

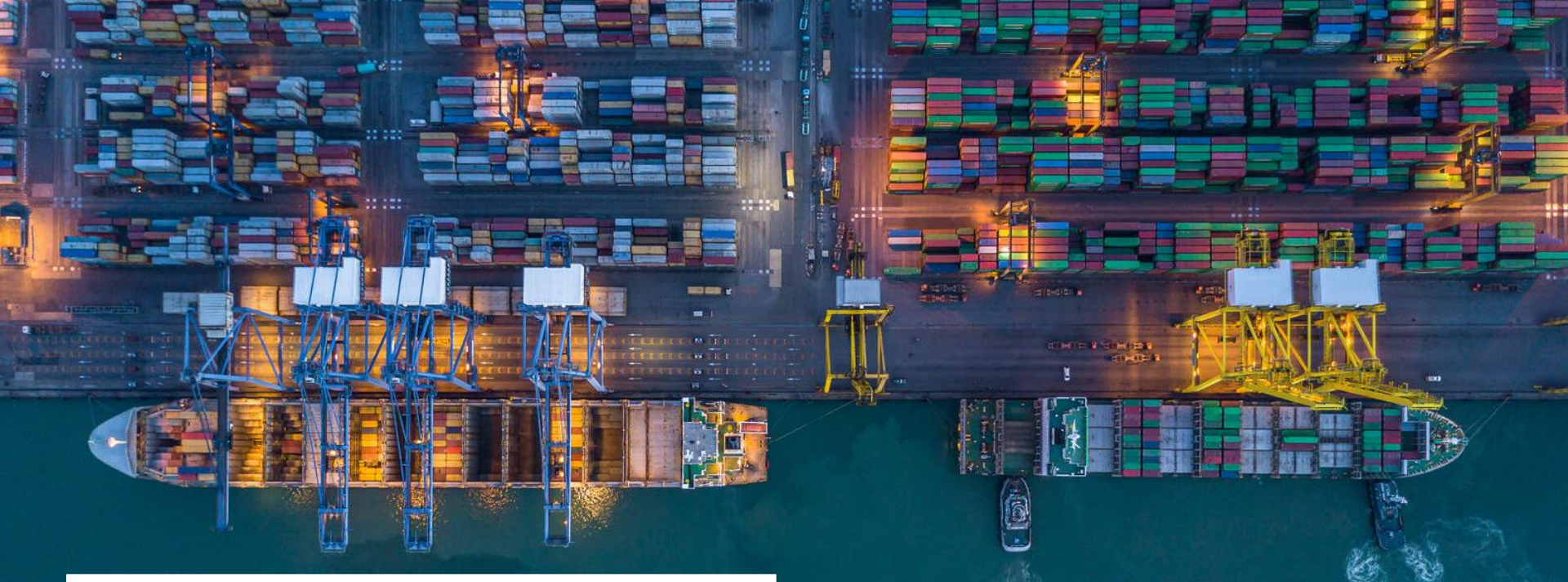


# Doing Business in a Sanctioned World

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# Agenda

- Introduction: A Sanctioned World
- Sanctions in Law: A Brief Overview
- Sanctions in Practice: What to Do and What not to Do
- "Know Your Customer" - Which Elements Is the Bank Considering?
- Discussion



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# Introduction: A Sanctioned World

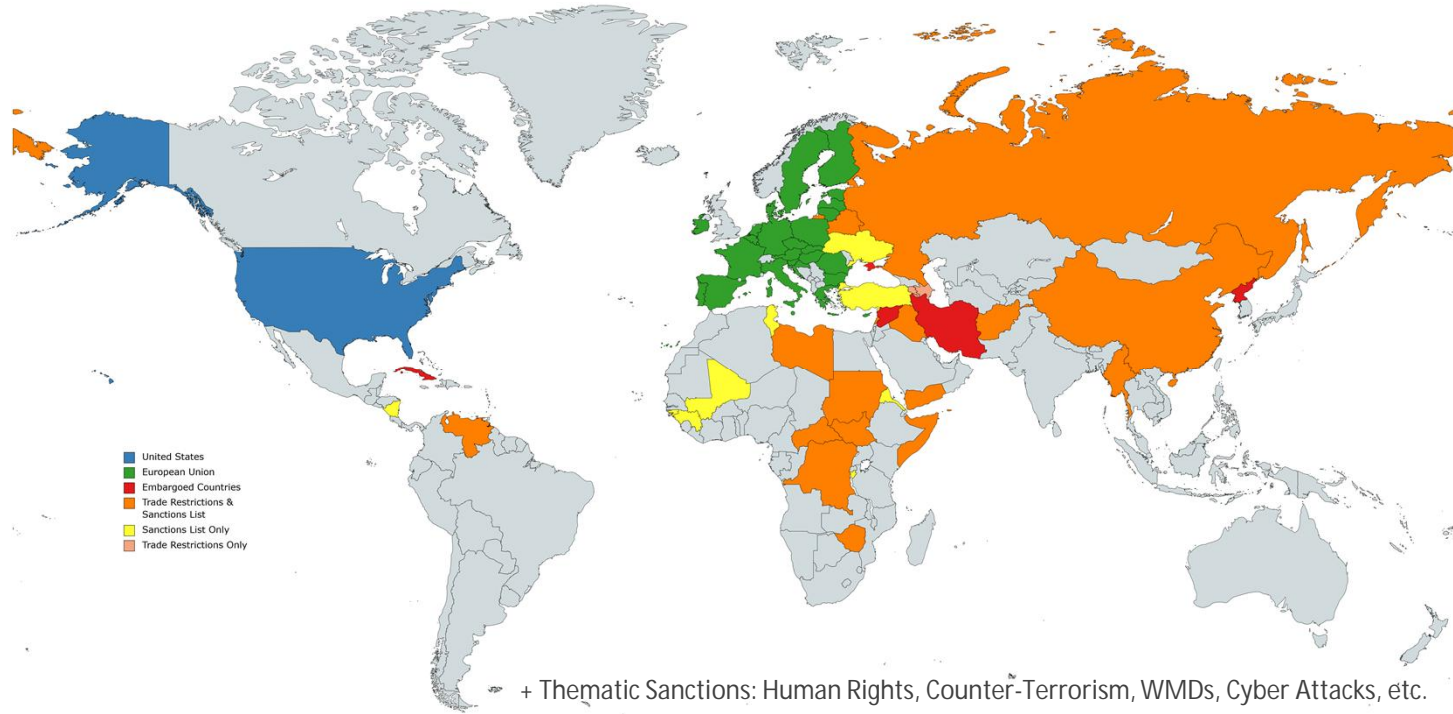


Trade Regulation  
and Global Politics:

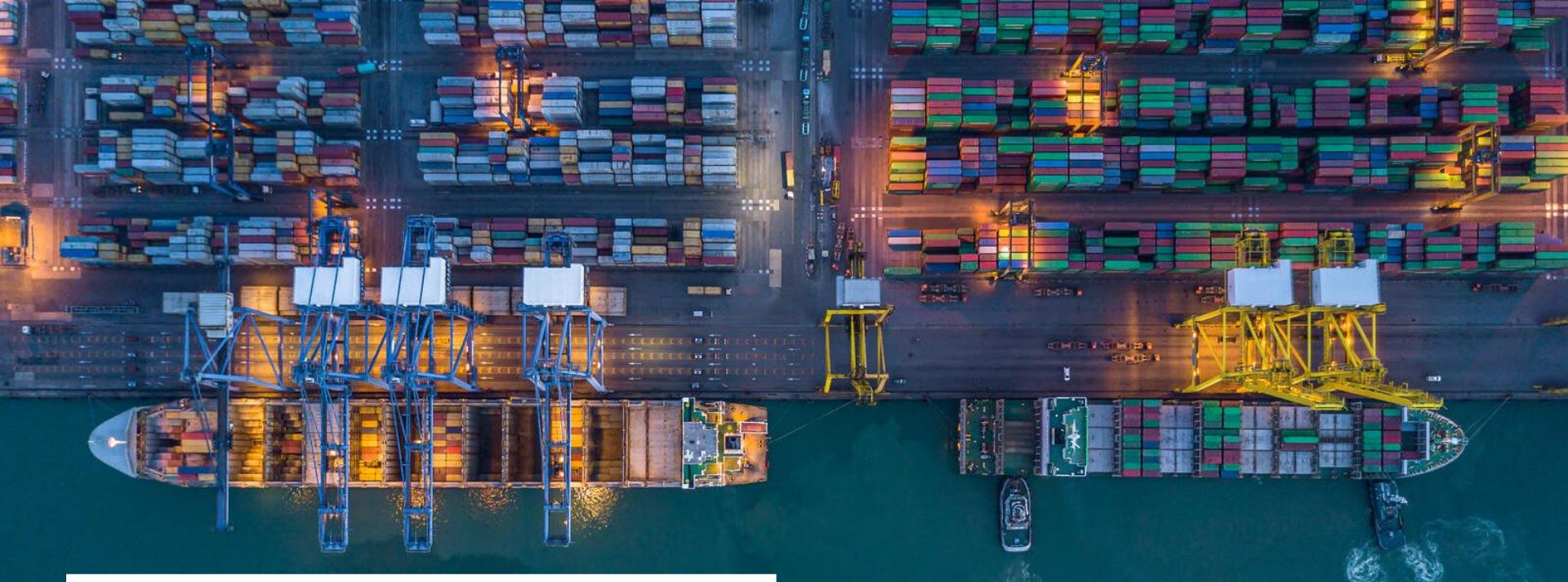
Sanctions, Export  
Controls, and Trade  
Policy



# A Sanctioned World



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# Sanctions in Law: A Brief Overview

### EU Sanctions Apply to

- 1) EU Persons (companies and individuals)
- 2) Any business that even partly takes place in the EU
- 3) To any activities by EU Persons the “object or effect” of which is the circumvention of sanctions

### US “Primary” Sanctions Apply to

- 1) US Persons (companies, individuals)
- 2) Any business that even partly takes place in the US
- 3) “Facilitation” by US Persons
- 4) To any non-US Persons (such as EU Persons) that
  - a) Export or “re-export” of US-origin goods, software, and services
  - b) Conduct USD transactions
  - c) “Cause” a violation by a US Persons

### US Secondary Sanctions Create a Risk of Repercussion to

- 1) Any non-US Persons (such as EU Persons) that
  - a) Do business with US sanctioned entities (e.g. SDNs)
  - b) Engage in sanctionable business (some sectors in “embargoed countries”, Nord Stream 2, etc.

# Essential Compliance Considerations

## Embargoed Countries

- Extensive primary and secondary sanctions
- Comprehensive specialist legal analysis advisable
- Extensive practical impediments
- Contractual compliance issues

## Sanctions Lists

- EU Asset Freeze List
- US SDN List
- EU & USS Sectoral Lists
- Other US restricted party lists
- Apply typically to
  - 1) Listed Parties
  - 2) Subsidiaries
  - 3) “Controlled” parties

## Export / Import Bans

- Apply to exports/imports of specific goods to specific countries
- May apply also to indirect supply
- May apply also to “re-exports” of US goods

## Catch-All Export Bans

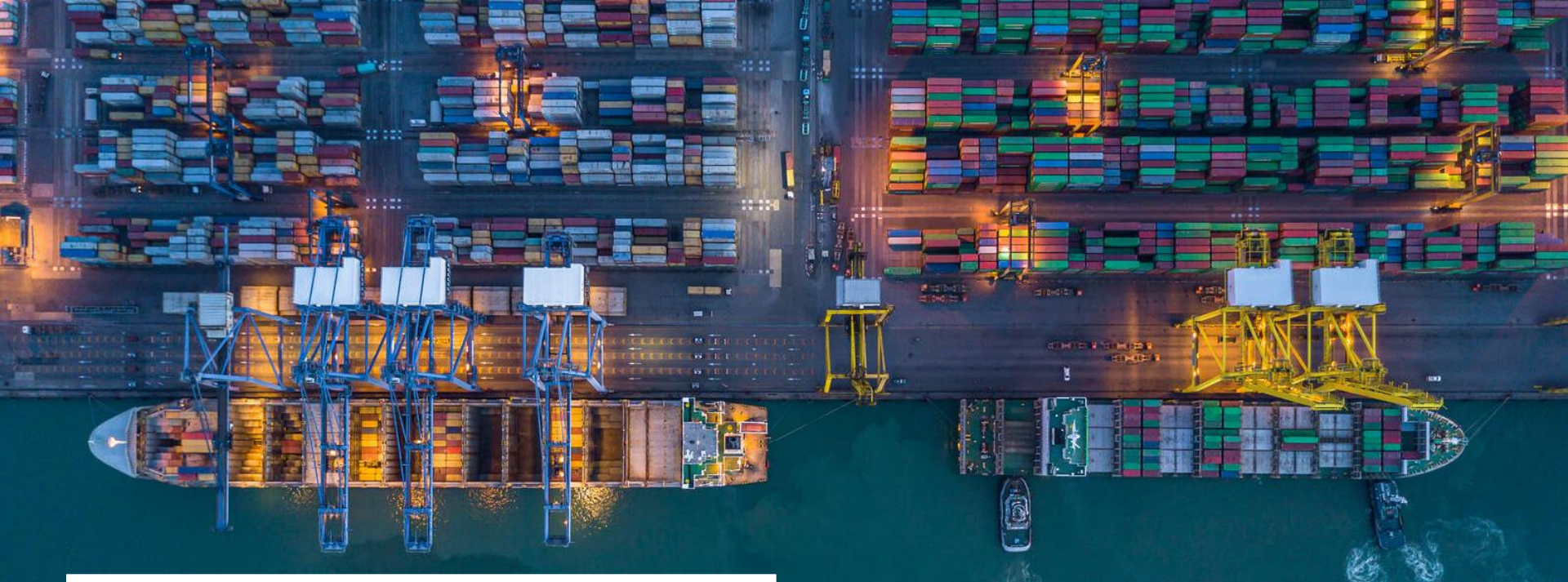
- Apply to *any* items with any military application (even. nuts and bolts)
- Prohibit exports to
  - 1) Military uses in countries subject to an arms embargo
  - 2) Any uses connected to WMDs
  - 3) Use related to illegally exported military goods



# Penalties and Other Consequences

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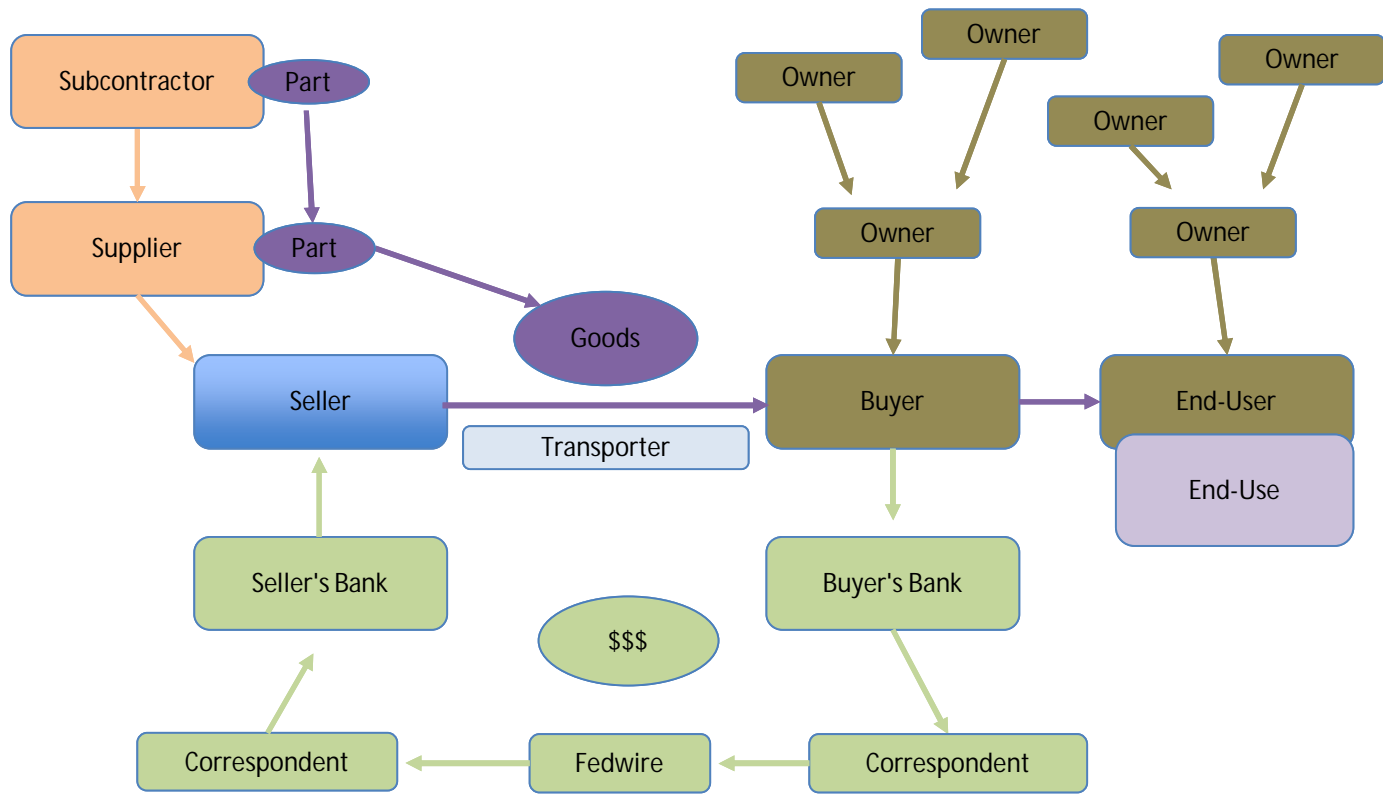
- Criminal and Administrative Liability
  - EU up to appr. 2--8 years imprisonment, corporate fines up to EUR 850,000
  - US up to 20 years imprisonment, corporate fines tied to export value (current record USD 8.9 billion)
- Sanctions Designations and Market Access Restrictions
  - Worse case scenario: Sanctions listing may result in bankruptcy
  - Access restriction may cut off US financing, US market, or US supplies
- Practical and Reputational Impact
  - Security policy context means that mistakes often make headlines
  - Direct impact on shareholder value, brand, and partnerships

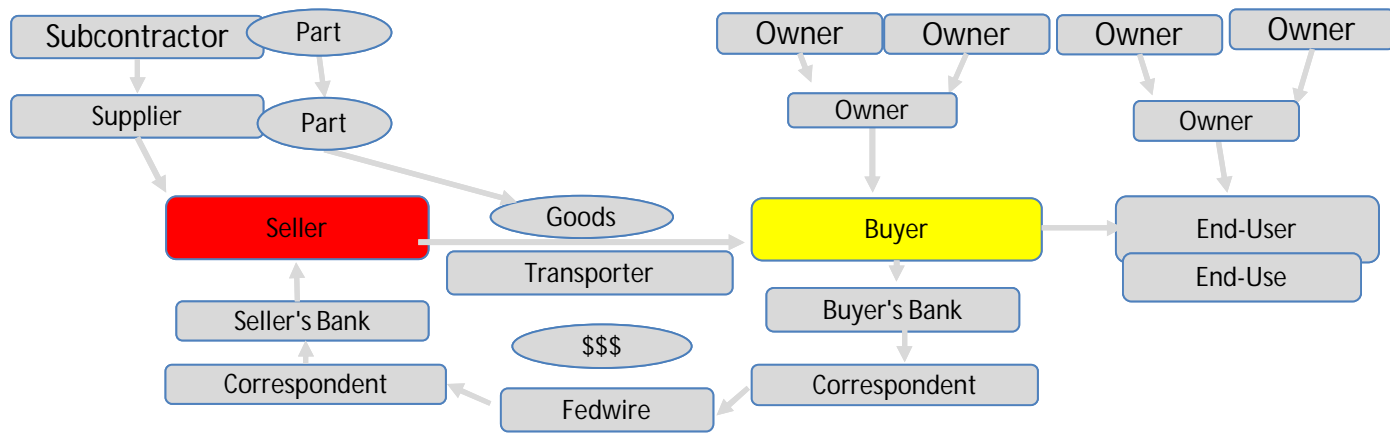


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# Sanctions in Practice: What to Do and What not to Do

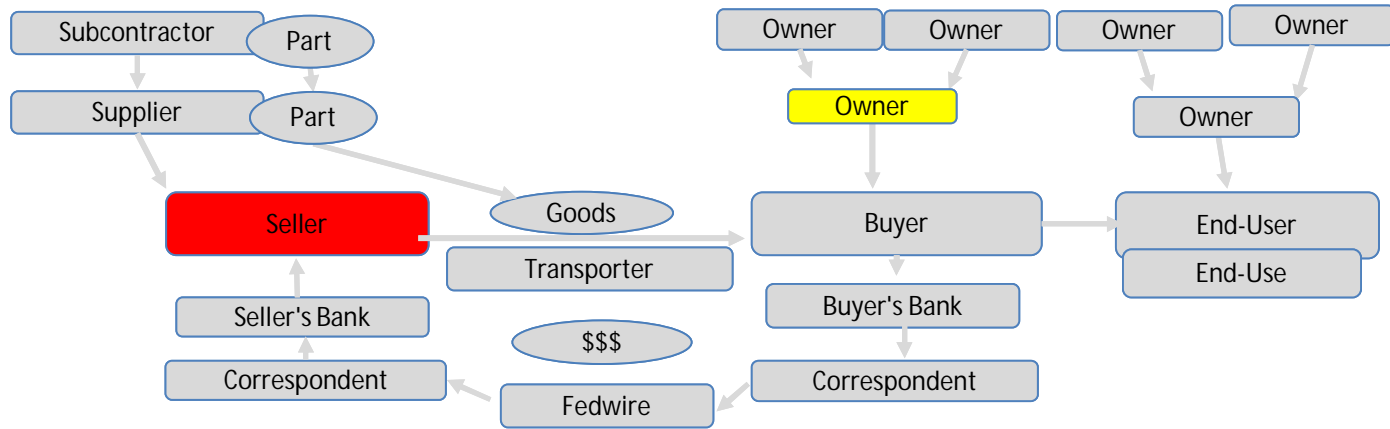
What not to do





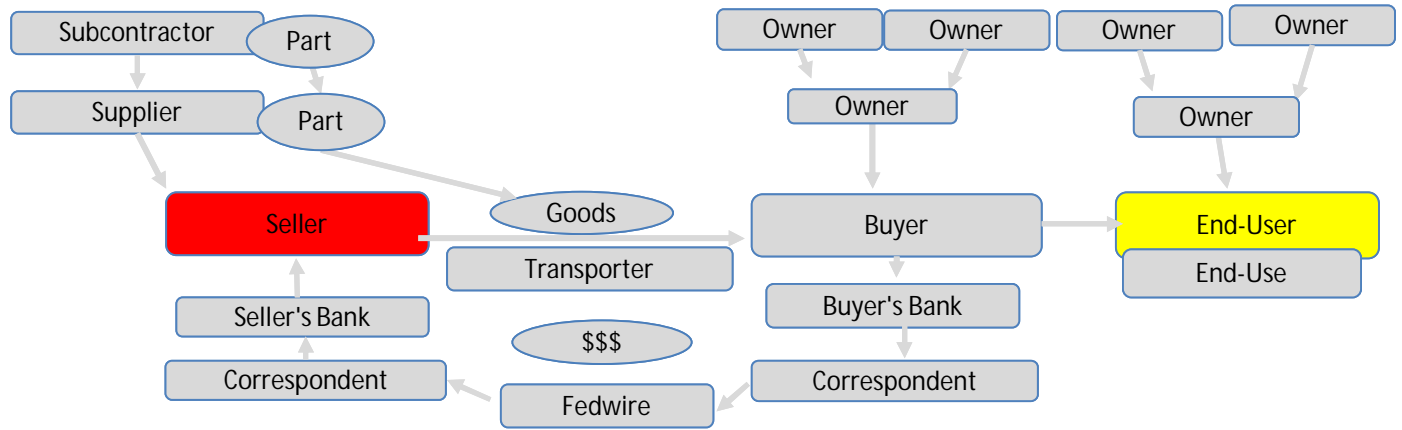
## SALES TO A SANCTIONED COMPANY

“Apple Inc. appears to have violated sanctions by dealing in the property of SIS, d.o.o. a Slovenian software company identified on OFAC’s SDN List of Specially Designated Nationals and Blocked Persons (the “SDN List”) Specifically, Apple [provided software hosting services] for SIS. - - Apple later attributed this failure to its sanctions screening tool’s failure to match the upper case name “SIS DOO” in Apple’s system with the lower case name “SIS d.o.o.” as written on the SDN List. (Penalty USD 450 000)



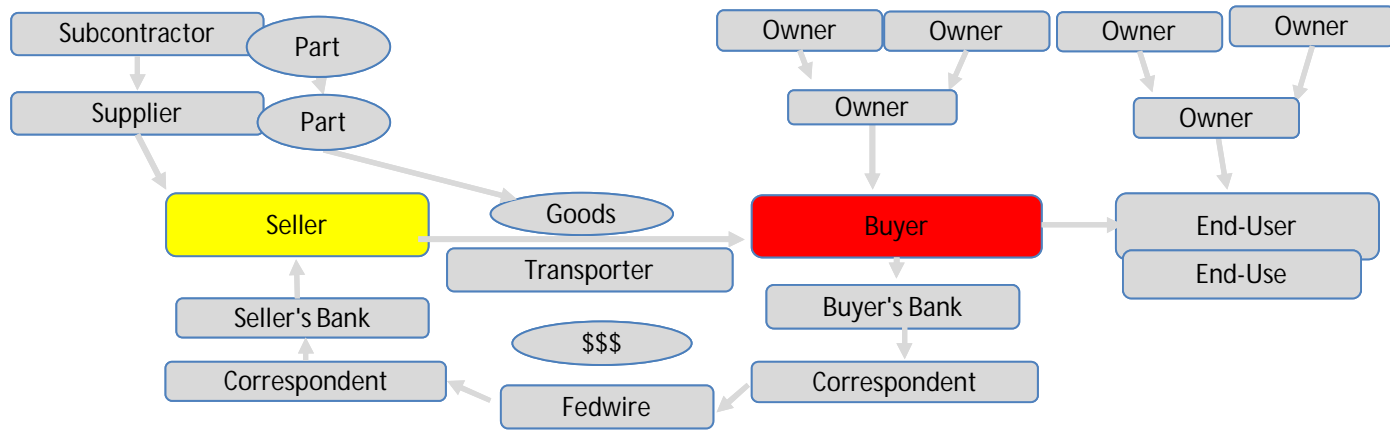
## SALES TO A COMPANY OWNED BY A SANCTIONED COMPANY

“Metelics Inc. [violated sanctions on Russia] when it sold switches through distributors in Canada and Russia to a customer whose property was blocked - -. Although [the customer] was not explicitly identified on OFAC’s SDN List, it was 51 percent owned by JSC Almaz-Antey, which [was identified on the SDN List].” (Penalty USD 87 500)



## INDRET SALES TO A SANCTIONED PARTY

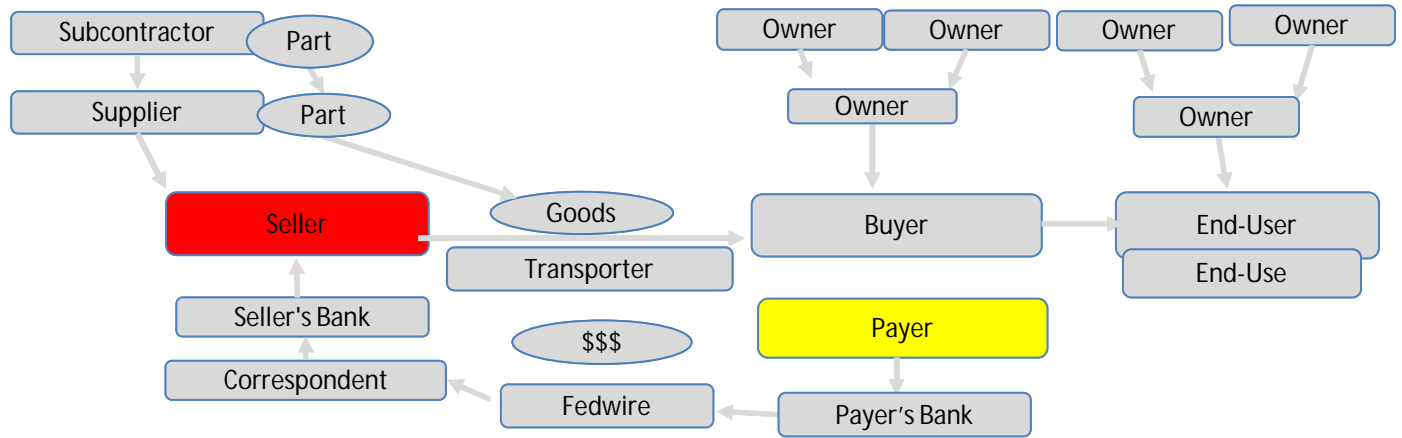
SAP software licenses were sold by third-party resellers in Turkey, the United Arab Emirates (UAE), Germany, and Malaysia. SAP Partners in these countries sold these licenses and services to companies in third countries, including companies controlled by Iranian companies, that provided the SAP software to users in Iran. SAP conduct therefore violated sanctions as SAP had failed to conduct sufficient due diligence on SAP Partners, which could have revealed SAP Partners' connections to Iranian companies. For instance, SAP Partner websites publicized their business ties with Iranian companies. (Penalty USD 2 100 000)



## PROCUREMENT FROM A SANCTIONED PARTY

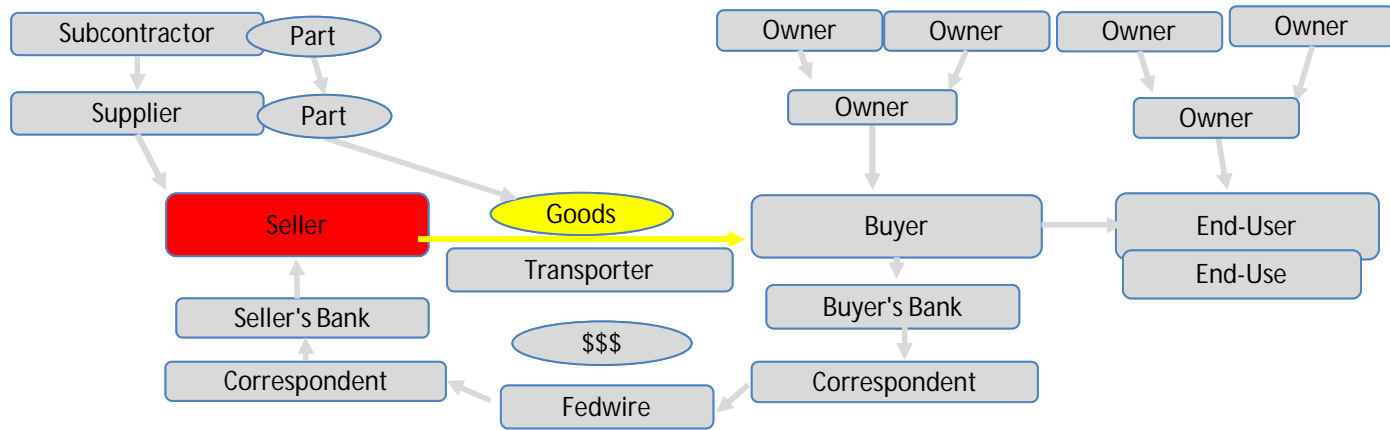
“Zoltek appears to have violated [sanctions on Belarus] by dealing in the blocked property or interests in property of JSC Naftan, a Belarusian OFAC identified on [the SDN List]. Specifically, Zoltek appears to have approved 26 purchases of acrylonitrile [by its subsidiary] from JSC Naftan. (Penalty USD 7.7 million)





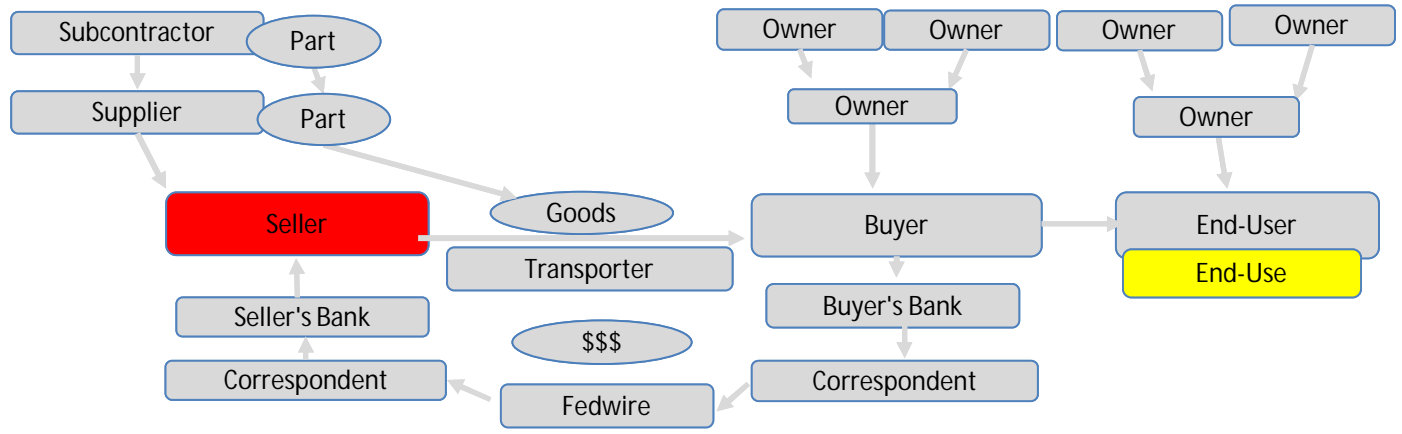
## RECEIVING PAYMENT FROM A SANCTIONED PARTY

“GE Companies appear to have violated [US sanctions on Cuba] on 289 occasions by accepting payment from Cobalt Refinery Company (“Cobalt”) for goods and services provided to a Canadian customer of GE [while it] appeared on the SDN List.” (Penalty USD 2.7 million)



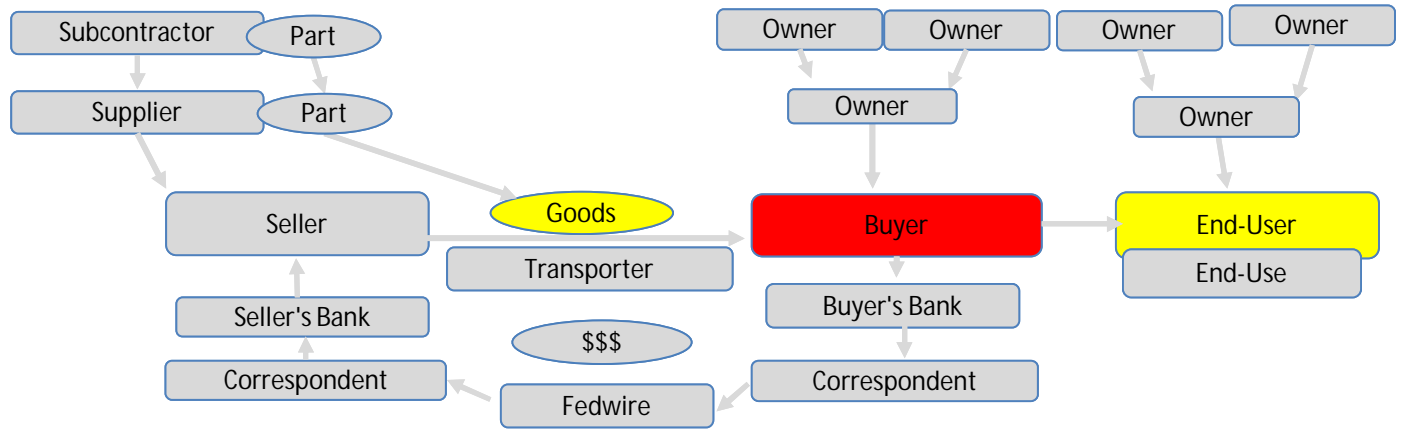
## ILLEGAL EXPORTS

"Finnish Customs intercepted a shipment at Helsinki Airport in 2017 discovering a mass spectrometer, which is classified as a dual-use item. Its export would have required an export license. After consulting the Ministry for Foreign Affairs, Customs has initiated a criminal investigation on a possible regulation offence."



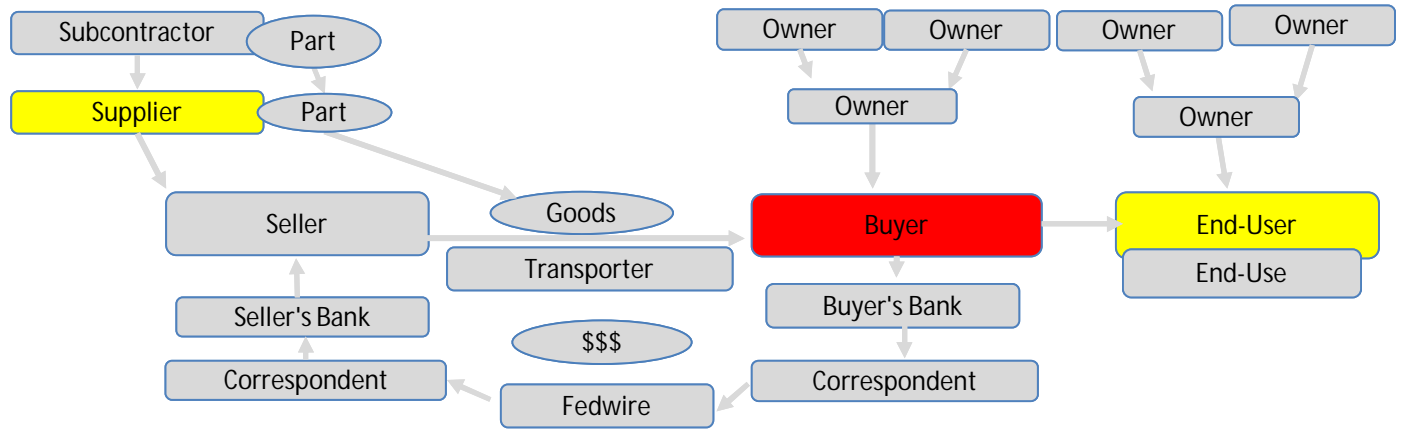
## ILLEGAL INDIRECT EXPORTS

“Prosecutors are investigating three German Siemens employees based in St. Petersburg over allegations they violated EU embargo rules, the Hamburg public prosecutor’s office said. Siemens said that the turbines were ordered and delivered for a power plant project in Taman in southern Russia, but they were then transferred to Crimea by Siemens’ Russian customer and installed in new gas-fired power plants in a breach of the sales contract.” (Reuters)



## ILLEGAL RE-EXPORT

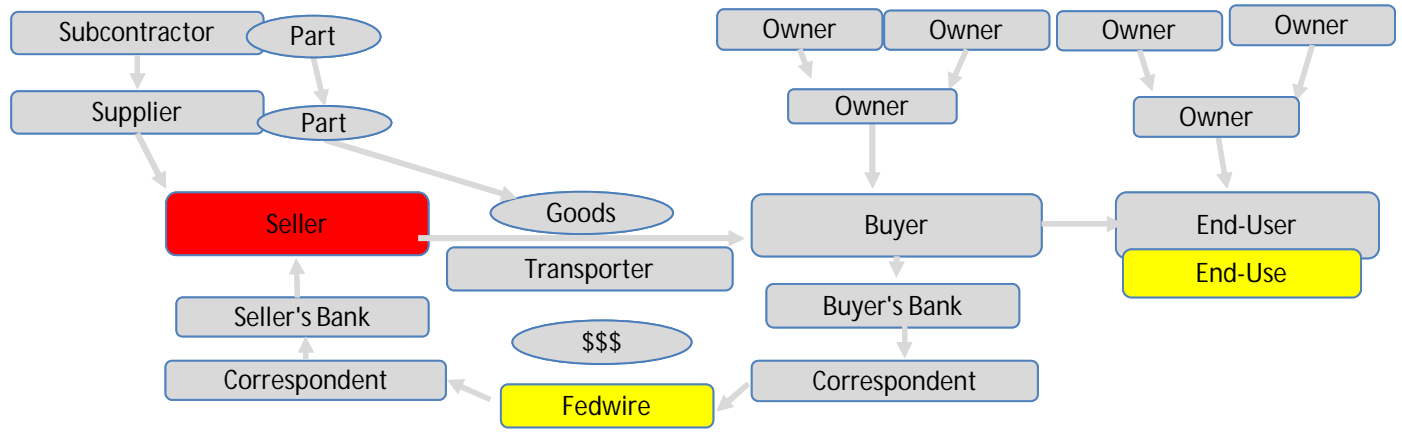
“Ericsson purchased a satellite hub from a U.S.-based company for delivery to - - Switzerland. - - Despite [an order not to do so] from Ericsson’s compliance department, [Ericsson employees organized a] multistage transaction that involved trans-shipping the hub through Switzerland and Lebanon, and ultimately to Sudan.” (Penalty USD 145 000)



## ILLEGAL (INDIRECT) IMPORT

e.i.f. Cosmetics [violated sanctions by] importing to the US 156 shipments of false eyelash kits from two suppliers located in China that contained materials sourced by these suppliers from North Korea.

Throughout the time period in which the apparent violations occurred, e.i.f.'s OFAC compliance program was either non-existent or inadequate." (Penalty USD 1 million)



**ILLEGAL DOLLAR DENOMINATED BUSINESS**

“TransTel [a company in Singapore] appears to have violated [sanctions on Iran] by causing at least six separate financial institutions to engage in the unauthorized exportation or re-exportation of financial services from the United States to Iran.” (Penalty USD 12 million)

What to do

# Basic Pre-Transaction Checks

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## 1) Destination Country Check

- Check for connections to embargoed countries
- Check for connections to other sanctioned countries

## 2) Counterparties Check

- Check parties against sanctions and other lists (esp. in high risk countries)
- Check shareholders and directors against lists (esp. if high risk cases)

## 3) Product Check

- Check for products “designed for military use”
- Check for dual-use goods, incl. components shipped separately
- Check for products whose import/export is restricted by sanctions

## 4) End-Use Check

- Check for military end-use in arms embargoed countries and WMD connections
- Check for prohibited end-use in embargoed & sanctioned countries



# Elements of a Compliance Framework

## Basic Procedures

- Compliance Policy
- Third Party Screening
  - Internal manual checks
  - Customer questionnaires
  - Automated screening tools if feasible
- Written Instructions
- Record-Keeping
- Training
- Monitoring and Auditing
- Contractual Clauses

## Advanced Procedures

- Internal Compliance Program
- Advanced Automation
  - Global Ownership Data
  - Continuous Monitoring
  - Automated ERP Blocks
- Product Classification Process
- Export License Management Process
- Technology Control Plan

## Specialized Procedures

- US Person firewalling
- *De minimis* approaches
- US embargo compliance and external parties
- Secondary sanctions compliance approaches



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# "Know Your Customer" Which Elements Is the Bank Considering?

# Know your customer "due diligence" example

## - What needs to be known?

### 1) Customer/supplier

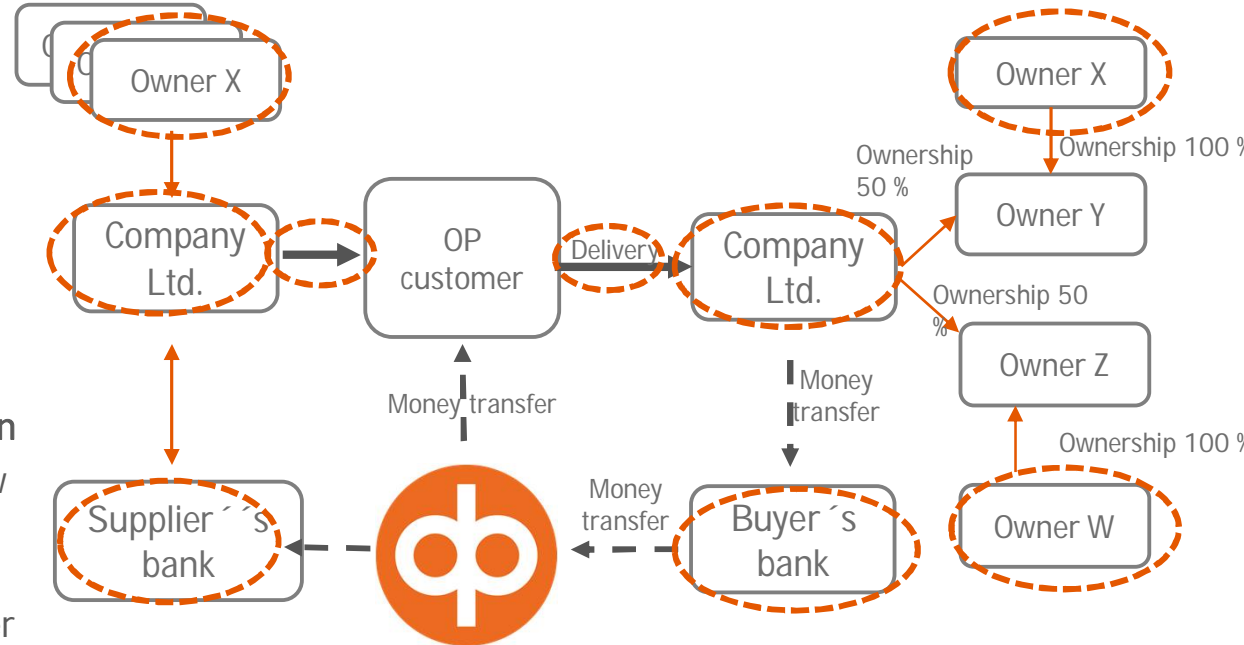
- What is the ownership?
- The nature of business (e.g. business areas)

### 2) Delivered product/service

- Are there elements (e.g. components, knowledge) to consider?

### 3) Other parties in the supply chain

- How is the supply chain (e.g. how the delivery and funds are routed)?
- Are the parties involve to consider (e.g. logistics, Banks)



# “Know your customer (KYC) is a source for competitiveness?”

## Turning necessity to business benefit



- Know your customer (“KYC”) is a precondition for making business
  - Streamlined process will increase efficiency, provides the basis for decision making (what to do and what not)



- Helping corporates to utilize trade financing instruments efficiently
  - Risk positioning according to credit policy
  - Selecting instruments to support the business (e.g. financing)
  - Supports contractual risk management (contractual issues)



- Decreases fraud-risks
  - Detecting unusual business practices and payments (e.g. account information)
  - Detecting unusual supplier behavior



Ačiū  
Aitäh  
Kiitos  
Paldies  
Thank you