

3rd Annual Gulf Coast AML Forum
Tuesday, September 10, 2013

COLA CAN BE CLEAR



OFAC
Office of Foreign Assets Control

Sanctions Programs

Active Sanctions Programs (22)

- Balkans
- Belarus
- Burma (Myanmar)
- Cote d'Ivoire (Ivory Coast)
- Cuba
- Congo
- Diamond Trading
- Iran
- Iraq
- Lebanon
- Liberia
- Libya
- Kingpin Narcotics
- Narcotics Trafficking
- Non-Proliferation WMD
- North Korea
- Sudan
- Syria
- Somalia
- Global Terrorism
- Transnational Criminal Organizations
- Zimbabwe

Sanctions Programs

Comprehensive Programs:

Cuba, Iran, Sudan, Syria

Limited Programs:

Burma (Myanmar), Conflict Diamond Trading, North Korea

List-Based Programs:

(Activity) - Anti-Terrorism, Non-Proliferation, Counter Narcotics Trafficking, Somali Piracy, Transnational Organized Crime

(Regime) - Balkans, Belarus, Iraq, Zimbabwe, Cote D'Ivoire, Democratic Republic of the Congo, Former Liberian Regime of Charles Taylor, Lebanon, Libya

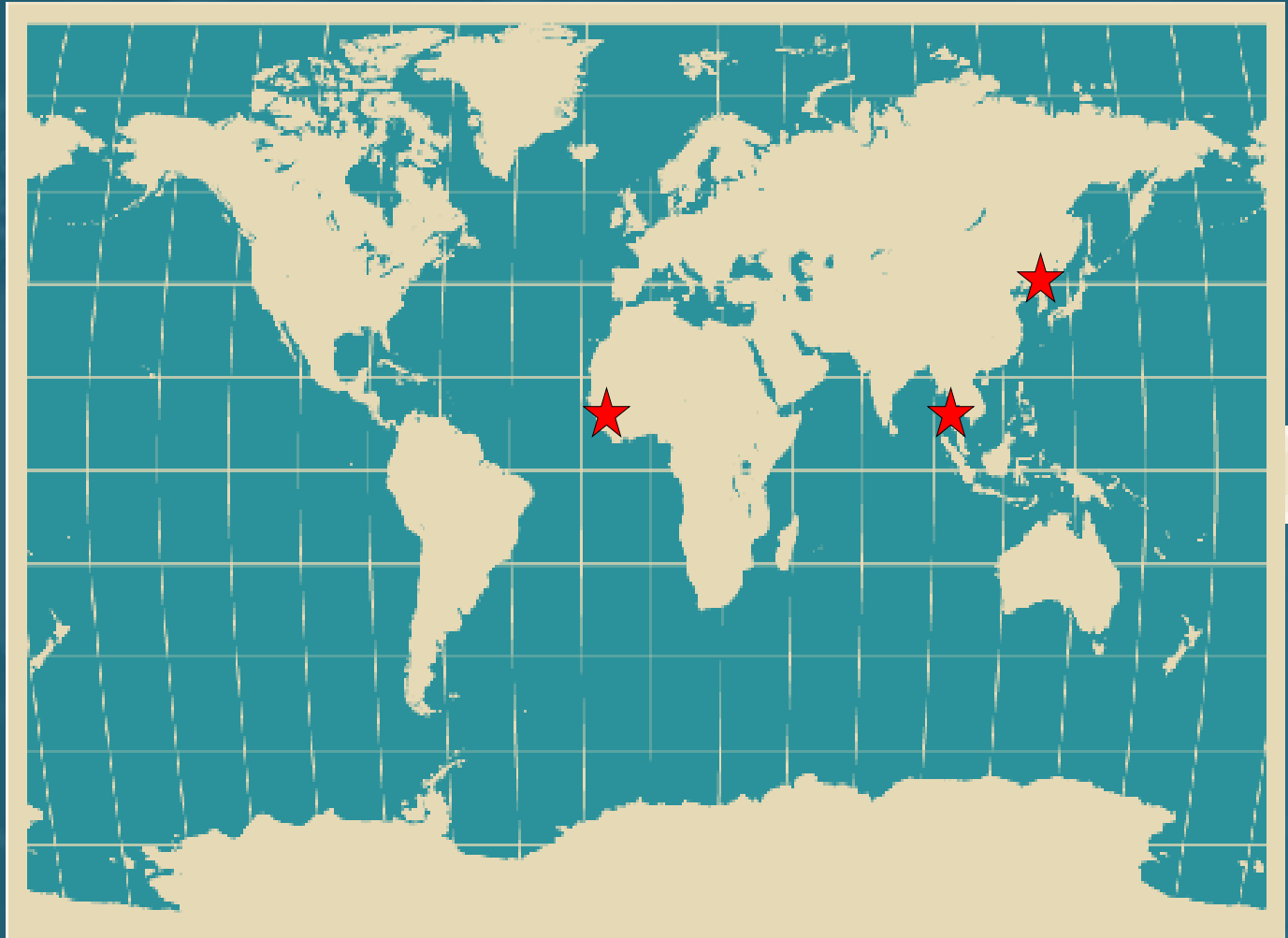
Comprehensive Sanctions Programs

- Cuba
- Iran
- Sudan
- Syria



Limited Sanctions Programs

- Burma
- North Korea
- Conflict Diamonds



List-Based Sanctions Programs: Regimes

- Balkans
- Belarus
- Congo
- Ivory Coast
- Iraq
- Lebanon
- Liberia
- Libya
- Zimbabwe



List-Based Sanctions Programs: Activities

- Terrorism
- Proliferation
- Narcotics Trafficking
- Somali Piracy
- Transnational Organized Crime



Specially Designated Nationals (SDN) List



SDN LIST

OFAC's prohibited parties list

Contains over **6,000 names** of individuals and entities identified by OFAC



UPDATED FREQUENTLY!



31 C.F.R. § 594.309

“Property” - contracts “of any nature whatsoever, services, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future, or contingent.”

31 C.F.R. § 594.306

“Property interest” - any interest whatsoever, direct or indirect.

Enforcement

Frequent Causes of OFAC Violations:

- **Misunderstanding** a sanctions program by type (i.e., comprehensive, limited, list-based)
- **Miscommunication** within the institution
- **Failure to escalate** potential SDN matches
- Relying on an **outdated SDN List**
- **Operating an account** for an SDN



Enforcement

Frequent Causes of OFAC Violations (cont.):

- **Filter issues:**
 - Are you screening? How are you screening? What are you screening?
 - Do employees know how to use the filter?
- **OFAC License issues:**
 - Failure to comply with the terms of the license
 - Using an expired license



Enforcement

How does OFAC *learn* about violations?

- Voluntary disclosures
- Blocking and reject reports
- Current investigations
- On-site audits
- Referrals from other agencies



2009 Enforcement Guidelines

Characteristics of the Violation

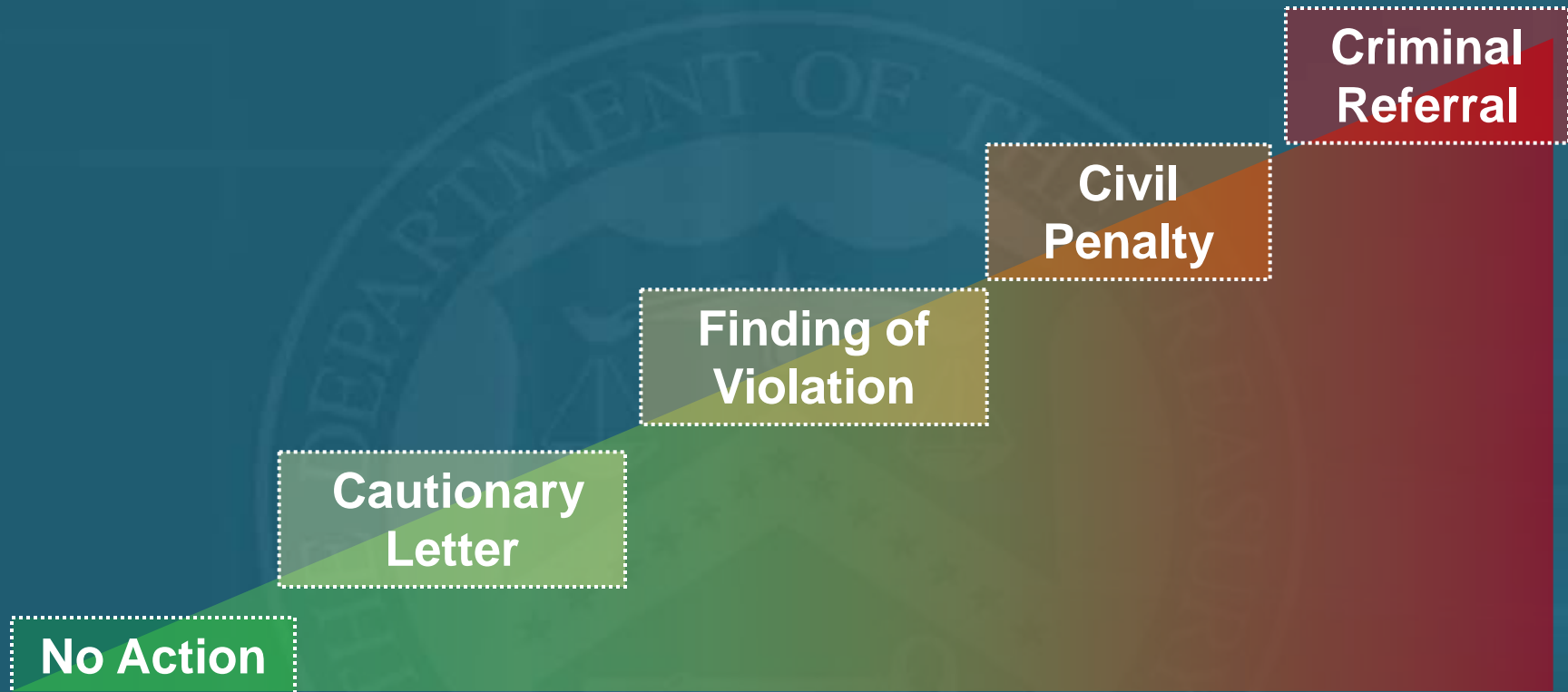
- Willful or reckless
- Sanctions harm
- Timing of violation
- Remediation
- Awareness of conduct

Characteristics of the Institution

- Individual characteristics
- Compliance program
- Cooperation with OFAC
- Previous enforcement actions
- Future compliance/deterrent effect

Proportionality / Other relevant factors

Enforcement – Action Types



Violations may also result in:

- Blocked funds and/or seized goods
- OFAC license revocation
- Negative publicity, loss of business

Enforcement

Civil Penalties (Statutory Maximums):

| | |
|-------------|---|
| \$65,000 | Trading With the Enemy Act |
| \$250,000 | International Emergency Economic Powers Act (or twice the value of the transaction, whichever is more) |
| \$1,075,000 | Foreign Narcotics Kingpin Designation Act |
| \$55,000 | Anti-Terrorism and Effective Death Penalty Act |

Mitigating factors:

- Voluntary disclosure
- First time or inadvertent offense
- Compliance program in place



What's New?

SYRIA

Executive Order 13582:

Blocking Property of the Government Of Syria and Prohibiting Certain Transactions with Respect to Syria

- Signed on August 17, 2011
- Targets Government of Syria
- **Prohibits :**
 - New investments
 - Exportation or reexportation of goods and services
 - Importation of petroleum and petroleum products



SYRIA - Exemptions

Exemptions in E.O. 13582:

- Travel to or from Syria
- Official business of the U.S. Government

Exemptions by General License (GL):

- 14 GLs issued to date
- Most frequently asked about GLs:
 - GL No. 4 – Exports/re-exports of certain items and related services
 - GL No. 6 – Noncommercial, personal remittances
 - GL No. 10 – Operation of accounts
 - GL No. 11 – Certain services in support of NGOs' activities in Syria

What's New?

IRAN – CISADA

Comprehensive Iran Sanctions, Accountability and Divestment Act of 2010 (CISADA)

- Signed into law on July 1, 2010
- Builds upon UNSCR 1929 by strengthening existing U.S. sanctions on Iran's financial and energy sectors

Provisions of CISADA:

- Energy – implemented by State Department
- Financial – implemented by OFAC through the *Iranian Financial Sanctions Regulations (IFSR)*.



What's New?

IRAN - CISADA

Consequences of a CISADA finding:

- Secretary of Treasury can prohibit or impose strict conditions on the opening/maintaining of **correspondent or payable-through accounts** in the U.S.
- Applies to foreign financial institutions that knowingly engage in certain types of activity:
 - Facilitating Iran's efforts to acquire/develop WMD, support terrorism, launder money, or other illicit activities
 - Facilitating significant transactions for IRGC or a U.S. designated financial institution
 - National Defense Authorization Act for Fiscal Year 2012 (Final Rule) 02/27/2012 and Beyond!

COLA

- Compliance
- Operations
- Legal
- Audit

Contact

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