Sanctions and Export Controls: The Current and Future Landscape for Global Financial Institutions

By Carol M. Beaumier

For two years running, Protiviti has published a paper on the major sanction developments in the past year and our expectations for the coming year. We did this, in part, because the pace, scale and enforcement of economic sanctions reached unprecedented levels after Russia's invasion of Ukraine in February 2022. We now seem to have settled into an environment where world events and geopolitical tensions virtually guarantee continuing sanction and export control activity – but hopefully not at the pace we saw in early 2022.

While financial institutions will still face challenges complying with these requirements and detecting evasion, improvements made to sanction and export control compliance programs because of recent lessons learned have better prepared them for managing the risks. That said, there were important developments in 2024; there are areas to watch in 2025; and there are, for some institutions, additional program enhancements to be made.

Noteworthy developments in 2024

In addition to the thousands of new sanctions issued globally last year, numerous regulatory advisories related to evasion and increasing numbers of enforcement actions, here are just some of the notable 2024 sanction and export control developments from North America, the European Union (EU) and the United Kingdom (UK):

- In February, the U.S. Department of Justice issued a report on the first year of operations of the Disruptive Technology Strike Force, including 14 cases it had charged.

- In February, the U.S. House Select Committee on the Strategic Competition between the United States and the Chinese Communist Party unveiled the findings of its bipartisan investigation into four U.S. venture capital firms, one of several investigations undertaken by the Committee.

- In July, the U.S. Bureau of Industry and Security (BIS) added eight addresses without entity names to its Entity List, part of its efforts "to make it harder for shell companies … to find partners willing to lend the use of their address for unlawful trade."

- In July, the U.S. Office of Foreign Asset Control (OFAC) extended the statute of limitations to 10 years for the recordkeeping requirements codified at 31 C.F.R. § 501.601.

- In July, the UK government broadened its Russian sanctions regime to allow it to designate foreign financial institutions that facilitate transactions on behalf of, or in support of, a broad range of specified sectors of strategic significance to the Russian government, even if those institutions are outside the UK's jurisdiction.

- In July, the EU Council published its revised Update of the EU Best Practices for the effective implementation of restrictive measures which, among other things, amended the ownership test to possession of "50% or more" rather than "more than 50%" of the proprietary rights of an entity, as it previously was, thereby aligning the EU with the U.S. position.

- In July, the Canadian government released a notice of proposed amendments under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA) that, among other things, would bring sanctions reporting obligations under the umbrella of the PCMLTFA (thus subjecting violations to the administrative monetary penalty regime) and would expand reporting requirements to include reporting on property directly or indirectly owned, held or controlled by sanctioned persons.

- Effective in August, reporting entities under Canada's PCMLTFA were required to report transactions suspected to be related to sanctions evasion to FINTRAC, changes introduced in Canada's 2023 Fall Economic Statement that received royal assent in June 2024.

- In September, the UK announced the launch of the Office of Trade Sanctions Implementation, within the Department for Business and Trade, with new civil enforcement authority.

- In September, the BIS imposed its first export controls designed to capture leading-edge quantum technology.

- In October, the BIS issued New Guidance to Financial Institutions on Best Practices for Compliance with the Export Administration Regulations.
- In October, the U.S. Treasury Department finalized outbound investment rules aimed at restricting investments in China that may be viewed as a national security risk to the United States.
- In November, the UK's Office of Financial Sanctions Implementation (OFSI) announced it had entered into a Memorandum of Understanding with OFAC to further support information sharing and collaboration.
- In November, the U.S. Court of Appeals for the Fifth Circuit reversed the district court's ruling in *Van Loon v. United States Department of the Treasury*, holding that OFAC overstepped its authority under the International Emergency Economic Powers Act (IIEEPA) when it sanctioned Tornado Cash in 2022.
- In November, the EU issued new guidance relating to Russian sanctions, including the "Best Efforts" obligation and Enhanced Due Diligence for suppliers of Common High Priority items.

Collectively, these developments demonstrate an environment of cooperation, collaboration and alignment of the major sanction authorities in North America, the EU and the UK, highlight new compliance requirements and expectations that affect multinational financial institutions, and, to some extent, foreshadow areas of focus and uncertainty in 2025.

Areas to watch in 2025

Historically, the United States has been viewed as the most aggressive proponent of sanctions, in terms of both their use and enforcement. Anyone wondering whether the United States' stance will change under the second Trump administration only needs to know the number of sanctions issued in the first Trump administration far exceeded the aggregated total of those issued by the three presidents before him – Obama, Bush and Clinton.[1]

Trump has signaled that in his new administration, tariffs, rather than sanctions, will be his tool of choice.[2] Methods aside, it remains to be seen whether positions taken by the United States will be endorsed by other governments or the extent to which the U.S. might adopt secondary

[1] Jeff Stein and Federica Cocco, "How four U.S. presidents unleashed economic warfare across the globe," The Washington Post, July 25, 2024: www.washingtonpost.com/business/interactive/2024/us-sanction-countries-work/.

[2] Claire E. Connor, Randall Johnston and Elizabeth Krabill McIntyre, "Trump Administration 2.0 – International Trade and Security Update," Vinson & Elkins LLP, Dec. 5, 2024: www.jdsupra.com/legalnews/trump-administration-2-0-international-4621368/.

sanctions to advance its goals. It is also worth remembering that sanctions, export controls and tariffs are often retaliatory, stressing compliance functions and, more broadly, economies.

Following are thoughts on how some countries and regions may be affected.

Russia: Even if the second Trump administration curtails U.S. assistance to Ukraine, changes to sanctions related to the invasion of Ukraine are not likely to be immediate, and the United States, EU and UK are likely to continue using sanctions to pressure Russia in the short term. In fact, to weaken Putin further, the outgoing Biden administration is reportedly considering additional sanctions before it leaves office.[3] However, any future sanctions imposed by the United States are likely to be met with resistance by the EU and UK.

China: The second Trump administration will be very focused on managing the United States' competitive position in its relations with China. This will mean tariffs, export controls and investment limitations. In anticipation of what is likely to come, on Dec. 27, 2024, China extended existing tariffs on a critical chemical solvent used in the production of paints, adhesives and plasticizers; sanctioned seven U.S. firms for security reasons; and threatened to stop buying U.S. semiconductors.[4] The EU's alignment with the United States on China is not assured and will need to overcome German retaliatory concerns since many of its major companies rely on profits from China.[5]

Middle East: Sanctions related to the Middle East, especially Iran and the causes and organizations it supports, are expected to increase under the second Trump administration. There likely will be agreement from the EU and UK on some areas of focus but with the potential for disagreement, as we saw in 2018 when the United States withdrew unilaterally from the Joint Comprehensive Plan of Action (JCPOA), commonly referred to as the "Iran nuclear deal." Following the withdrawal from the JCPOA, the first Trump administration imposed more than 1,500 sanctions on Iran or on foreign companies or individuals conducting business with Iran.[6]

On January 5, 2025, it was reported that the new Trump administration plans to issue sanctions as soon as January 21 against the International Criminal Court (ICC) in The Hague and its personnel in protest to the ICC's arrest warrants against Israeli Prime Minister Benjamin Netanyahu and former Defense Minister Yoav Gallant. Media reports indicate the U.S.

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[3] Annmarie Hordern, Jenny Leonard, Viktoria Dendrinou and Alberto Nardelli, "US Considers New Russia Oil Sanctions to Weaken Putin Ahead of Trump," Bloomberg, Dec. 10, 2024: www.bloomberg.com/news/articles/2024-12-11/us-mulls-new-russia-oil-sanctions-to-weaken-putin-ahead-of-trump.

[4] Yong Jian, "China firing preemptive trade war shots at Trump," Asia Times, Dec. 28, 2024: https://asiatimes.com/2024/12/china-firing-preemptive-trade-war-shots-at-trump/.

[5] Laura von Daniels, "Will the EU agree to use economic sanctions against China?", Brookings, Nov. 1, 2024: www.brookings.edu/articles/will-the-eu-agree-to-use-economic-sanctions-against-china/.

[6] Andrew Hanna, "Sanctions 5: Trump's 'Maximum Pressure' Targets," The Iran Primer, United States Institute of Peace, Mar. 3, 2021: https://iranprimer.usip.org/blog/2021/mar/03/sanctions-5-trumps-maximum-pressure-targets.

administration will be seeking cooperation of its allies in these actions.[7] Thus far, the reaction by EU officials to the arrest warrants can best be described as mixed and often ambiguous.[8]

One country that may get some sanctions relief in 2025 is Syria. New sanctions against Syria declined in 2024. With the recent fall of the Assad government, some existing sanctions may be lifted on humanitarian grounds. Much of this will, of course, depend on the behavior and actions of the new government.[9]

Africa: From 2017 to 2020, the first Trump administration imposed a series of sanctions on the Democratic Republic of Congo (to pressure warlord Joseph Kabila not to run for a third term), South Sudan (to ease the then-raging civil war), South Africa (related to the Gupta clan), and The Gambia (related to former dictator Yahya Jammeh) to establish accountability for corruption and human rights. Africa may not receive the same level of attention as other parts of the world, but there is a view that an interest in the continent's demographics will prompt the second Trump administration to confront threats in the interest of building stronger business ties.[10]

If the United States does substitute tariffs in place of some sanctions, that will provide some compliance relief to the financial services industry. To the extent, however, the United States takes unilateral positions on sanctions and export controls, multinational financial institutions may be forced to address conflicting obligations, effectively a Catch-22 for financial institutions requiring USD access.

Financial institution program priorities

Apart from the continued, and critically important, emphasis on horizon scanning and the potential program implications of new developments, and remaining vigilant to evasion methods, the following are some areas that we expect financial institutions to focus on in 2025:

- Improving the alignment between sanctions and export compliance, including merging these functions in some instances.

[7] Ariel Kahana, "Trump administration plans crippling sanctions on ICC," Jewish News Syndicate, Jan. 5, 2025: www.jns.org/trump-administration-plans-crippling-sanctions-on-icc/.

[8] Mared Gwyn Jones, "Fact check: Where do EU countries stand on ICC's arrest warrant for Netanyahu?", euronews, Mar. 12, 2024: www.euronews.com/my-europe/2024/12/03/fact-check-where-do-eu-countries-stand-on-iccs-arrest-warrant-for-netanyahu.

[9] Spencer Vuksic, "Sanctions Year in Review: How Sanctions Changed in 17 Charts," Castellum.AI: www.castellum.ai/insights/2024-sanctions-year-in-review.

[10] Vin Weber, "What Africa can expect under a second Trump administration: A focus on the 'numbers'," Atlantic Council, Oct. 29, 2024: www.atlanticcouncil.org/blogs/africasource/what-africa-can-expect-under-a-second-trump-administration-a-focus-on-the-numbers/.

- Enhancing customer onboarding and KYC refresh processes to capture and address potential sanction and export control risks.
- Improving sanction risk assessment to factor in export controls, among other things.
- Upgrading and supplementing technology to include advanced analytics and artificial intelligence and ensuring periodic tuning of the technologies used.
- Continuing to add and upskill resources.

The bottom line: The likelihood that sanction and export control activity will continue at high levels means there is no room for complacency in financial institutions' compliance efforts.

The author gratefully acknowledges the contributions of Managing Directors Bernadine Reese (London) and Jackie Sanz (Toronto) to this article.

Note: This paper is intended to provide a high-level overview of the current sanctions landscape and the developments we might expect to see in 2025. Given the complexities of sanctions compliance and the differences in national and regional regimes, financial institutions should consult with counsel to determine if and how the issues discussed herein may apply to them.

About the Author

Carol Beaumier is a senior managing director in Protiviti's Risk and Compliance practice and leader of the firm's Global Thought Leadership program. Based in Metro D.C., she has more than 30 years of experience in a wide range of regulatory issues across multiple industries. Before joining Protiviti, Beaumier was a partner in Arthur Andersen's Regulatory Risk Services practice and a managing director and founding partner of The Secura Group, where she headed the Risk Management practice. Before consulting, Beaumier spent 11 years with the U.S. Office of the Comptroller of the Currency (OCC), where she was an examiner with a focus on multinational and international banks. She also served as executive assistant to the comptroller, as a member of the OCC's senior management team and as liaison for the comptroller inside and outside of the agency. Beaumier is a frequent author and speaker on regulatory and other risk issues.

About Protiviti's Financial Crime Compliance Practice

Protiviti's Financial Crime Compliance practice specializes in helping financial institutions satisfy their regulatory obligations and reduce their financial crime risk exposure, using a combination of AML/CTF and sanctions risk assessment, control enhancements, and change capability to deliver effective operational risk and compliance frameworks. Our team of specialists assists organizations with protecting their brand and reputation by proactively advising on their vulnerability to financial crime, fraud and corruption, professional misconduct, and other financial business risk issues.