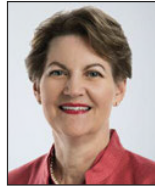


US ramps up sanctions activities against North Korea in 2018



The past 12 months have seen OFAC step up its commitment to the enforcement of sanctions against North Korea, and all the signs suggest that this is a trend that will only continue, write Timothy O'Toole and Claire Rickard Palmer.

For many years, North Korea (officially known as the Democratic People's Republic of Korea or DPRK) has been the target of wide-ranging US and international sanctions aimed at deterring what regulators viewed as a variety of types of 'malign' conduct. In the autumn of 2017, US and international sanctions increased as the DPRK regime continued to test nuclear weapons in the Korean peninsula. The US issued Executive Order ('EO') 13810.¹

The world placed a virtual embargo on North Korea, particularly with regards to oil and financing. Nonetheless, through much of this time period, enforcement actions were rare. For a variety of different reasons, many having to do with North Korea's relatively small size and limited involvement in the Western economy and financial system, US regulators did not appear to view North Korea as an enforcement priority.

That appears to have changed in the past year. The first sign of the change

occurred in November 2017, when the US Department of the Treasury's Financial Crimes Enforcement Network (FinCen) designated China's

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Bank of Dandong as a 'primary money laundering concern,' based on FinCen's determination that the bank had helped the DPRK evade sanctions and finance its nuclear weapons programme. This action prohibited financial institutions from maintaining correspondent accounts for or on behalf of Bank of Dandong, cutting the bank off from the US financial system.

The designation also required financial institutions to apply special due diligence measures to guard against attempts by Bank of Dandong to access the US financial system.²

On the same day it designated Bank of Dandong, FinCen also issued an advisory on North Korea's use of the international financial system.³ The advisory described the complex manner in which the North Korean government used shell or proxy companies to evade US and international sanctions, and then provided a series of red flags of potential North Korean illicit financial activity. These red flags focused on geography (and China in particular), the use of Chinese aliases to operate companies in Liaoning province and in Hong Kong, the registration of multiple businesses or overlapping officers in these regions at the same address or phone numbers, the use of surge activity cycles, and involvement of particular industries such as textile, garment, and fisheries.



On 23 February 2018, the US Treasury's Office of Foreign Assets Control ('OFAC') took similar actions against a number of vessels, trading companies, and individuals that OFAC believed had helped North Korea evade sanctions through ship-to-ship petroleum transfers or concealed exports of North Korean coal. At the same time, OFAC issued a North Korean Sanctions Advisory on 'Sanctions Risks Related to North Korea's Shipping Practices'.⁴

This advisory described a series of measures that North Korean vessels had taken to evade sanctions, including physically altering vessel identifications, disabling or manipulating the automatic identification system ('AIS') data, and falsifying cargo and vessel documents. OFAC then recommended a series of risk mitigation measures for companies operating in the seas near the Korean peninsula. The OFAC announcement and advisory were accompanied by satellite photographs demonstrating some of these evasive tactics.⁵

More recently, in late July 2018, OFAC issued another enforcement advisory concerning the 'Risks for Businesses With Supply Chain Links to North Korea'.⁶ This advisory illustrated a variety of techniques the North Korean government has used to evade sanctions, particularly with regard to the use of forced North Korean labour. As OFAC explained, it viewed the two primary risks as (1) inadvertent

sourcing of goods, services, or technology from North Korea; and (2) the presence of North Korean citizens or nationals in companies' supply chains, whose labour generates revenue for the North Korean government. OFAC went on to describe

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in some detail how these practices work, and then outlined due diligence steps that companies should take to examine their entire supply chain for signs of illegal North Korean labourers or goods, and 'appropriate due diligence best practices' they should adopt, especially in high-risk countries and industries.

Then again, on 3 August 2018, OFAC placed a Russian bank, Agrosoyuz Commercial Bank ('Agrosoyuz'), on the Specially Designated Nationals ('SDN') List for knowingly conducting or facilitating a significant transaction on behalf of North Korea's primary foreign exchange bank, Foreign Trade Bank ('FTB'). As OFAC explained in the designation announcement,⁷ Agrosoyuz and North Korea had a 'long relationship', with the Russian bank processing millions of dollars in transactions for North Korean companies and front companies over the past decade.

On 15 August 2018, OFAC added Russian national Vasili Aleksandrovich Kolchanov, Dalian Sun Moon Star International Logistics Trading Co. Ltd. (Chinese company), SIN SMS Pte. Ltd. (Dalian Sun Moon's Singapore-based affiliate), and Profinet Pte. Ltd. (of which Mr. Kolchanov is the director general) to the SDN list based on purported violations of North Korean sanctions. OFAC announced that it was adding these parties because they were 'involved in facilitating illicit shipments on behalf of North Korea.' OFAC stated that the Dalian Sun Moon entities facilitated illicit shipments to North Korea, including exports of alcohol, tobacco and cigarette-related products, which provides the North Korean

regime with over \$1 billion in revenue. According to OFAC, Profinet, a Russian port service agency, and its director general, Kolchanov, provided port services to North Korean sanctioned vessels, including ones carrying refined oil products, in contravention of the oil-related sanctions on North Korea.⁸

Most recently, on 21 August 2018, OFAC added two new Russian entities and six Russian-flagged vessels to the SDN List for North Korea-related conduct. In particular, US officials determined that the entities owned and operated a vessel that was involved in ship-to-ship transfers of petroleum for the benefit of North Korea, an activity prohibited by the UN Security Council. Added to the US SDN List were Primorye Maritime Logistics Co. Ltd. and Gouzon Shipping Co. Ltd., as well as six vessels owned and managed by those entities.⁹

Enforcement goals

Viewed as a whole, these actions suggest that OFAC is devoting increased resources toward enforcement of the North Korean sanctions. The repeated and detailed guidance in this area, moreover, strongly indicates that OFAC has significant insight into how sanctions evasion is occurring, and is likely in the process of pursuing enforcement actions in this area. Based on this guidance, these enforcement actions likely involve the shipping industry, the fishing industry, the energy sector (oil, gas, and coal), the financial industry, and the textile and garment industries.

Companies working in these sectors, particularly in the East Asia region, should be on high alert for potential red flags, and should carefully review recent FinCen and OFAC guidance. Those advisories provide a host of compliance measures companies can adopt to ensure that they do not wind up in the next North Korean enforcement update.

Links and notes

¹ <https://www.treasury.gov/resource-center/sanctions/Programs/Documents/13810.pdf>

² https://www.fincen.gov/sites/default/files/advisory/2017-11-02/DPRK%20Financing%20Advisory%20FINAL%201022017_0.pdf

³ <https://www.fincen.gov/sites/default/files/advisory/2017-11-02/DPRK%20Advisory%20FINAL%200508%20C.pdf>

⁴ https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Documents/dprk_vessel_advisory_02232018.pdf

⁵ <https://home.treasury.gov/news/press-releases/sm0297>

⁶ https://www.treasury.gov/resource-center/sanctions/Programs/Documents/dprk_supplychain_advisory_07232018.pdf

⁷ <https://home.treasury.gov/news/press-releases/sm454>

⁸ <https://home.treasury.gov/news/press-releases/sm458> and <https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20180815.aspx>

⁹ <https://home.treasury.gov/news/press-releases/sm463>

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