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# Critical Issues in Sanctions Compliance

Serena D. Moe  
Citi General Counsel – Economic Sanctions

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## State Department Designations

- On May 24, 2011, The U.S. Department of State announced **in a press release** the imposition of sanctions on seven companies under the Iran Sanctions Act of 1996 (“ISA”), which was expanded under the Comprehensive Iran Sanctions, Accountability, and Divestiture Act of 2010 (“CISADA”). In each case the company was found to have sold refined petroleum products to Iran. Under the ISA sanctions, the US Government selects three or more sanctions from a list of 9 included in the statute.



## Potential Sanctions Under CISADA

- Denial of export licenses for exports to the designated company;
- Prohibition of loans and credits from US financial institutions of over \$10 million in any 12 month period;
- Prohibition on designation as a primary dealer for U.S. government debt instruments;
- Prohibition on serving as an agent of the United States or as a repository for U.S. government funds;
- Denial of Export-Import Bank assistance;
- Denial of U.S. government procurement opportunities;
- A ban on all or some imports from the designated company;
- Denial of access to foreign exchange in the United States;
- Denial of access to the U.S. banking system;
- Blocking of all property of a designated person that is subject to US jurisdiction.



## ISA SDNs

OFAC entered the names of four of the companies into the SDN List with the designation [ISA] following the entry. These four companies are subject to the most serious sanctions that can be imposed under ISA.

- (1) Petrochemical Commercial Company International aka PCCI (Jersey);
- (2) Royal Oyster Group (UAE);
- (3) Speedy Ship aka Sepahan Oil Company or SPD (UAE/Iran).
- (4) Associated Shipbroking (Monaco)



## Designation of PDVSA

- **Petróleos de Venezuela (PDVSA):** PDVSA, the state-owned oil company of Venezuela, has delivered at least two cargoes of reformate to Iran between December 2010 and March 2011, worth approximately \$50 million. Reformate is a blending component that improves the quality of gasoline.
- **Sanctions:**
  - (1) banned from competing for U.S. government procurement contracts;
  - (2) Barred from securing financing from the Export-Import Bank of the United States;
  - (3) Barred from receiving U.S. export licenses.
- These sanctions do not apply to PDVSA subsidiaries and do not prohibit the export of crude oil to the United States or any associated payment.



## Sale to IRISL

### Tanker Pacific (Singapore) and Ofer Brothers Group (Israel)

- These companies were targeted for their respective roles in a September 2010 transaction that provided a tanker valued at \$8.65 million to the Islamic Republic of Iran Shipping Lines (IRISL).
- Sanctions:
  - (1) Barred from securing financing from the Export-Import Bank of the United States;
  - (2) Barred from obtaining loans over USD\$10 million from U.S. financial institutions;
  - (3) Barred from receiving U.S. export licenses.



## The Ofer Brothers Designation Clarification

- On September 6, 2011, In a Federal Register notice the designations announced in May were published with a critical change:
- In lieu of the OFER Brothers Group, two entities were identified:
  - (1) Societe Anonyme Monegasque D'Administration Maritime et Aerienne and
  - (2) Allvale Maritime, Inc.



## Libya-2 Lessons Learned

- February 25, 2011, President Obama signed Executive Order No. 13566, declaring a national emergency. The EO blocked all property of the Government of Libya and Ghaddafi in the control of U.S. persons.
- In the first critical hours, at OFAC's urging, U.S. banks, relying on designations from the first Libya program as well as their own research, created a list of 200 entities that they believed were owned and controlled by the Government of Libya. These lists were shared among the banks and provided to the U.S. Government.
- The banks added these lists to their filters and began blocking accounts and funds transfers within 24 hours of the issuance of the Executive Order.
- U.S. banks blocked over \$30 billion in cash and securities, most of which is still blocked today.
- From February 25, 2011 to May 5, 2011, OFAC designates 55 individuals and entities that were subject to the blocking requirements of the Executive Order.



## Were the banks in the IEEPA Safe Harbor?

- Compliance with any regulation, instruction, or direction issued under this chapter shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same. No person shall be held liable in any court for or with respect to anything done or omitted in good faith in connection with the administration of, or pursuant to and in reliance on, this chapter, or any regulation, instruction, or direction issued under this chapter.

The International Emergency Economic Powers Act  
50 U.S.C. §1702(C)(3)

*If the banks were not in the safe harbor, should they take a similar action in the future?*





## Other Libya Unresolved Issues

- If an entity was never designated by OFAC, can you simply unblock the property?
- On July 1, 2011, OFAC published The New Libya Sanctions Regulations, 31 C.F.R. Part 570. The regulations created an obligation to pay interest on blocked accounts. Can interest be paid on blocked accounts from February 25, 2011 to June 30, 2011?
- Where securities remain blocked, can dividend payments now be made available to the Libyan owner? What about maturing bonds?

