

2022 Office of Foreign Assets Control (OFAC) Sanctions Annual Report

An analysis of OFAC sanctions programs, sanctions issued under US Presidential Administrations, Specially Designated Nationals (SDN) list activities, the impact of the Russo-Ukrainian War, and enforcement trends

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About This Report

Current situation

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 against targeted foreign countries and regimes, terrorists, international narcotics traffickers. OFAC issues multiple lists of persons and companies that US persons are prohibited from doing business with.

Do sanctions change based on the US Presidential Administration?

Each US President has faced various world events during their administration, from the Global War on Terrorism under President Bush to the Russo-Ukrainian War, which started in February 2022 under President Biden. Notably, since the Bush administration, the number of sanctions issued per year has risen dramatically under the Obama, Trump, and Biden administrations. Long gone are the days where sanctions were considered historical embargoes and basic awareness of countries/regions to avoid doing business with.

How to comply with ever-changing sanctions regulations?

This report is designed to offer insight into understanding that sanctions are fluid and OFAC continues to expand its reach into what activities such as products, services, logistics, payments, and online presence can result in penalties. As a result, OFAC has issued specific guidance on establishing a sanctions-specific compliance program as a proactive measure to identify and mitigate sanctions risks.

“The United States will work to ensure that the sanctions we have imposed, in close coordination with our international partners, degrade the Kremlin’s ability to project power and fund its invasion.”

– Under Secretary of the Treasury for Terrorism and Financial Intelligence, Brian E. Nelson on April 20, 2022

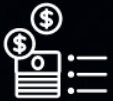


2022 OFAC Sanctions Overview

An overview of OFAC sanctions programs, SDN list progression, and key developments

OFAC Sanctions Overview

US Treasury's Office of Foreign Assets Control (OFAC) administers economic sanctions and embargoes that target geographic regions and governments. Some programs are comprehensive in nature and include broad-based trade and financial restrictions, while others target specific individuals and entities such as terrorists, narcotics traffickers, and human rights abusers. Sanctions targets, also known as Specially Designated Nationals (SDN), are published through OFAC's SDN List, which includes more than 11,400 names of companies and individuals and imposes the following prohibitions:



Properties and Interests

Anything of financial value including money, checks, notes, drafts, contracts, negotiable instruments, even debts – basically anything that a bank handles.



Trade, Import and Export

Related to the exchange or trade of products or services (e.g. crude oil, diamonds, charcoal, etc.), whether as import or export, and may include banning of certain business transactions or even cargoes, aircrafts or vessels.



Donations, Contributions or Support

Includes, but are not limited to, provision or contribution of funds, goods, and services.



Technology, Data and Infrastructure

Includes, but are not limited to provision of data information, or technology, such as downloading software or programs or even accessing a platform.



Financial Services or Issuance of Securities

Prohibitions from US financial institutions to provide loans or credit, foreign exchange transfer of credit or payments, purchasing equities and investing on securities.



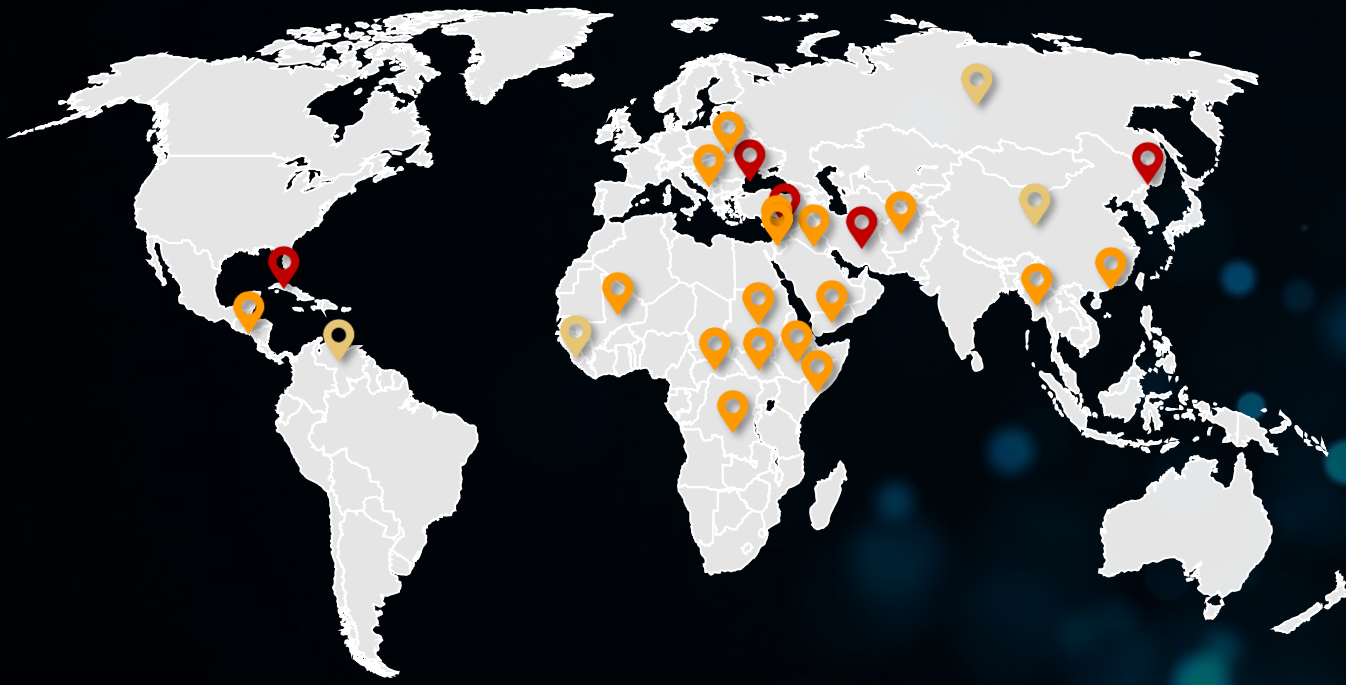
Travel, Immigration, or Visa

Involves suspension of entry to the US, whether as an immigrant or a non-immigrant. This also includes revoking an existing visa or travel permit in the US, where applicable.



Types of OFAC Sanctions Programs

Sanctions programs vary in scope and may encompass prohibitions at a country level, which is why OFAC does not maintain an actual list of countries that U.S. persons cannot do business with. Instead, OFAC maintains a number of Sanctions Programs, which can be comprehensive, selective, geographically-oriented or individuals or entities-focused. These sanctions are very dynamic, but all utilizing the blocking of assets and imposing trade restrictions to accomplish foreign policy and national security goals. There are currently 39 Sanctions Programs, which can be categorized into three (3) categories:



Targeted Sanctions

Targeted sanctions involve blocking of property, freezing of assets, certain trade restrictions and other prohibitions on specific individuals or entities listed on OFAC's SDN List.

Additionally, targeted sanctions also consider the 50% Rule, which implies that entities which are 50% owned by sanctioned parties, whether directly or indirectly, are also subject to sanctions regardless if they appear on the SDN List or not.

This may be applicable to a country or a theme, such as narcotics or terrorism, cyber, foreign interference to US elections, human rights abuse, and transnational crimes.

Comprehensive Sanctions

Comprehensive sanctions impose broad restrictions, which prohibit almost all transactions and business activities associated to regions or countries.

Sectoral Sanctions

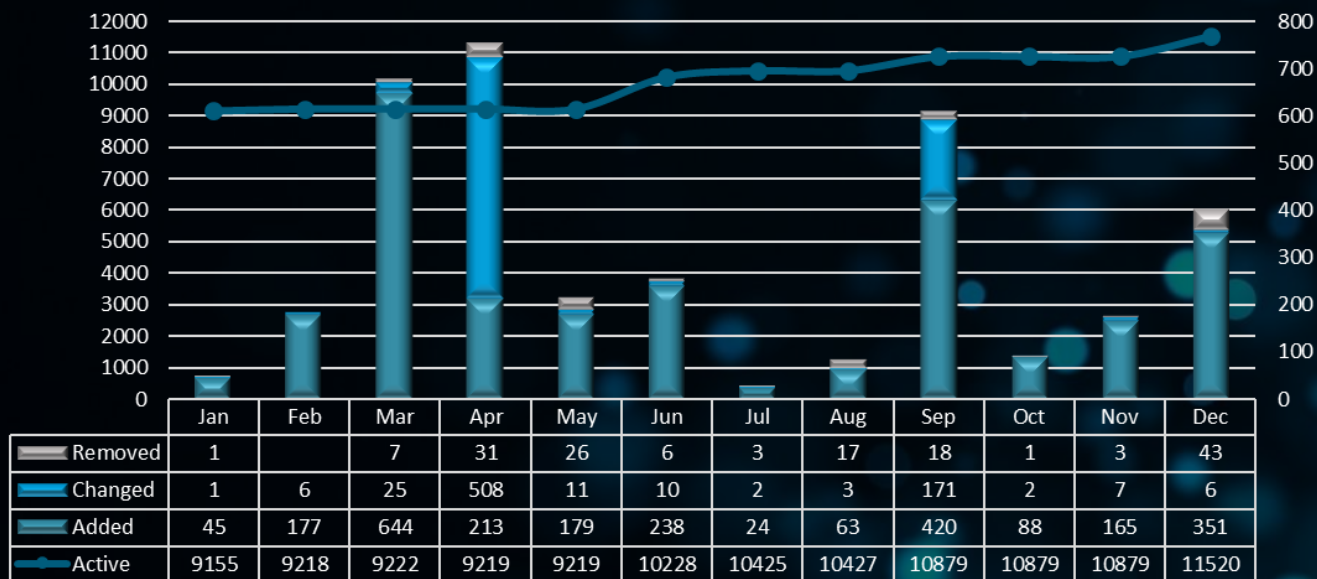
Sectoral sanctions are not subject to blanket prohibitions and are imposed only to specific sectors of a sanctioned country or regime.



2022 SDN List Progression

OFAC publishes a list containing individuals, groups or entities designated under sanctions programs, called the SDN List. This list also includes companies controlled or owned by, or acting for or on behalf of, sanctioned parties or targeted countries. There is no predetermined schedule for updates to the list and entries are added, changed or removed, as necessary.

2022 was considered unprecedented globally, with the scale and speed never seen before, driven primarily by Russia's invasion of Ukraine on February 24, 2022. While activity has slowed since the peak in February and March, it remains significantly higher than the same period in recent years. OFAC and the US government continue to focus on other international issues such as terrorism, cybercrime, narcotics and human rights abuses, but Russia-related sanctions programs drove most of the movement on SDN updates:



2022 Key Sanctions Developments

The US, European Union (EU) and the United Kingdom (UK) imposed an unprecedented scale of sanctions on Russia due to its invasion of Ukraine. While the invasion was the dominant headline, OFAC remained cognizant of non-Russia related enforcement and regulatory developments. The following are some ongoing global events that led to sanctions developments in 2022:



Extensive and More Targeted Sanctions Restrictions Against Russia and Ukrainian Regions

The US demonstrated commitment, through the Biden administration and through coordinated efforts with US allies, to impose an array of sanctions never seen before to pursue shared enforcement priorities and policy goals.

Following sanctions impositions in 2021 related to harmful foreign activities of the Government of the Russian Federation, additional sanctions were imposed under the Russia sanctions program in 2022 including the prohibition of certain imports and new investments, as well as a comprehensive embargo on critical regions in Ukraine. These led to the addition of more than 3,500 entries to the SDN list, which included Russia's largest financial institutions, key government officials, and Russian business elites.



Renewed Efforts to Address the Worsening Humanitarian Crises Around the World

As Ukrainians fled their country to seek security abroad, other sanctioned countries continue to experience displacement, human rights abuse and violence.

Following the United Nations Security Council Resolution (UNSCR) 2664 and with one of the findings from the 2021 Sanctions Review to minimize sanctions impact to economic, political and humanitarian conditions, OFAC took historic steps to enhance humanitarian assistance to vulnerable jurisdictions by amending multiple regulations to add or revise humanitarian general licenses across several sanctions programs.



Eagle Eyes on Virtual Currency

With the emergence of virtual currencies being misused for illicit purposes, there has been an increase in scrutiny on the virtual currency industry by the US.

Following its 2021 designations on SUEX and CHATEX for enabling malicious cyber activities, OFAC designated another virtual currency exchange, Garantex for transacting in the darknet market.

And for the first time ever, OFAC imposed sanctions on a virtual currency mixer Blender.io (Blender), which was found to have been used by the Democratic People's Republic of Korea (DPRK) to gain illicit funds and to pursue malicious cyber activities.



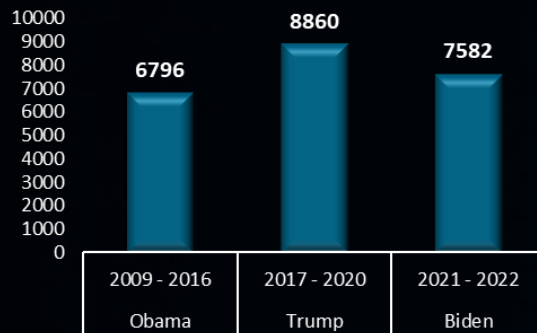
Sanctions Issued by US Presidential Administration

A review of sanctions under the Bush, Obama, Trump, and Biden Administrations

Sanctions under the Obama, Trump, and Biden Administrations

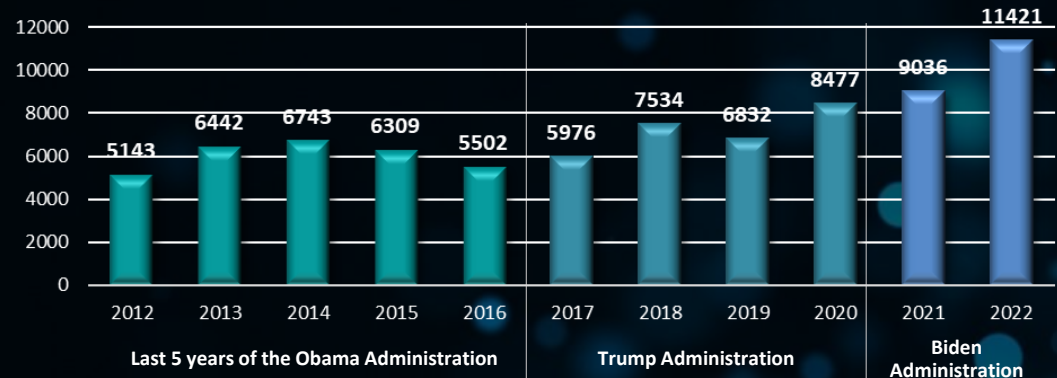
Each OFAC sanctions program is based on different national security and foreign policy goals and may originate either from the executive or the legislative branch. The President launches the process by the issuance of an executive order (EO) that declares a national emergency to extraordinary or unusual threats to national security or foreign policy. EOs allow the President special powers to regulate commerce related to such threats for a period of a year, unless extended or terminated by a joint resolution of Congress or amend sanctions programs. Below are highlights of the Obama, Trump, and Biden administrations:

Sanctioned Entities by US President



**2012 to 2019 data are only indicative due to the difference in OFAC data output.*

Active and Unique SDN Entries



Last 5 years of the Obama Administration

Trump Administration

Biden Administration

Obama

- **Imposed or Amended Sanctions Programs:** Cyber, Counter Terrorism, Transnational Crimes, Global Magnitsky, Iran, Ukraine, North Korea, Venezuela, Libya, Central African Republic, South Sudan, Yemen, Burundi and Syria.
- **Top 5 Sanctions Programs with the highest additions to designations:** Counter Terrorism, Non-proliferation, Counter Narcotics Trafficking, Ukraine, and Iran.

Trump

- **Imposed or Amended Sanctions Programs:** Global Magnitsky, Interference to US Elections, International Crimes Court, Iran, Venezuela, North Korea, Syria, Countering America's Adversaries, Hong Kong, Nicaragua, Mali, and Ethiopia.
- **Top 5 Sanctions Programs with the highest additions to designations:** Iran, Counter Terrorism, Syria, Non-proliferation, Global Magnitsky, and North Korea.

Biden

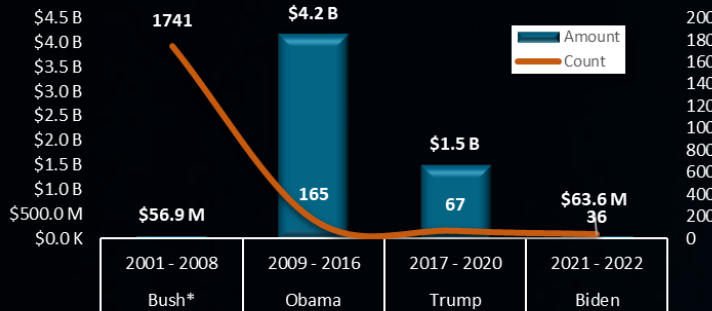
- **Imposed or Amended Sanctions Programs:** Russia, Belarus, Burma, Counter Narcotics Trafficking, Ukraine, Western Balkans, and Syria.
- **Top 5 Sanctions Programs with the highest additions to designations:** Russia, Counter Terrorism, Belarus, Global Magnitsky, and Ukraine.



Enforcement under the Bush, Obama, Trump, and Biden Administrations

Apart from being responsible for civil investigation and enforcement of economic and trade sanctions, OFAC is also accountable for administering and enforcing sanctions programs pursuant to Presidential and statutory authorities. Enforcement has changed through the years, but has remained key in sanctions compliance.

OFAC Enforcements by US President

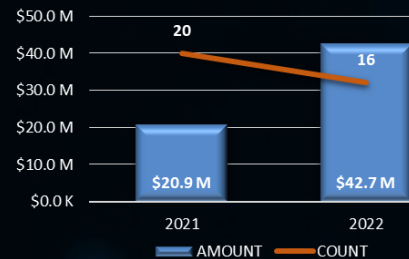


*OFAC data only available starting 2003.

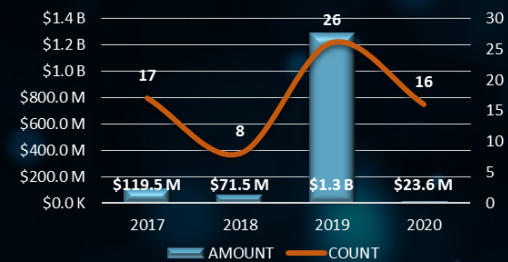
OFAC Enforcement Through the Years

- **2007** – The International Emergency Economic Powers Enhancement Act (Enhancement Act) was signed into law, substantially increasing the maximum penalties for violations of a principal statutory authority for most sanctions programs, the International Emergency Economic Powers Act (IEEPA).
- **2009** – Initially proposed in 2003 and subsequently proposed as an interim rule in 2008, an amended and finalized rule was published for the Economic Sanctions Enforcement Guidelines, which elaborates on the factors OFAC will consider in determining the appropriate enforcement response to apparent violations.
- **2019** – OFAC released a Framework for Compliance Commitments providing organizations OFAC's perspective on the essential components of a sound sanctions compliance program (SCP). The SCP mirrors the so-called 4 pillars of anti-money laundering program requirements under the Bank Secrecy Act (BSA). Notably, the SCP is applicable to any entity, whereas the BSA is limited to covered financial institutions.

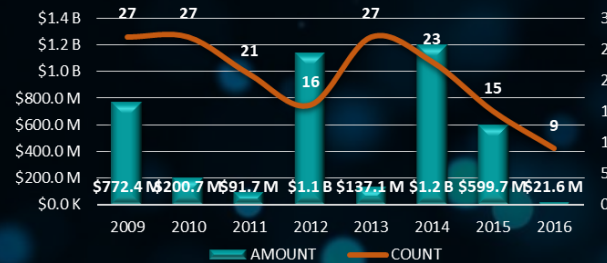
Biden Administration (Current)



Trump Administration



Obama Administration



Bush Administration

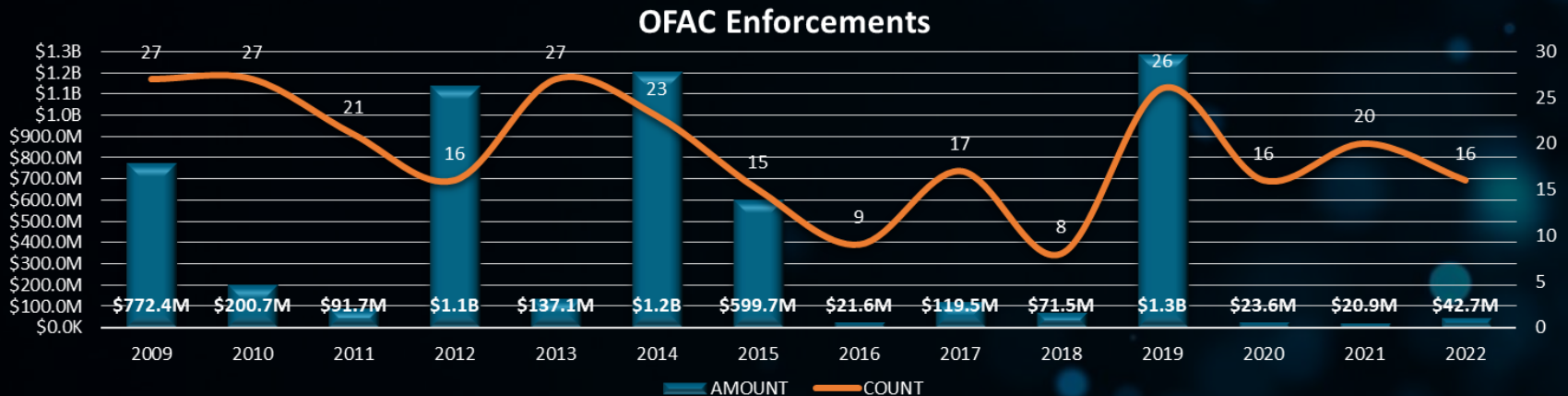


Enforcement Actions for OFAC Sanctions Violations

An analysis of all 2022 enforcement
actions issued by OFAC

Civil Penalties, Fines, and Enforcement Actions

OFAC administers and enforces US sanctions programs against designated foreign individuals, entities, groups or even governments in the best interest of national security and foreign policy goals of the US. OFAC may coordinate with federal, state, local and even foreign regulators and law enforcement agencies related to these investigative and enforcement activities where appropriate. Below you will find the civil monetary penalties imposed broken down by year since 2009:



2022 Enforcement in a Nutshell

- 2022 ended with 16 public enforcement actions and imposed total monetary penalties and settlements of over \$42.7M, almost double 2021.
- The enforcement actions included 14 penalties and two (2) findings of violations (FOVs) involving apparent violations to 11 different sanctions programs.
- There was an increased focus on sanctions enforcement by the US Department of Justice (DOJ), in alignment with the changes to their corporate criminal enforcement policies published through a DOJ memo, "Further Revisions to Corporate Criminal Enforcement Policies Following Discussions with Corporate Crime Advisory Group," in September.
- 2022 saw the largest penalty issued by OFAC in the last three (3) years as part of its first joint resolution with the Financial Crimes Enforcement Network (FinCEN) against a virtual currency company, Bittrex, Inc.

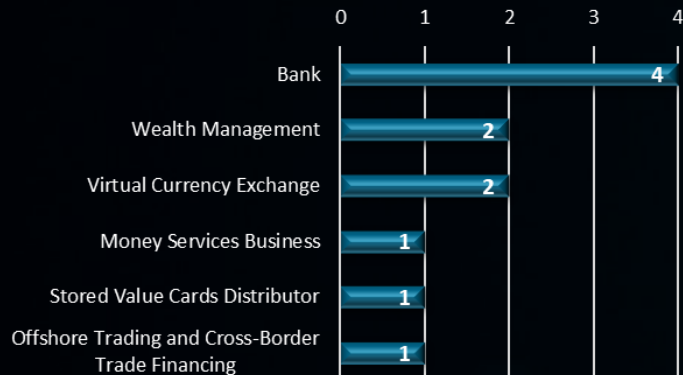


Sanctions by Industry and Root Causes Contributing to Penalties

OFAC encourages organizations within its scope to employ a risk-based SCP, which corresponds to variable factors of size, sophistication, services, counterparties and geographical locations. In 2019, OFAC issued a compliance framework outlining the essential components of an SCP and causes that have led to apparent violations of sanctions programs. Highlights of 2022 enforcement actions are as follows:

Industries of Sanctioned Entities

Financial Entities

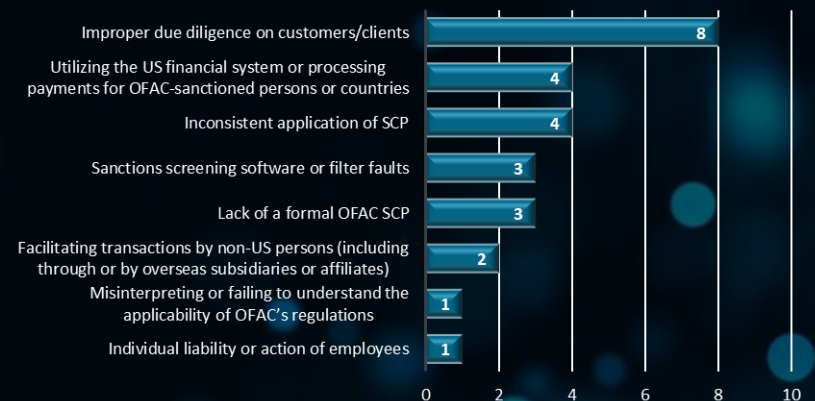


Non-Financial Entities

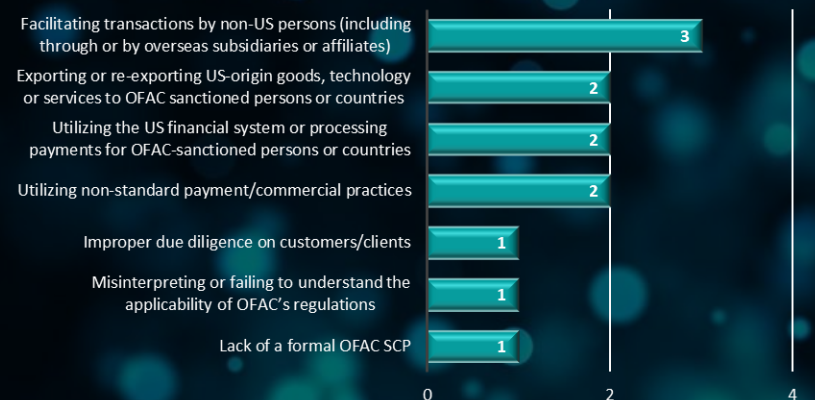


Root Causes of Deficiencies

Financial Entities



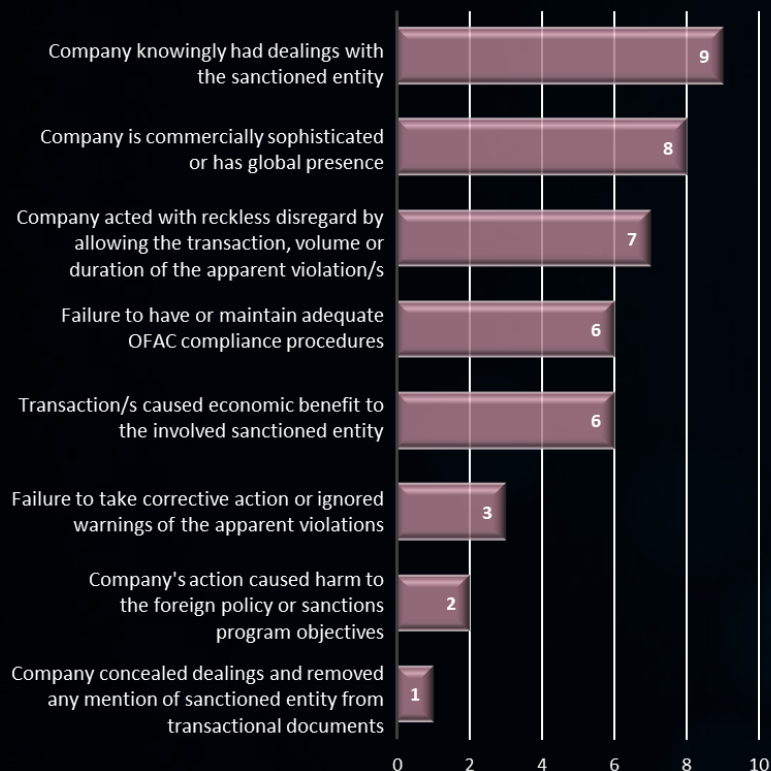
Non-Financial Entities



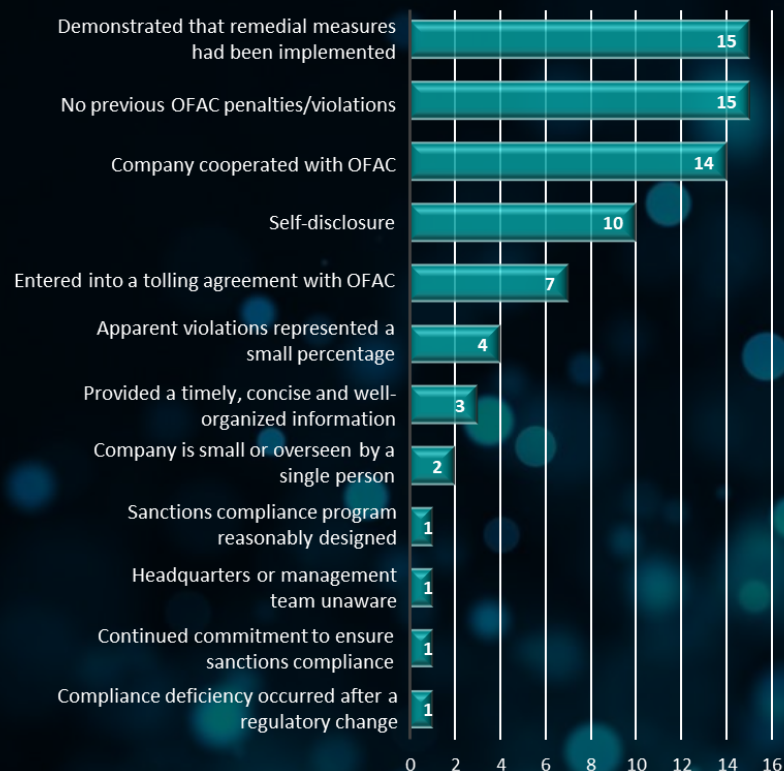
Aggravating and Mitigating Factors in Determining Penalties

OFAC utilizes a complex approach when calculating final settlement amounts, considering factors that either aggravate and mitigate penalties. This methodology aims to employ a balanced assessment reflecting the severity of the apparent violation while also considering proactive measures taken by an organization to comply to sanctions regulations. Below are the aggravating and mitigating factors identified by OFAC for the year 2022:

Aggravating Factors



Mitigating Factors



Top 2022 Enforcement Actions, Penalties, and Themes

BITTREX \$24.2M



**Incorporating
Geolocation
Controls to New
Technologies**

Industry Type: Virtual Currency Exchange and Hosted Wallet Services

Key Deficiency: Bittrex did not have a sanctions compliance program, including customer and internet protocol (IP) screening, when it started offering its virtual currency services and failed to perform proper due diligence of customers and clients. Later, when it began verifying customer identity, screening was incomplete, and transactions were not monitored.

Compliance Considerations: Highlights the importance for new companies involved with emerging technologies to incorporate sanctions compliance, specifically screening IP and location information when providing services globally.

TOLL \$6.1M



**M&As May Pose
Increased
Sanctions Risk**

Industry Type: Freight Forwarding and Logistics

Key Deficiency: Toll failed to adopt or implement policies and controls during their expansion that could have prevented transactions involving OFAC-designated entities and individuals.

Compliance Considerations: Emphasizes the need for entities to implement sanctions mitigation measures and the importance of strong internal controls, policies, and procedures particularly during mergers and acquisitions and when involved with multiple affiliates and counterparties.

sojitz \$5.2M



**Maintaining Staff
Knowledge and
Proper Conduct**

Industry Type: Offshore Trading and Cross-border Trade Financing

Key Deficiency: Sojitz failed to implement an effective and consistent sanctions compliance program that could have identified some employees' misconduct and concealment of transactions.

Compliance Considerations: Demonstrates the importance for parent companies to ensure compliance from subsidiaries in the US and abroad and that without effective checks and balances, employees may act to pursue profit over compliance.



Building a Better Sanctions Program

2022 enforcement themes to enhance
sanctions programs, screening, risk
assessments, and training

Proactively Building a Defense using 2022 Enforcement Themes

The year 2022 exhibited an unprecedented imposition of sanctions on Russia due to the Russo-Ukrainian War. However, given the length of time required to investigate and resolve OFAC enforcement cases, there were no public enforcement actions issued by OFAC related to the sanction's programs for the year. Such enforcement is expected to emerge in 2023. Focusing on this year's enforcement actions, below are some key learnings and compliance considerations that organizations can implement and integrate into their sanctions compliance programs to enhance risk mitigation and seek to avoid apparent violations:



Mergers and Acquisitions (M&A) May Pose Increased Sanctions Risk

M&As of companies in the US and abroad requires careful due diligence and risk assessment. Understanding your sanctions exposure on the 'buy-side' is critical. The acquirer is 100% responsible for any prior or ongoing violations post-acquisition.



Maintaining Staff Knowledge and Proper Conduct

Employees are on the forefront of operations and usually the first line of defense for sanctions compliance. Continued training and consistent enforcement of a code of conduct to employees should be a priority so risks are identified and escalated early on.



SCP Applies to ALL

All companies should maintain the appropriate risk-based SCP, monitoring tools and due diligence procedures, regardless of size.



Your SCP Should Scale with Your Business

Expanding your business also means scaling your SCP to be commensurate to your growth.



Keeping Your Non-US Counterparts in Line

US companies should maintain sufficient compliance controls over their non-US subsidiaries or affiliates to ensure compliance to US sanctions.



Get Licensed

OFAC has licensable activities, allowing companies to perform certain transactions with sanctioned jurisdictions. If you must deal with a sanctioned jurisdiction, ensure that necessary licenses have been acquired before doing business.



Incorporating Geolocation Controls to New Technology

With the emergence of new technologies and the expanding reach of cross-border transactions, implementing geolocation, and IP address blocking tools are now critical in doing business.



Discover
what
Stratis
Advisory
can do
for you



Sanctions Program Development

An effective sanctions compliance program has proven to identify and strengthen preventive measures against violating sanctions laws and regulations. OFAC encourages organizations and foreign entities subject to US jurisdiction to utilize a risk-based approach to sanctions compliance, but the program should be founded on its main components: (1) management commitment; (2) risk assessment; (3) internal controls; (4) testing and auditing; and (5) training. Stratis can help you develop a scale-appropriate sanctions program for your operating model and risk profile.



Sanctions Risk Assessment

The foundation of an effective sanctions program starts with understanding your organization's sanctions risks and how to mitigate them. Do you transact internationally? Are you acquiring a foreign asset with customers in foreign locations? Can your software be downloaded globally? Does an affiliate do business in conflict regions or sanctions adjacent jurisdictions? Depending on your business model and scope of services and jurisdictions, a sanctions risk assessment will help you better understand your sanctions exposure. Stratis can execute a dedicated global sanctions risk assessment that allows you to evaluate your potential high-risk areas, screening mitigation strategies, and vulnerabilities to sanctions-related risks.



Screening Systems Integration and Validation

Sanctions screening is crucial to any institution to maintain compliance with sanctions laws and regulations. An often-overlooked element with screening systems is ensuring all onboarding, transactions, employees, and vendors, are screened with sufficient and accurate data. Stratis can help you implement, test, and validate customer onboarding and transaction data to ensure your sanctions screening systems and processes are functioning properly across all data sets.



About Stratis Advisory

Stratis Advisory was founded in 2013 by seasoned risk executives, consultants, and serial entrepreneurs who believe in the transformative power of innovation and technology. Headquartered in San Francisco, CA with a globally situated team, we offer clients unmatched, highly specialized experience in strategy, risk, and cyber compliance management. Stratis serves a global portfolio of clients, including fintech clients that have collectively raised more than \$20 billion through Fortune 500 companies. We operate across six continents and advise clients on launching, scaling, and optimizing risk management operations in APAC, EMEA, LATAM, and NA.

Stratis connects the dots between companies, investors and banks by integrating deep regulatory risk domain expertise into the broad context of business strategy, risk management, and compliance operations at the appropriate size for their growth stage and business scale. Stratis provides the expertise, flexibility and critical industry knowledge—from traditional deposit services to new financial technology driven solutions—to help identify, mitigate, and govern risk. Our tailored solutions deliver the market insight, risk-based strategy, governance, licensing execution and operational compliance advisory to reduce risks and maximize success.

From Sydney to Hong Kong and New York to London, Stratis has helped global companies to open new markets by providing the expertise to manage and cost-effectively comply with regulatory requirements, secure strategic partnerships, and achieve various licenses. This end-to-end knowledge of the legal, practical, technology, and conceptual aspects of AML, sanctions, fraud, cyber, risk, and licensee management paired with the mindset of appropriately matching these aspects to the scale and scope of the business, give Stratis an unparalleled ability to support multi-jurisdictional companies.

For more information, call 415.352.1060 or visit stratisadvisory.com.



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Brian Stoeckert, CEO and founder of Stratis Advisory, is a recognized risk management expert with more than 20 years of experience in providing startups through Fortune 500 companies with strategy, intelligence, advisory services and witness testimony.

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