

Bird & Bird & Sanctions

Enhanced compliance and screening

EU sanctions compliance does not stop at the EU border or with the screening of direct business partners. In view of adhering to the EU sanctions and managing related compliance and liability risks, EU entities must also ensure refraining from any indirect business with sanctioned parties as well as ascertain their owned or controlled non-EU entities do the same.

EU sanctions violations

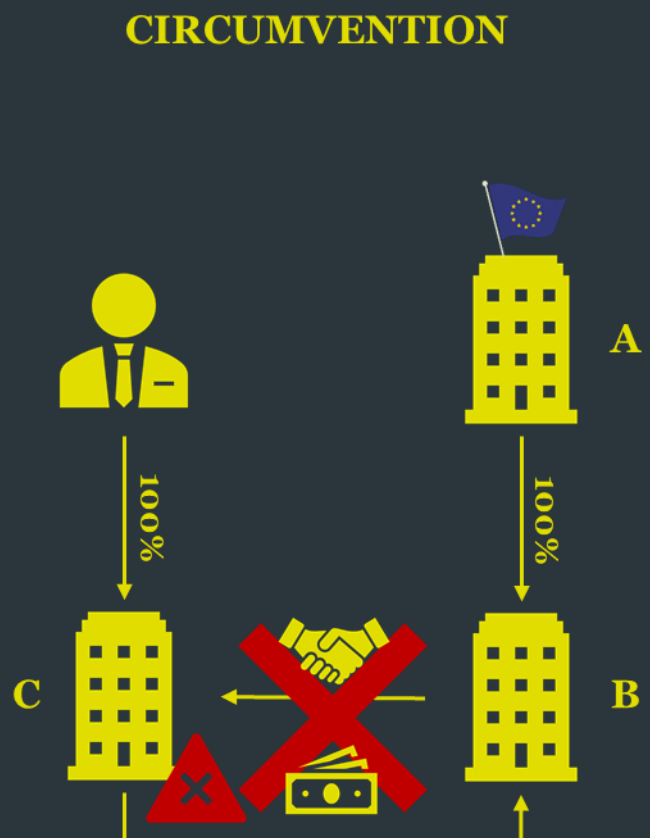
Violation of the EU sanctions results in (criminal) liability for EU entities and hence, may lead to financial penalties and even imprisonment for the management of the EU entity concerned (in a worst-case scenario). Such violations include indirect trade with sanctioned parties as well as trade via non-EU entities resulting into circumvention.

Preventing violations: what about sanctions compliance for non-EU entities?

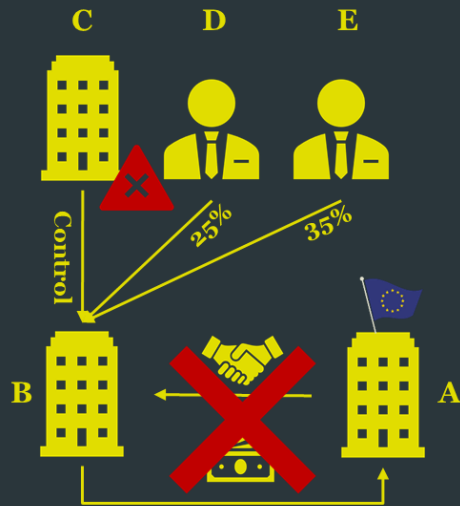
Although EU sanctions are not applicable to non-EU entities, EU entities are expected to prevent circumvention of EU sanctions by their owned (i.e. >50% of the shares) or controlled non-EU entities.

To this end, EU entities are required to ensure EU sanctions compliance of their owned or controlled non-EU entities in order to prevent their own (including their management) liability for circumventing EU sanctions.

In the example on the right, B – owned by A – conducted business with sanctioned entity C. By conducting business through B with sanctioned C, A (being the EU entity) circumvented sanctions and hence, breached the EU sanctions.



KNOW YOUR CUSTOMER



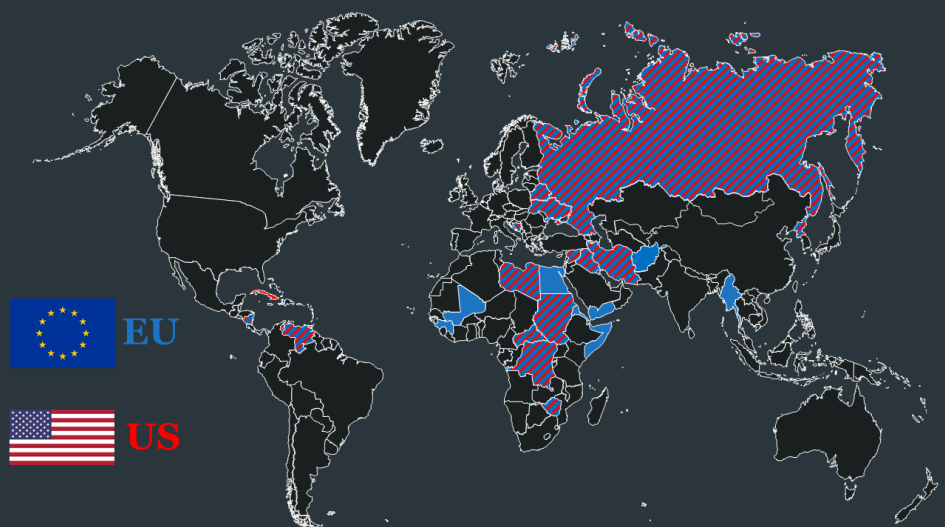
Do you know your customer?

Conducting business with non-sanctioned entities owned or controlled by a sanctioned party is prohibited, as this is considered as indirectly making available funds or economic resources to such sanctioned party. Therefore, conducting sanctions screening of the direct business partner as such is not enough for full compliance with EU sanctions legislation. It is also necessary to screen parties owning or controlling the direct business party, and hence, fully "know your customer".

In the example on the left, EU entity A considers conducting business with B. Although B is owned for 60% by non-sanctioned parties (D and E), it is controlled by a sanctioned party (C). The EU sanctions prohibit A to indirectly conduct business with sanctioned C.

Key takeaways

Enhanced sanctions screening and compliance – preferably laid down in an Internal Compliance Programme– is necessary to prevent circumvention of EU sanctions and indirect trade with sanctioned parties. Bear also in mind that foreign sanctions laws and regulations may also apply to when conducting international trade. Special notice should be made in this respect to diverging sanctions lists and to foreign sanctions having extraterritorial application (e.g. United States – "U.S."). The below overview displays the countries covered by EU and U.S. sanctions:



Our Trade & Customs team

We regularly assist companies with sanctions compliance improvements when they see themselves confronted with sanctions issues, including those related to possible circumvention and/or "know your customer". If your company faces similar challenges or if you would like to learn more about sanctions or related compliance, feel free to contact our Trade & Customs team.

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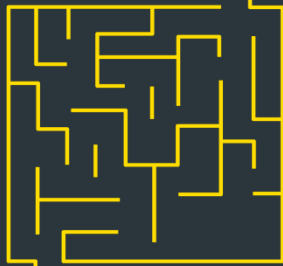
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