



TUESDAY, MARCH 29, 2022

VOL. 4, NO. 60

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Top News

US Agencies Under Pressure From Heavy Sanctions Workload

The past several weeks at U.S. sanctions agencies have ranked among the busiest times in recent memory, especially at the Office of Foreign Assets Control, where some employees are working nearly nonstop to implement and enforce new sanctions against Russia, former officials said in interviews. While some former officials said the extra work could shift minor projects to the side, lawyers are concerned it could also delay more pressing agency priorities, including licensing requests.

Some OFAC employees have worked 20-hour days, said Matthew Tuchband, who left the agency in 2019 after more than two decades in the chief counsel's office, including 14 as deputy chief counsel. Although Tuchband said long hours are fairly routine for OFAC employees, the past month has been a particularly busy period.

"A lot of people that I worked with were always putting in extra hours, and I think OFAC generally does that across the board," said Tuchband, a sanctions lawyer with ArentFox Schiff. "But my sense is, right now, it's a significant increase beyond that."

Because most sanctions announcements are usually "fairly work intensive," Tuchband said the agency is accustomed to working long hours. Russia's annexation of Crimea in 2014 was also an especially busy period, he said, partly because OFAC had to help implement multiple executive orders and publish a string of general licenses. "They were rolling out very, very quickly," Tuchband said, "and they were fairly complicated."

Adam Smith, a senior adviser to the OFAC director during the Obama administration, also pointed to Russia's invasion of Crimea as a busy time. He said the agency also dealt with large amounts of sanctions during the Trump administration, including hundreds of Syria-related designations. But he said those instances don't quite rival the current sanctions output, which has included hundreds of designations against Russian government officials, banks and oligarchs, debt and equity restrictions and an oil embargo (see [2203240045](#), [2203030062](#) and [2203030062](#)).

"The number of designations, maybe we've seen before," said Smith, a trade lawyer with Gibson Dunn. "But we've certainly never seen the variety of measures like this in such quick succession."

The extra work could further delay some "back-burner" projects, Tuchband said, such as rules to align the wording in various sanctions regulations. "Certainly there's a limited amount of resources there, and they can be pulled in only so many directions at a time," Tuchband said. But he doesn't see the sanctions causing large-scale delays to licensing requests or enforcement work, partly because the agency is used to allocating tasks during busy times. "When I was there," Tuchband said, "I generally saw them being very good about moving around the resources they have to cover things."

Other lawyers think the extra work could have more significant downstream effects. The agency is already dealing with "dozens if not hundreds" of Russia-related license applications, industry requests for clarification and interpretive guidance, and could be working on more frequently asked questions, Smith said. Although he said OFAC has "historically been very flexible in its staffing" to properly allocate resources, it can be challenging to manage various sanctions programs amid a surge in new sanctions.

"I think it pressures everything," Smith said. "It does increase the flow of requests into OFAC—maybe other agencies too. But certainly OFAC." A Treasury spokesperson didn't respond to a request for comment.

The Commerce Department's Bureau of Industry and Security has seen an increased workload as well. The agency has put out hundreds of pages of new export control regulations in the past month, including two new foreign direct product rules, new restrictions against Russian state-owned entities and military end-users and new controls on oil refinery equipment and luxury goods (see [2202240069](#) and [2203110056](#)). It also has added around 100 entities to the Entity List (see [2203040020](#)).

BIS officials said they never have had to issue as many rules as quickly, calling the work “unprecedented” (see [2203150056](#)). The agency still has a “substantial amount of ongoing work to ensure consistent implementation” of the new controls, Matt Borman, the agency’s deputy assistant secretary for export administration, said during a March technical advisory committee meeting.

Congress earlier this month passed a government funding bill, including an emergency Ukraine-related aid package, that will allocate millions of dollars for BIS to carry out export administration duties and hire more staff for its work on Russia-related export controls (see [2203100014](#) and [2203110011](#)). Kevin Wolf, an Akin Gump lawyer and former BIS assistant secretary for export administration, said the extra staff should help the agency in the long term.

“Clearly career staff are working very hard,” Wolf emailed. “These are significant, novel rules being drafted and published under tight time pressures and in the limelight.”

The bill also included an additional \$25 million for Treasury’s Office of Terrorism and Financial Intelligence, which oversees OFAC. The money will go to staff and salaries for a range of tasks, including sanctions targeting.

Although some OFAC officials are working “around the clock” and the agency has been understaffed for years (see [2010290028](#)), Tuchband said it can manage. “At OFAC, you tend to go from fire to fire to fire,” he said. “It’s rare that there isn’t some area of the world that people aren’t thinking about putting sanctions on or taking sanctions off.” — *Ian Cohen*

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Sanctions

UK Adds 6 Entries to Myanmar Sanctions Regime

The U.K. added three individuals and three entities to its Myanmar sanctions regime, in a [March 25 notice](#). The individuals are Aung Moe Myint, Belarus’ honorary consul to Myanmar; Htun Aung, member of the State Administration Council; and Aung Hlaing Oo, managing director of Myanmar Chemical & Machinery. The entities are Miya Win, Dynasty International and Myanmar Chemical & Machinery.

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UK Amends 1, Corrects 2 Sanctions Listings Under Russia Sanctions Regime

The U.K. amended one entry and corrected two others under its Russia sanctions regime, the Office of Financial Sanctions Implementation [said](#) March 25. The entry for Sovcomflot was amended to change its address. Entries for Oleg Yurievich Tinkov, founder of Tinkoff Bank, and Eugene Markovich Shvidler, former nonexecutive director of Evraz, were corrected.

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Congress

Lawmakers Ask Leadership to Include Export Control, Sanctions Provisions in Final China Bill

The top Democrats on the Congressional-Executive Commission on China urged House and Senate leadership to include several sanctions and export control-related provisions (see [2202030062](#)) in the final version of Congress’ China competition bill. As leadership begins negotiations on legislation to reconcile the versions passed in the House and Senate (see [2203210064](#)), they should make sure not to omit “robust provisions on human rights principles,” said CECC Chair Sen. Jeff Merkley, D-Ore., and Co-Chair Rep. James McGovern, D-Mass.

The final bill should specifically extend U.S. export restrictions over certain munitions shipments to Hong Kong and mandate new sanctions on Chinese officials involved in forced sterilizations and forced abortions in Xinjiang, the lawmakers said in a March 28 [letter](#) to congressional leadership. The bill should also include a provision that would require U.S. agencies to review whether export restrictions are properly capturing items used for surveillance or repression.

“We ask that you maintain robust language and policy initiatives signaling that the protection and advance of democratic freedoms, human rights and the rule of law cannot be unshackled from economic cooperation and security interests,” Merkley and McGovern said. “[China’s] vast definition of national security, export of mass surveillance technologies, efforts to censor a free press and religious freedom, and efforts to redefine the global world order require the integration of human rights obligations and the protection of global governance standards into U.S. national security strategies.”

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Lawmakers Looking Into Credit Suisse's Russia Sanctions Compliance

Two House oversight committee leaders are looking into Credit Suisse’s compliance with Russian sanctions after the investment firm reportedly asked investors to destroy documents about yachts and

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private jets owned by its clients. The Credit Suisse directive, reported by the [Financial Times](#) in February, “raises significant concerns that it may be concealing information about whether participants” are “evading sanctions” imposed by the U.S. and other countries against Russia, said Reps. Carolyn Maloney, D-N.Y., chairwoman of the Committee on Oversight and Reform, and Stephen Lynch, D-Mass., chairman of the Subcommittee on National Security.

In a March 28 [letter](#) to the Switzerland-based firm, the lawmakers also said they are concerned that the directive to destroy the documents “coincided” with Switzerland’s announcement that it would join the U.S., the EU and others in sanctioning Russia. Maloney and Lynch asked Credit Suisse to provide certain company communications and documents about the destruction of the documents, a list of the investors that participated, its know-your-customer and due-diligence documents and more.

A Credit Suisse spokesperson declined to comment. The person pointed to a March 3 [statement](#) in which the company said the destruction of the materials was “in no way linked to the recent implementation of additional sanctions—with which we are fully compliant.”

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Magnitsky Act Renewal Introduced in Senate

Sen. Marco Rubio, R-Fla., and five fellow Republicans [introduced legislation](#) March 25 to renew the Global Magnitsky Human Rights Accountability Act until the end of December 2034. The current law’s expiration date is the end of this year. The Magnitsky Act provides authority to impose sanctions on individuals responsible for human rights violations.

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Rubio Introduces Bill to Sanction Foreigners Who 'Recklessly Create Space Debris'

Sen. Marco Rubio, R-Fla., introduced a [bill](#) March 24 that would give the administration the authority to sanction foreigners that create space debris without notifying the U.S government. “The bill would include exceptions for instances in which the foreign entity has been acting within a civil space cooperation agreement with the United States or has been working in compliance with United Nations law enforcement objectives, as well as for the importation of goods,” his [press release](#) said.

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Other U.S.

President’s Budget Proposes More Sanctions, Export Control Funding

President Joe Biden’s fiscal year 2023 [budget proposal](#), released March 28, includes millions of dollars in additional funding for export control and sanctions work. The proposal includes a \$30 million increase in funding for the Bureau of Industry and Security to “implement and enforce export controls.” It also includes an additional \$37 million in funding over the previous year’s to help the Treasury Department “modernize and update the sanctions process” as outlined in the agency’s 2021 sanctions review (see [2110190044](#)).

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DDTC Releases Notifications of Proposed Export Licenses to Congress

The State Department's Directorate of Defense Trade Controls [released](#) its notifications to Congress of recently proposed export licenses. The notifications, from October through December, feature arms sales to numerous countries, including Canada, Qatar, the Netherlands and India.

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USDA Accepting Applications for UK Trade Mission

The USDA is [recruiting](#) U.S. exporters to join the agency on a June trade mission to the U.K. The trip, one of four upcoming international trade missions hosted by the agency, could be especially beneficial for exporters of nuts, fruit, seafood, ethanol and wood pellets, USDA said, because of the U.K.'s growing demand for U.S. consumer-oriented food and beverages. The deadline to apply for the June 22-24 trip is April 8. The USDA recently resumed in-person trade missions nearly two years after they were paused at the start of the COVID-19 pandemic (see [2202180010](#)).

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Europe

UK Issues Russia, Belarus General Licenses to Close Out Positions With Sanctioned Banks

The U.K.'s Office of Financial Sanctions Implementation issued new general licenses for [Russia](#) and for [Belarus](#) authorizing until April 23 the closing out of any positions involving sanctioned banks. For Russia, these banks are Alfa Bank, GazPromBank, Rosselkhozbank, SMP Bank and the Ural Bank for Reconstruction and Development. For Belarus, the general license applies to Bank Dabrabyt Joint Stock Co. and any of its subsidiaries.

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World Trade Organization

EU Requests WTO Consultations Over UK's Green Energy Subsidy Scheme

The EU is requesting consultations at the World Trade Organization with the U.K. over its practices relating to its support of green energy projects, the European Commission [announced](#). In particular, the EU alleged that the U.K. favors British over imported content in granting subsidies for offshore wind energy projects. The allegation says that the U.K. government implements a local content criterion when assessing bids for these projects. The commission said such rules violate the U.K.'s WTO commitments, namely the national treatment principle, while also hobbling many EU suppliers in the green energy industry.

"The EU has raised its concerns with the UK on several occasions, but to no avail," the commission said. "The EU is, therefore, bringing the matter to the WTO and hopes that it can be resolved swiftly." If the dispute settlement consultations don't result in a satisfactory solution within 60 days, the EU can request the WTO to set up a panel to rule on the matter.

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Trade People

Former Jones Walker Partner Joins Holland & Knight in Public Policy, Regulation Practice

Elizabeth Craddock, former partner at Jones Walker, has joined Holland & Knight in its Public Policy & Regulation Group in Washington, D.C., the firm [announced](#). Craddock's practice will focus on energy, environment and trade policy, among other things, the firm said. She also brings experience with sanctions issues. Earlier in her career, Craddock was vice president of government affairs for the International Association of Drilling Contractors.

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