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Crisis Management and Implications of Sanctions

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CRISIS MANAGEMENT AND IMPLICATIONS OF SANCTIONS

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Preparing for a Crisis

- Prepare crisis-management plans in advance of a crisis:
 - Consider what types of crises may occur in your business
 - Who are your outside vendors?
 - Who are your investors?
 - Who are your counterparties?
 - Outline processes for stabilizing and containing crisis situations
 - Develop blueprints for required communications and methods for distributing necessary information
 - Include back-up responsibilities in case a key person is absent during a crisis
 - Identify and train key personnel in crisis response
 - Create and implement processes to gather facts, manage data, and make key decisions

Responding to a Crisis

- When a crisis hits:
 - Mobilize the right team to stabilize the situation and gather and manage facts and data
 - Develop ways to maintain and normalize business operations as quickly as possible
 - Review and help to shape constituent communications to ensure responsiveness, accuracy, and consistency
 - Formulate an overarching, unified response and legal strategy
 - Develop strategies for sequencing and resolving all crisis components in a way that minimizes disruption to, and relationships with, constituents
 - Think ahead to identify likely areas of risk and plan risk-mitigation or risk-elimination strategies

Sanctions Considerations for Private Fund Investors

- Office of Foreign Assets Control (OFAC)
 - Comprehensive sanctions (Iran, Cuba, N. Korea, Sudan, Syria, Crimea)
 - Prohibit most or all activities based on the country
 - Targeted sanctions
 - Prohibit activities based on the person or entity
 - Specially Designated Nationals (SDNs)
 - Individuals, groups, entities
 - Includes entities owned 50% or more by an SDN (or more than one SDN)

Sanctions Considerations for Private Fund Investors

- Screening the fund itself
 - Searching the term “Fund” on the SDN list today yields 35 “hits”
- More difficult when joining a legitimate fund, usually overseas, not subject to US sanctions, that may accept funds from SDNs
 - Are you now “in business” with an SDN?
 - Requires a detailed, and sometimes nuanced, analysis



Sanctions List Search

This Sanctions List Search application (“Sanctions List Search”) is designed to facilitate the use of the Specially Designated Nationals and Blocked Persons List (“SDN List”) and all other sanctions lists administered by OFAC, including the Foreign Sanctions Evaders List, the List of Persons Identified as Blocked Solely Pursuant to E.O. 13599, the Non-SDN Iran Sanctions Act List, the Part 561 list, the Sectoral Sanctions Identifications List and the Non-SDN Palestinian Legislative Council List. Given the number of lists that now reside in the Sanctions List Search tool, it is strongly recommended that users pay close attention to the program codes associated with each returned record. These program codes indicate how a true hit on a returned value should be treated. The Sanctions List Search tool uses approximate string matching to identify possible matches between word or character strings as entered into Sanctions List Search, and any name or name component as it appears on the SDN List and/or the various other sanctions lists. Sanctions List Search has a slider-bar that may be used to set a threshold (i.e., a confidence rating) for the closeness of any potential match returned as a result of a user’s search. Sanctions List Search will detect certain misspellings or other incorrectly entered text, and will return near, or proximate, matches, based on the confidence rating set by the user via the slider-bar. OFAC does not provide recommendations with regard to the appropriateness of any specific confidence rating. Sanctions List Search is one tool offered to assist users in utilizing the SDN List and/or the various other sanctions lists; use of Sanctions List Search is not a substitute for undertaking appropriate due diligence. The use of Sanctions List Search does not limit any criminal or civil liability for any act undertaken as a result of, or in reliance on, such use.

[Download the SDN List](#)

[Visit The OFAC Website](#)

[Download the Consolidated Non-SDN List](#)

[Program Code Key](#)

Lookup

Type:	All	Address:	
Name:	fund	City:	
ID #:		State/Province*:	
Program:	All	Country:	All
	561List	List:	All
	BALKANS		
	BELARUS		
Minimum Name Score:	100	Search	Reset

Lookup Results: 35 Found

Name	Address	Type	Program(s)	List	Score
FAR EAST AND BAIKAL REGION DEVELOPMENT FUND OJSC	d. 82 str. 2 ul. Sadovnicheskaya	Entity	UKRAINE-EO13662	Non-SDN	100
OJSC THE FAR EAST AND BAIKAL REGION DEVELOPMENT FUND	d. 82 str. 2 ul. Sadovnicheskaya	Entity	UKRAINE-EO13662	Non-SDN	100

Sanctions Considerations for Private Fund Investors

- Rules of the road
 - Passive investment is not immune to sanctions
 - Diligence is required
 - Know the fund and its participants
 - Assurance that no SDNs are among the investors
 - Restrictive language or exit rights
 - Understanding of who is responsible for doing the diligence, and what will be reported
 - OFAC example of a situation that creates higher risk and requires “heightened scrutiny”
 - “US hedge fund with an offshore related fund where beneficial owners are offshore investors”

Sanctions Considerations for Private Fund Investors

- Rules of the road
 - Avoid facilitation
 - Actions by US persons that “assist or support” prohibited activities
 - Includes (sometimes confused with) circumvention (also prohibited) – attempting to *indirectly* do that which may not be done directly by a US person
 - Best practices
 - Contractual limits against use of US investors’ funds to support businesses with sanctioned countries or SDNs
 - If more than passive (e.g., any US investor governance participation), a US person must ensure not to participate in or take action to facilitate sanctioned activities