



Confusion abounds over the recent proliferation of sanctions and export control lists. In addition to the US Treasury Department’s Office of Foreign Assets Control (“OFAC”), companies now have to contend with lists from, among others, the Commerce Department’s Bureau of Industry and Security (“BIS”), the State Department, numerous state-level divestment authorities, and even the Department of Defense (“DoD”).

List management and name screening are greatly simplified through the use of automated matching software, web-based due diligence portals, and other tools. But when it comes to decision making, nothing (yet) can beat a well-informed compliance manager.

Here is a “cheat sheet” of the major features of key US sanctions and export controls lists.

As indicated, some lists apply to US persons (i.e., US nationals and permanent residents, all persons in the United States, and companies incorporated under US law and their foreign branches), while others apply to both US and non-US persons. The latter includes the Entity List which generally applies to all US-origin goods, technology, and software, as well as some foreign-produced items.

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The latest US sanctions and export control lists

List	Issued by	Effect	Scope	Applies to
List of Specially Designated Nationals and Blocked Persons (SDN List)	OFAC	Individuals, entities, aircraft, and vessels that are subject to US blocking sanctions. Also covers entities owned 50% or more by SDNs	Property and interests in property of SDNs, goods, services, payments, data, and other dealings	(i) US persons; (ii) foreign entities owned or controlled by US persons (but only for certain SDNs under the Iran, Cuba, North Korea programs); (iii) transactions by non-US persons that involve US persons, many US-dollar payments, items subject to US jurisdiction, or the United States [hereinafter “US persons or items”]
Sectoral Sanctions Identifications List (SSI List)	OFAC	Entities in the Russian financial, energy, and defense sectors subject to restrictions on debt/equity or receipt of items for certain frontier energy projects. Also covers entities owned 50% or more by SSI entities	(i) Specified debt and/or equity of SSI entities (Directives 1, 2, and 3); (ii) exports of certain items for Russian-frontier energy projects (excluding financial services) within and outside Russia (Directive 4)	(i) US persons; (ii) transactions by non-US persons that involve US persons or items
The Entity List	BIS	Persons subject to heightened and more restrictive licensing requirements under the Export Administration Regulations (EAR)	Items subject to the EAR as specified	US persons and non-US persons
Denied Parties List	BIS	Persons who have been denied export privileges under the EAR	Items subject to the EAR as specified	US persons and non-US persons

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List	Issued by	Effect	Scope	Applies to
Unverified List	BIS	Persons who are ineligible to receive items subject to the EAR by means of a license exception and must provide certified assurances to the exporter/reexporter	Items subject to the EAR requiring a license	US persons and non-US persons
The Military End User (MEU) List	BIS	Exporters must obtain a BIS license for exports, reexports, or in-country transfers destined to a "military end use" or when a person on the MEU List is the purchaser, intermediate or final consignee, or end user	Any item subject to the EAR listed in Supplement No. 2 to Part 744	US persons and non-US persons
Non-SDN List of Communist Chinese Military Companies (CCMC)	OFAC and the Department of Defense	Companies identified pursuant to Section 1237 of the National Defense Authorization Act for Fiscal Year 1999 or Section 4 of Executive Order 13959, restricting trading by US persons in publicly traded securities	Publicly traded securities of CCMCs and securities that are derivative of or designed to provide investment exposure to such securities	US persons
List of Foreign Financial Institutions Subject to Correspondent Account or Payable-Through Account Sanctions (CAPTA List)	OFAC	Foreign financial institutions subject to US correspondent or payable-through account sanctions under various authorities	Opening or maintaining of US correspondent or payable-through accounts of designated financial institutions	US financial institutions
Debarred Parties List	State Department Directorate of Defense Controls (DDTC)	Persons who are prohibited from involvement, directly or indirectly, in transactions under the International Traffic in Arms Regulations (ITAR)	Defense articles, technical data or services subject to the ITAR	US persons and non-US persons
List of Restricted Entities and Subentities Associated with Cuba (Cuba Restricted List)	State Department Bureau of Economic and Business Affairs	Entities and sub-entities under the control of, or acting for or on behalf of, the Cuban military, intelligence, or security services or personnel	Financial transactions with listed entities	US persons
CAATSA Section 231(e) List Regarding the Defense Sector of the Government of the Russian Federation	State Department Bureau of International Security and Nonproliferation	Persons identified under Section 231(e) of the Countering America's Adversaries Through Sanctions Act ("CAATSA") as being part of, or operating for or on behalf of, the defense or intelligence sectors of the Government of the Russian Federation. Significant transactions with such persons could lead to the imposition of "secondary sanctions"	"Significant transactions" knowingly conducted with a person on the Section 231(e) list after the date of their identification	US persons and non-US persons
Non-SDN Menu-Based Sanctions List	OFAC	Persons subject to non-blocking menu-based sanctions under various authorities, including CAATSA	Items identified in the relevant sanctions listing	US persons

Conclusion

Each of the above lists has different purposes and effects. The fact that a counterparty appears on a list may not be relevant to your business with them. While a securities dealer may need to screen against the Non-SDN CCMC List, a widget maker may not.

Some risks are not discoverable through name or location screening alone. For instance, when it comes to the MEU List, BIS has warned that the MEU List is

"non-exhaustive and does not imply that other parties not included on the List are exempt from regulatory prohibitions." In other words, exporters must still continue to conduct due diligence to ensure that covered shipments are not destined to military end uses or end users in China, Myanmar, Russia, or Venezuela, even if a party to the transaction is not on the MEU List.

With the increasing use of restrictive lists to regulate trade and investment

transactions, it is important to understand the details of these lists, implement strong screening processes, and have a clear protocol for decision making for transactions requiring more (or less) due diligence. ■

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