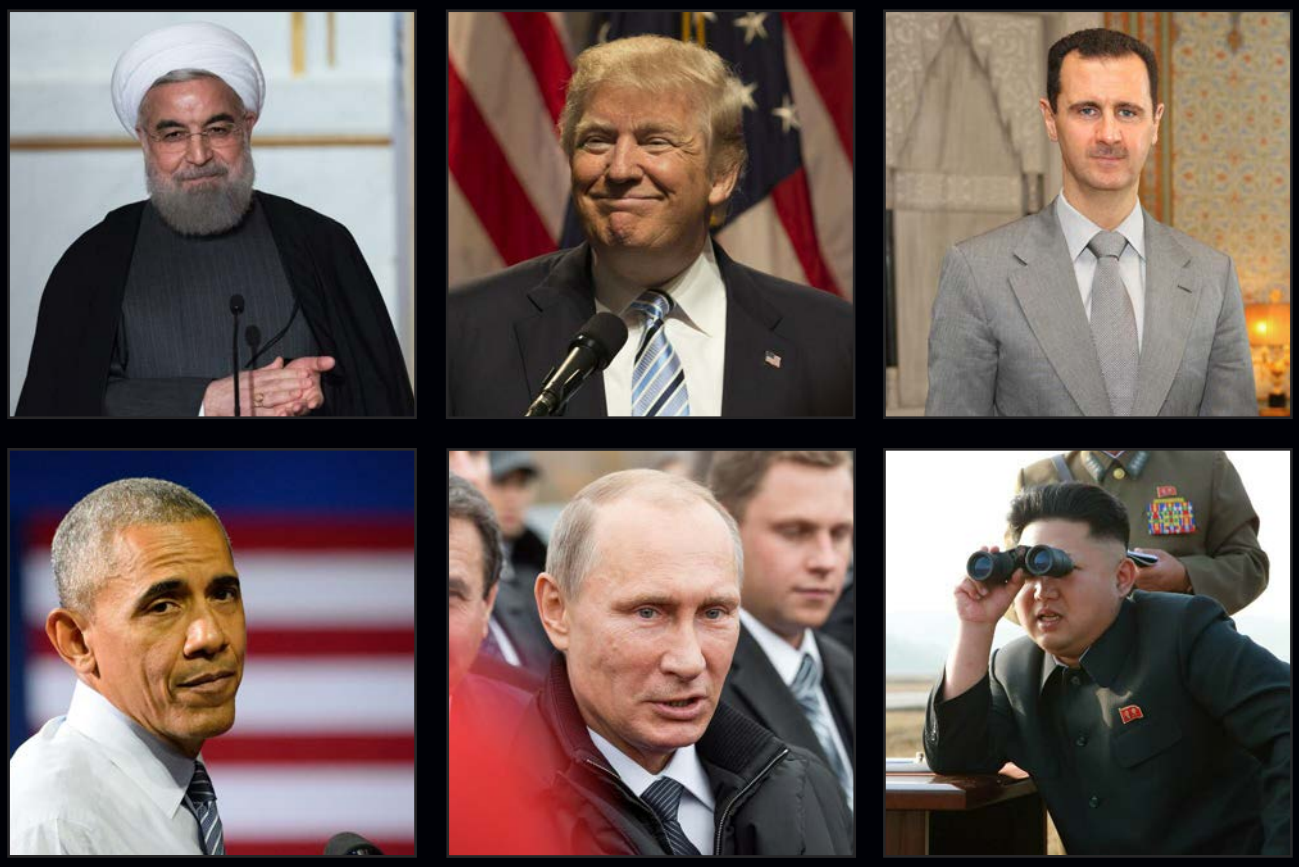
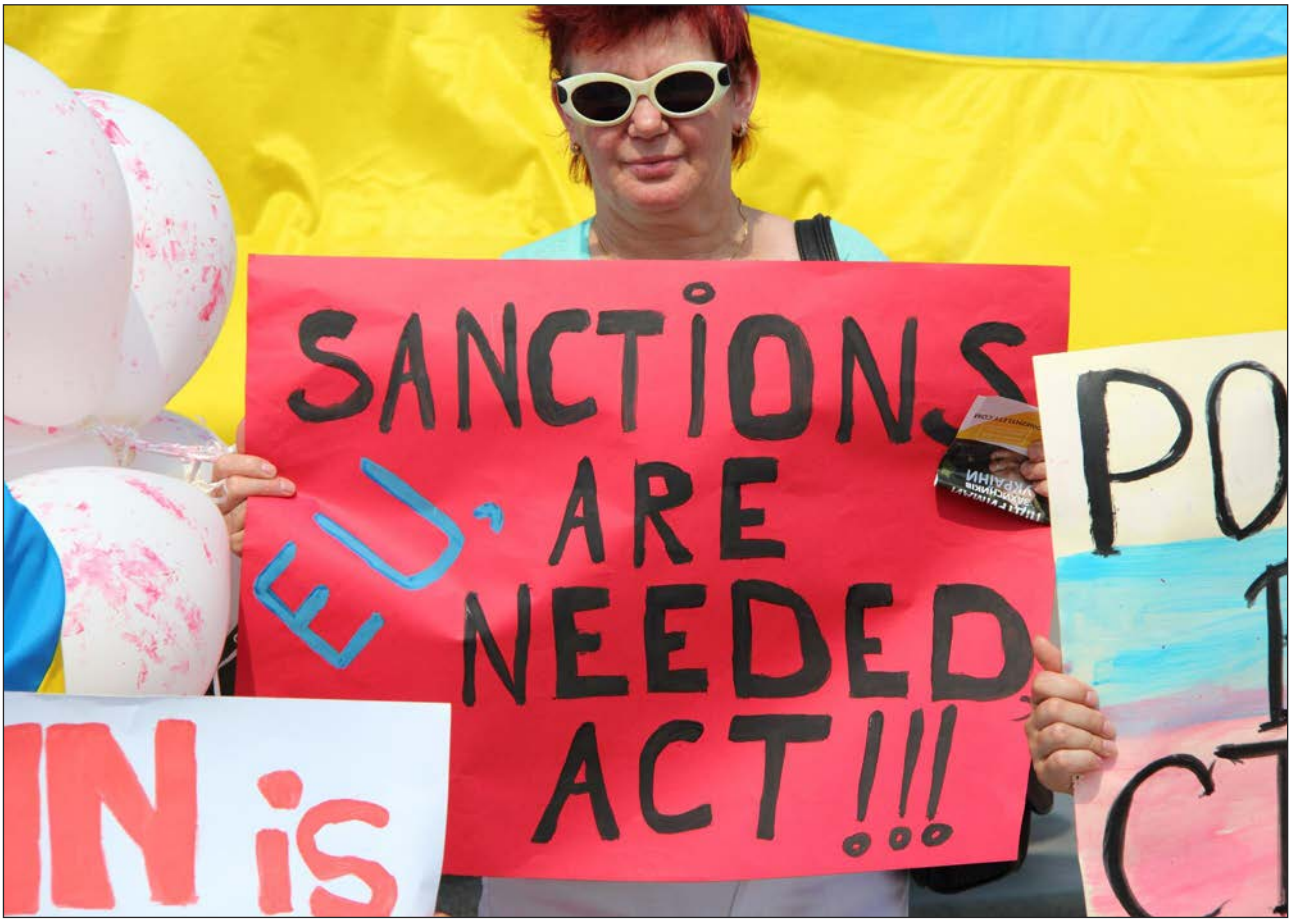


SANCTIONS 2017



Tomasz Bidermann / Shutterstock.com

PAST IMPERFECT. FUTURE TENSE

The first half of 2016 saw the business world getting to grips with the impact of various sanctions imposed against Russia and working out how to reap the rewards of the JCPOA, Cuba and Myanmar. But next year, expect the unexpected. With a new President, who says it like he thinks it is, and a changing Europe, the sanctions regimes may well be rewritten. *WorldECR* reports.

What factors impact most greatly on the sanctions landscape? Crises in the world's trouble-spots or geopolitical trauma? Egregious violations of human rights? That's been the pattern to date. Think of all the major sanctions regimes in force or only recently relaxed and it's quickly apparent that they're reactions to armed conflict, initiatives to prevent it, or driven by humanitarian concerns (whether or not they 'work', or are 'working' is usually a highly subjective judgement). But sanctions also send a message that, regardless of whether restrictions on trade will ultimately prove effective in altering the behaviour of a state, individual, faction, or government, the rest of the world, for the most part, disapproves.

Sanctions are more likely to be successful where there is a shared international political will to maintain pressure over a sustained period of time. Sometimes that means forging agreements between parties who are otherwise at loggerheads: The United States and Russia jointly participating in the process culminating in the Joint Comprehensive Plan of Action ('JCPOA') with Iran – whilst disagreeing profoundly over the latter's role in Ukraine, and the rightful ownership of Crimea – is perhaps the starkest illustration of the ironies created by realpolitik. Another is to be found in China and the United States' responses to the threat created by North Korea.

But even in the past six months, three home-grown syllables have

shaken western notions of political certainty and consensus. One refers to a twice-divorced American businessman who has pulled the rug from beneath the feet of the pundits by becoming president elect of the United States. The remaining two were coined four years ago (it rhymed with the then seemingly imminent 'GREXIT') to describe a break-up that many thought was implausible or unthinkable – that of one particular member of the European Union from the other 27 – the UK. Both are laden with consequence in the world of sanctions. The question is, of what kind?

'I do not think I have ever seen clients so unsure, following a United States presidential election, about how it might impact on their business dealings, as has been the case with the November result,' John Grayston, of Brussels-based Grayston & Company told *WorldECR*. 'That, combined with the result of the referendum in the United Kingdom in June, creates so many more questions. For example, if the United Kingdom leaves at a time when the United States is no longer pushing the EU to pursue foreign policy-based sanctions, does the EU return to implementing only United Nations sanctions and human rights/security issues? And does the UK use its new re-found "independence" to adopt unilateral sanctions out of kilter, possibly with both the United States and the European Union?'

'I do not think I have ever seen clients so unsure, following a United States presidential election, about how it might impact on their business dealings, as has been the case with the November result."

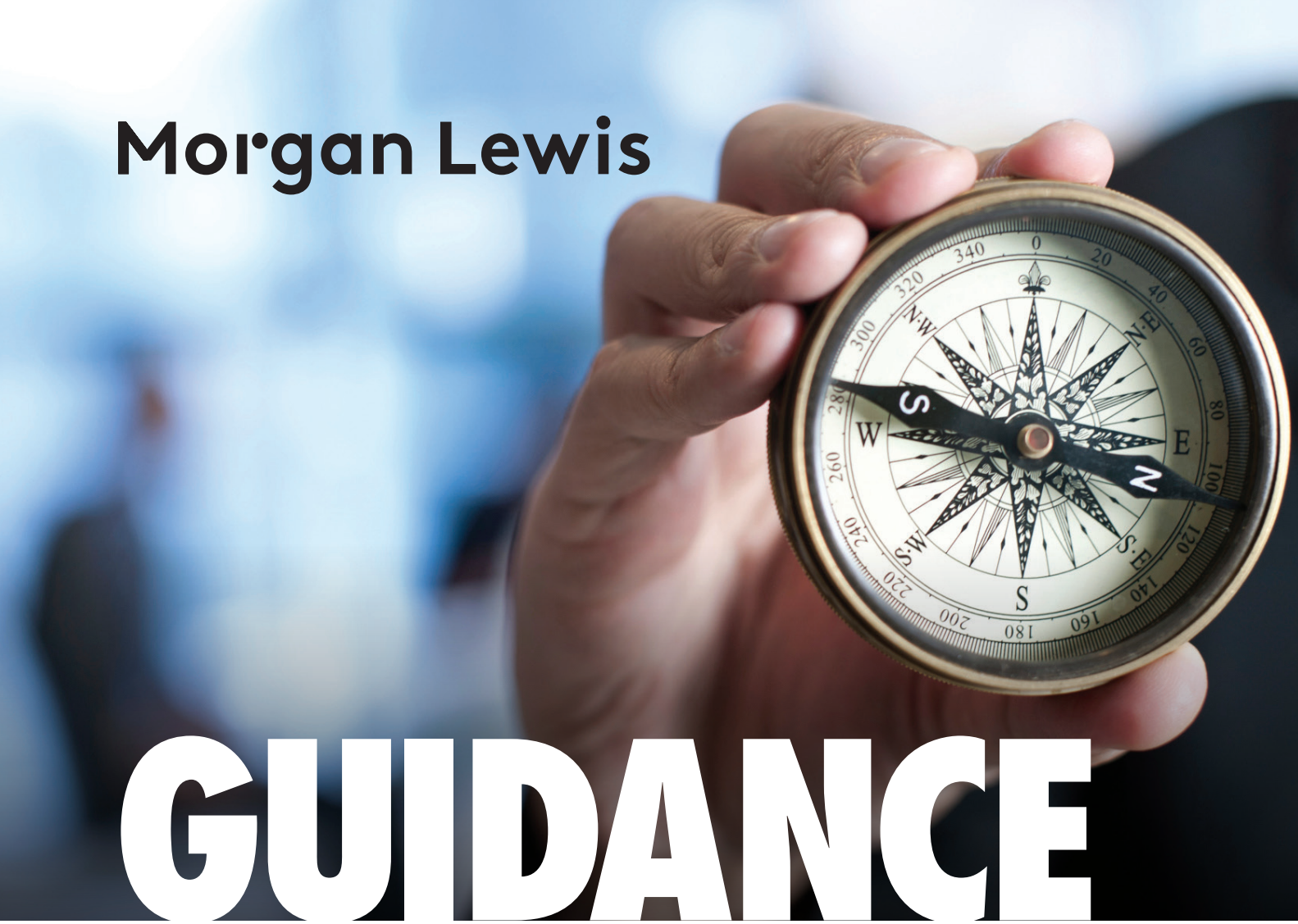
John Grayston, Grayston & Company

To that 'what if' could be easily added a dozen others – the future typically being generous in offering alternatives to those minded to crystal ball gaze.

'Risk management is very much a part of the job of giving sanctions compliance advice,' says Simeon Kriesberg, at the Washington, DC office of international law firm Mayer Brown. 'If you're a company looking, say, at expanding a business into Russia or a part of the world that is – or even might become – sanctioned, you want to know not only how the compliance landscape stands at the present, but also what the repercussions of change, or no change, mean for your business.' This is exactly the type of challenge that trade compliance professionals are increasingly facing.

The double helix that is Donald Trump combined with Brexit poses some challenging questions – as do other events on the world stage: Italian voters, goaded into overturning the establishment by a former comedian,

Morgan Lewis



GUIDANCE

Our international trade, national security, and economic sanctions team has the knowledge and experience to advise clients on all aspects of international trade laws and national security requirements.

We regularly interact and communicate with government agencies as well as determine export jurisdiction and classification on behalf of clients. Working with US and international businesses, universities, and nonprofits, our global presence allows us to respond quickly to our clients' legal needs—wherever and whenever they arise.

www.morganlewis.com

have toppled the country's centrist prime minister in what has been seen as a referendum on the status quo, but also a bellwether of change within Europe. With the United States Central Intelligence Agency's statement that the Kremlin's deliberate efforts affected the U.S. election result, an apparent reversal (in fewer than 140 characters) of the United States' long-held 'One-China' policy, and, as at time of writing, Bashir Al-Assad's apparent victory, with Russian backing, over rebels in Aleppo in the face of international condemnation of the violent means with which he has pursued his aims, these are nothing if not interesting times.

Crystal-ball gazing around the impact of BREXIT and the 'Trump' effect, due diligence for M&A transactions, criminal investigations, are all grist to the mill.

Sunny Mann, Baker McKenzie

Legacy positions

No sanctions professional, be they in industry or private practice or government, needs a reminder of the roll-call of sanctions measures, amendments, refinements, reversals and suspensions – whether imposed by the United States Congress, by presidential executive order, by the United Nations Security Council, the Council of the European Union or unilaterally by Member States, or any combination of the above – that has kept all sanctions professionals mentally exercised in recent months. Russia, Cuba, Iran, North Korea, Myanmar – add also non-state actors, such as those designated as terrorists – have all been in the sights of authorities with the power to impose or revoke.

Baker McKenzie partner Sunny Mann, who co-leads the firm's UK Trade Group from its London office, describes the kind of activities that typify the work that he and his partners are engaging in: 'There's the day-to-day advisory work, which over the past six to nine months has meant a great deal relating to Iranian sanctions relief, with companies in all sectors – banks, airlines, oil & gas, manufacturing and services – seeking to understand what they can do, and where the banana skins lie.

'In Russia, we act for some of the largest companies in the energy and energy services space and also banks. In terms of the other regimes, such as North Korea and Syria, we get questions where, for example, consumer goods are found to be leaking into those markets.' Crystal-ball gazing around the impact of BREXIT and the 'Trump' effect, due diligence for M&A transactions, criminal investigations, are, he says, all grist to the mill.

'The thing about sanctions,' says Mann's DC-based colleague Nicholas Coward, 'is that they affect everything. For example, companies in Asia in the acquisition space, or in the banking space seeking finance for a project. They want to know, because they're seeking U.S. investors, that they're sanctions-compliant. Sometimes, the United States isn't involved but they still want to be seen as "clean". They certainly don't want to be in breach of U.S. secondary sanctions.'

Coward is quick to point out that the drivers of change are not just coming from one side of the Atlantic. 'In the European Union,' he says, 'we're seeing more joined-up enforcement between Member State regulatory authorities. So that creates an interest. We've seen sanctions changing; there's been an evolution from a blanket ban on trade with embargoed countries to greater micromanagement. But I think we'll continue to see their increased use because they have a chance of success that doesn't require military intervention.'

And, of course, so complex are the various regimes (a palimpsest of legislative expressions of policy, each tethered to its own historical staging post) and the agencies involved in their administration, that their dismantling spawns as many questions for exporters and investors and their advisors as their introduction and operation ever did.

Tehran Ta Ra

Arguably, the part of President Barack Obama's foreign policy legacy that is most controversial and commercially significant, is his leadership in the negotiations between the five permanent members of the Security Council + Germany (P5+1) and Iran that culminated in the Joint Comprehensive Plan of Action ('JCPOA'), agreed in November 2015 and coming into effect in January 2016.

The immediate changes brought in by the JCPOA are the lifting of all nuclear-related sanctions against Iran imposed by the European Union, the suspension of secondary sanctions by the United States, and the issuance by the United States Treasury's Office of Foreign Assets Control ('OFAC') of General License H, permitting non-U.S. subsidiaries of U.S. parent companies to undertake transactions with Iran – so long as stringent conditions limiting the involvement of the parent are adhered to. This general relaxation has created windows of opportunity for some companies and there have been very clear and high-profile signs that some are seizing the nettle.

In the United States, of course, primary sanctions against Iran still apply – meaning that business dealings with Iran remain largely off-limits for U.S. companies, other than in some limited areas (food, medicine, medical equipment, passenger aircraft, and personal communications). Foreign subsidiaries of U.S. companies are now able to conduct business with Iran under specific conditions. For non-U.S. companies, there are plenty of dissuasive factors still in play, despite the lifting of most U.S. secondary sanctions. In the run-up to the election, all the Republican candidates, including the president-elect vowed that they would tear up the JCPOA.

Since then, Congress has sent strong signals that it intends there to

be no let-up on Iran – recently voting to extend the Iran Sanctions Act for a further ten years, and passing a bill which, if it were to receive presidential approval, would prohibit OFAC from authorising transactions by U.S. financial institutions related to aeroplane sales to Iran while also barring the U.S. Export-Import Bank from extending financing related to Iran.

Ed Krauland, of the DC office of Steptoe & Johnson, points out that even in the absence of Republican (threats/promises) to dismantle the JCPOA significant obstacles endure anyway: 'The Obama Administration had done a very good job of figuring out how to use the "grease of commerce" industries to leverage up the effectiveness of sanctions. So, for example, finance, insurance and reinsurance, logistics – these are the industries that are essential to any form of trade and investment. Our sense is that they will continue to be pulled into U.S. sanctions policy, and this will create compliance complexities for themselves and their customer bases....We've been talking to non-U.S. banks about participating in Iranian transactions – and they are very reluctant, despite the reassurances that they've had from the United States government, and the intended relief under the JCPOA. They're still showing stiff resistance due to continuing risks, and that's one of the big issues for the success of the JCPOA.'

'We've been talking to non-U.S. banks about participating in Iranian transactions – and they are very reluctant, despite the reassurances that they've had from the United States government, and the intended relief under the JCPOA.'

Ed Krauland, Steptoe & Johnson

Yet there are signs of green shoots. Boeing announced on 11 December that it had agreed the sale to Iran Air of '50 737 MAX 8s, 15 777-300ERs and 15 777-9s, valued at $16.6 billion at list prices' – taking advantage of the licence that OFAC published in April which authorises U.S persons to 'enter into, and to engage in all transactions ordinarily incident to the negotiation of and entry into, contracts for activities eligible for authorization under the Statement of Licensing Policy for Activities Related to the Export or Re-export to Iran of Commercial Passenger Aircraft and Related Parts and Services'. Iran Air is also looking forward to receiving a consignment of aircraft from Boeing's European rival Airbus.

Erich Ferrari of Ferrari Associates P.C. specialises in OFAC matters (indeed, the agency accounts for around 90% of his firm's workload). He says that changes in the nature of his practice do reflect a more relaxed environment for those businesses able to take advantage of them: 'We're doing a lot of compliance and licensing work for large-scale projects in Iran.

Before that, the projects were much smaller, but now we're seeing more foreign entities entering Iran.' Separately, he says, there has been an expansion in the number of delisting cases before OFAC: 'There are several litigations at the moment,' he says, 'and I can't remember a time when that's been the case.'

On the other side of the Atlantic, Jason Hungerford, a dual-qualified U.S./UK partner at Norton Rose Fulbright puts his finger on some of the practical problems encountered by businesses navigating the post-JCPOA regime: 'We have U.S. companies asking advice, for example, where their non-U.S. subs would like to take advantage of the General License, but need to undertake due diligence on Iranian customers across a range of regulations – not just sanctions – and they want to charge the legal fees back to the parent. How to effectively change finance and treasury process without unlawfully facilitating the transaction: these are the kinds of practical day-to-day issues we're advising on.'

A variation on that theme concerns non-U.S. companies with operations in the United States: 'We advised one client, a UK company with extensive operations in the United States, that was concerned it could run into problems in the U.S. if it were to start doing business in Iran, even if legitimate under the current EU regime. Their U.S. and non-U.S. operations were too intertwined – technology, exports, personnel – to be able to reduce the risk to a manageable level. There was considerable pressure from management to get into Iran straightaway, which crowded on a healthy fear of violating the sanctions regulations.'

Martin Good / Shutterstock.com

The fear that comes with interests being intertwined is understood very well by Margaret Gatti, partner in the International Trade and Economic Sanctions practice at law firm Morgan Lewis & Bockius. Gatti and her team work 'with clients in every market – United States, and non-U.S., manufacturing, technology and aerospace and defence companies. We advise public pension funds and financial institutions who want to make sure that funds are not being invested in sanctioned countries and we also counsel non-profit organisations, including academic institutions, regarding the performance of services that involve countries subject to U.S. sanctions.'

Gatti says that the 'relaxation' of the sanctions against Iran that followed the agreement of the JCPOA has been exaggerated by the media and is often misconstrued: 'I always think of what Mark Twain once said, that if you don't read the press you're uninformed, but if you do, you're misinformed. Any U.S. companies that rely exclusively on the news corporations for information on business dealings with Iran run the risk of believing that they can do anything in Iran. But that's absolutely not the case.'

'Any U.S. companies that rely exclusively on the news corporations for information on business dealings with Iran run the risk of believing that they can do anything in Iran. But that's absolutely not the case.'

Margaret Gatti, Morgan Lewis & Bockius

The firm is, she says, 'frequently asked to advise on what foreign subsidiaries of U.S. companies are permitted to do under the terms of OFAC's General License H for Iran, and in response to such requests often develops practical compliance checklists for clients, with the caveat that the Iran sanctions relaxation provided in General License H could be revoked at any time, and the understanding that the JCPOA doesn't include any grandfathering clause.

'What we do for many clients, is draft contract language that they can use in anticipation of the possible snap-back of the sanctions relaxation that has taken place. Such language gives some protection, but it isn't absolute.'

En guard...

While some legal and commercial considerations apply throughout the gamut of dealings with Iran – and indeed other sensitive markets – others are more acutely relevant to particular business sectors and industries.

The UK government has been seen to be making the requisite effort to actually encourage British businesses to pursue opportunities in Iran. UKEF, the UK's export credit agency, and EGFI, the Iranian state-owned credit insurance company, have agreed to

'work together to identify opportunities for trade in capital goods, equipment and services between the two countries'. The agreement also allows the parties to 'co-finance and co-guarantee financing for projects or contracts in third countries involving British and Iranian exports.'

'From the bank's perspective the considerations are very much about whether a transaction is really worth the risk, and how keen they are to support a particular customer.'

Daniel Martin, Holman Fenwick Willan

And yet the British Iranian Chamber of Commerce advises members that 'banking services for Iran trade transactions are not generally available in the UK. They are more so, but still limited in other EU countries and around the world. Some UK banks will undertake Iran business, others won't and would rather close the customer's account than do so. The banks that will, do so confidentially, for their best long-term customers, usually transaction by transaction not on a treaty basis. This means that the banking system doesn't generally provide Iran trade finance services. Those banks that won't provide banking services for trade with Iran also do what they can to inhibit the rest of the market from doing so, by implying that they would withdraw clearing or correspondent banking.'

John Grayston points out that bringing on board new financial institutions to provide these special banking services for transactions with sanctioned countries can typically be disruptive, time-consuming and expensive. 'The process [for doing legal business with a sanctioned country] is like this,' he says. 'You start with looking at the regime, and then you identify the parties. Then you look at the product – i.e. is it controlled? And then you ask: "How do we get this financed?" Probably that's the hardest aspect because if you can't use traditional finance routes, you're forced to get into the difficult area of building new relationships with new third parties. This may be the only option but it is very much the tail wagging the dog and this can have more significant unintended consequences.'

Grayston notes that the conditions these 'new' banks impose on transactions may indeed be onerous: 'It is clear that some banks say that they are open to providing support for such transactions but then reveal that the preconditions for using such facilities bear very little resemblance to anything demanded by the sanctions themselves and may be very difficult to comply with. The bank may call this sanctions compliance but in reality it is more that they are managing their appetite for risk.'

Daniel Martin, partner at the London office of Holman Fenwick

The view from Scandinavia

A conscientiously compliant, but not timorous approach to Iran would seem to prevail in Sweden, where the success of the economy is also contingent upon successfully exporting high-quality products and technology, suggests Carolina Dackö of the Gothenburg office of Mannheimer Swartling. And there are added reasons, why Swedish businesses should be interested in Iran: 'Sweden has hosted many Iranian immigrants and refugees who are now seeing an opportunity to reconnect with Iran and are excellent for bridging any cultural gap. They're well integrated into the professions – law, medicine and business (indeed, we have several lawyers at the firm who have an Iranian background), so there should be good opportunities for Swedish companies.'

Dackö understands that companies keen to make the most of the new opportunities can be frustrated by remaining hurdles to doing busines in Iran. But she sees real benefits in the way things are moving: 'Perhaps there's some disappointment that it takes so much to approve a transaction. But what it has done is put trade compliance – not just sanctions, but dual-use exports – into the spotlight. It means that there's a lot of encouragement from senior management to make sure that it's done properly – because they want to be the first ones in, or they don't want to miss the boat….and then there's a spillover in the sense that everyone becomes positive about compliance, about doing say, a full classification of the inventory and actually seeing new business as a result.'

Based in Stockholm, Mattias Hedwall is the head of Baker McKenzie's International Commercial & Trade Group. He says that he and colleagues have seen a very significant interest in sanctions and export control issues generally from companies throughout the region:

'Of course, there are many Nordic companies exporting machinery, but also we've seen an increase in interest from software and telecoms companies – indeed, from many different areas of business. Many of our clients are, for example, investors like private equity houses who want to add to their portfolios but need to know the risks. They watch developments in the news, and they come to us and ask for advice. And we're seeing this on a country-by-country basis. And I think that we have a role to play as a firm, to convey the message about the importance of compliance.'

terms of the JCPOA saw the formal removal of what had been the broadest ever prohibition on insurance provisions imposed against a country. It is a huge opportunity, but of course many of the insurers operating in the European market are U.S.-parented. They can insure Iranian risks, provided that they operate according to the conditions of General License H, which means, for example, that they can't use the U.S. financial system, and that they don't insure the military, police, or those that appear on the OFAC SDN list.'

The upshot, he says, is that those insurers with a U.S. parent have need to attach more conditions – and all are subject to the restrictions of the banking system: 'The insurers are willing to provide the cover, but they need to have banking arrangements that make it possible for them to pay out claims and accepts premiums.'

Similar considerations extend to the many private equity firms looking at investments in Iran: 'For example,' notes Debevoise international counsel Alex Parker 'if your investment committee is based in the United States, to what extent can they be involved in the decision-making process about that investment? Those kinds of issues can raise some hard questions about a firm's willingness to invest in what is still a difficult market.'

'What we're seeing is a need for answers to very specific, transaction-oriented, niche technical questions… people are still very cognisant of the existence of the sanctions, and the need to get sanctions clearance on every international deal that they do.'

Chris Caulfield, Baker Botts

Russian plateau?

The layers of U.S. and EU sanctions against Russia as a response to Moscow's activities in Ukraine, and annexation of Crimea, are complex and wide-ranging. They designate individuals, banks, energy companies, defence companies and government agencies, place restrictions on lending to Russian entities, prohibit the exportation of goods, services and technology to Crimea, and prohibit many involvements in Russia's energy, metals and mining, engineering and financial services industries. They also place restrictions on the export of goods, services, or technology to, and investment in, Crimea.

Two years on from the first measures imposed by Washington and Brussels, lawyers say the restrictions are more 'speed hump' than 'road block', with companies navigating the restrictions in place, but not refraining from business altogether.

London-based Norton Rose Fulbright partner David Harris says that in one sense the Iran sanctions at their height were easier to comply with: 'Iran was just a blanket prohibition for most clients. But no one has imposed a ban on dealing with Russia. We have clients with Russian subsidiaries that trade with Russia asking us what is permissible, for example, where an EU bank has Russian subsidiaries which don't themselves have restrictions on dealing with listed parties, what then becomes the risk to the EU parent? That's the kind of issue that we, and they, tussle with, which is typically very fact-intensive and makes on-going compliance with the sanctions onerous and difficult to effectively monitor.'

Baker Botts partner Chris Caulfield, based in his firm's London office, describes a shift in emphasis since 2014: 'Then the questions were: "What does it mean? What can we do? What kinds of grandfathering provisions apply?"' Since then, he says, 'Business

Sweden's leading law firm

With approximately 400 lawyers working out of nine offices around the world, Mannheimer Swartling is widely regarded as the most international of the Scandinavian law firms.

We offer class-leading expertise in essentially every area of business law. In our export control and sanctions practice, we advise clients on a wide range of matters such as external investigations, self-disclosures, product classification, third party due diligence, compliance programs and financial agreements. We regularly handle export control matters with an international dimension and with a fully integrated practice group, we have a unique competence and ability to provide advice on all types of compliance matters.

As an independent firm, our strategic international footprint – combined with close working relationships with other leading firms – enables us to effectively guide foreign companies on their cross-border matters in the Nordic region and to advise our Nordic clients worldwide.

STOCKHOLM GOTHENBURG MALMÖ HELSINGBORG
MOSCOW SHANGHAI HONG KONG BRUSSELS NEW YORK

MANNHEIMER
SWARTLING

Willan, highlights that an increasing number of banks have indicated their willingness to provide such services, but that difficulties remain: 'Saying you're going to do it and actually doing it in practice are quite different. There are banks that have been in the frame for a long time, but they're small banks, and getting money transferred from those banks into a company's main trading account can be difficult. One solution that we have seen adopted recently is where companies use a bank account for Iranian transactions, ring-fencing the funds to pay related expenses. But from the bank's perspective the considerations are very much about whether a transaction is really worth the risk, and how keen they are to support a particular customer.'

'The terms of the JCPOA saw the formal removal of what had been the broadest ever prohibition on insurance provisions imposed against a country.'

Konstantin Bureiko, Debevoise & Plimpton

Regularity, he suggests, can make banks more comfortable, delivering a smoother ride for their clients. 'For example,' says Martin, 'where you have a repeating transaction – such as a commodities house selling food to Iran on a more regular basis, receiving payments from the same banks on behalf of the same buyers in respect of the same cargo on a monthly basis, this means that the bank can do its due diligence once, and it then just needs to be kept updated.'

Martin's fellow partner, Anthony Woolich suggests that if there is tentativeness on the part of western businesses, it isn't for want of trying on the part of the Iranians: 'The fact is that the Iranian moderates are all too aware that if the JCPOA doesn't actually deliver increased trade, the hardliners will want to tear it up. So they're taking steps to make it happen including implementing anti-corruption legislation, and, on the energy side for example pushing new oil contracts that are intended to make investment attractive, using western consultants and educating themselves as to how they can reassure investors into the country.'

(Re)insuring against risk

Another industry that stands to explicitly benefit from the JCPOA is, of course, insurance and its ever-attendant handmaiden, reinsurance. With immediate effect, the JCPOA meant the lifting by the European Union of the prohibition on insuring Iranian persons, on the import and transportation of energy products and related exports and investments, and other sectors.

But, says Mark Compton at the London office of international law firm Mayer Brown, the relaxation also creates a myriad of compliance-related questions: 'It might be, for example that insurers have been asked to pay out on a claim, or they're seeking to subrogate rights where they've paid out on the claim, and they find out that either of those situations gives rise to a sanctions, or a money laundering, or a corruption issue. For example: they might discover that the insurer was insuring something that wasn't sanctioned at the time that the policy was written, and that it has subsequently become so, which means that there's a problem of making the payment of getting the payment out.'

Konstantin Bureiko at Debevoise & Plimpton, also in London, adds in the General License H dimension (as it applies to the insurance industry): 'The

The German experience

In Germany, appetite for a return to business with Iran is strong. In the first six months of 2016, exports to the Islamic Republic from the powerhouse economy increased by 15% year on year to a value of around $1.3bn – against a rise of just 1.4% in overall German exports, and a 14% fall in exports to Iran the previous year.

Major commitments include an agreement by which Siemens is to modernise Iran's energy infrastructure, providing gas turbines and generators, and a plan for a consortium of German banks to invest up to Euros 3bn in Iranian industry across a range of sectors.

Marian Niestedt, a partner in the Hamburg office of leading German law firm GvW Graf von Westphalen, says: 'Amongst our clients, we're seeing manufacturers of medical devices and appliances, pharmaceuticals and, of course, plant machinery and engineering [seeking legal advice on opportunities in Iran]. Iranian companies have always appreciated German products in these sectors, while German companies have taken care to – whilst staying compliant with the sanctions while they were in place – maintain good relationships to the extent that they could.'

The German government has arguably been the most energetic of all the EU Member State governments in rebuilding relations with Iran. Niestedt points out that in addition to visits by the federal government to Iran, 15 of the country's Lande (Saarland being the exception, at least until now) have sent trade delegations to Tehran, while the Hamburg-based European-Iranian Bank (removed from the EU sanctions list earlier this year, and one of the few banks willing to provide banking services for Iran-EU transactions) has literally reached its capacity to handle those services.

Both OFAC regulations and German domestic law create compliance considerations for German business, says Niestedt: 'Many of the questions that we receive still relate to "know your customer" and requirements for verifying your suppliers. For example, the last OFAC FAQs [M.12] state that "[W]hile OFAC would consider it a best practice for a non-U.S. financial institution to perform due diligence on its own customers, OFAC does not expect a non-U.S. financial institution to repeat the due diligence its customers have performed on an Iranian customer unless the non-U.S. financial institution has reason to believe that those processes are insufficient." But that's easier said than done, Niestedt points out.

Debevoise & Plimpton

U.S. and EU Sanctions

New York
+1 212 909 6000

Washington, D.C.
+1 202 383 8000

London
+44 20 7786 9000

Satish M. Kini
smkini@debevoise.com

Carl Micarelli
cmicarelli@debevoise.com

Alex Parker
aparker@debevoise.com

Debevoise routinely counsels companies throughout the world on compliance with U.S. and European sanctions laws.

The firm has brought to bear the breadth and depth of its experience with sanctions laws in helping companies develop new compliance programs and enhance their existing programs. Debevoise has come to the assistance of banks, insurers and other companies that have uncovered compliance issues or have come under scrutiny from domestic and regional regulators and enforcement agencies.

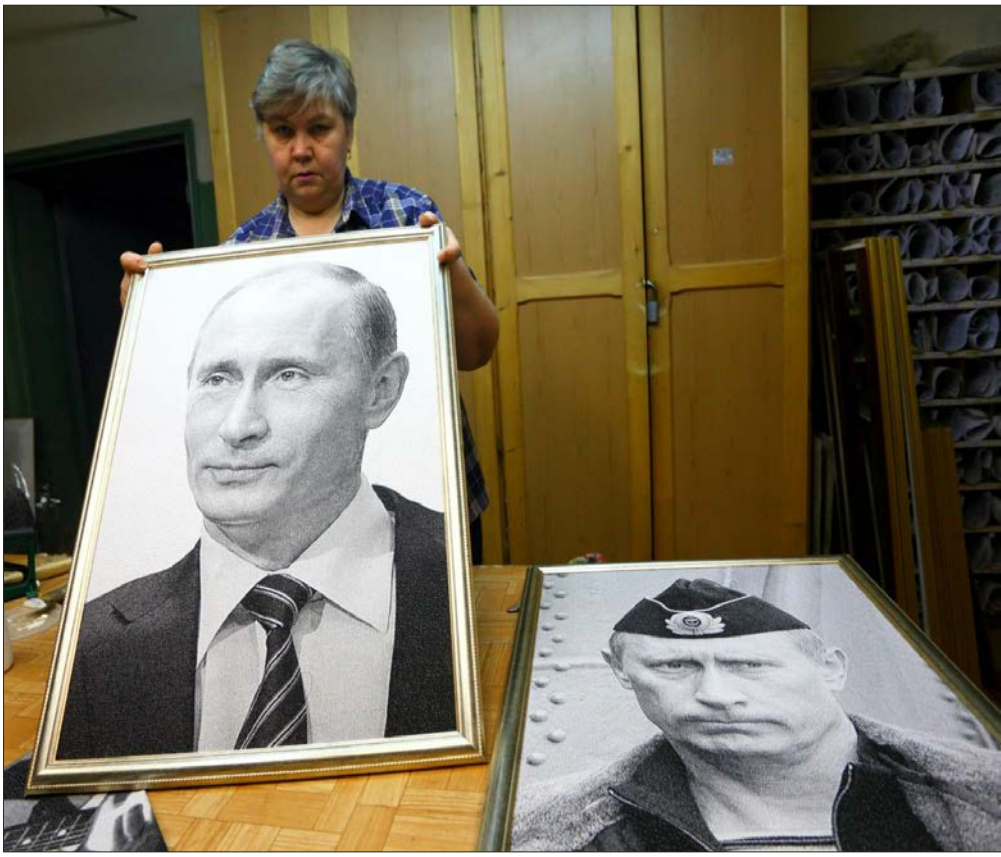
The firm has leveraged the knowledge and experience of its lawyers across its offices in Washington, New York, London and Moscow to create a seamless global sanctions practice, which enables it to rapidly and comprehensively assist clients facing sanctions issues impacting contemplated transactions or an ongoing business.

Debevoise.com

has a better sense of what the regimes mean, and the focus is more on detailed specific transactional issues.'

A recent deal for Caulfield and colleagues involved advising a Russian company on its acquisition of an energy asset in Africa: 'In this kind of situation, there are questions about what kind of purchasing vehicle you can use. For tax and investment protection purposes, a Dutch purchasing vehicle might be preferable, but can a Russian parent company, targeted by the sanctions relating to credit, inject funds into its Dutch subsidiary that it exercises control over? Well, the Russian company is not bound by the sanctions, but the subsidiary and its directors are bound, which means they cannot accept the funds, so that route of structuring cannot be followed.'

Caulfield gives another example of the nuanced kinds of advice clients are seeking: 'Imagine you have a big Russian bank, with debt in place that's coming up for refinancing and whose access to credit is restricted by the sanctions. What is the extent of non-circumvention? Can you continually and on loop loan money for 28 days and then repay [to avoid restrictions on 30-day-or-more financings] or is that an artificial construction? What we're seeing is a need for answers to very specific, transaction-oriented, niche technical questions... people are still very cognisant of the existence of the sanctions, and the need to get sanctions clearance on every international deal that they do.'



hramovnick / Shutterstock.com

'Russian companies may see sanctions as an unwelcome impediment to business but they do take great care to comply. They don't want to find themselves being challenged for non-compliance on top of the impact of the sanctions themselves.'

James Killick, White & Case

Brussels-based White & Case partner James Killick says of the impact of the Russia sanctions on business: 'Things are a bit quieter – everyone knows what the rules are. But there are some deals that are impossible to do because of the way that the sanctions are structured.'

An example of that lies in deals involving shares in affiliates of Russian companies which are subject to the EU's capital markets sanctions: 'It's legal to sell shares issued before sanctions were imposed,' says Killick, 'but it may not be possible to sell shares issued after the sanctions. So, if you can't split the new from the old then you may not be able to do a deal.'

Killick says that as well as working for European, American and Asian companies, a fair amount of the firm's sanctions-related work has been undertaken for Russian companies, of whom he says, 'There's still a great deal that they can do. Look at the companies targeted, say, by EU sectoral sanctions. Amongst those there are banks which are still employing hundreds of people in the City of London who are not subject to sanctions for their London-driven activities. Russian companies may see sanctions as an unwelcome impediment to business but they do take great care to comply. They don't want to find themselves being challenged for non-compliance on top of the impact of the sanctions themselves. So they're very focused on making sure that no-one does anything wrong or carelessly.'

Lawyers draw a distinction between the implications of the sanctions related to Russia's involvement in Ukraine, and its annexation of Ukraine.

'The rules around Crimea are actually particularly stringent,' says Hogan Lovells partner Ajay Kuntamukkala. 'They create very real compliance concerns where, for example, a company is dealing, say, with Russian distributors. The Russians are now treating Crimea as part of Russia, so you have to be very explicit about the terms of your distribution contract, including defining the territory to exclude Crimea and including robust sanctions and export control language.'

Kuntamukkala points out that there are also subtleties pertaining as to what activities are and aren't permitted by different kinds of restricted party

listings: 'There are major Russian banks (and other entities) on the Sectoral Sanctions Identification List, and the directives [relating to the list] only target certain kinds of activity. So it isn't necessarily stopping all transactions with listed entities, but it is creating a complex regulatory environment and slowing transactions down as robust due diligence is required.'

Amongst the kinds of questions Kuntamukkala and colleagues are receiving are: 'Where you have entities operating in Russia, you may inadvertently receive payments from designated banks used by Russian customers. In addition, our Russian clients have questions about, for example, their joint ventures with U.S. companies and the extent to which the JVs are subject to U.S. restrictions.'

One bureaucratic headache, he says, is posed by the fact that a particular Russian federal entity, Glavgosekspertiza, responsible for providing technical evaluations on infrastructure projects, has been placed on the OFAC SDN list: 'The upshot is that in order for a U.S. company or project involving a U.S. company to obtain clearance from this agency, which is necessary for certain construction projects, you may have to obtain a specific licence from OFAC.'

It does appear that the consensus on continuing the sanctions against Russia is weakening. GvW Graf von Westphalen's Marian Niestedt says that in Germany, there is disagreement between those that would tighten them further as a result of Moscow's military intervention in Syria, and those '...that argue that the sanctions won't force Russia to leave Crimea, so the sanctions aren't so effective – but they do harm the German economy.'

Until then, Brussels-based, Paulette Vander Schueren of Mayer Brown says, the appetite for compliance with the Russia sanctions is still very strong: 'As an example, one of our clients is a big services company, which has decided that it will comply with U.S. and EU law in all instances and before any of its offices anywhere in the world can have direct or indirect links with Russia, Mayer Brown, both in the United States and the European Union, must sign off on it.'

Life beyond Russia and Iran

The sanctions instruments affecting trade with Russia and Iran may be the most commercially significant, but in terms of Barack Obama's foreign policy legacy especially (and to a lesser extent the European Union's cautiously more muscular growth in this direction) others also figure.

By a series of executive orders, the President has de-escalated the embargo on Cuba, in place for more than 50 years. In October, the pattern of détente continued with the issue of licences creating opportunities for collaborations in the health sector, 'people-to-people' transactions, and civil aviation, while OFAC and the Bureau of Industry and Security ('BIS') at the Department of Commerce took joint steps to 'bolster trade and commercial opportunities and the growth of the Cuba's private sector,' amongst these, a provision that BIS will 'generally authorise air cargo to transit Cuba'.

In the same month, President Obama lifted all remaining economic sanctions against Myanmar/Burma with an executive order unambiguously titled 'Termination of

Emergency with Respect to the Actions and Policies of the Government of Burma'.

On the other hand, continued missile and nuclear weapons testing by North Korea has precipitated a tightening of sanctions against that country by the United Nations Security Council (largely at the urging of the United States) and concerned UN member states.

While the ratcheting of sanctions against North Korea in response to its nuclear and military posturing have garnered a lot of press, related compliance issues do not figure as a day-to day-challenge for most business. As Crowell & Moring's Cari Stinebower points out: 'Very few U.S. companies have a nexus with North Korea, but it does come up as an issue. One area where it arises is in the charitable sector, but also there are supply chain questions, where for example companies are importing from China or South Korea, and they want to know whether their suppliers, or even 2nd or 3rd tier suppliers are contracting with North Korean manufacturers.'

'Very few U.S. companies have a nexus with North Korea, but it does come up as an issue.'

Cari Stinebower, Crowell & Moring

Other notable events in this space include the recent extension of the principles of the Magnitsky Act passed by Congress, which, if signed into law would empower the U.S. government to impose sanctions on corrupt government officials and those that provide assistance to them, and on those who 'engage in or act on behalf of a foreign person who has engaged in extrajudicial killings, torture, or other gross violations of internationally recognised human rights committed against individuals in any foreign country that seek to expose illegal government activity or defend and promote internationally recognised human rights and freedoms.' From one perspective, the Act constitutes a powerful signal – but it could also be a powerful tool.

Havana good time?

The Cuba sanctions have certainly drawn queries from businesses looking for ways that they can participate in the still Communist-party-managed island economy; ironically, perhaps, the recent death of the man who has towered over the country since 1961 may act as a brake, not accelerator, on transformation.

Steptoe partner Meredith Rathbone

points out that in terms of real change, 'The reality is that things had been pretty stagnant for a while. Not just on the U.S. side, but also on the Cuban side, with the Cuban government slow to to grant authorisations to U.S. companies wanting to come in. But with the death of Fidel Castro and significant trepidation regarding what the new U.S. president might do, we have started to see some signs of life come to business deals that had appeared stalled. It looks like there is a last-ditch effort to get some of these deals in just under the wire. Whether those deals (or others that are not finalised before inauguration day) will stick in the Trump administration remains to be seen. He could start to roll back the progress that has been made, or he could go back to Cuba and try to negotiate a deal where the types of initiatives that Obama put in place are made contingent on more economic or political reform. Or he could surprise us all with another approach.'

At the DC office of Debevoise & Plimpton, partner Satish Kini and counsel Carl Micarelli have had a variety of requests to help with Cuba-related work: 'We've seen travel companies looking at Cuba, and other U.S. persons interested in supporting that new market, such as financial services companies,' says Kini.

Crowell & Moring partner Cari Stinebower adds that despite the United States' famously unique and historically-rooted embargo against the Caribbean island, there's plenty of scope for non-U.S. companies to become enmeshed in it: 'We're advising, for example, EU companies where they want to partner with U.S. companies, or source products from the United States, to provide goods or services to Cuba. That means figuring out under the Export Administration Regulations what is permissible to source from the U.S., whether an OFAC or BIS licence is required to do what they want to do, and understanding from which third countries U.S. origin goods can be shipped.'

The firm is also advising, she says, around 30 U.S. companies from a range of business sectors on Cuba matters. 'This might mean arranging an invite to visit the country to explore the market, hammering out a letter of intent, applying for an OFAC or BIS licence… But nothing happens quickly. There's generally 18 months between a first meeting with the Cuban embassy and actually moving forward with exports – and there's some tension between the United States and the Cuban governments as to the order in which documentation should be obtained, the BIS or OFAC authorisations, or a letter of intent from the potential Cuban counter-party.'

Force of habit

Without the prospect of penalties, real, imagined or threatened, sanctions signal little more than displeasure. 'There is no need for enforcement to be inevitable, to be frequent, or to be punitive, but it must occur sometimes if business is to take heed of the law,' says one sanctions lawyer.

In this regard, trends change. At any given time, authorities have varying powers and resources at their disposal, follow the contours of shifting policy directives or employ officials whose outlook is at variance with predecessors. And of all those authorities, it remains (not only in the United States) the U.S. Treasury's Office of Foreign Assets Control that casts the biggest shadow.

Carl Micarelli says that much of the fear that OFAC inspires in clients lies in the fact that, 'U.S. sanctions are very complicated – and often unclear. We often get questions like, "What is facilitation? What can an officer or director do without crossing a line? How do you parse this language in the regulations? What's the enforcement risk if we make a mistake? How do we get clarity – and can we get it from OFAC?" Other times, the rules are clear but not simple. For example, the 50% rule on beneficial ownership is clear, but it's also complex and not always easy to apply.'

Satish Kini says that the pressure placed on banks by not only OFAC but the New York Department of Financial Services, the Securities and Exchange Commission and the Financial Industry Regulatory Authority ('FINRA') 'is spilling over onto counterparties – widening the circle of those affected to firms and companies not even in the financial services sector' – who are having to employ compliance people qualified to understand developments within those agencies.'

But customary seasonal futurology must also factor into the mix the transatlantic twin-barrelled blast of populist disquiet (energy or entropy, depending on your view) that are Donald Trump, and the splintering of the European Union.

This year has not, it's true, been attended with the kinds of headline enforcement actions seen in previous years. To date, in 2016, there have been nine separate OFAC enforcement actions with a total value of $21.6 million the largest single penalty ($7.6m) being levied against the Alcon Group for apparent violations of the Iranian Transactions and Sanctions Regulations and the Sudanese Sanctions Regulations.

2015, by contrast, saw 15 enforcement actions with a total value

of almost $6bn – including multi-billion settlements with Credit Agricole and Commerzbank.

'[In the EU] Much enforcement is done by way of settlement, and authorities have a more realistic view. If violations can be contained by improving compliance, for example, that's the approach they'll take.'

Paulette Vander Schueren, Mayer Brown

Margaret Gatti acknowledges that OFAC enforcement actions 'have been fewer in number and less in dollar value over the past year. But, she says, 'I do see OFAC as well as the Bureau of Industry and Security giving increased attention to restricted parties, looking at the lists, not just at names, but also addresses. And it isn't just the Specially Designated Nationals list, it's the Foreign Sanctions Evaders list, and Commerce Department Entity List, for example – which really behoves clients to be very thorough in their screening, making sure that their screening checks are made not just at the time that they receive an order, but also prior to shipping. And looking not only at names but addresses, phone numbers, websites and email addresses. We've been counselling companies on this a great deal: how to screen, when to screen, and what to screen for – which does reflect OFAC's interest, particularly in regard to consignees and end-users for export shipments.'

Mayer Brown's Kriesberg says that businesses dealing with Russia should avoid being lulled into a sense of false security by the absence to date of big-ticket penalties or settlements relating to violations. 'In general, when it comes to U.S. enforcement, there's a lag of years between the actual breaches and any publicly announced enforcement action. In the case of a programme in effect for just a couple of years, it's quite possible that there are pending enforcement actions that just aren't visible (yet).'

Crowell & Moring's Carlton Greene, a former assistant director for transnational threats and legal counsel to the OFAC on counter-terrorism sanctions, attributes the lower numbers in part to a focus on entities outside the banking sector, where penalties tend to be smaller. He noted, however, that 'there may be an overall pressure to ratchet up enforcement on Iran and other programmws,' and that the recent nomination of Tom Feddo, currently a partner at the law firm Alston & Bird, and a former assistant director of enforcement at OFAC, to the Trump landing team for Treasury 'sends a signal that this may be the case'.

As regards OFAC's priorities, he suspects that the vexed question of de-risking, where banks and others deliberately refuse to do business with some groups of customers to reduce the risk of inadvertent sanctions breaches, is going to be amongst them:

'De-risking has a ripple effect across the international economy, so they're going to be trying to be careful with the way that they impose penalties, so they can reassure banks they're not just after them wholesale. They have to convince financial institutions that they'll be reserving penalties for the most egregious cases.'

As to the extent the new administration will impact on OFAC (and other agencies, such as the New York Department of Financial Services) – that's the question that those in this space are grappling with.

'I've now worked on these issues under multiple administrations,' notes Erich Ferrari, 'and from my experience OFAC is pretty stable through the transitions. One trend that we've seen has been an increased level of aggression in terms of enforcement and an expansion of the theory of liability that makes non-U.S. persons causing dollar transactions to go through the U.S. system within OFAC's sights, and I expect that to continue.'

Future tense

The general sense amongst sanctions lawyers is that in office Donald Trump may not deliver on all the threats and promises made on the campaign trail. Indeed, earlier vows to dismantle the Iran agreement have not been repeated since his winning of the electoral college vote in November.

'Let's play out the scenario,' says Baker McKenzie's Nicholas Coward: 'To date, the effect and utility of the Iran sanctions has been tremendously increased by the level of cooperation between the United States and the European Union, i.e. as a result of both camps being serious about implementation of these sanctions and what would or wouldn't be permitted. The prospect is, if the United States backed out of the agreement, it is unlikely that the European Union would go along with it, the benefits of the JCPOA would be lost, and Iran would be incentivised to get back into nuclear business. My guess would be that this is not going to be on the top of the Trump agenda.'

For his part, Crowell & Moring's Carlton Greene suggests that while actually undoing the intricacies of the JCPOA is unlikely, U.S. lawmakers may impose more onerous non-nuclear related sanctions on Iran.

Arguably, more immediate changes could be made regarding Russia. The recent appointment of Rex Tillerson, chief executive and chairman of Exxon Mobil as Secretary of State in the Trump Administration has raised the suspicion that the new president may remove the sanctions imposed by his predecessor.

But against the backdrop of disquiet about the Kremlin's role in the U.S. election, and devastating scenes of destruction as the Russian-backed Syrian government closes in on rebels in Aleppo, a rollback could quickly sour relations with lawmakers.

'[OFSI] is now getting up and running. They don't actually have their new powers until the Policing and Crime Bill comes into effect, but when they do, I think there'll be greater enforcement of sanctions violations.'

David Harris, Norton Rose Fulbright

Hogan Lovells' Kuntamukalla points out that 'Whatever Trump decides to do about Russia, this is going to be a really interesting area. Congressional Republicans and Democrats are concerned about Russia, and they'll want to see that pressure is maintained. It might result in some give and take – between Congress and the Administration, because I think that even if Trump wanted to pull back the restrictions on Russia, [Congress] will be much more restrained.' He suggests that while Trump will have executive authority to lift many of the restrictions on Russia, the Trump administration will have to contend with significant concerns on the part of Congress.

Simeon Kriesberg adds that there is always the possibility that greater pressure will be imposed on Russia, even by the outgoing administration in retaliation for Russian hacking of the U.S. elections. Beyond a month from now, however, the sanctions against Russia will be contingent on the tack that the new U.S. administration takes: 'The Russia sanctions were expanded in a series of steps as a way to exert graduated leverage. If you're a Russian company in one of the sectors that is being targeted, that's something you've got to think about.'

Nor, he says, should businesses dealing with Russia be lulled into a sense of false security by the absence, to date, of big-ticket penalties or settlements relating to violations. 'In general, when it comes to U.S. enforcement, there's a lag of years between the actual breaches and any publicly announced penalties. In the case of a programme in effect for just a couple of years, such as the Russia sanctions, it's quite possible that there are pending enforcement actions that just aren't visible (yet).'

Continental Shift

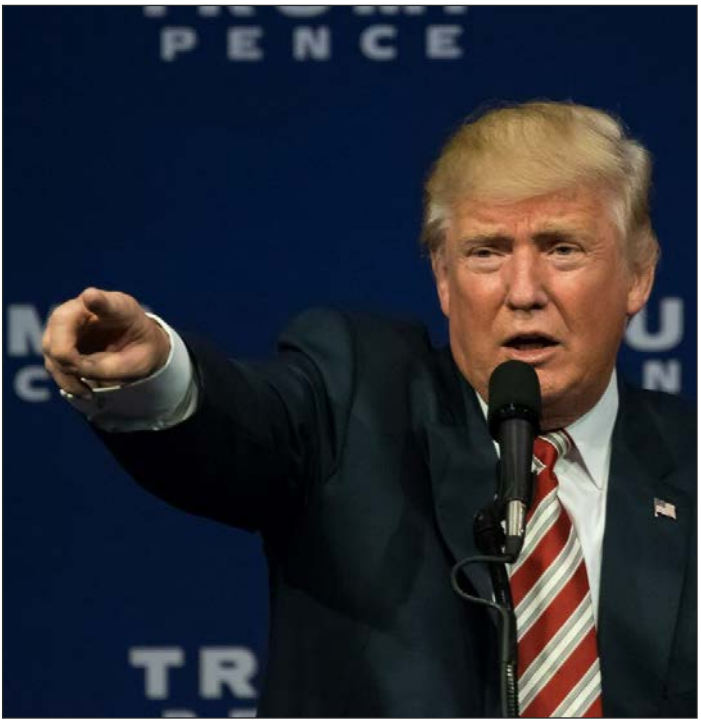
Meanwhile, Europe has been assimilating its own shifts in perspective – not least as regards changing attitudes to the Freedoms underpinning the European Union: Freedom of movement of goods, services, people and capital.

From a sanctions perspective, lawyers report that the general standard of compliance is increasing, despite the absence of big-ticket penalties. Lourdes Catrain, a partner at the Brussels office of Hogan Lovells, observes: 'The level of resources that Member States have to deal with sanctions enforcement varies significantly across the 28 EU Member States. Therefore, the level of activity throughout Europe varies. The fact that many financial institutions require corporates to sign strong reps and warranties is doing a lot to sensitise the business community to the need to be compliant. Clearly, enforcement actions would reinforce the importance of complying with EU sanctions, even if they don't reach the level of U.S. fines.'

Paulette Vander Schueren notes that there is generally, within the EU, a different approach to that of U.S. regulators: 'Much enforcement is done by way of settlement, and authorities have a more realistic view. If violations can be contained by improving compliance, for example, that's the approach they'll take. They'll look for a solution that works for industry whilst also achieving their enforcement objectives.'

Vander Schueren's London-based colleague Mark Compton says that in

the United Kingdom, 'Because [the Financial Conduct Authority ('FCA')] is concerned with ensuring that the entities that it regulates have the right kinds of systems and controls in place – and doesn't need to prove beyond reasonable doubt that a crime has been committed, [it] has become an effective enforcer for not only sanctions but AML and anti-corruption.'



The government also has a new tool at its disposal in the form of the Office of Financial Sanctions Implementation ('OFSI'), which, as Norton Rose Fulbright's David Harris explains 'is now up and running. OFSI don't actually have their new powers until the Policing and Crime Bill comes into effect, but when they do, I think we will see increased enforcement of financial sanctions violations, and, significantly, the introduction of new civil monetary penalties will bring the tools at their disposal more into line with OFAC. Looking forward, one of the concerns clients in the financial services industry might consider is the possibility of "U.S.-style" layering of charges: i.e. civil penalties from OFSI for breaches of financial sanctions, and penalties imposed by the FCA for failing to have adequate systems in place.'

Interestingly, from Gothenburg, Sweden, Carolina Dackö reports that businesses are getting to grips with an OFAC-related problem. 'Swedish data privacy rules,' she says, 'are based on EU legislation, but are more stringent. In April, we saw a judgment the outcome of which is that an entity cannot screen against OFAC lists if it is located in Sweden. The law only relates to screening for individuals, but as that is often important where, for example, you're going into sanctioned markets and you need to ascertain ownership or controlling interest, it puts companies in a difficult position: Either comply with the law, or meet the requirements of the banks, who are insisting on these kinds of screening measures.'

Such tensions, she suggests, may become more acute across the European Union as the ramifications of data protection reform in the bloc become apparent.

Taking back control?

While OFSI makes a definitive statement with regard to the UK position on sanctions as a foreign policy tool, the bigger picture is less clear cut. The British public voted by a slim margin to leave the European Union; the question that was put to it: 'Should the United Kingdom remain a member of the European Union or leave the European Union?'

Assessing the fall-out, for every sphere of public life, is not straightforward. 'No-one knows what Brexit looks like at the moment,' says Brussels-based Baker Botts partner Georg Berrisch. 'In foreign and trade policy the United Kingdom had a very important role. Those who have a liberal stance on trade will miss that voice; those who are more protectionist will be happy that it's going away.'

Berrisch adds that there are other signs of 'dissent' with the European programme: 'On the sanctions front, people are looking for example at how the French elections might play out. [Presidential candidate] François Fillon has said that he wants to see the Russia sanctions lifted – and there's an appetite for that elsewhere across Europe, too. It's been noticeable that the opposition to Russia's role in Syria has been muted.'

James Killick observes: 'Given that there have been no additional actions to accompany the bombing of Aleppo, despite the strong feelings that many European political leaders had about it, doesn't that say something about Europe's willingness or ability to act independently of the United States?

'I don't think that, at the moment, there's sufficient unanimity to adopt new sanctions. On the other hand, I think they are reluctant to undo what is in place notably because everyone knows that agreeing a fresh set of rules would be difficult. So I think we'll stay where we are for the time being, at least unless anything major changes.'

Most lawyers familiar with the apparatus of Europe, its Common Foreign and Security Policy and Britain's current (dwindling) role within the European Council on Foreign Affairs, predict that some kind of linkage will have to be maintained that aligns the United Kingdom with the European Union in these critical areas.

'The United Kingdom has the most significant military force [in the EU], and possesses the best Intelligence,' says Holman Fenwick's Anthony Woolich. It is inconceivable that the [remaining 27 Member States] would want to lose that connection, and we certainly have a massive interest in maintaining that cooperation for a host of reasons…terrorism, the migrant issue, foreign affairs.' Thus, he suggests, the resulting arrangement may 'involve both sides taking similar measures so that common objectives are enjoyed'.

As the world turns to notch another bygone year on its bedpost, it's arguable that never in recent memory have crystal-ball gazers been presented with a greater or more interesting challenge: To what lengths will a new President go to erase his predecessor's foreign policy legacy? And what will that legacy prove to be? What does the apparent success of Vladimir Putin's gameplan in Syria mean for the Middle East? Will Donald Trump's predilection for midnight tweeting precipitate a trade war – or worse, a real one – with Beijing? And will the United Kingdom's desperate reassertion of its sovereignty prove the undoing of the Pax Europa?

Steady yourselves for the ride. The past was imperfect, but the future is looking tense.

Baker McKenzie

Market-leading International Trade practice

Baker McKenzie covers the core areas of International Trade, such as export controls and sanctions, encryption issues, customs compliance, anti-bribery and anti-corruption, as well as offering significant expertise in relation to WTO rules and Free Trade Agreements. Our market-leading team is widely recognised by leading multinationals and regulatory authorities as the leading advisers for international trade work. We are increasingly appointed by clients, who are renowned for having very strong in-house teams, to assist with high-profile export controls, sanctions and anti-bribery matters.

Unsurpassed global coverage

Our global coverage and structural integration is unmatched. We offer a 200-plus team of International Trade specialists who are strategically situated across more than 40 markets, including most of the world's key financial and policy centres such as Washington DC, London, Frankfurt, Stockholm, Barcelona, Sao Paulo, Mexico City, Hong Kong, Singapore, Beijing and Sydney.

Multinational clients appoint us because of our unsurpassed ability to resolve multi-jurisdictional trade matters involving U.S., EU and other national regulatory regimes and authorities such as, for example, Germany, UK, China and Australia.

Industry focus

Our practitioners have a particular focus on industries that are most impacted by the introduction of new trade regulations, including major industrial manufacturers, energy, IT, telecommunications and financial services companies. We have a vast amount of experience advising many multinationals within the Fortune 100 and FTSE 100 communities.

Global thought leadership

Our annual International Trade conferences in London, Amsterdam and Santa Clara are among the largest and best-attended trade seminars in the world. Clients also hail our regular globe trade webinars as an integral component of their trade compliance training.

Keep ahead of the curve on the latest economic and trade sanctions developments – visit the Baker McKenzie Sanctions Blog: www.bakermckenzie.com/sanctionsnews

Regional Contacts

EMEA

Mattias Hedwall, Stockholm
mattias.hedwall@bakermckenzie.com

Ross Denton, London
ross.denton@bakermckenzie.com

Sunny Mann, London
sunny.mann@bakermckenzie.com

Marc Lager, Vienna
marc.lager@bakermckenzie.com

Julia Pfeil, Frankfurt
julia.pfeil@bakermckenzie.com

Asia Pacific

Eugene Lim, Singapore
eugene.lim@bakermckenzie.com

Yi Lin Seng, Singapore
yilin.seng@bakermckenzie.com

Anne Petterd, Sydney
anne.petterd@bakermckenzie.com

North America

Nicholas Coward, Washington DC
nicholas.coward@bakermckenzie.com

Janet Kim, Washington DC
janet.k.kim@bakermckenzie.com

John F. McKenzie, San Francisco
john.mckenzie@bakermckenzie.com

Bart McMillan, Chicago
bart.mcmillan@bakermckenzie.com

Latin America

Manuel Padron, Juarez
manuel.padron@bakermckenzie.com

Jose Hoyos-Robles, Mexico City
jose.hoyos-robles@bakermckenzie.com

Alessandra Machado, Sao Paulo
alessandra.machado@trenchrossi.com

www.bakermckenzie.com

Ferrari & Associates, P.C.

Ferrari & Associates, P.C. is a boutique law firm located in Washington, DC focusing solely on representations relating to U.S. economic sanctions administered by the United States Department of the Treasury's Office of Foreign Assets Control (OFAC).

Over the years, Ferrari & Associates has handled every variety of OFAC matter imaginable, from advising international financial institutions on U.S. sanctions, to defending OFAC investigations against financial institutions, to complex licensing on behalf of aviation companies, and to removal of private individuals and foreign entities from the OFAC SDN List.

Known as thought-leaders in the field of U.S. economic sanctions, Ferrari & Associates blends its knowledge and experience in both the law and policy underlying U.S. sanctions to offer unparalleled service in both advising on sanctions as well as representing parties before OFAC.

Ferrari & Associates, P.C.
1455 Pennsylvania Ave., NW
Suite 400
Washington, DC 20004
Phone: +1 202-280-6370
Fax: +1 877-448-4885
info@ferrariassociatespc.com

www.ferrariassociatespc.com

Ferrari &Associates, P.C.

Hogan Lovells

Hailed as a leading international trade practice by *WorldECR*, *Chambers USA* and *Legal 500 US*, our International Trade and Investment group offers effective, informed advice on trade policy, legislation, compliance and enforcement, litigation, and administrative proceedings. Our clients rely on us to handle issues such as export and import controls, economic sanctions, anti-bribery rules, and foreign direct investment.

We are at the forefront of virtually all cutting-edge export control and economic sanctions issues, including providing integrated advice to clients on the rapidly evolving economic sanctions developments in the United States, European Union, and other jurisdictions, advising on the impact of export control reform on multiple industries, addressing the export control challenges raised by cloud computing, unmanned aerial vehicles, drones, and e-commerce platforms, and advising on the nexus between cybersecurity and export controls.

We have the ability to handle, at the highest level, matters in every major jurisdiction, with globally recognised experts in Europe, Asia, and The Americas. A diverse and deep practice – we provide comprehensive client coverage for commercial, dual-use, aerospace and defence, nuclear, sanctions, anti-boycott, and AML issues. We are seen as active thought leaders on emerging issues. For example, we are at the forefront of the latest developments related to the Cuba embargo.

We've been lauded by *Chambers Global* for our 'comprehensive knowledge of the trade world and its latest developments' and by *The Legal 500* for our ability to 'craft analysis in a way that is useful in the real world'.

****

Tier 1
Legal 500 US, 2016

Band 1
Chambers USA , 2016

Highly Recognized Trade practice
Chambers Global, Chambers Europe and Legal 500 Europe

Export Controls/Sanctions Law Firm of the Year, U.S. Runner-up
WorldECR Rankings, 2016

Export Controls/Sanctions Law Firm of the Year, Europe Highly Commended
WorldECR Rankings, 2016

Tier 2
JUVE, 2016

****

Our Global Export Controls/ Sanctions Contacts:

Beth Peters, Partner
Washington, D.C.
beth.peters@hoganlovells.com

Lourdes Catrain, Partner
Brussels
lourdes.catrain@hoganlovells.com

Aleksandar Dukic, Partner
Washington, D.C.
aleksandar.dukic@hoganlovells.com

Ajay Kuntamukkala, Partner
Washington, D.C.
ajay.kuntamukkala@hoganlovells.com

Stephen Propst, Partner
Washington, D.C.
stephen.propst@hoganlovells.com

'Hogan Lovells' "business savvy" and "highly professional" international trade team has the strength in depth and critical mass to handle the gamut of trade issues relating to the Americas, Europe, Asia and Africa.'
Legal 500 US, 2016

www.hoganlovells.com

Hogan Lovells

Steptoe & Johnson LLP

Steptoe is a recognised leader in export controls, economic sanctions, anti-corruption, and other international regulatory areas. We work for clients in multiple jurisdictions, and have strong familiarity with the regulatory regimes in the U.S., UK the EU, and China. Steptoe's robust International Regulation & Compliance Group covers the full spectrum of regulatory requirements, including:

- Economic sanctions (Iran, Syria, Sudan, Cuba, North Korea, Burma, Russia, Belarus, Myanmar/Burma, Terrorism, WMD, Narcotics Kingpin Traffickers, and others)
- Export controls (military, dual-use, nuclear, encryption and cyber security)
- CFIUS Foreign Investment Reviews & FOCI Mitigation
- FCPA / UKBA, IFI & multinational anti-corruption regimes
- Anti-money laundering, Anti-boycott, Customs, Immigration, Corporate social responsibility

Steptoe has earned an international reputation as a go-to firm for companies, individuals, non-governmental organisations, and other institutions in need of outside counsel to handle government investigations, sensitive internal investigations, compliance support, counseling, and policy advocacy with agencies and on the Hill. Throughout the recent period of very active U.S. enforcement, we have successfully represented clients in over 100 investigations and enforcement actions involving international regulation in the U.S., the Middle East, Latin America, Russia and Eastern Europe, Africa, and Asia. We have been in the forefront of the development of World Bank investigations and sanctions proceedings. We have also developed compliance programmes tailored to clients' businesses, taking into account management structures, compliance resources, geographic footprint, and customer/supply chain bases.

Our services range from the preventive to the investigative and remedial, including counseling on the legality of transactions and risk-mitigation measures, interpretation of regulatory requirements, licensing and advisory opinion services, advocating client positions on new policy and legal proposals from the U.S. government, compliance advice, internal reviews and investigations, 'gap' or risk assessments, third-party audits, voluntary disclosures when appropriate, de-listing and unblocking of persons/entities on USG and EU restrictive lists, and defence of civil and criminal enforcement actions of the relevant enforcement agencies.

We are well known for our experience with cutting-edge issues, such as control of encryption technology, e-commerce transactions, cybersecurity, deemed exports/reexports, international M&A, and global supply chain issues.

1330 Connecticut Avenue, NW
Washington, DC 20036
USA
Tel. +1 202-223-3761

Export control and sanctions contacts:
Ed Krauland
ekrauland@steptoe.com

Meredith Rathbone
mrathbone@steptoe.com

CFIUS contact:
Stephen Heifetz
sheifetz@steptoe.com

FCPA / Anti-corruption contact:
Lucinda Low
llow@steptoe.com

www.steptoe.com

Steptoe
STEPTOE & JOHNSON LLP

MEET THE LAWYERS

Keeping compliant with international sanctions regulation calls for good, timely, business-savvy legal advice. Who do you want to call? *WorldECR* profiles some of the finest sanctions teams.

Debevoise & Plimpton's International Economic Sanctions & OFAC Compliance team includes partners, counsel and associates from across the firm's offices in Washington, D.C., New York, London and Moscow. Key contacts include Satish Kini and David O'Neil in Washington, D.C., Carl Micarelli in New York, Alan V. Kartashkin in Moscow, and Alex Parker and Konstantin Bureiko in London.

The team advises clients in a wide range of industry sectors, including: energy and natural resources, healthcare, mining, pharmaceuticals, telecoms, and transport as well as high-profile global financial institutions, banks, securities firms, insurers and asset managers. Recent instructions have seen the firm

- Assist a leading financial services firm with an internal investigation and self-disclosure to OFAC of a potential U.S. sanctions issue arising out of certain of the firm's non-U.S. affiliates;
- Act for an airline to secure a licence to engage in certain flights and related transactions notwithstanding OFAC sanctions limits;
- Assist a leading U.S.-based insurer and its foreign affiliates to comply with U.S./EU Iran sanctions limits, including to navigate those transactions that can be conducted from outside the United States and those that remain restricted under U.S. law;
- Conduct an overall assessment of the sanctions, anti-money laundering and anti-corruption compliance regimes of a leading non-U.S. insurer, reporting to the company's board of directors on the firm's over-all compliance posture and areas for improvement;
- Perform a multi-jurisdictional survey for a globally active bank regarding the sanctions compliance obligations it faces in over a dozen jurisdictions (spanning North America, Europe, Asia and elsewhere).

Winner of *WorldECR*'s Sanctions Law Firm of the Year (Europe) award, **Baker McKenzie** has the largest trade law department of any law firm, with 332 international trade experts, 120 of whom have a specialism in

export controls and sanctions (50 partners, 70 associates). The International Commercial & Trade Practice Group is the home for these.

In addition to major industrial manufacturing and engineering companies, the group has expertise advising financial institutions, technology and communications, and oil & gas companies on sanctions matters.

The group's collective global strength enables it to advise on virtually all sanctions and export control regimes. Recent examples include advice to major flag carriers in re-establishing their Tehran flights, and ongoing compliance assistance to major energy companies with regard to their strategy towards Iran in light of U.S. and EU sanctions relief.

Key contacts at the firm are: in Europe, Mattias Hedwall (Stockholm), Ross Denton (London), Sunny Mann (London), Marc Lager (Vienna) and Julia Pfeil (Frankfurt); in the U.S., Nicholas Coward (Washington, DC), Janet Kim, (Washington, DC), John F. McKenzie (San Francisco) and Bart McMillan (Chicago); in Asia Pacific, Eugene Lim (Singapore), Yi Lin Seng (Singapore) and Anne Petterd (Sydney); and in Latin America, Manuel Padron (Juarez), Jose Hoyos-Robles (Mexico City) and Alessandra Machado (Sao Paulo).

Sanctions law firms

Baker McKenzie

Baker Botts

Crowell & Moring

Debevoise & Plimpton

Ferrari & Associates

Grayston & Company

GVW Graf von Westphalen

Holman Fenwick & Willan

Hogan Lovells

Mannheimer Swartling

Mayer Brown

Morgan Lewis & Bockius

Norton Rose Fulbright

Steptoe & Johnson

White & Case

This list does not purport to be exhaustive

DC-based **Ferrari & Associates, P.C.** provides legal representation in U.S. economic and trade sanctions matters under the jurisdiction of the United States Department of the Treasury's Office of Foreign Assets Control ('OFAC'). The firm represents clients charged with violations of U.S. sanctions and advises on removal of names from the Specially Designated Nationals and Blocked Persons ('SDN') List.

Key contacts at the firm are Erich C. Ferrari and Margaret S. Ververis. Ferrari frequently represents clients before OFAC, the United States Department of Commerce's Bureau of Industry and Security ('BIS'), and in federal courts around the country.

The firm's clients are drawn from a wide range of sectors including banking/financial services, medical device manufacturers, telecommunications, and aviation. Team members have expertise and experience in various sanctions regimes, including those concerning Iran and Russia, as well as counter-narcotics sanctions, and count among recent instructions:

- Defending a foreign financial institution in a two-year long OFAC investigation;
- Compliance and licensing representation for a major multinational medical device manufacturer in its exports to Iran, Sudan, Cuba, Syria, and Crimea;
- Compliance and licensing representation for a major telecommunications provider to re-enter Iran pursuant to General License H;
- Acting in a lawsuit against OFAC under the Administrative Procedure Act for unwarranted designation of an African businessman; and
- Representing a freight-forwarder in an OFAC investigation.

With nine sanctions team members in Hamburg and Brussels, German law firm **GvW Graf von Westphalen** boasts one of the leading sanctions practices in Germany. Key contacts at the firm are partners Lothar Harings, Marian Niestedt and Gerd Schwendinger.

The major sanctions focus for the team has been mainly on Iran and Russia recently, advising clients from a diverse group of industry sectors, such as industrial facilities, engineering, electronics, new media, banking and insurance, and logistics.

Clients who turn to the firm for assistance include chemicals company Celanese Europe, DNV/GL, and food and energy conglomerate GEA.

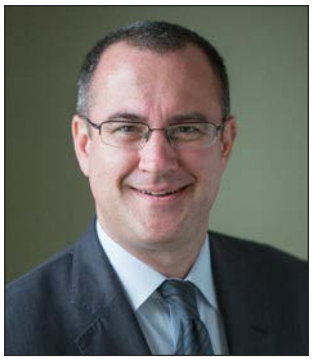
In the past year, the team

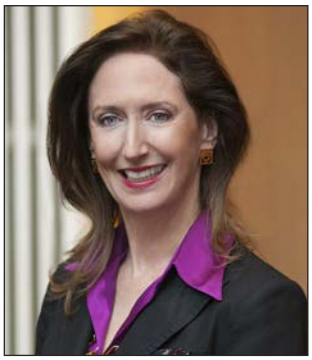
- Advised a leading insurance company on the rules governing the insurance and/reinsurance business under EU and U.S. sanctions imposed on Iran;
- Provided comprehensive advice to a chemical company on EU and U.S. sanctions against Iran, including setting up business processes and ring-fencing;
- Gave advice to a technical services organisation with respect to EU sanctions rules on technology transfer, technical assistance, and the prohibition of making available economic resources;
- Provided advice to a steel processor with respect to the EU sanctions regime against Russia;
- Advised a supplier of aircraft parts in connection with the relaxed sanctions against Iran and the question of end-use certificates.

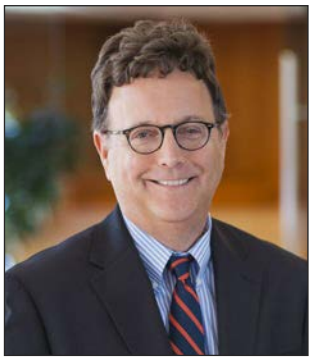
Baker Botts' International Trade Group advises clients on the full range of applicable U.S. and EU economic sanctions laws, regulations, and policies. Key contacts at the firm are Chris Caulfield in London, Georg Berrisch in Brussels, and Ama Adams and Paul Luther in Washington, DC.

Clients of the group come from industry sectors including oil and gas, energy services, aviation, chemicals and financial instutions.

In Europe, team members are very much focused on Russia and Iran. The group advised a major global drinks


Carlton Greene,
Crowell & Moring


Marynell DeVaughn,
Morgan Lewis & Bockius


Louis Rothberg,
Morgan Lewis & Bockius


Jason Hungerford,
Norton Rose Fulbright

manufacturer in relation to sales and payments, (made in accordance with EU law) which run to tens of millions of dollars, to countries targeted by EU sanctions, including particularly Iran. This has included advising in relation to the legality of transactions and considering, amending and assisting in the negotiating of banking representations/letters of comfort in relation to the activities in question. Additionally, the group advises a number of Russia's largest businesses heavily impacted by EU sanctions.

In the U.S., group members advise extensively on restrictions and requirements under U.S. sanctions laws and regulations, including the Iranian Transactions Regulations, the Sudan Sanctions Regulations, the Cuban Assets Control Regulations, the Iranian Financial Sanctions Regulations, the Comprehensive Iran Sanctions Accountability and Divestment Act of 2010, the National Defense Authorization Act, the Iran Threat Reduction and Syria Human Rights Act of 2012, and implementing Executive Orders.

Examples of recent work representing companies in economic sanctions matters include:

- Performed a comprehensive systems review and assessment of a major U.S.-based oilfield equipment manufacturer's export control, sanctions, antiboycott and FCPA compliance programmes; this included a review and assessment of company operations in various jurisdictions, including the U.S., Canada, the U.K., Norway and the U.A.E., and the preparation of a detailed report setting forth our findings as well as recommendations for compliance programme enhancements.
- Represented a U.S. oilfield services company in a far-ranging U.S. government investigation of alleged U.S. support for operations in Iran and Sudan.

The International Trade, National Security & Economic Sanctions practice at **Morgan Lewis & Bockius** is home to one partner, two of counsel and one associate. Key contacts in DC are Margaret Gatti, Marynell DeVaughn and Louis Rothberg.

The team is active advising clients on sanctions matters involving Cuba, Iran, North Korea, Sudan, Syria, the Crimea region of Ukraine and Russia, plus all other countries and parties sanctioned by the United States. Services include assisting clients with drafting and revising their OFAC compliance procedures and conducting compliance training; and, where necessary, working with clients to obtain specific transactional licences and determining the applicability of OFAC's diverse general licences (exemptions).

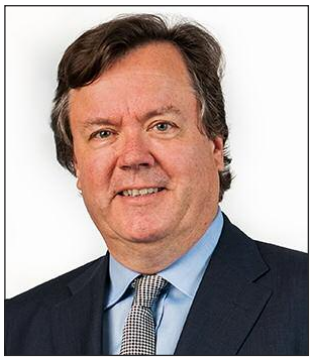
The team's client base is drawn from an A-Z of industry sectors: aerospace & defence; banks; charities/not for profit; chemicals; construction and materials; consumer products; education; energy; financial services; insurance; media; mining and metals; pharmaceuticals and life sciences; retail; software and computer services; technology, hardware and electronics; telecoms; transportation; travel and leisure.

Illustrative instructions would include:

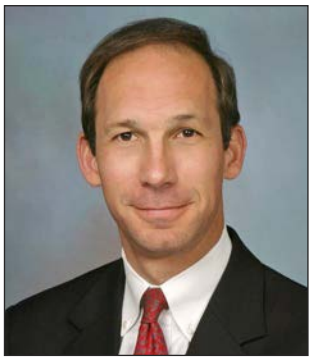
- Counselling a multibillion-dollar Sweden-based conglomerate in determining how U.S. economic sanctions and embargoes as well as extraterritorial export controls affect proposed sales and other activities in Iran, Cuba, and Russia under OFAC and the EAR; and
- Handling the OFAC filings and OFAC interactions in an extensive internal investigation of an international food supply company following queries raised by an auditor related to possible export and other violations concerning business activities and transactions in the Middle East by the client's European subsidiary and/or any of its subsidiaries or affiliated companies.

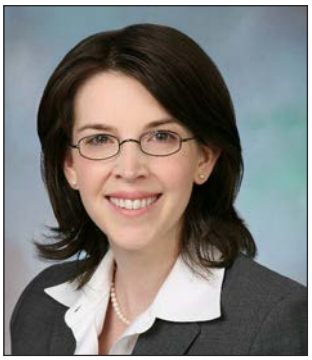
Holman Fenwick Willan's Transport and Trade Regulatory team is highly regarded – it was runner-up in this year's *WorldECR* awards for best Export Controls Team (Europe) and winner the year before.

The core team comprises seven partners and eight associates, based in London, Paris, Geneva, Dubai and Sydney. Anthony Woolich, Daniel Martin and Sarah Hunt are key contacts. The team advises on all of the international sanctions regimes. In the past 12 months, team members have been particularly active with sanctions against Iran, Russia, North Korea, Syria and Sudan. Clients come mainly from the commodities, oil and gas, shipping, insurance and aviation sectors and include international freight-forwarders, an international airline and companies in the aviation sector, commodities traders, businesses in the oil and gas sector, shipping companies, banks and insurers.


Georg Berrisch, Baker Botts


Anthony Woolich, Holman Fenwick Willan


Ed Krauland, Steptoe & Johnson


Meredith Rathbone, Steptoe & Johnson

The past 12 months have seen team members

- Advise international companies in the aviation sector, as well as commodities traders and shipping companies on opportunities in Iran and steps to ensure compliance with EU, U.S. and other sanctions;
- Advise a UK-headquartered multinational on responding to its bank's concerns about trade connected with sanctioned countries, culminating in the bank removing the customer from its enhanced monitoring programme;
- Advise an international bank on its dealings with two individuals with reference to sanctions against Syria;
- Advise an Asian shipbuilding company on sanctions against Russia; and
- Represent clients in voluntary self-disclosures in the UK and the U.S. in respect of historic activities which may have violated EU and US sanctions against Iran.

On 3 January 2017, the firm will be merging with leading U.S. energy and marine firm Legge, Farrow, Kimmitt, McGrath & Brown LLP, based in Houston, Texas.

Steptoe & Johnson's International Regulation and Compliance Group comprises ten partners, four of counsel, and ten associates. Key contacts are: Edward Krauland, Stephen Heifetz and Meredith Rathbone in Washington, DC; Jeffrey Cottle in London; Guy Soussan in Brussels; and Susan Munro in Beijing.

The group advises clients on sanctions related to Iran, Cuba, Russia/Ukraine, Belarus, Syria, Sudan, Myanmar/Burma, North Korea, and on terrorism, WMD, and narcotics kingpin traffickers.

Clients include, but are not limited to, global brand names in aerospace and defence; agriculture; airline services; automotive; chemicals; construction; data processing; education; electronics; energy; engineering; financial services; food and beverages; hydrocarbon exploration and production; industrial gases; legal and accounting; mechanical and industrial equipment; NGOs; oilfield services; pipeline services; process controls; refining; semiconductors; software (cyber security); and telecommunications.

Recent matters have included:

- Advising a mining company on sanctions, anti-boycott, customs and other transnational regulatory risks in connection with a proposed merger with another major multinational;
- Representing a major U.S.-based petroleum producer, on various economic sanctions and export control matters. The team conducted an internal investigation and prepared an advisory opinion on potential violations of the EAR and OFAC regulations, and assisted the client in dealing with U.S. government officials, as well as designing export control and economic sanctions compliance policies, and conducting training sessions on the relevant legal regimes and compliance policies;
- Representing several European industrial companies in compliance programme risk assessment, gap analysis and remediation. Areas of focus included economic sanctions and export control risk;
- Advising a publicly-traded European oil & gas exploration and production company on a wide range of trade sanctions matters, including advice on implementation of policies and procedures, carrying out due diligence, and ongoing transactional advice in these areas. The group advised on the impact on the company's operations of the primary and secondary U.S. sanctions regarding Iran as well as on the EU sanctions regarding Iran.

Swedish law firm **Mannheimer Swartling**'s sanctions advisory capability is housed within the Corporate Sustainability & Risk Management group. As well as advising on sanctions, the group 'assists clients in navigating questions of compliance, risk management, and value creation across the four quadrants of the UN Global Compact: human rights, labour, environment, and anti-corruption'.

With offices in Sweden, Russia, China, U.S.A. and Brussels, the firm is well positioned to respond swiftly to changes in key trade control regimes. Partners Anders Lückander (Helsingborg) and Fredrik Svensson (Moscow), along with Specialist Counsel, Carolina Dackö (Gothenburg), a recent recruit from Vinge, head the sanctions team which also boasts three associates.

Advising clients on the sanctions regimes over Iran and Russia have been the mainstay of the team's work in recent years. Clients come from sectors, including heavy industry, industrial applications, transport, vehicles, general industrial, and banking.

A mixed bag of recent instructions for the team include:


Marian Niestedt,
GvW Graf von Westphalen


Erich Ferrari,
Ferrari & Associates P.C.


John Grayston,
Grayston & Company


Nicole Erb,
White & Case

- Advising clients in disclosure proceedings with Swedish competent authorities;
- Advising on Russian sanctions and due diligence of counterparties;
- Advising clients on the specific scope of remaining Iran sanctions;
- In-depth classification workshops with clients for exports to Iran; and
- Advising and conducting in-depth investigations of trade with risk markets/regions.

Eleven partners globally head the International Trade and Sanctions practice at **Norton Rose Fulbright**, supported in each jurisdiction by associates. Key contacts include David Harris and Jason Hungerford in London; Stephen McNabb in Washington, DC; Richard Wagner in Canada; Michael Jurgen Werner in Brussels; Wilson Ang in Singapore; Hugh Bisset in South Africa; and Hazel Brasington in Australia.

Members of the group have experience advising on a range of sanctions regimes as the frameworks are implemented and, in some cases, withdrawn by the EU, UK, U.S. and other countries (e.g. Canada; Australia). The current focus of the sanctions practice based on instructions from clients is, not surprisingly, mainly Iran, Russia and Cuba.

The team has particular expertise advising financial institutions and assisting clients in the energy; infrastructure, mining and commodities; transport; technology and innovation; and life sciences and healthcare sectors, where recent instructions include:

- Financial Institutions: Advising a Europe-headquartered global financial institution in connection with economic sanctions issues arising out of recent developments in Russia and Ukraine, including the application of sanctions to complex financial instruments, and the potential exposure of multiple operations of the business in the UK and multiple jurisdictions in Europe.
- Energy: Representing and defending a major international energy services company in a multi-jurisdictional and cross-border investigation concerning alleged corruption and breaches of international sanctions and export controls.
- Infrastructure, mining and commodities: Design and implementation of sanctions compliance process for a global commodities terminals operator, including a bespoke training programme for executive management, sales personnel and finance professionals.
- Transport: advising a shipowner on charterparty arrangements with a Russian entity subject to sectoral sanctions, including implications of US and EU-based financiers.
- Life sciences and healthcare: Advising a multinational manufacturer of dental technology in connection with the export and supply of dental equipment to Iran.

James Killick, Nicole Erb and Richard Burke are key contacts for sanctions matters at the International Trade group at global law firm **White & Case**.

The group, which comprises four partners, four counsel, three associates and one trade adviser, assists clients from a wide range of industry and finance sectorsm including banking, pharmaceuticals, manufacturing, energy and consumer goods.

The group advises clients on sanctions regimes imposed by the United Nations, the U.S., the EU, the UK, and other nations throughout the world. Currently, Russia, Iran, Cuba, Syria, Sudan and Zimbabwe matters represent the core of the group's instructions.

Recent instructions have included

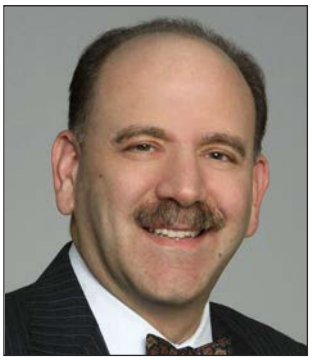
- Working with U.S. government authorities to unblock much-needed assets of a foreign government of a small nation;
- Ongoing compliance advice to a Russian company with a person listed in the EU asset freeze on its board;
- Advising various companies on the possibility to conduct business (e.g. involving various consumer goods) in Iran following the partial lifting of sanctions by the U.S. and the EU;
- Assisting a number of pharmaceutical and medical device companies in obtaining licences for sales of their products in Iran, Syria and Sudan;
- Ongoing advice to major international financial institutions on the application of EU and U.S. sanctions to specific transactions, in particular the application of the EU capital market sanctions on Russia, and sanctions terms in financing documents; and on internal investigations and voluntary self-disclosures to U.S. authorities in connection with potential activities involving Iran, Sudan, Syria, and Cuba.

At **Crowell & Moring**, ten partners and seven associates call the International Trade Group 'Home'.


Carolina Dackö,
Mannheimer Swartling


Fredrik Svensson,
Mannheimer Swartling


Satish Kini,
Debevoise & Plimpton


Simeon Kriesberg,
Mayer Brown

The group assists clients through every aspect of doing business in the context of sanctions and embargoes, providing services such as:

- Guidance with respect to the scope of restrictions on trade and financial transactions, as well as permissible transactions, licensing requirements, and enforcement activities;
- Assistance with internal investigations and voluntary disclosures;
- Design and implementation of compliance programmes, including benchmarking and trade association participation;
- Development of business-friendly compliance tools; and
- Representation during civil and criminal enforcement proceedings.

Clients come from the automotive, financial services, insurance, retail, maritime, and manufacturing sectors, with sanctions on Iran, Cuba, Russia, Zimbabwe and Sudan currently accounting for the majority of recent matters.

In the past year, the group has been busy with matters that have included:

- Advising international companies on compliance with Iran sanctions in the U.S. and EU; and exploring options for entering the Iranian market for foreign subsidiaries of U.S. entities;
- Offering trade compliance guidance to a Fortune 100 company relating to consolidating sanctions programmes across business lines and jurisdictions;
- Counselling a large U.S. manufacturing entity with respect to navigating the restrictions on exports of goods or services to the Crimea Region of the Ukraine;
- Advising a company on U.S. sanctions and export controls and new opportunities available under each, as a result of rolling relaxations of U.S. prohibitions on doing business with Cuba.

Hogan Lovells' International Trade and Investment group is among the largest law firm sanctions advisory teams, with 25 partners, 17 associates, seven of counsel and three advisors working out of offices around the world. Well-known members of the team and key contacts include Beth Peters, Ajay Kuntamukkala and Stephen Propst in Washington, DC; Lourdes Catrain and Falk Schöning in Brussels; Alexei Dudko in Moscow; and Roy Zou in China.

The group advises on all country and designated person ('SDN') programmes, including, Iran, Russia, Cuba, Syria, Crimea, North Korea, and Sudan. Toyota, Pfizer and 21st Century Fox are clients in a truly international client base of governments and corporates in a wide range of sectors, such as: insurance, financial services, life sciences, automotive, technology, social media, news and journalism, education/universities, outsourcing, professional services consulting, telecommunications, commercial satellites, aerospace and defence, energy and infrastructure, food and agriculture, consumer, travel and leisure.

Among a long list of matters, representative recent instructions include:

- Representing FBME Bank in Cyprus in one of the most significant global anti-money laundering and sanctions enforcement investigations of 2014-16.
- Advising Alcatel-Lucent regarding U.S. and EU sanctions issues in connection with the sale of Alcatel-Lucent to Nokia.
- Assisting Carnival in obtaining U.S. government authorisations necessary for it to become the first U.S. cruise ship operator to sail to Cuba in more than 50 years.

International law firm **Mayer Brown**'s sanctions lawyers are spread across practices and jurisdictions – the firm has offices in North and South America, Asia, Europe and the Middle East. The global team, which includes six partners and six associates, works together to provide a seamless service to clients. Key client contacts for sanctions advice are Paulette Vander Schueren (Brussels), Simeon Kriesberg and John Sullivan (both Washington, DC), and Mark Compton (London).

The sanctions team has experience working with companies in a variety of industries including: communications, banking and insurance, professional services, agriculture, chemicals, electronics, energy publishing, film and television, pharmaceuticals, manufacturing, mining technology, and trade associations. The team has expertise in the various Russia, Iran, North Korea, Syria, Sudan, Cuba, and list-based sanctions programmes.

Recent representative instructions include:

- Daily sanctions compliance advice to a global services company on the supply of services to Russia or Russia-related companies;
- Daily advice to a financial services company on the supply of services and the interpretation of regulatory developments for all sanctions imposed by the U.S. and the EU;

Special focus: Washington, DC


Mattias Hedwall,
Baker McKenzie


Eugene Lim,
Baker McKenzie


Lourdes Catrain,
Hogan Lovells


Ajay Kuntamukkala,
Hogan Lovells

- Compliance advice to a global chemical manufacturer with regard to the supply of chemical products to Iran;
- Review and revision of a multinational insurance company's sanctions compliance guidelines;
- Sanctions compliance due diligence on behalf of a foreign acquirer of a U.S. additives and coatings manufacturer;
- Advice to a major global bank and financial services trade association on the ability to close out derivative transactions under Russian sectoral sanctions;
- Successfully advocating before various regulatory bodies on behalf of an insurer whose coverholder breached Syrian sanctions; and
- Drafting contractual protections to address sanctions risks.

Grayston & Company was established in 2007 by John Grayston, who has practised in Brussels for more than 20 years. The firm specialises in providing cost-effective advice on trade and regulatory issues to a wide range of EU and non-EU clients.

John Grayston heads a team of lawyers and other advisers who are qualified in numerous EU jurisdictions (including Italy, France, UK, Denmark, Spain and Germany). They advise on all matters relating to EU sanctions, and have experience of the regimes related to Russia, Iran, Syria, Belarus, Myanmar, Iraq, Zimbabwe and Ivory Coast, regularly working closely with in-house legal and compliance teams.

The firm offers:

- Guidance and counselling: to companies and individuals active in locations or regions subject to EU sanctions and restrictions;
- Representation for individuals and companies before national administrations in relation to compliance requirements including notification and exemption procedures and also voluntary disclosure procedures and representing companies and individuals who face information-gathering procedures or formal charges in relation to the national enforcement of EU sanctions or trade restrictions;
- Advice and representation to companies who wish to contest decisions of the EU to list persons or entities. Such procedures include engaging with the EU Council to pursue administrative reviews of listing decisions and/or bringing proceedings before the European Courts of Justice.

The firm's lawyers have extensive experience advising on export control issues, including on classification and licence applications and on the application of EU dual-use controls and the way that they're implemented and applied by Member States. Key focal points are the relationship between EU and Member State national controls with those of third-country trading partners and export compliance issues arising out of the extraterritorial application of U.S. laws. The team is active advising on

- Classification of items;
- Pre- and post-merger audit ;
- Using EU General Export Authorisations;
- Applications for individual authorisations;
- Creation and implementation of internal compliance programmes; Voluntary disclosure procedures;
- Specific national listings of dual-use goods.