Regulatory Update: Tri-Seal Compliance Note

Background

The Compliance Note is the third Tri-Seal Compliance Note issued in the past year and appears to be part of the coordinated and sustained effort by U.S. agencies to prevent controlled technology and goods from being diverted to actors in Russia, PRC and Iran.

The first Tri-Seal Compliance Note issued was in July 2023 and focused on making voluntary self-disclosures in connection to breaches of sanctions, export controls, and other national security laws. Subsequently, a second Tri-Seal Compliance Note was issued in March 2023; focused on identifying red flags of diversion (e.g., the use of third-party intermediaries or transshipment points). Additionally, in May 2023, the Treasury Department's Financial Crimes Enforcement Network (FinCEN) and BIS issued a joint alert identifying specific classes of goods and technology that Russia was seeking to acquire through illicit means.

Key Takeaways

Expansive Jurisdiction: U.S. enforcement agencies interpret their jurisdiction broadly, resulting in significant penalties or restrictions for non-U.S. entities found in violation of U.S. export and sanctions controls. Recent high profile enforcement actions which had a Singapore nexus include; Seagate, British American Tobacco.

Risk Awareness: Organizations engaged in international trade must proactively understand the applicability of these laws to their operations, identify associated risks, and implement effective mitigation strategies, including updating their existing risk-dashboards (see our earlier journal "Sanction Clauses: Know Your Red Flags")

Regulatory Update: Tri-Seal Compliance Note

Effective Compliance Programs: Non-U.S. companies should establish robust trade compliance programs and policies addressing U.S. sanctions and export control laws.

Transaction Diligence: Know your Client and Cargo; given the complex risk landscape, thorough diligence of transactions is critical for companies trading internationally, especially with sanctioned countries resorting to sophisticated evasion tactics such as the use of shell companies.

Employee Training: Preventing, detecting, and remediating breaches requires comprehensive and ongoing employee training, providing a competitive advantage in maintaining compliance.

Conclusion

Foreign-based entities must recognize the significant consequences of non-compliance with U.S. sanctions and export control laws. To navigate the complexities of international trade successfully, organizations should diligently assess their exposure to these laws, understand associated risks, and implement robust compliance measures and training programs to mitigate potential liabilities effectively.

+65 8617 7787

tradekins.com

connect@tradekins.com