictions (BVI; Singapore, etc), can limit fields/amount of information made available, or screen via local reps;



Manual intervention

- Output from systems reviewed manually by two levels, operations group first to assist with “easy” false positives, then second level to AML, based on risk matrix;
- Second level may be regional AML office, with further escalation to head office AML; regular dialogue between regional AML offices and head office;
- Consider prudent approach – hits for jurisdictions on the surface, may not seem to apply, but further investigation reveals a nexus;
- Same-day updates of sanctions changes for areas that rely on manual reviews, also to update back office and regional AML officers.



Checklists – sample question

“The economic sanctions risk factor is present (but not necessarily mitigated or unmitigated) if:

The Transaction will:

- (a) benefit a Client or other Person that is known by the Transaction Sponsor to be organized in, located in, or engaged in business in a country subject to applicable economic sanctions legislation
[link to current list]
- (b) if the Transaction benefits a Client or other Person subject to U.S. economic sanctions legislation under the condition set forth above in (a), one or more of the following conditions is met:
 - (i) any CIBC employees, agents or other personnel that will be approving or working on the Transaction is a U.S. Person (U.S. citizen or permanent resident) and cannot recuse himself or herself from the Transaction;
 - (ii) a Client, beneficiary or other participant in the Transaction is a U.S. Person, an entity organized in the U.S. (or subsidiary thereof), or the U.S. office of a non-U.S. entity;
 - (iii) the Transaction involves goods of U.S. origin;
 - (iv) the Transaction involves payment in or transfer of U.S. dollars; or
 - (v) the Transaction involves any other material connection to the U.S.”



Procedures and training

- Need high level/conceptual understanding of sanctions impact and need to screen (ie. Policy), but very specific details in Procedures;
- Embed in multiple policies, as there is overlap (Client onboarding; transaction monitoring; risk assessment; credit adjudication, etc);
- Make the Sanctioned Country List easy to find; consider smaller list appropriate to different lines of business if automated screening can cover;
- Reinforce with ongoing training of sales force, credit adjudicators, back office, et al.



Regulatory Framework

Don't rely just on auto-feeds – check sources as well – Examples

- ✓ Office of the Superintendent of Financial Institutions (“OSFI”)
 - ✓ Foreign Affairs and Trade Development Canada (“FATDC”, formerly “DFAIT”)
 - ✓ PMO – Freezing Assets of Corrupt Foreign Officials Act sanctions / Criminal Code
 - ✓ Financial Transactions Reports and Analysis Centre Canada (“FINTRAC”)
 - ✓ U.S. Office of Foreign Assets Control (“OFAC”) sanctions
 - ✓ USA PATRIOT Act / Bank Secrecy Act
 - ✓ United Nations Act and related country sanctions
 - ✓ Financial Crimes Enforcement Network (“FinCEN”)
 - ✓ Office of the Comptroller of the Currency (“OCC”)
 - ✓ NY Department of Financial Services (“DFS”)
 - ✓ Bureau of Industry and Security (BIS) under the Department of Commerce
 - ✓ EU – European Union
 - ✓ HM Treasury
 - ✓ HKMA (Hong Kong Monetary Authority) - the government authority in Hong Kong responsible for maintaining monetary and banking stability.
 - ✓ MAS (Monetary Authority Singapore)
 - ✓ Japan Financial Services Agency
 - ✓ DFAT – Australian Department of Foreign Affairs and Trade
 - ✓ Central Bank of the Bahamas
 - ✓ Financial Services Commission of Barbados
- ✓ Consider blogs/subscriptions – Cadwaladar Cabinet News; European Sanctions Blog; Lexology



Canadian Regulatory Environment

- Canadian regulators have not yet levied significant penalties against any bank, however the bar continues to rise with respect to regulatory expectations.
- One example below however identifies the move towards issuing penalties in Canada –
- Simply by putting the wrong address on a \$15 CAD shipment of synthetic rubber rings cost an Alberta company \$90,000 CAD for violating legislation which prohibits sending certain products to Iran. Lee Specialties Ltd. of Red Deer pleaded guilty of one count of violating the *Special Economic Measures Act*. The court withdrew two other charges under the *Customs Act* and the *United Nations Act*.
- Limited resources within FATDC; limited guidance; can be slow to respond



Canada – Sanctions against Iran

- Canada takes tougher stance on Iran – did not lessen sanctions in light of P5+1
- Since the introduction of new sanctions against Iran under the *Special Economic Measures Act* on July 26, 2010, Canada has added names on 5 occasions:
 - October 17, 2011
 - November 21, 2011
 - January 31, 2012
 - December 11, 2012
 - May 29, 2013



Iran cont'd

Special Economic Measures Act (SEMA) Regs:

5. It is prohibited for any person in Canada and any Canadian outside Canada to...

(d) provide or acquire any financial services to, from or for the benefit of, or on the direction or order of, Iran or any person in Iran, other than...

(vii) financial services in respect of non-commercial remittances of \$40,000 or less sent to or from Iran or any person in Iran, if the person providing the financial services keeps a record of the transaction;

(ix) financial services in respect of transfers of \$40,000 or less between a person in Canada and a person in Iran who is their spouse, common-law partner, child or parent, if the person providing the financial services keeps a record of the transaction



Iran cont'd

SEMA:

Offence and punishment

8. Every person who **wilfully** contravenes or fails to comply with an order or regulation made under section 4:

(a) is guilty of an offence punishable on summary conviction and is liable to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding one year, or to both; or

(b) is guilty of an indictable offence and is liable to imprisonment for a term not exceeding five years.



Cuba transactions

- Cuba – Canada presently does not impose sanctions against Cuba.
- Cuban nationals as customers – we identify by disclosed primary/secondary address or ID origin.
- Cuban nationals - restricted product offerings (no USD products), and controlled review by AML Sanctions group of all new products offers.
- All payments with a nexus to Cuba are reviewed centrally and escalated to AML Sanctions group.
- We ask businesses about operations/activities involving Cuba (part of client onboarding questionnaire).
- May require that businesses segregate activities, or show evidence of separate structures for Cuban/US operations.



Iran cont'd

- Most issues involving new immigrants opening personal accounts / credit products;
- Challenges transferring personal funds from Iran to Canada – most use currency exchangers, transfer up to \$40,000 CDN;
- We do not allow USD products;
- Restrict online access from Iran by IP address;



Cuba transactions

- Most payments we process involve the transfer of funds from US based churches who are paying pension amounts to former ministers or priests, or their surviving beneficiaries who are now residing in Cuba;
- Above payments are allowed under an OFAC General License (515.570(c) Remittances to religious organizations in Cuba);
- We ensure there is a reference to the general license and sometimes we will require documentation from the remitting party that they qualify. Other payments involving Cuba may involve special licenses, in which we require copies of and documentation in order to release the payment. It is a rare occasion that we block a payment or report to OFAC.



Cuba and FEMA

Canada's *Foreign Extraterritorial Measures Act* (FEMA) is referred to as a "blocking statute". Its primary aim is to limit the effect of foreign extraterritorial measures. It authorizes the Attorney General of Canada to make orders blocking extraterritorial measures from being taken. An individual or corporation that breaches either FEMA or an order made under FEMA can be subject to sanctions;

To date, FEMA has only been used to block U.S. extraterritorial measures related to Cuba. In 1992, in response to expanded U.S. trade sanctions with extraterritorial effect, Canada enacted an order under FEMA referred to as the "1992 Blocking Order". The 1992 Blocking Order explicitly applies to the U.S. Cuban Assets Control Regulations or any other similar legislation that purports to affect trade between Canada and Cuba.



FEMA Requirements

With respect to doing business in Cuba, there are two significant requirements under the 1992 Blocking Order (amended in 1996): a reporting requirement and a compliance requirement;

Under section 3 of the 1992 Blocking Order, Canadian corporations and their directors and officers must give notice to the Attorney General of any "directive, instruction, intimation of policy or other communication relating to an 'extraterritorial measure' of the United States in respect of any trade or commerce between Canada and Cuba that the Canadian corporation, director or officer has received from a 'person who is in a position to direct or influence' the policies of the Canadian corporation in Canada";

The compliance requirement prohibits Canadian corporations and their directors, officers, managers and employees in positions of authority from complying with an extraterritorial measure of the U.S. or with any "directive, instruction, intimation of policy or other communication" relating to such measure received from a "person who is in a position to direct or influence the policies of the Canadian corporation in Canada".



FEMA impact on Cuba transactions

Penalties:

- The FEMA amendments impose penalties for compliance with foreign laws that adversely affect Canadian trade and sovereignty interests. Violations may result in fines of up to C\$1,500,000 for corporations and C\$150,000 for individuals;
- Possible imprisonment of individuals for up to five years;

Impact:

- Not aware of any cases/prosecutions to date;
- Containment – no US persons can be involved with transactions involving Cuban entities or a nexus to Cuba;
- Review transactions case by case.



Russia

- Canada has implemented targeted and sectoral sanctions against Russia/Ukraine;
- There are variations between US/Canada/EU sanctions;
- Approx. 40 on Canadian list not on OFAC list; 10 on OFAC list not on the Canadian list;
- Sanctions have been issued at varying times, which makes cross-border transactions/payment clearing complicated when sanctions differ;
- Challenges finding updates – published regulations not in one single place - on different websites (PM Office; Foreign Affairs and Trade Development; Press Release);
- Regulations have been posted with earlier effective date; auto-updates don't always work; limited guidance provided by the FATDC;
- FATDC does not issue FAQs like OFAC; no general licenses.



Wrap-up

Questions?

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