DESCARTES

Strategies for Addressing Emerging Compliance Rules and Managing Complex, Nebulous Third-Party Risk Management Requirements

It is undeniable that compliance laws the world over have become more challenging to manage as regulatory authorities focus on adding further safeguards to protect national security. For businesses, this means that we must be more proactive in the compliance process in terms of responsibility and accountability.

This was one of the key messages delivered during our recent webinar on the Evolution of 3rd Party Risk Management in Sanctions Compliance: Understanding OFAC's 50 Percent Rule, Changes to BIS' Military End Use Restrictions, and Other Emerging Compliance Requirements – organized jointly by Descartes and the Export Compliance Training Institute (ECTI).

Written by Jackson Wood
Director, Industry Strategy,
Global Trade Intelligence,
Descartes

Denied Party Screening and Sanctioned Ownership Compliance

While Sanctioned Ownership screening isn't technically new, (although it is 'newer' compared with the straight denied party screening obligations) the U.S. and European Union especially have more recently been emphasizing the need for compliance.

But the major barrier to abiding by this rule is that there are no definitive lists to screen against to ensure we are not entering into a business deal with a company which counts denied parties as being among its significant shareholders. This puts the onus of responsibility squarely on the shoulders of businesses.

U.S. Military End User Regulations

The Military End User (MEU) and Military Intelligence End User (MIEU) regulations represent additional data points that underline the fact that export compliance rules have become more directional in their guidance compared with clear-cut dos and don'ts previously. This makes for a situation that is both more complex and nebulous for the average business operator.

Although the Bureau of Industry and Security (BIS) does maintain and share lists of denied and restricted parties to screen against for MEU and MIEU compliance, the legislation emphasizes a due diligence that goes beyond the lists provided.

Listen to ECTI President Scott Gearity elaborate on this point during our recent webinar.

As governments and world bodies continue to enforce the rules in this new environment, companies will have to exercise greater commitment to export compliance goals, which in turn would mean the allocation of more time, resources, and budget.

CONTINUE READING →

Effective Compliance in the New Environment

Export compliance used to be considered a department unto itself, with a dotted line relationship to import compliance. You could describe it as a silo.

For quite some time, Management 101 has been advising us to replace the silos with cross-functional structures, as a means of fostering competitive advantage. Emerging export compliance regulations – including Sanctioned Ownership regulations such OFAC's 50 percent rule, along with MEU, MIEU and others – give company executives another reason to move to a more agile corporate configuration.

In order to more effectively adhere to export compliance laws, there needs to be a strategy for a centralized compliance program that covers not only international trade but also finance, human resources, visitor management, data security to name a few.

We all know that shipping goods and technology to a denied party is illegal. So is engaging in financial transactions with them, hiring them as new employees or third-party contractors, allowing them to visit your offices and plants, and so on.

As ECTI's Scott Gearity notes, trade compliance professionals have a bigger role to play in this new environment.

Other Compliance Strategies

In addition to embedding and consolidating compliance company-wide, businesses should have a checklist of other items that are a must to help ensure success.

First and foremost, make sure there is a compliance champion along with departmental counterparts to keep compliance issues among the forefront of management priorities; connect and centralize the various compliance processes within a company; and make sure that all internal stakeholders from sales, engineering, distribution, and others are aligned on what must be accomplished to keep revenues flowing.

At the operational level, stay focused on emerging rules and regulatory updates; widen the screening from new trade chain partners to include new hires, contractors, visitors, and others; and rescreen everyone on an ongoing basis (including with regards to sanctioned ownership).

Also of critical importance is that companies should leverage proven technology solutions to help strengthen compliance, especially in areas where there is only directional guidance, while saving time, resources, and budget.

How can Descartes Help?

To help companies manage their export compliance risk more effectively, there are solutions available for **restricted party screening**, **automated screening**, and **sanctioned party ownership screening (also known as Enhanced Risk Management)**, which can help organizations ensure they are not falling afoul of these new and previously existing export compliance regulations, as well as potential future restrictions that may be introduced. Having proper and thorough export compliance processes in place can help organizations remain on the right side of the law, and avoid potential bad press, fines, and other financial and reputational damages that violation of export regulations may incur.

If you want to watch the full Descartes/ECTI webinar, please contact the Export Compliance Training Institute.