

## Canada's Sanctions Regime

An Overview



- What are Sanctions?
- Exceptions, Permits, and Certificates
- Compliance and Enforcement
- Questions and Discussion

Note: The information provided is for informational purposes and does not constitute guidance or legal advice. Canadian stakeholders should hire private legal counsel to advise on sanctions compliance.

### What are Sanctions?



- Foreign policy tool for maintaining and restoring international peace and security, combatting corruption, and promoting respect for norms and values, including human rights.
- Action taken to enforce international law (e.g. UN sanctions)
- Measures to incite behavioural or policy change, including by constraining the ability of a state or individual to engage in "bad" behaviours
- Sanctions place restrictions on the activities permissible between Canadians and foreign states, individuals, and/or entities.

### Canada's Sanctions Toolkit



Canada has three pieces of legislation authorizing the imposition of sanctions:

United Nations
Act (UNA)

Special Economic
Measures Act (SEMA)

The Justice for Victims of Corrupt Foreign Officials Act (JVCFOA)

Multilateral sanctions

**Autonomous sanctions** 

**SEMA Sanctions UNA Sanctions** Belarus China Guatemala Moldova Al-Qaida and Haiti Myanmar Taliban Iran Nicaragua CAR DRC Libya Russia Iraq North Korea Sri Lanka South Sudan Syria Lebanon Sudan Ukraine Somalia Venezuela Yemen Zimbabwe Hamas Extremist Israeli Settlers

Over 4,500+ listings under SEMA

#### Types of listings under the JVCFOA

30 individuals linked to the murder of Sergei Magnitsky

17 individuals linked to killing of Jamal Khashoggi

Total: 80 listings

#### Dozens of others from:

- Myanmar
- South Sudan
- Venezuela
- Lebanon

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Implements United Nations Security Council Resolutions



### **TRIGGER:**



Sanctions are imposed in response to a resolution adopted by the United Nations Security Council

### **RESTRICTIONS/PROHIBITIONS:**

Varies by UNSCR, and can include:



**Export and** 

**Import** Restrictions



**Financial Prohibitions** 



Arms **Embargo** 



**Technical Assistance Prohibitions** 

## Special Economic Measures Act (SEMA)

Lists state + individuals and entities linked to state



#### **TRIGGERS:**

Sanctions can be enacted in relation to a state, in response to the following situations:



**Grave Breach** of Int'l Peace & Security



Human **Rights Violations** 



**Association** of States/ Multilateral



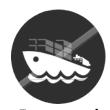
**Acts of Significant** Corruption

### **RESTRICTIONS/PROHIBITIONS:**

Various measures available, and vary by regime:



**Asset freeze** 



**Export and Import** Restrictions



**Financial Prohibitions** 

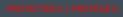


**Arms Embargo** 



**Technical Assistance Prohibitions** 

## Justice for Victims of Corrupt Foreign Officials Act (JVCFOA) Lists only individuals





#### **TRIGGERS:**

Sanctions can be enacted in response to the following situations:



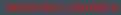
Human Rights Violations against specific groups (e.g. human rights defenders)



Acts of Significant Corruption

### **PROHIBITION:**







- Sanctions legislation often contain exceptions to allow for specified activities to occur (e.g., humanitarian activities, fulfilling prior contracts, diplomatic relations)
- The Minister of Foreign Affairs may issue a permit to authorize activities otherwise prohibited by SEMA and JVCFOA, but only in exceptional circumstances
- The Minister of Foreign Affairs may issue a **certificate** to authorize activities otherwise prohibited by UN sanctions.
- These permits and certificates are issued on an exceptional, case-by-case basis, at the Minister's discretion.
- Applications can be made to the Sanctions Bureau at sanctions@international.gc.ca

## Sanctions Compliance – Screening and Due Diligence

All Canadian individuals and entities are required to conduct their own due diligence to determine if an activity is at risk of being prohibited by Canadian Sanctions

- Designated or Listed individuals or entities
  - Is there a **dealing** with any sanctioned persons, or companies owned by a sanctioned person?
  - Is a **payment** being made to a person or entity, or through a bank, in a sanctioned country?
- Import/Export and service prohibitions
  - Does the activity involve the import or the export of prohibited goods?
  - Does the activity involve the provision of prohibited services to a sanctioned entity, and/or the provision of prohibited technical assistance or technical data?
- Does the implementing partner have specific policies in place to ensure that its activities do not engage sanctions?

## Compliance Screening - Potential Red Flags



- Sudden changes in business activity after February 24, 2022
  - > or after subsequent changes in export controls/sanctions
- **False, inaccurate, or missing** documentation
- Concealing the end user
- Inconsistencies in the transaction
- Vague details and/or incomplete information
- Dividing invoices into smaller amounts to remain under limits
- Suspicious or unclear customer information
- Customer has connections of concern

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## Sanctions Compliance – Addressing Circumvention

#### **Domestic Activity:**

- GAC and CBSA working to identify circumvention and stop shipments at the border
- FINTRAC identifying tactics used to circumvent sanctions
- Outreach to Canadian exporters/stakeholders on importance of robust due diligence and on risks of engaging with countries known to re-export to sanctioned countries

#### **International Cooperation:**

Canada engaging with other countries to identify evasion patterns and to coordinate anti-evasion efforts and foster collaboration

# Compliance and Enforcement





## Contravening sanctions is a criminal offence, enforced by the RCMP and the CBSA.

Sanctions must be respected by all persons located in Canada and all Canadian persons located or engaged in activities abroad.

#### **Penalties for Contravening Sanctions:**

- SEMA and JVCFOA maximum penalties:
  - Summary conviction \$25,000 fine / 1-year prison term
  - ➤ Conviction on indictment 5-year prison term
- UNA maximum penalties:
  - Summary conviction \$100,000 fine / 1-year prison term
  - ➤ Conviction on indictment 10-year prison term

## The CBSA's role in enforcing sanctions



- Primary agency responsible for enforcing Canada's strategic export controls and sanctions regime within an import / export context.
- The CBSA drives regulatory enforcement, while also supporting criminal investigations.
- Regulate the trade of all goods prohibited by sanctions including military and dual-use goods.
- The CBSA:
  - Assesses risk, detains and examines goods for potential import/export control list / sanctions violations
  - Coordinates the assessments of goods with GAC and OGDs
  - Takes regulatory enforcement action when applicable
  - Prevents sanctioned individuals from entering Canada

# Introduction of Bill C-59 FINTRAC's Role in Enforcing Sanctions



- Under Bill C-59, reporting Entities under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act are now also required to report transactions suspected of being related to sanctions evasion in Suspicious Transactions Reports (STR) to FINTRAC
- FINTRAC has the ability to **analyze and disclose** on Sanctions Evasion as a **primary threshold**, without links to money laundering and terrorism financing. FINTRAC can also publish **strategic intelligence** with respect to Sanctions Evasion
- To support FINTRAC's efforts to counter sanctions evasion, regulations are currently in pre-publication that will require Reporting Entities to report the existence of sanctioned property under their control

# The RCMP's role in enforcing sanctions



- The RCMP is responsible for investigating criminal sanctions evasion.
  - All potential contraventions should be reported to the RCMP at <u>Federal Policing Intake Unit@rcmp-grc.gc.ca</u>

#### On the civil side, the RCMP:

- a) Is the main point of contact to receive and maintain the information as it relates to self-reporting;
- b) Can provide subject matter knowledge for asset attribution/tracing.
- c) Can provide support during asset confiscation.



Information on Canadian sanctions can be found on Canada's Sanctions Web Sites:

- Canadian sanctions: <a href="https://www.international.gc.ca/world-monde/international\_relations-relations-internationales/sanctions/index.aspx?lang=eng">https://www.international.gc.ca/world-monde/international\_relations-relations-international\_relations-internationa
- Current sanctions imposed by Canada list of countries under Canadian sanctions: <a href="https://www.international.gc.ca/world-monde/international-relations-relations-internationales/sanctions/current-actuelles.aspx?lang=eng">https://www.international.gc.ca/world-monde/international-relations-internationales/sanctions/current-actuelles.aspx?lang=eng</a>
- Consolidated Canadian autonomous sanctions list full list of persons designated under the SEMA and JVCFOA: https://www.international.gc.ca/world-monde/international\_relationsrelations\_internationales/sanctions/consolidated-consolide.aspx?lang=eng
- Consolidated UN sanctions List full list of persons designated under UN sanctions: https://www.un.org/securitycouncil/content/un-sc-consolidated-list
- Information on Permits and Certificates: <a href="https://www.international.gc.ca/world-monde/international\_relations-relations">https://www.international.gc.ca/world-monde/international\_relations-relations-internationales/sanctions/certificates\_permits-certificats\_permis.aspx?lang=eng</a>
- Frequently asked questions <a href="https://www.international.gc.ca/world-monde/international\_relations-relations">https://www.international.gc.ca/world-monde/international\_relations-relations internationales/sanctions/faq.aspx?lang=eng#a11</a>
- Preventing Russian Export Control and Sanctions Evasion: Updated Guidance for Industry Preventing Russian Export Control and Sanctions Evasion: Updated Guidance for Industry
- Inquiries? Please contact: <a href="mailto:sanctions@international.gc.ca">sanctions@international.gc.ca</a>



Questions?