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## DOJ Announces Boost to Sanctions and Export Control Enforcement Efforts

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March 16, 2023 – Deputy Attorney General (“DAG”) Lisa Monaco announced in [remarks prepared for a March 2, 2023 appearance](#) at an American Bar Association event that the Department of Justice’s (“DOJ”) National Security Division (“NSD”) will be enlarged and restructured to promote enforcement of sanctions, export controls, and related national security laws. DAG Monaco’s remarks were accompanied by the release on the same day of [sanctions and export control enforcement guidance](#) from DOJ, the Department of Commerce, Bureau of Industry and Security (“BIS”), and the Department of the Treasury, Office of Foreign Assets Control (“OFAC”) providing insight into expectations for corporate compliance programs at a time when enforcement activity is poised to increase.

### Background

Responsibility for enforcing U.S. sanctions and export control laws is shared among U.S. government agencies. OFAC has jurisdiction over civil enforcement of most sanctions programs, while BIS has jurisdiction over civil enforcement of export controls. DOJ has jurisdiction over criminal enforcement of both sanctions and export controls, and within DOJ such matters are handled by the Counterintelligence and Export Control Section of the NSD.

Increased use of sanctions and export controls to promote U.S. strategic goals and foreign policy, especially since the Russian invasion of Ukraine, has elevated the importance of enforcement in these areas. The U.S. government has rolled out significant new initiatives to improve enforcement efforts at all three agencies in the past year, often featuring close interagency collaboration and policy alignment. For example, in March 2022, DOJ assembled an interagency [“Kleptocapture” task force](#) to enforce Russia-related sanctions and export controls, and recently announced a [“Disruptive Technology Strike Force”](#) co-headed by BIS (see our [previous alert on this development](#)). In June 2022, BIS announced [new enforcement policies](#), including new incentives to encourage voluntary self-disclosure of violations similar to the policy that DAG Monaco mandated across DOJ components in the [“Monaco Memo.”](#)

### Changes at NSD

DAG Monaco stated in her March 2 remarks that sanctions and export controls, once a “technical area of concern for select businesses”, should now “be at the top of every company’s risk compliance chart.” DAG Monaco repeated [her observation from previous remarks](#) that “sanctions are the new [Foreign Corrupt Practices Act] in terms of the breadth of industries implicated. She also stated that to address the “increasing intersection of corporate crime and national security,” NSD will hire more than 25 new prosecutors to investigate and prosecute violations of sanctions and export controls and similar economic crimes, and will create a new Chief Counsel for Corporate Enforcement position. In addition, NSD going forward will issue joint advisories on enforcement trends with Commerce and Treasury “akin to the FCPA guidance [that DOJ has] for years published jointly with the [Securities and Exchange Commission].” The purpose of the advisories will be to inform the private sector about enforcement trends and convey expectations about compliance.

### New Joint Guidance from DOJ, Treasury, and Commerce

The March 2 guidance published by DOJ, Treasury, and Commerce provides both an outline of expectations DOJ, Treasury, and Commerce have for sanctions and export control compliance programs, and a list of common red flags for Russia-related sanctions and export control violations.

In keeping with [DOJ guidance on the hallmarks of an effective FCPA compliance program](#), the March 2 guidance states that “[e]ffective compliance programs employ a risk-based approach to sanctions and export controls compliance by developing, implementing, and routinely updating a compliance program, depending on an organization’s size and sophistication, products and services, customers and counterparties, and geographic locations.” The compliance program should, among other things, feature management commitment (including through appropriate compensation incentives), risk assessment, internal controls, testing, auditing, and training.

The March 2 guidance also offers a non-exhaustive list of red flags indicative of attempts to evade sanctions or export controls, including use of corporate vehicles to obscure material features of a transaction, reluctance of a customer to share information about end use of a product, IP addresses that do not correspond to reported location data, and others. The guidance additionally encourages companies to review BIS and OFAC enforcement actions for tactics and methods used in Russia-related sanctions and export control evasion, and reviews evasion tactics that DOJ has encountered in recent Russia-related criminal prosecution.

### Key Takeaways

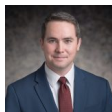
DAG Monaco’s remarks indicate that DOJ will dedicate unprecedented resources and attention to sanctions and export control enforcement, and that DOJ now expects companies to place similar emphasis on sanctions and export control compliance.

In the context of other recent DOJ initiatives in this space, DAG Monaco's remarks are yet another sign that companies should be prepared for increased enforcement activity by DOJ, OFAC, BIS and related agencies. Companies and institutions across the U.S. economy, or whose business is otherwise implicated by U.S. sanctions and export controls, should be integrating risk-based approaches to sanctions and export control compliance within their broader compliance programs. Companies or institutions whose business directly involves foreign trade should consider conducting a risk assessment to evaluate their compliance with applicable sanctions and export controls, particularly with respect to emerging Russia-related risks. Together with increased enforcement, it is likely that DOJ and its partner agencies will be offering additional resources and guidance to inform corporate compliance programs. Companies whose businesses are impacted by export controls and sanctions should carefully review the March 2 guidance and any follow-on publications. Companies should also review enforcement actions by DOJ, BIS, and OFAC on a rolling basis, and ensure that their compliance programs integrate relevant sanctions and export control evasion techniques documented in the publicized actions.

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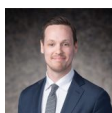
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