

## 4 KEY TAKEAWAYS

# OFAC Sanctions Enforcement to Date in 2020

Through May of 2020, OFAC has published [four settlements of apparent sanctions violations and one finding of violation](#). OFAC's enforcement actions highlight four important and ongoing concerns related to the importance of U.S. companies, with a global presence, maintaining appropriate sanctions compliance programs.

1

**High Risk Industries:** Companies operating in high-risk industries (e.g. international shipping) should implement ongoing risk-based compliance measures that include responding to sanctions-related warning signs. Such warning signs could be information that goods originated from or were supplied by a person or entity subject to U.S. economic and trade sanctions.

**Adherence to OFAC Formal Responses:** The failure to adhere to OFAC formal responses, such as the adjudication of license applications or requests for guidance can lead to serious sanctions infractions. In one case, the subject company applied for an OFAC license to obtain authorization to ship certain cargo. While the application was pending and despite absence of OFAC's authorization, the company proceeded with the shipment. Following OFAC's denial, the president of the company failed to send the denial letter to relevant persons within the company. As a result, the company continued with the unauthorized shipments in violation of the Burmese Sanctions Regulations.

2

3

**Applicability of OFAC Regulations and Licenses:** The failure to understand the applicability of OFAC's regulations, including general licenses, can also lead to violations. In one case, the subject company incorrectly believed that it could structure transactions involving a counterparty that would be consistent with OFAC's Cuban Assets Control Regulations ("CACR"). In doing so, the subject company coordinated and received commissions on sales to the Cuban counterparty as executed by the company's foreign affiliates. In determining that the conduct of the company and its foreign entities resulted in violations, OFAC also noted that the company could have availed itself of an existing general license under CACR (or a applied for a specific license), and likely avoided the violations.

4

**Avoiding Deficient Screening Tools:** Companies need to ensure that their automated sanctions compliance screening tool does not possess deficiencies (as we previously highlighted in our [2019 Takeaways addressing OFAC's compliance guidance](#), "A Framework for OFAC Compliance Commitments"), and that automated sanctions compliance controls and measures cannot be overridden without appropriate review. In one case, the subject company's screening system "risk engine" first declined a customer, who was on the Specially Designated Nationals and Blocked Persons list. After multiple resubmissions of the customer's information, the risk engine would "time out" and trigger an approval of the client. The risk engine then routed the application into a manual review queue for investigation of potential sanctions-related issues. During manual review, the customer was once again incorrectly cleared and placed on the company's "accept" list. Although this issue ended with human error, the screening tool had several opportunities to provide the company with crucial information.

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