

# CONFERENCE REVIEW NOTES

## ECONOMIC SANCTIONS OVERVIEW

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The Sanctions Seminar held on November 19 was organized by *LexisNexis Russia* in cooperation with *ANO Pericles*.

The Seminar theme was 'Economic Sanctions Overview: Due Diligence and AML Procedures.' In the course of the seminar, practicing lawyers, compliance and AML professionals had the opportunity to interact on the scope of USA and EU Sanctions and their impact on global business transaction, as well as get a better understanding of the due diligence procedures necessary in order to comply with a such complex environment.

The opening session was presented by Marian Dent, American lawyer, professor and Dean of Pericles Law Center. Ms. Dent provided a full and explicit overview of the types of sanctions, their peculiarities and possible effect on the development of various countries from the academic point of view. In her speech, Ms. Dent provided a brief report on sanctions theory, namely she touched such topics as export controls, import bans and impending financial flows.

Further review of sanction types enabled the audience to better understand differences between such sanctions as well as their impact on various sectors of economy. Ms. Dent spoke about current US and EU sanctions, their targets and compliance procedures, sanction lists, *etc.*

Ms. Dent highlighted that the principle of 'the *mens rea*', or mental state, required for convicting an individual or company of an OFAC (Office of Foreign Assets Control) sanctions violation is 'knowingly violate or should have known of a violation.' The term was introduced to the audience and it was specified that to avoid liability an entity subject to the jurisdiction of the United States has to have a compliance program in place that ensures 'reasonable due diligence' to avoid violations. An effective sanctions program has to target the particular risks, use a computerized

database to check contracting partners and transactions, train personnel, and penalize personnel for non-compliance.

The speaker pointed out that the cost of non-compliance can be extremely high in the US. She presented several examples of penalties for non-compliance issues and also identified differences between US and EU fines.

Another important issue covered during this session was the 50% Rule. This rule concerns beneficial ownership and differs slightly depending on the jurisdiction.

Ms. Dent presented a detailed overview of differences between US and EU sanctions applied to Russia at the moment. She also paid special attention to sanctions imposed by other countries, such as Canada, Switzerland, Japan, and Australia.

Closing remarks of Ms. Dent were devoted to assumptions regarding further development of EU and US sanctions against Russia.

The second report, on the theme 'Know Your Customer – Monitoring Your Client and Working with Foreign Jurisdictions,' was given by Oksana Yazykova, AML Compliance Head of *Citibank*. Ms. Yazykova clarified several issues of Russian legislative requirements applied to AML procedures, paid special attention to potential pitfalls when establishing beneficiary ownership, and provided several useful hints to the audience regarding client risk assessment.

The speaker also described, in detail, procedures concerning collection and verification of documents for identifying customers, identifying public officials, establishing and identifying beneficial owners and beneficiaries, checking against negative lists and regulatory lists, assigning a risk level to the customers, and conducting enhanced due diligence in accordance with Russian law.

Ms. Yazykova devoted part of her report to beneficial ownership identification. She stated that legislation of various countries requires disclosure of the beneficial owners of their clients. In this case one should pay attention to the differences in such requirements; for example, some laws require disclosing list of names only, while other legislation requires identification by means of verifying ID / passport data.

The speaker listed publically available means that can be used for beneficial ownership identification that are accepted by the Russian regulator. Among them are charter documents of the company in question; official letters from the company signed by director, legal or treasury department, chief accountant and other authorized persons; financial statements or audit reports, extract from the register; the register of shareholders; databases (*Spark, Dun & Bradstreet, LexisNexis, etc.*); open reliable information sources (*RBC, Forbes, Bloomberg, etc.*); and reports issued by outsourced companies.

Ms. Yazykova advised AML and compliance professionals to pay particular attention to the risk level assessment, as required by Russian law. The basic principles of risk level assessment are based on four main parameters: type of activity, products, general country risk, and involvement of politically exposed persons in the business activity. To identify potential risks one should also check companies and individuals against negative, regulatory and sanctions lists.

The next report was given by Gandolfo Iacono, General Director of *LexisNexis Russia* and main organizer of the seminar. Mr. Iacono's report was presented as an interactive business case with print shots of the *Lexis Diligence* program designed for simplification of due diligence procedures and improvement of search results.

The topic of the business case was 'Due Diligence: How to Monitor Your Clients, Partners and Third Parties.' Mr. Iacono explored the topic of due diligence in more detail, using various examples from today's business. The presentation included information about databases which are aggregated by *Lexis Diligence*, for example, 650 company data bases, which include company profiles and financial reports; biographical data on individuals; court cases; PEP-lists; black lists; sanction and watch lists.

The speaker reviewed several options available for conducting due diligence, namely Simplified Due Diligence, Enhanced Due Diligence and Outsource. He spoke about the pros and cons of each method and highlighted the importance of due diligence for efficient development of business.

Mr. Iacono conducted several searches with the help of *Lexis Diligence* and demonstrated how to make this complicated task simple, easy and accurate.

Furthermore, Mr. Iacono touched on the issues concerning monitoring individuals and companies under sanctions. This has become topical for many businesses in various countries. He spoke in detail about resources and worldwide databases that allow one to receive relevant information automatically.

The Speaker also provided the audience with vivid examples of investigations which have allowed huge corporations to protect significant money in the past. Such investigations were also performed with the help of *Lexis Diligence*.

The seminar provided the audience with expert opinions on the current economic situation in light of the imposed sanctions. All speakers emphasized the importance of conducting accurate due diligence. The main advantages of comprehensive compliance procedures are mitigation of business risks and potential money loss, retaining a good reputation, and assuring constant business growth.

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