

ABD Tarafından İnan ve Rusya'ya Yönelik Yaptırım Politikaları ve Uygulamaları

İş Dünyası İçin Bilgilendirme Toplantısı

-Deşifre-

SÜRE: 01:36:00

COLMAN - Certain activity. Generally, it can be anything from business relations to banking services, to financial transactions, with a sanction target or involving a sanction activity. So, generally these are outside the US financial system, no US access. For these sanctions, there is typically what we call a knowledge requirement. So, the person who engages in the behavior must know what they are doing. They only apply to what we call significant transactions for significant financial transactions. So, significant, you know it means something more than a low value one time transaction, it is more high value or pattern of conduct. I will say that in the Russia harmful sanctions program which we imposed in response to Putin's most recent action against Ukraine. There are currently no secondary sanctions at this time.

And finally, I want talk about little bit facilitation. So, I think facilitation applies more to US persons and US entities. Essentially what it says is that a US person cannot facilitate a transaction that they will be prohibited from engaging indirectly. So, what does that mean? A US person cannot advice, assist, approve, authorize, broker, finance or make a decision regarding a business activity by non-US persons that would be prohibited for the US person.

An example would be, let's say US person isn't the one who is dealing in Iranian oil but the US person is telling there are subordinate to deal in Iranian oil. There will be facilitation. And that would be prohibited for the US person. I think this is relevant for this audience because it explains part of why US persons often insist that there are non-US business partners comply with US sanctions. Because they don't want to be on the hook for facilitating something that are prohibited from engaging in.

Quick review of our comprehensive programs; as I flag this is generally prohibition on exports, re-exports, imports, investment and government blocking. We currently have comprehensive programs for Crimea, for two covered regions of Ukraine, so-called Luhanks People's Republic and Donetsk People's Republic. As well as Iran, Syria, North-Korea and Cuba. So, going into a little greater detail on our list-based programs. As I flagged we sort of how we deal with this is publish criteria for certain activity, sanctionable. If non-US persons engage in that activity, we put them on the list. We have several lists, but our most important is called the specially-designated Nationals and Blocked Persons List. All our lists can be searched on our website. And, if a person is on the list, it triggers this blocking progression which I have discussed. So, property or interest in the property of the sanctioned persons in the possession of control of United States persons, must be blocked or frozen, cannot be paid or exported or otherwise.

Another new one is here, is what we called 50% Rule. So, backing up a little bit, as we said, our blocking progression applies to property or interest in property of sanctioned persons. We take the position that a company owned by the sanctioned person is also the property of that sanctioned person. And, so that property is also blocked. Even if the company itself does not appear on the list. We have issued some guidance on this in our web-

site. And, we say that any company is 50 percent or more owned by the sanctioned person either directly or indirectly, individually or aggregate also blocked. And we have a couple of examples here that you might run in the real world, for example a company could be 75% owned by a sanctioned person and 25% by a non-sanctioned person, we say that blocked by operation of law. That company is sanctioned even if it does not appear on our list.

Another entity could be owned 50% owned by a sanctioned person and 50% owned by a non-sanctioned person, for example may be a JV or Joint Venture, we will also say that company is blocked by operation of law. Subject to sanctions even if it does not appear in our list. A company could be 25% owned by one sanctioned person, and 25% owned by a separate sanctioned person, we would aggregate that, we still say that 50% owned by a sanctioned person, also blocked by operation of law. Or company could be 49% owned by a sanctioned person, 51% owned by a non-sanctioned person, that for us lower than 50% threshold, we say that the company is not blocked by operation of law. However, we recommend caution to insure that there is no dealings with the sanctions of minority owner of that company.

Okay, Licenses and Exemptions. We also seek to calibrate our sanctions to ensure that they do not have an unintended impact or harm persons that are not the target of our sanctions. One of the biggest ways that we do that is through what we called Licenses and Exemptions. There are several different types of Licenses and Exemptions. But the basic idea is that a license isn't authorization to engage in transaction that would otherwise be prohibited by our sanctions. So, a license only applies when there is a progression. This is another way to say that. A little bit of terminology. We use the term exemption when there is an exception that written into the scope of our sanctions. An example that is information or informational materials. So, by law our sanctions do not cover information or informational materials, so that is an exemption from our sanctions. Most of our sanctions do not cover information or informational materials, with some narrow exceptions for our counter terrorism sections.

We also have what we call a General License, which is an authorization that we issue after the sanctions are imposed or at the same time the sanctions are imposed. And it is set for the category of transactions that persons can engage in. So, means the term and conditions of the category. One example here would be in the Russia, contacts we have a general license covering transactions that would otherwise be prohibited for our sanctions in connection with Russian exports for agricultural commodities that is food and fertilizer, as well as medicine and medical devices. Even if our sanctions would prohibit that sort of transactions, the general license applies and that transaction is no longer prohibited. Another relevant general license is our general license for energy related payments that transits to the US financial system.

We also have we call specific licenses. So, general license is a license that anyone can use and it is publicly available on our website. A specific license is a license that an individual, person or company applies for in private, and only they can use the license or persons working with the can use the license. To issue a specific license, we ask for a lot of information, you know, we ask for the facts, we ask for the underlining transactions, we ask for irrational behind, there should be an exception to our sanctions for this particular company or transaction.

And finally, we sometimes issue what we call statement of licensing policy, which is available on our website, it basically says, if we receive license applications within this category of transactions, we are likely to look favor we on them, and more likely to issue the license. An example here is certain hardware, software and technology that is hopeful for internet freedom in Iran. So, if you are an expert on that, you can come to us and say I want export these hard drives.

So, I mentioned the general licenses that is a sort of an authorization that anybody can use, it is publicly available. Here, I want to talk about some common types of general licenses that we might issue. One is what we call Wind Down general license, which is after we impose sanctions on an entity, we issue an authorization to allow the business partners to wind down business dealings, you know terminate contracts, settle debts, etc. we usually have a time on those, 30 days, 60 days, in some cases we issue for longer, 180 days. That is pretty common, especially when we impose sanctions on economically important target.

Divestments is similar. It is for transactions that would otherwise prohibited by our sanctions for the divestment from a sanctioned entity or a sanctioned country. That could tail to transfer debt, sale of asset, processing payment etc. Emergency medical services, sanctioned person in the United States needs an emergency medical treatment that would be authorized in our general license. Certain legal services, so sanctioned persons can engage US lawyer for sanctions to investing or for representation in US courts. A very common type of general license.

Some more common types agricultural commodities, medicine, medical devices, what we call AgMed general License. I mention this in the Russian context. We have these in most of our programs, we have also them in our Syria program, in our Iran program, so they allow, for example, the export of agricultural commodities including food, medicine and medical devices to sanction restriction. And then we have, we officially issues general license to international organizations, non-governmental organizations, NGOs operating in sanctioned countries. I should add that all these general licenses not only apply to the activity that's covered but also apply to related activity. Most notably banking, insurance, transportation, services like that. So, you know, the UN is operating in Syria, Iran, not only UN able to operate but US banks are able to process payments in connection with UN operations. Or NGOs, for example in Syria or Afghanistan, US banks are able to process payments in connection with those.

Okay so, I recognize that there is a lot of information about our sanctions, authorization and exemptions. So, I want to talk little bit talk about compliance, compliance based practices and sanctions. So I will add that I am in the, what we called Policy division of OFAC, I am not in the compliance or enforcement division. So, I don't work with companies that are, you know, not comply with or violated our sanctions. But my compliance enforcement colleagues asked me to flag these slides for this group.

One compliance obligation that I want to flag is our reporting requirements. So, persons subject to our jurisdiction, that's US persons, potentially non-US persons, if there is a transaction with US access. If they are coming to possession of blocked property, that is property of a sanctioned person, under our regulations, they require to report such property to OFAC within 10 business days of the blocking. That can be done online, we have forms and guidance how to issue that. Similarly, if there is a sanctions that does not involve blocking

that could include transaction with an embargo jurisdiction, such as Iran or services progression in the Russia context, we asked that parties file what we call rejection report, which is the report of the activity that are asked to engage in and conforming that they rejected it and within 10 business days. And there is also Annual reporting department, generally for US Banks, who file reports to OFAC once a year on all the blocked property that is in their possession.

So, we often get questions from companies about how can I comply with this, when do I screen, what I do about this particular transaction and for us, there is no sort of one size fits all answer to that question. Every company is different. You know that, every industry is different. Companies have different engagement was sanctioned to restriction or sanctioned persons. And, so what we have try to do is that sort of to take a step back and develop what we call a framework for OFAC plans. So, this is not a step by step blueprint for compliance, it is rather a sort of guidance for how to think about compliance and how, what would we expect companies subject to our jurisdiction to do for compliance. So, at the highest level, in sort of the first step, one thing we look for is what we called Management Commitment. So, we want management of a company or a bank to be committed to compliance with our sanctions. We want them to message that to their employees and we want them to adequately resource their legal departments, their compliance departments, etc. to do the necessary due diligence, to the necessary analysis to comply with our sanctions. So, step 1.

Then, the next step is what we call Risk Assessment. So, I think this is really crucial. As I said, different companies and banks face different sanction risks. There is no one size fits all example. For example, a Turkish Bank that has US corresponded banks as its partners, so, you know, there is a potential need for compliance with sanctions there. And it is doing business in Russia, for example, that has a different risk profile than a small Turkish company that mostly deals with Turkish Banks and doesn't do business with Russia, or Iran, or Syria. So, those are very different risk profiles and those are very different compliance considerations and we recommend that the companies and banks take a minute and think through, ok, "what are the risks of my company and my business violating US sanctions". "When would there be a possible USN access to my transactions that I have to think about in terms of sanction compliance". "Who are my customers, who are my products, who are my supply chains, what geographical locations do I do business in". Stuff like that. So that is step two. And I think that it is a really important step for any company that want seriously think about our sanctions.

Third is what we call Internal Controls. This is also very important step, but it is key to risk assessment. So, it is policies and procedures, automated IT tools, etc. that ensure proper sanction compliance based on the risks. So that could include screen of counter parties, that could be an internal control that the company implements, it could also include due diligence procedures. So, looking at the ownership of any Russian Banks or Russian companies that you are doing business with to ensure that they are not owned by 50% sanctioned person.

And then finally we have Testing and Auditing as wells as Training. I think first three steps Management Commitment, Risk Assessment and Internal Controls are sort of building the Sanctions Program and Testing & Auditing and Training are the maintaining the

Sanctions Program. So testing is the every known as do a testing for Sanctions program to make sure it is working.

I tell you a story, which is, when I was working as an attorney, we had a client, very sophisticated bank, and they paid a lot of money to automate their sanctions compliance so that every transactions were screened against our sanctions lists automatically, however, there was an IT error where their screening is not taking into account our Russian sanctions list. It was only taking into account Iran sanctions list. And so, there are screening was not picking up on dealings with Russian Sanction Persons which was going on for several years. So that is a potential sanction problem and could have been fixed with a quick test. You know, are the screening filters working?

And finally the training, we certainly recommend training for legally compliance personnel as well as business personnel and high risk units. If you are still doing business in Russia, you are seeing a lot of sanction awaiting coming out of Russia, let's say sort of sanctions risk, and training might help.

My compliance enforcement colleagues asked me to pass this on as well. It is sort of analysis of the root causes of most sanctions violations that may come across. The first one is pretty standard, which one is the Lack of a Risk based compliance program. So, the company did not think about its Risks, and it did not implement internal controls to prevent sanctions violations. Another very common is a software or filter error for sanction screening. So just like the example I gave for the testing.

Another is sort of misunderstanding or failing to understand the applicability of or jurisdiction of OFAC regulations. In a minute we will get to OFAC resources but there is a way to reach out to ask questions to OFAC for guidance which can help address this risk. Another is Improper Due Diligence. So, doing business with a Russian person, but not investigating whether this person works for an entity that is owned by a sanctioned Russian person and with for be prohibited. So, this is typical, know your customer KYC, Due Diligence and very common in the business and finance world.

And, others include US persons facilitating Transactions by Non-US persons. We touched on that briefly but as said US persons cannot facilitate a sanctioned activity prohibited for them under our sanctions by non-US persons. And then, exporting US origin goods, technology or services to OFAC sanctioned region such as Iran or Syria.

Also, I want to a little bit talk about OFAC Enforcement. So, as flagged some sort of by our policy office, but our office of compliance and enforcement is the division of that OFAC handles the enforcement, conduct civil investigation about apparent violations of US economic sanctions laws. They also, right, outreaching guidance to both US and non-US companies.

This is interesting. This is information on how our compliance-enforcement colleagues are able to learn about violations. One very common way is what we called self-disclosures, which is where companies are coming to OFAC and disclose the activity that they may have violated the sanctions. We will speak about this in a minute. But there are substantial incentives for companies to provide these self-disclosures. It can be potentially much much cheaper and easier to disclose to OFAC and get out with no penalty or light penalty rather the OFAC learn about the activity and initiate an investigation. Another way of

learning about violations is the Blocking and Reject Reports, which I flagged, these are required for US persons or other persons that may be directed to our sanction to file reports if property of sanctioned person comes into their possession. So, we receive those reports that can often be the beginning of an investigation. This is especially common with banks. Because US banks are very good with their compliance and finally blocking on time. Also, current investigations, if one is investigating one kind of sanction violation we often learn about other parties or other kind of sanction violations that were involved. And we open up a new case. We receive referrals from other agencies that can include Department of Commerce, Federal State Regulators such as the Exchange Commission, foreign regulators, so regulators that our partners have eyes on, our law enforcement colleagues, FBI, etc.

Informants and tips. This is interesting. We receive phone calls, emails from people who want to report on sanction violations all around the world. One common way we receive tips is from competitors or disgruntled employees. So, competitor may see another company getting business that has a sanctions' access, and think hmm, you know, it is not fair to be able to do that, we are comply with the sanctions, and they send the information to OFAC. And we could start an investigation. Disgruntled employees, unhappy employees may flag sanction violations for us.

And then finally, other publicly available information. So, there are a lot of interest in sanctions in the media. So, journalists will also often investigate sanctions, envision, publish it in English or in other languages. So, we monitor that, and that can be the beginning of a sanctions investigation.

So, Voluntary Self-Disclosures. As I mentioned, this is very common way for us to see the information. It is for companies actually, companies and banks come in and tell us, we've seen this, we've done this, we've violated sanctions. We are telling you now. So, you are hearing from us, and you are getting all the facts from us. I think the key thing here is timing. So, if you are in a situation where you may want do a voluntary self-disclosure, well you should know that is to get full credit. OFAC has to learn about the information from the person who submits the voluntary self-disclosure. So, if you want to learn about it from another company, we learn about it from another government agency, the company will not get voluntary self-disclosure credit. Although, there is credit for cooperation with OFAC investigation.

We also ask for all relevant facts and documents for underlining the violation, how occurred, documents showing paying instructions, contracts, invoices, bills and etc. It is very common for the companies to provide what we called place-folder voluntary self-disclosure. So sending a letter and say; we think that there is a sanctions violation, we are going to pull the facts and documents and send them to you later. So, that is the way for a company to get credit for voluntary self-disclosure. Well, others were still investigating the violation.

EUGENE OLEYNIKOV - I just want to mention that I have to leave to another meeting. But I want to thank everyone for coming and also want to know one item that my colleague Colman just mentioned regarding to the customer due diligence. In the context of Russia, what we tend to convey to our partners, foreign partners in private sector, the importance of due diligence beyond looking just the sanctions list, beyond looking just individuals and companies that are sanctioned by the United States and other countries. Which means looking at family members of the individuals who are sanctioned as well, their closest associates and

any companies that they may have been set up, such as shell companies to potentially evade international sanctions. They just want to highlight that is a key priority for us to start our communication and engagements with private sectors around the world. Thank you very much. It was a pleasure. Thank you.

COLMAN - Thanks Eugene. So, continuing on enforcement responses. What we do when we learn about a violation. I think the key thing here is we have many options where we do not impose a penalty, a monetary penalty. This is actually the majority of our cases. I think up to 80 or 90%. So this could end in with No Action Letter, where we send a letter saying we don't think there is violation here. A cautionary letter, where we sort of say, you need to strengthen your sanction compliance program, maybe improve your due diligence, but no penalty. A Finding of Violation, which is where we say that you have potentially violated sanctions but due to circumstances, maybe there was an inverted, a good sanction compliance program, we are not going to assess a penalty for this time. And finally we have, Civil Monetary Penalty/Settlement, which we do pursuing some cases where we say a penalty is warranted and then we calculate the penalty based on some factors that are published on our regulations.

In addition to those we have other enforcement responses that are available to us. One is License revocation, previously I mentioned that companies can apply for a specific license that authorizes otherwise prohibited activity. If we then find and see that the company violated our sanctions, we will consider revoking that license. So, there is no longer permitted.

Cease & Desist Orders, we can send a letter to company saying; we know this activity is going on, it is potentially violation of sanctions, you must cease and desist this activity. And that may be followed by an investigation and enforcement action. Foreign Sanctions Evaders List is less common these days. It was more popular back in the day for Iran and Syria sanctions but we can skip that for now.

And finally criminal referrals. So in the course of our investigation, we learn what we call willful sanctions violation. So the sanctions violation where the person knew what they were doing, knew that violated our sanctions. And potentially involve deceit that would be a willful sanctions violation, that could be potentially criminal, that would be something we refer to Department of Justice. And often times, we find other crimes, bank fraud, money laundering, etc. That could also be a criminal referral to Department of Justice.

Just briefly on Penalties if we do assessment Penalty is warranted, we have certain factors for calculating it. The main factor we keep in mind are "Was that a voluntary self-disclosure", which we have discussed. And "was the case Egregious?" So, Egregious, we more likely if the person was aware of the conducts and intentionally or willfully engaged in. If it was a pattern of conducts and that happened multiple times? Rather than an isolated incident, etc.

So, I think the best way to look into this is look at some numbers; so, lets say there is a transaction value of 2.000 dollars that violates sanctions. In the best case, if there is a voluntary disclosure and no egregious case, whether the company done it unintendedly, it was a one-time thing. Something like that. The penalty could be as low as 1.000 dollars. If there is no voluntary self-disclosure, however the case is still not egregious, then the penalty

could be as high as 10,000 dollars. So, as you can see, there is substantially incentives for a voluntary self-disclosure. On the right hand column we have, what happens if there is an egregious case. So, a willful, intentional violation of sanctions, involving deception, or a pattern of conduct. So, as you can see that could be quite pricy, quite expensive.

So okay, after discussing the kind of basics of OFAC compliance enforcement, I want talk about little bit about our Russia sanctions. So actually, we have two Russia sanctions programs.

The first one is what we call Russia Harmful Sanctions, which were imposed in 2021 and have been primarily relied on response to Putin's war against Ukraine. The primary sort of legal document for sanctions is what we called executive order, which is signed by the president, in this case Joe Biden, that authorizes our agency OFAC to impose new kinds of sanctions. In April, 2021, Joe Biden signed executive order 14024. This is before the Russian invasion, but it was a response to harmful activity we've seen from Russia. So, we want a sort of flexible tool to response to potential activity by the Russians. This has been the basis of most of our sanctions since the Russian invasion. This includes sectoral sanctions on the defense and related material sector of the Russian country, which is allowed us to sanction some of the biggest Russian defense contractors. Rostec, Joint Stock Company Mikron which produces their semiconductors, tactical missiles, which produces their missiles. We also used to identify new sectors that are subject to sanctions. Most notably, the financial services sector of the Russian economy, which has been the basis of our sanctions on the Russian Central Bank and Russia's largest banks holding 80% of Russian assets including Sberbank, VTB Bank, etc.

We also have sanctions issued in August, 2021, authorizes us to target energy export pipelines. An example here would be NordStream 2. After the invasion, we have issued another executive order in March that prohibited imports of oil from Russia into the United States. But not into third countries such as Turkey that is still not targeted by our sanctions. And also prohibited US investments into the energy sector. Since then we imposed additional sanctions on certain imports from Russia to United States. Fish, seafood, alcohol, diamonds, exports of luxury goods from United States by US persons or non-US persons. So, no fancy cars, handbags cannot be export to Russia from United States.

And finally most recently in April, we issued another sanctions authorizes prohibiting all investments in Russia as well as certain services provided by the US or by US persons to Russia. An example is corporate and trust formation services, which we found that is a common tool for Russians to evade sanctions, they rely on US lawyers or other companies to set up shell companies. So, we prohibited those services.

We have several exceptions. Two are sanctions prohibitions in the Russia harmful context. Some key ones include a general license that authorizes transaction, including financial transaction that would otherwise be prohibited for the export of agricultural commodities including fertilizer, food, medicine, medical devices from Russia. So, this has been important for the UN grain deal that Turkey was instrumental in negotiating between Russia and Ukraine to allow for the continued exports of Russian and Ukrainian grain to overcome food security issues.

Another key is general license we flagged our general license for energy related payments. So, if someone in Turkey for example has to pay Russia for energy and has to transit the US financial system, that would generally be authorized under our energy related general license.

We also have general licenses related to overflight emergency landings in Russia. US persons in Russia are authorized to pay taxes, fees, import duties and purchase or receive permits, licenses, registrations as required by sort of life in Russia. We have general license for transactions necessary to receive telecommunications and then we have one for civil aviation safety. So, I think we have over 15 general licenses in Russia harmful sanctions program. But this just the summary of the important ones.

Then we also have Ukraine - Russia related sanctions program that we first put in 2014 in response to Russian invasion of Crimea. And this includes an embargo on Crimea itself, we use this program to embargo to so-called Luhansk People's Republic and Donetsk's People Republic. And also includes debt and equity restrictions on Russian financial sector, Russian oil and Gas, and then blocking progressions for certain malign activity by Russian actors.

As with our Russia harmful sanctions program, we have been committed several general licenses, these are all available on our website but you'll some of the same themes, official business activities of the international organizations, agricultural commodities etc.

Okay then, finally I want to drop off with OFAC resources and contact information. So, OFAC maintains what we call compliance hotline with a telephone number and an e-mail. We have a team, their job is to answer the phones and answer the e-mails. They will provide guidance, if it is a particular difficult question, they will bring it to entire OFAC group, and we will discuss and provide an answer. We generally try to provide guidance as quickly as possible, although we receive a lot of questions. So, this is just a good resource to have available, if you have any questions. This is available on our website. The compliance information. www.treasury.gov/ofac. On our website, you can also find places likes specific license application to file a blocked property report, find out authorities and find out guidance. So, pointing some of the stuff on our website. Updates on new sanctions, applications for an OFAC license, and then, FAQ and guidance on the scope of our sanctions.

And then finally, one key on our website is our sanctions list. So, we have a tool that allows persons to search in all of our lists, including our blocking list to find if they have a match with the business partner. We tried to include as much as possible information to the list, date of birth, passport numbers, alternative spelling of names, alternative corporate names, we tried to have Chinese characters, Russian characters, as much information as we can we put on the list, so the search tool work as good as possible. This I can send around to the group, which is list of links, to our resources, guidance and I think it is very helpful to find the information where on OFAC website. I will contact with the organizers so they will send afterwards.

So, that's all for the presentation. I think at this point, we are happy to take the questions that the members may have. Thank you for your attention and thanks for asking about our sanctions.

DR. MEHMET VEYSEL YAYAN - I would like to have short comment. I am president of the Turkish Iron and non-Iron Materials Assembly. As you know that, Turkish steel products under the safeguard regime is not exported as easily before. It was more than 2 million tons and it decreased up to 150 thousand tons. All these safeguards create lots of burden for the Turkish steel consumers, sector, off course we would like to cooperate for this. And share this with you and with other 30 country as you mentioned. But I think when you ask deciding that to eliminate the burden of safeguard from 27 European countries, UK, Brazil, Mexico, Japan, South Korea, except Turkey. Turkey is still suffering. So, if you are asking for something to share the burden, I think you should release some burden from the Turkish steel sector. That is the way of balancing something. They are sincerely expecting such a good step from the US Government. Thank you.

REGINA KANG - Thank for those comments, and questions. Please correct me maybe I misunderstand you. But I believe those exceptions we offered and applied to countries that imposed on the same type of export controls that we imposed on the Russia. In a few weeks, our Department of Commerce colleagues will be coming to Ankara and I believe Istanbul to have similar discussions to talk about their export control instructions. So, I would encourage you to bring up the same question to Commerce colleagues, but the idea the time was we want to afford these benefits to other countries that join us in taking actions against Russia.

QUESTION - During your presentation we heard that the export of grain and fertilizer from Russia is exempted as a general license. But in the context of the grain deal, we very often hear from Russia that their part of agreement is not being implemented well. Because of some impediments, insurance in our ports, transportation and etc. What are the main reasons of these? Why the real sector is not reacting accordingly to your general licenses?

REGINA KANG - As much as Russia maybe saying that we in the US government and with UN have been working very hard communicate what is authorized under our sanctions program. So, the general license that was in Colman's presentation was actually an expansion of what included previously in recognition, we expanded it so much so that insures to stop the risking. And we continue to have these discussions with private sector to clarify that our sanctions are never intended to target agricultural trade or energy transactions, so we continue to do that. We establish an extra help task, with a state to prioritize these types of challenges. And I would encourage anyone that having these challenges to please reach out to us so that we can figure out what the problem is and we can work with those companies to address that problem and help relieve any of those impediments.

COLMAN - We often get on the phone or an e-mail with persons involved in exports of Russian grain to resolve any issues. And we have seen increases in exports of both Ukrainian and Russian grain since the UN grain deal.

QUESTION - Thank you. Because, addressing the criticism of Russian authorities will be very instrumental of the prolongation of the grain deal, which is very important for the food security in general. One more question about, MIR cards, if you allow. What is main target of sanctions against MIR cards? To limit the cards just within the Russia or to limit the transactions which are made by MIR cards in order to prevent the evasion of the sanctions in general? What is the main distinction with regard to the MIR card sanctions? Thank you.

COLMAN - So, we issued guidance on this in the form of frequently asked questions or FAQ. That is on our website. I think we can answer around this as well. We have seen generally for Russia, an increase in activity to evade or circumvent our sanctions. And so any post-war expansion of integration with the Russian economy we've seen as a risk for sanction evasion, we've also seen that in the expansion of the MIR network. I think if you look at our guidance, the keywords there are new or expanded agreements with NSPK, which is the corporate that runs the MIR cards, so newly expanded after the Russian invasion is the highest risk.

QUESTION – I will read in Turkish if you put your headphones. I think that is the second channel in English. 1. Soruyla başlıyorum. Avrupa ve Amerika merkezli şirketler çalıştıkları Türk şirketlerden Rus şirketlerle çalışan müşterileri olmadığı veya olmayacağına dair taahhütler almaya başlamıştır. Bu kapsamda çalıştıkları Türk şirketlerden kendi müşterileri kapsamında, bu tarzda yaptırım uyum taahhütleri talep edilmesi uygulanan yaptırım mekanizması içerisinde hukuki bir dayanağa sahip midir? Sahipse bunu paylaşabilir misiniz?

COLMAN - So, I present there is no embargo on Russia, so there is no prohibition on all Russians. However many businesses in the US have taken a position of what we call, de-risking from Russia entirely. That could be due to sanction concerns, that could also be due to other concerns, reputational concerns, some businesses have reputational concerns to have business relations in Russia, money laundering concerns, etc. We, at OFAC, generally cannot ask US business to engage in an activity they don't want to or see too high risk. In certain context, whether there is a connection to food security, we can engage with the business and provide our guidance that there is no embargo here and this will not be prohibited.

REGINA KANG - So, after the invasion of Ukraine, about 1.000 multinational companies chose on their own to suspend or end their businesses in Russia. And those actions were based purely on business decisions that have been made for their own company and that was a separate decision from any sort of sanction that we have imposed at the time.

QUESTION - Rusya'ya yaptırım sektörleri altında denizcilikte sayıldı. Bu kapsamda detaylı bilgi verebilir misiniz? Örneğin Rus gemisine servis veren gemi ajentalarıyla ilgili bir yaptırım var mı? Örnek verebilir misiniz? Can you give some examples about the Russian sanctions about shipping, I mean, agencies giving services to ships, can u give us examples on that?

COLMAN - So, I think, in contrast to our program where we do have shipping specific sanctions. Right now, there no specific sanctions, no prohibitions on Russian shipping. We do have authority on Maritime sector, which means we may impose sanctions on entities operating in the maritime sector of Russian Federation. If we do that, entities will appear on our SDN List on our website. There may be also any engagement with Russians you want to ensure that you are not dealing with sanctioned persons, sanctioned oligarchs, sanctioned government entities in Russia, so, which is to say, I think even if there are not, sanctions targeting, prohibiting Russian shipping pursue, I think screening against our SDN is a very good idea and to be pursued on the list.

And finally we have our price cap policy, which will represent a prohibition on US AUG7 service providers related to the shipment of Russian seaborne oil with an exception if

that oil is under a certain price. But we haven't still implemented that policy yet. And I think we will provide more guidance on that, when we start to implement that policy.

REGINA KANG – I just have one note about providing services to Russian vessels. When we designated a lot of defense entities and individuals, a lot of them also own the ships, and Vessels also a lot of Russian defense entities we have designated also own a lot of Russian vessels. So, as Colman says checking to see if they are on the SDN list. It is also important to understand the ownership structure. Who owns these vessels and to see whether the persons owning these vessels are on the SDN list.

QUESTION - Devam ediyorum. Rusya ve İran'a satış yapan Amerika şirketleri var. Aracı şirketler kullanıyorlar. Bu durumda diğer şirketlere yaptırım uygulanırken, Amerikan şirketlerine yaptırım uygulanmıyor. Bunu nasıl açıklarsınız? We can continue with the English question. This is another question. In general, food and medical are not on the sanctions list. What if the importing company is owned by a person on the sanctions list? What action should be taken?

COLMAN - So, in that case, that is exactly why we issued general license 6B for the export of Russian controlled commodities fertilizer, medicine and medical devices. So that authorization is on our website. I recommend that you take a look at it to ensure that your transaction is covered. We also have what we called fact sheet, which I can send around later, which sort of describes all the different authorizations for the food, and agricultural commodities. Generally, such transactions would be authorized. However, in order to make a complete assessment, we need to know more facts about which sanctioned person, which authorities are sanctioned under the nature of the activity. But we have a lot of guidance on this online and we will provide to the organizers after this.

QUESTION - Rusya ve İran'a satış yapan, aracı şirketler kullanan Amerikan şirketleri var. Aracı şirketler kullanıyorlar. Bu durumda diğer şirketlere yaptırım uygulanırken, Amerikan şirketlerine yaptırım uygulanmıyor. Bunu nasıl açıklarsınız?

COLMAN - I think, I should know more about the companies and the business to comment, as I mentioned, there are authorizations in our sanctions for exports of food, agricultural commodities, medicine, medical devices to both Russia and Iran. There are other exceptions for activities related to communications, activities related to internet freedom. Iran is subject comprehensive sanction or embargo right now, but Russia at this time is not. So activity in Russia is generally authorized, unless there is a connection to a sanctioned Russian person on the sanctions list. So, I think I have to know more about the nature of the business, the sector they are engaged in, etc. After this, if you say that there is a sanctions violation here, we will provide certain ways to get in touch OFAC, we welcome any information you pass to us, any tips of potential sanction envision. Especially about US companies.

QUESTION - Türkiye'de bir software şirketim var. Ve Amerika'ya hizmet satıyorum. Bu durumda İran ve Rusya'dan program hizmeti satın alabilir miyim?

COLMAN - So, I think that sounds like a business pattern you would want to think carefully about the sanctions list there. It depends on, if you are on, for example, indirectly importing software from Iran to the United States, that could potentially be a violation. For example, if you buy services from Iran, and then incorporate them in software and sell them to United States, that could be potentially risky. If your business partners in Russia and Iran on our

SDN list, that could potentially be risky. If you engaged in sort of Russian technology sector, which is especially have access to Russian defense, that could potentially be sanctionable. I think you want to be careful and look at the guidance on scope of our sanctions our website. You want make a business decision, is it worthy to do that or so you can have right internal controls for that business model.

QUESTION – Diğer soruya geçiyorum. Yaptırım kararı yokken başlayan bir ticari ilişkide, sözleşmenin icrası durumunda yaptırım kararı alınması durumunda nasıl devam etmemiz gerekir.

COLMAN - Yeah, that's a great question. One of the general licenses that I flagged, common for us is what we called Wind Down general license, so that is exactly what the fact pattern that we had in mind when we issue those. So, often when we sanction a big Russian company, so we have 30, 60, 100 days wind down period that allows the business to wind down the commercial relationship in that time and make payments, settle debts necessary for that. If there is no general license, I think the next step will be what we call specific license, which is showed on the presentation and in which an individual or company write in the OFAC and says, you know, I want do this transaction, I need to do it because it is necessary for me to wind down. My relationship with this Russian entity that was previously unsanctioned but now is. And we would take a look at that and issue the authorization if it is appropriate with colleagues from the Department of State. The final thing I'll add on this is; when you contracting with Russian counterparties, it is really good to think through what contractual provisions you could put in place to allow yourself to wind down relationship if there is a sanction decision to be make. So, you know, when I was working as a lawyer in the private sector, we often draft this contractual provisions, say would be sanction termination causes, etc. So that is a good best practice.

QUESTION - Rusya'da faaliyet gösteren bir media şirketinin Türkiye'de yatırım yapmak istemesi durumunda muhtemel ortaklıkta payı %48'in altında kaldığında Türkiye'de çekilecek bir TV dizisinin uluslararası yayını için, Netflix ve Disney gibi platformlar dahil, yaptırım durumu nedir?

COLMAN – So, I think for that, I think this is general guidance for doing business in Russia, which is we highly recommend you screen Russian counterparties using our SDN list to make sure that none of the Russian counter parties are on the list. We recommend due diligence to ensure that your Russian business partners are not, for example, owned by a sanctioned person or owned by an oligarch or owned by a company, and then we recommend that you look at some of our prohibitions related to for example, services etc. One additional thing I'll add here is that your counterparts cannot be on the list, but anybody also involved in, for example payment process, or transportation or, service providers, they can't be on the list as well. This is a big issue because many Russian banks are on the list now. So, I do not know how you going to settle payment, how you going to make payment to your business partner and receive payment from your business partner, but you want to be careful not to involve Russian sanctioned bank. So, as long as there is no Russian sanctioned persons or no sanctioned activities are involved, there is no general embargo on Russia. You can still engage in activities with Russia, including, you know filming, working together on a film for Netflix. You just have to be aware that there is sanction list for every Russian transaction and

you have to familiarize yourself with the OFAC authorities, have internal controls to ensure that you assess that risk.

QUESTION - Yine bi konuda çok fazla soru var. Onu genelleyerek sorabilirim. Türk şirketlerinin OFAC'ta spesifik bir lisans alması, yani özel bir ruhsat alması için ve buna başvuru için neler yapabiliriz? Bu konuda nasıl rehberlik alabiliriz diye soruyorlar web sitesinden. Biz Colman'ın paylaştığı linkleri paylaşıcaz ama onun dışında başka bşr önerisi varsa belki onu paylaşabiliriz.

COLMAN - Yes, absolutely. So license can be applied for online. We have licensing portal, which has a link where you can upload your application and you can upload supporting documentation, we have guidance on our website about license applications. I think when you generally apply for a license, you want to establish, first of all, where is the USN access, where is the US person, US financial system, some sort of connection to the US that OFAC has jurisdiction for you. If there is no connection to US, then the sanctions do not prohibit you doing anything, you do not need to apply for a license. You also want to establish why you think a particular transaction is prohibited? If you don't think is prohibited, then again there is no need to apply for a license. If you are not sure whether it is prohibited, you can apply for license and you can ask what we interpretive guidance. To ask OFAC whether you need or not. We respond to that as well. And we want to know the facts of the proposed transaction. We want to know the parties, we want to know the services provided, we want to know the timeline, it is good to provide and underlined documents, underlined contracts, payment instructions etc. And then a rationale why you believe that there should be an exception to sanctions for your transaction involving a Russian person. We tend to be very focused on food security for example, so transactions related to food security may be consider for a license. There may be others, but another one is winding down. That is something we really want to look if you send application for a license application. And then finally another thing is that one of the most useful things for license is; if you get an OFAC license, you can give it to US Bank, lets say, this transaction authorized by OFAC, please process the payment. The banks are much more willing to do that if they see license from OFAC.

QUESTION - Bir malzeme, bir üretim hattı, bir ekipman hem yasaklı bir sektörde, hem de ürün üretiminde kullanılabilir. Hem özel lisans, hem genel lisans verilmiş olabilmektedir. Bu durumda mekanizma ve kontrol süreci nasıl çalışmaktadır?

COLMAN - So, there is a product, what kind of product?

QUESTION - Genel veya özel ruhsatlar kapsamında yaptırım dışına alınmış sektör, ürün gibi aktivitelerde, ilgili aktivitenin ürün, ihracat veya üretiminin faaliyetinin sürdürülmesi için pek çok gereksinim olmakta. Örnek olarak söylüyor malzeme, ekipman, özel bir ürün değil sanırım.

COLMAN - It is hard for me to answer that question without more information. But what I will say is I think the biggest risk to be aware of is individuals, companies, entities in Russia that we've put on our sanction list, as well as for entities for more than 50% owned by these individuals or entities, as a step number one, always be to determine the identities of all your Russian business partners, ensure that you due diligence on them, so you know their owners, you know corporate structures, and check all that information against our SDN list. Make

sure you are not dealing with a sanctioned person. A sanctioned bank, or sanctioned service provider. Other than that it is hard for me to say anything. As I said we do not have a general embargo on Russia, it is not like Iran, we can do some transaction, not all. You need to make sure that you are very familiar with the OFAC guidance make sure you are not operating in a targeted sector, something like that has a USN access.

QUESTION - Kripto para platformları ile ilgili durum nedir? Bunların OFAC yaptırımlarına karşı olduğu nasıl anlaşılır?

COLMAN - So, crypto, from a legal perspective, we treat a virtual currency the same as any other payment platform. So, you need to make sure that your partners none of them is SDN list. We actually list big coin addresses on our list as well. So you may want to ensure that you are not sending your receiving to digital wallet of a person on our sanctions list. That is a kind of theoretical legal concern. As far as best practices of compliance, crypto is different from traditional payment mechanisms. The parties may be anonymous, there can be greater risk like money laundering, and so we have guidance on our website. For best practices, for sanctions compliance on the crypto space, which can I also include and send around after this.

QUESTION - İran'a uygulanan sivil havacılık yaptırımlarıyla ilgili OFAC web sitesinde çok bilgilere ulaşamadık. Özellikle aircraft lease agreements. Bu konuda bilgi verebilir misiniz?

COLMAN - So, I think again what will be very important here is sanctions screening to ensure that whoever you receive your aircraft from is not in our sanction list. We also have certain general licenses related to civil aviation safety, although those are not through applied here, I think for the aircraft the US government you want to talk about most is Department of Commerce. Because, they regulate the aircraft themselves, the components, the technologies. So I think that would be best person to direct the question to. I understand that they will have a technical tour soon in Turkey, and they have a website as well. It is commerce.gov. The agency that regulate, this is called the Bureau of Industry and Security. So you can Google that to find them.

QUESTION - Üçüncü bir ülkeden gelip, Rusya'ya gidecek malların Türk limanlarından lojistik aktarma hizmetleri verilmesi durumunda yaptırımlara tabi midir?

COLMAN – So, trans-shipment of materials through from third countries through Turkey to Russia. So, again I think what is really important here is screening your Russian counterparties. Screening the purchasers of the materials, screening the banks involved, ensure that they are not on the sanctions list. You want to do due diligence to make sure that they are not owned by the persons on the sanctions list. So, that will be the one risk you are addressing. Another is, I am not sure what materials exactly are you talking about. But our colleagues from Department of Commerce, Bureau of Industry and Security, they impose what we called export controls on Russia, which regulate the export of certain sensitive technologies and materials to Russia. So, I would look very carefully to their regulations. So and finally, I would be careful of Russia's sanctions evasion. So, make sure that this is not a scheme they developed to circumvent or flee our sanctions, because that could potentially create sanctions risk as well.

QUESTION - Amerikan vatandaşı olmayanlar için mevzuatı daha net açıklayan bir rehber var mıdır? Bizimle paylaşabilir misiniz?

COLMAN - Yes. I think there is a lot of guidance in our website that is toward non-US citizens. I think we provide that in the package that we will send around. But we have specific guidance for non-US persons engaged in humanitarian dealings in Iran for example. I think generally what you want to ensure is that there is no US access to any transaction that involves Russia, so there is no involvement US financial system, or other US service providers. As a general best practice, it is good to screen our lists to ensure that you have no sanctions risk.

REGINA KANG - I think we are out of time. But I did kind a rap of comment. Based on some of the questions, comments and answers, I think for the general pattern, the recommendation is that to get familiar with OFAC's SDN list and understand what these SDNs are, before agreeing to engage in certain transactions. And the other thing I want to say is our commerce colleagues will be here to talk about export controls. But they will be able to tell you the number of goods and items that are now under export controls as exports going to Russia. Their authorities are extremely extensive because they can also cover US technology that is embedded, for instance in aircraft or different types of vehicles. You do have to be able to understand both the scope of commerce regulations, as well as OFAC's. It is really important to be able to understand both because they come with risks to your company, if you are to be cut off with certain transactions related with violations of commerce's regulations, or treasuries regulations. Commerce is equally focus on addressing sanctions evasion, as well, to ensure that impact of our sanctions be sustaining. So, that would be my parting thoughts. Thank you so much for your time. You play such an important role in our response, in helping ending this war as well.

COLMAN - Thanks, I'll part with remarks as well. I want to emphasize my colleagues focus on our lists, that is we highly recommend screening Russian counterparties against our lists whether they are not subject to sanctions. Due diligence, as far as ownership or control that is also key here. And then finally, we certainly send this out, but the information on how to get in touch for specific compliance, for specific questions, how to write in e-mail, feedback, e-mail to specific questions where our experts can look at and provide a response to. We will send the information and I think that is a good resource for technical details on sanctions questions. Thank you also for your time, thank you for having us here. We appreciate it.

MODERATÖR - Herkese katılımları için teşekkürler. Yaklaşık 500-600 katılımcımız oldu umarım faydalı olmuştur. Tamamlayamadığımız, okuyamadığımız sorular oldu, kusura bakmayın. Umarım bir sonraki toplantıda onlara da değiniriz. Hoşçakalın.

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