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BPI White Paper: The U.S. Should Sharpen Its Sanctions Approach to Stop Global Threats

The U.S. government uses sanctions around the world to block terrorists, human traffickers, dictators and other foreign adversaries from doing business with, or within, the U.S. financial system. Some bad actors use convoluted back door methods to access U.S. goods, services and entities. Sanctions evasion threatens U.S. national security, U.S. businesses and the integrity of the financial system. Banks play a central role in implementing the U.S. sanctions regime through a combination of executive orders and legislative acts, thereby contributing to the advancement of the policy interests reflected in sanctions.

A white paper titled "Reforming the U.S. Sanctions Regulatory Regime: How a Smarter, Risk-Based Approach Can Make Sanctions More Effective" offers several recommendations on how U.S. policymakers should ensure that sanctions appropriately lock individuals and entities out of the U.S. financial system and that banks have the tools they need to identify those who try to thwart them. Policymakers should:

1. **Emphasize results.** The Treasury Department's Office of Foreign Assets Control should empower banks to effectively detect sanctions targets rather than focusing on the minutiae of step-by-step processes. OFAC has expressed support for enabling sanctions programs to prioritize the highest risks, but lacks an aligned approach with the banking agencies, who examine banks for compliance. Adopting a risk-based approach would advance U.S. sanctions policy objectives while enabling financial institutions to shift compliance resources to areas of greater risk without fearing a negative exam finding.
2. **Focus sanctions screening on cross-border transactions.** Banks should target sanctions screening resources to focus on international transactions that present the highest sanctions risks. Overly broad sanctions screening (including domestic transactions) diverts resources away from where they're needed most. True matches from screening against OFAC lists are rare and effectively zero for most domestic transactions[1]. Policymakers should allow banks to focus screening only on money that leaves or enters the U.S. to concentrate on transactions that present the greatest risk.
3. **Promote tech advancements.** The government's emphasis on screening for improbable name variations is ineffective and diverts resources from developing nimble, advanced analytical techniques that could more effectively identify sanctions targets. Smugglers, terrorists and corrupt foreign officials are constantly inventing new ways to hack, cheat and steal their way into the financial system. For example, North Korea and Russia have explored using cryptocurrency to bypass western sanctions. OFAC should empower banks to match the sophistication of the global bad actors they're targeting through artificial intelligence, machine learning and other innovative technologies rather than investing resources in activities that aren't serving their intended purpose.
4. **Develop a master list.** Banks each maintain their own list of sanctioned individuals and entities under OFAC's regulations and guidance, siloing target information. OFAC should fill gaps in information between different banks by studying how to develop a master list of sanctioned persons and entities. Finally, OFAC should prioritize the licensing and compliance demands created by new sanctions programs.
5. **Increase information sharing between the public and private sector.** The Treasury Department and the intelligence community should further break down the information silos between banks and the public sector. This could include regularly briefing banks on sanctions threats that warrant special attention. In turn, banks can also help advance U.S. national security goals by sharing with the intelligence community trends that they observe that may be visible to banks but not to the government. Ultimately, greater information sharing will allow policymakers to better detect and disrupt evasion and abuse.

Over time, the U.S. sanctions framework has developed through a compilation of executive orders and congressional action to encompass a web of overlapping authorities and complex regulatory structures. An often-used tool in the foreign policy toolbox, economic sanctions can be structured to meet a diverse set of policy objectives. Policymakers on Capitol Hill and within the Administration should take the steps described above to modernize, streamline and emphasize results in program compliance in order to best achieve the country's national security goals.

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[1] BPI, Getting to Effectiveness – Report on U.S. Financial Institution Resources Devoted to BSA/AML & Sanctions Compliance, (Oct. 29, 2018), available at https://bpi.com/getting-to-effectiveness-report-on-u-s-financial-institution-resources-devoted-to-bsa-aml-sanctions-compliance.