DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

A Framework for OFAC Compliance Commitments

The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) administers and enforces U.S. economic and trade sanctions programs against targeted foreign governments, individuals, groups, and entities in accordance with national security and foreign policy goals and objectives.

OFAC strongly encourages organizations subject to U.S. jurisdiction, as well as foreign entities that conduct business in or with the United States, U.S. persons, or using U.S.-origin goods or services, to employ a risk-based approach to sanctions compliance by developing, implementing, and routinely updating a sanctions compliance program (SCP). While each risk-based SCP will vary depending on a variety of factors—including the company's size and sophistication, products and services, customers and counterparties, and geographic locations—each program should be predicated on and incorporate at least five essential components of compliance: (1) management commitment; (2) risk assessment; (3) internal controls; (4) testing and auditing; and (5) training.

If after conducting an investigation and determining that a civil monetary penalty ("CMP") is the appropriate administrative action in response to an apparent violation, the Office of Compliance and Enforcement (OCE) will determine which of the following or other elements should be incorporated into the subject person's SCP as part of any accompanying settlement agreement, as appropriate. As in all enforcement cases, OFAC will evaluate a subject person's SCP in a manner consistent with the Economic Sanctions Enforcement Guidelines (the "Guidelines").

When applying the Guidelines to a given factual situation, OFAC will consider favorably subject persons that had effective SCPs at the time of an apparent violation. For example, under General Factor E (compliance program), OFAC may consider the existence, nature, and adequacy of an SCP, and when appropriate, may mitigate a CMP on that basis. Subject persons that have implemented effective SCPs that are predicated on the five essential components of compliance may also benefit from further mitigation of a CMP pursuant to General Factor F (remedial response) when the SCP results in remedial steps being taken.

Finally, OFAC may, in appropriate cases, consider the existence of an effective SCP at the time of an apparent violation as a factor in its analysis as to whether a case is deemed "egregious."

This document is intended to provide organizations with a framework for the five essential components of a risk-based SCP, and contains an appendix outlining several of the root causes that have led to apparent violations of the sanctions programs that OFAC administers. OFAC recommends all organizations subject to U.S. jurisdiction review the settlements published by OFAC to reassess and enhance their respective SCPs, when and as appropriate.

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OFAC合规承诺框架

美国财政部外国资产控制办公室(OFAC)根据国家安全和外交政策目标与宗旨，管理和执行针对特定外国政府、个人、团体和实体的美国经济和贸易制裁项目。

OFAC 强烈鼓励受美国管辖的组织，以及在美国境内或与美国、美国人开展业务或使用美国原产商品或服务的外国实体，通过制定、实施并定期更新制裁合规计划(SCP)，采用基于风险的方法开展制裁合规。尽管每项基于风险的 SCP 会因多种因素而有所不同--包括公司的规模和复杂程度、产品和服务、客户和交易对手以及地理位置--但每项计划都应至少以合规的五个基本要素为基础并纳入这些要素：(1)管理层承诺；(2)风险评估；(3)内部控制；(4)测试和审计；以及(5)培训。

如果在进行调查并确定民事罚款("CMP")是针对明显违规行为的适当行政行为后，合规与执法办公室(OCE)将酌情确定应将以下哪些要素或其他要素纳入相关人员的 SCP，作为任何随附和解协议的一部分。与所有执法案件一样，OFAC 将按照《经济制裁执法指南》("《指南》")评估相关人员的 SCP。

在将《指南》适用于特定事实情况时，OFAC 将对在明显违规行为发生时已实施有效 SCP 的相关人员予以有利考虑。例如，根据一般因素 E(合规计划),OFAC 可考虑 SCP 的存在、性质和充分性，并在适当时据此减轻 CMP。已实施以合规五个基本要素为基础的有效 SCP 的相关人员，在 SCP 促成采取补救措施时，还可根据一般因素 F(补救响应)从 CMP 的进一步减轻中受益。

最后，OFAC在适当情况下，可将表面上违规时存在有效的SCP作为其分析案件是否被视为"恶劣"的因素之一。

本文件旨在为组织提供基于风险的SCP五大基本要素框架，并包含一个附录，概述了导致明显违反OFAC管理的制裁项目的一些根本原因。OFAC建议所有受美国管辖的组织审查OFAC公布的和解案例，以在适当时候重新评估和加强各自的SCP。

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MANAGEMENT COMMITMENT

Senior Management's commitment to, and support of, an organization's risk-based SCP is one of the most important factors in determining its success. This support is essential in ensuring the SCP receives adequate resources and is fully integrated into the organization's daily operations, and also helps legitimize the program, empower its personnel, and foster a culture of compliance throughout the organization.

General Aspects of an SCP: Senior Management Commitment

Senior management commitment to supporting an organization's SCP is a critical factor in determining the success of the SCP. Effective management support includes the provision of adequate resources to the compliance unit(s) and support for compliance personnel's authority within an organization. The term "senior management" may differ among various organizations, but typically the term should include senior leadership, executives, and/or the board of directors.

I. Senior management has reviewed and approved the organization's SCP.

II. Senior management ensures that its compliance unit(s) is/are delegated sufficient authority and autonomy to deploy its policies and procedures in a manner that effectively controls the organization's OFAC risk. As part of this effort, senior management ensures the existence of direct reporting lines between the SCP function and senior management, including routine and periodic meetings between these two elements of the organization.

III. Senior management has taken, and will continue to take, steps to ensure that the organization's compliance unit(s) receive adequate resources—including in the form of human capital, expertise, information technology, and other resources, as appropriate—that are relative to the organization's breadth of operations, target and secondary markets, and other factors affecting its overall risk profile.

These efforts could generally be measured by the following criteria:

A. The organization has appointed a dedicated OFAC sanctions compliance officer[1];
B. The quality and experience of the personnel dedicated to the SCP, including: (i) the technical knowledge and expertise of these personnel with respect to OFAC's regulations, processes, and actions; (ii) the ability of these personnel to understand complex financial and commercial activities, apply their knowledge of OFAC to these items, and identify OFAC-related issues, risks, and prohibited activities; and (iii) the efforts to ensure that personnel dedicated to the SCP have sufficient experience and an appropriate position within the organization, and are an integral component to the organization's success; and

[1] This may be the same person serving in other senior compliance positions, e.g., the Bank Secrecy Act Officer or an Export Control Officer, as many institutions, depending on size and complexity, designate a single person to oversee all areas of financial crimes or export control compliance.

管理层承诺

高级管理层对组织基于风险的SCP的承诺和支持是决定其成功的最重要因素之一。这种支持对于确保SCP获得充足资源并完全融入组织日常运营至关重要，同时也有助于使该项目合法化、赋予其人员权力，并在整个组织中培养合规文化。

SCP 的一般方面：高级管理层的承诺

高级管理层对支持组织SCP的承诺是决定SCP成功的关键因素。有效的管理层支持包括向合规部门提供充足资源，以及支持合规人员在整个组织内的权威。"高级管理层"一词在不同组织中可能有所不同，但通常应包括高级领导层、高管和/或董事会。

I. **高级管理层已审查并批准了组织的 SCP。**

II. **高级管理层确保其合规部门被授予充分的权力和自主权，以能够有效控制组织OFAC风险的方式部署其政策和程序。作为这项工作的一部分，高级管理层确保SCP职能与高级管理层之间存在直接报告线，包括组织这两个部门之间的例行和定期会议。**

III. **高级管理层已采取并将继续采取措施，确保组织的合规部门获得充足的资源--包括人力资本、专业知识、信息技术和其他适当资源--这些资源与组织的业务广度、目标市场和二级市场以及其他影响其整体风险状况的因素相称。**这些努力通常可以通过以下标准来衡量：

A. 组织已任命一名专职的OFAC制裁合规官[1]；
B. 专门负责 SCP 的人员的素质和经验，包括：(i)这些人员在 OFAC 的法规、流程和行动方面的技术知识和专长；(ii)这些人员理解复杂金融和商业活动、将其对 OFAC 的知识应用于这些事项并识别与 OFAC 相关的问题、风险和禁止活动的能力；以及(iii)为确保专门负责 SCP 的人员具有足够经验并在组织内处于适当职位，且是组织成功不可或缺的组成部分所做的努力；以及

[1]这可能是担任其他高级合规职位的同一人，例如《银行保密法》官员或出口管制官员，因为许多机构根据规模和复杂性，指定一人监督所有金融犯罪或出口管制合规领域。

C. Sufficient control functions exist that support the organization's SCP—including but not limited to information technology software and systems—that adequately address the organization's OFAC-risk assessment and levels.

IV. Senior management promotes a "culture of compliance" throughout the organization.

These efforts could generally be measured by the following criteria:

A. The ability of personnel to report sanctions related misconduct by the organization or its personnel to senior management without fear of reprisal.
B. Senior management messages and takes actions that discourage misconduct and prohibited activities, and highlight the potential repercussions of non-compliance with OFAC sanctions; and
C. The ability of the SCP to have oversight over the actions of the entire organization, including but not limited to senior management, for the purposes of compliance with OFAC sanctions.

V. Senior management demonstrates recognition of the seriousness of apparent violations of the laws and regulations administered by OFAC, or malfunctions, deficiencies, or failures by the organization and its personnel to comply with the SCP's policies and procedures, and implements necessary measures to reduce the occurrence of apparent violations in the future. Such measures should address the root causes of past apparent violations and represent systemic solutions whenever possible.

RISK ASSESSMENT

Risks in sanctions compliance are potential threats or vulnerabilities that, if ignored or not properly handled, can lead to violations of OFAC's regulations and negatively affect an organization's reputation and business. OFAC recommends that organizations take a risk-based approach when designing or updating an SCP. One of the central tenets of this approach is for organizations to conduct a routine, and if appropriate, ongoing "risk assessment" for the purposes of identifying potential OFAC issues they are likely to encounter. As described in detail below, the results of a risk assessment are integral in informing the SCP's policies, procedures, internal controls, and training in order to mitigate such risks.

While there is no "one-size-fits all" risk assessment, the exercise should generally consist of a holistic review of the organization from top-to-bottom and assess its touchpoints to the outside world. This process allows the organization to identify potential areas in which it may, directly or indirectly, engage with OFAC-prohibited persons, parties, countries, or regions. For example, an organization's SCP may conduct an assessment of the following: (i) customers, supply chain, intermediaries, and counter-parties; (ii) the products and services it offers, including how and where such items fit into other financial or commercial products, services, networks, or systems; and (iii) the geographic locations of the organization, as well as its customers, supply chain, intermediaries, and counter-parties. Risk assessments and sanctions-related due diligence is also

C.存在支持组织SCP的充分控制职能--包括但不限于信息技术软件和系统--足以应对组织的OFAC风险评估和水平。

IV.高级管理层在整个组织内推广“合规文化”。

这些努力通常可以通过以下标准来衡量：

A.人员能够向高级管理层报告组织或其人员的制裁相关不当行为，而不必担心遭到报复。

B.高级管理层发出信息并采取行动，阻止不当行为和被禁止的活动，并强调不遵守OFAC制裁的潜在后果；以及

C. SCP能够为遵守OFAC制裁的目的，对整个组织(包括但不限于高级管理层)的行为进行监督。

V.高级管理层表现出认识到明显违反OFAC管理的法律和法规的严重性，或组织及其人员未能遵守SCP政策和程序的故障、缺陷或失败，并实施必要措施以减少未来明显违规行为的发生。此类措施应解决过去明显违规行为的根本原因，并尽可能代表系统性解决方案。

风险评估

制裁合规风险是潜在的威胁或脆弱性，如果被忽视或未妥善处理，可能导致违反OFAC法规并对组织的声誉和业务产生负面影响。OFAC建议组织在设计和更新SCP时采取基于风险的方法。这种方法的核心原则之一是组织进行常规的、并在适当情况下持续的“风险评估”，以识别其可能遇到的潜在OFAC问题。如下文详细描述，风险评估的结果对于为SCP的政策、程序、内部控制和培训提供信息以减轻此类风险至关重要。

虽然没有“一刀切”的风险评估，但该工作通常应包括对组织自上而下的整体审查，并评估其与外部世界的接触点。这一过程使组织能够识别其可能直接或间接与OFAC禁止的人员、当事方、国家或地区接触的潜在领域。例如，组织的SCP可以对以下方面进行评估：(i) 客户、供应链、中间商和交易对手；(ii) 其提供的产品和服务，包括此类项目如何以及在何处融入其他金融或商业产品、服务、网络或系统；以及(iii) 组织以及其客户、供应链、中间商和交易对手的地理位置。风险评估和制裁相关尽职调查也是

important during mergers and acquisitions, particularly in scenarios involving non-U.S. companies or corporations.

General Aspects of an SCP: Conducting a Sanctions Risk Assessment

A fundamental element of a sound SCP is the assessment of specific clients, products, services, and geographic locations in order to determine potential OFAC sanctions risk. The purpose of a risk assessment is to identify inherent risks in order to inform risk-based decisions and controls. The Annex to Appendix A to 31 C.F.R. Part 501, OFAC's Economic Sanctions Enforcement Guidelines, provides an OFAC Risk Matrix that may be used by financial institutions or other entities to evaluate their compliance programs:

I. The organization conducts, or will conduct, an OFAC risk assessment in a manner, and with a frequency, that adequately accounts for the potential risks. Such risks could be posed by its clients and customers, products, services, supply chain, intermediaries, counter-parties, transactions, and geographic locations, depending on the nature of the organization. As appropriate, the risk assessment will be updated to account for the root causes of any apparent violations or systemic deficiencies identified by the organization during the routine course of business.

A. In assessing its OFAC risk, organizations should leverage existing information to inform the process. In turn, the risk assessment will generally inform the extent of the due diligence efforts at various points in a relationship or in a transaction. This may include:

1. On-boarding: The organization develops a sanctions risk rating for customers, customer groups, or account relationships, as appropriate, by leveraging information provided by the customer (for example, through a Know Your Customer or Customer Due Diligence process) and independent research conducted by the organization at the initiation of the customer relationship. This information will guide the timing and scope of future due diligence efforts. Important elements to consider in determining the sanctions risk rating can be found in OFAC's risk matrices.
2. Mergers and Acquisitions (M&A): As noted above, proper risk assessments should include and encompass a variety of factors and data points for each organization. One of the multitude of areas organizations should include in their risk assessments—which, in recent years, appears to have presented numerous challenges with respect to OFAC sanctions—are mergers and acquisitions. Compliance functions should also be integrated into the merger, acquisition, and integration process. Whether in an advisory capacity or as a participant, the organization engages in appropriate due diligence to ensure that sanctions-related issues are identified, escalated to the relevant senior levels, addressed prior to the conclusion of any transaction, and incorporated into the organization's risk assessment process. After an M&A transaction is

在合并和收购期间很重要，特别是在涉及非美国公司或企业的情形中。

SCP的一般方面：开展制裁风险评估

健全SCP的基本要素是对特定客户、产品、服务和地理位置进行评估，以确定潜在的OFAC制裁风险。风险评估的目的是识别固有风险，以便为基于风险的决策和控制提供信息。31 C.F.R.Part 501附录A的附件，即OFAC的经济制裁执法指南，提供了OFAC风险矩阵，金融机构或其他实体可用于评估其合规计划：

I. **该组织以充分考虑潜在风险的方式和频率开展或将要开展OFAC风险评估。根据该组织的性质，此类风险可能由其客户和顾客、产品、服务、供应链、中介机构、交易对手、交易和地理位置带来。在适当情况下，风险评估将被更新，以考虑该组织在日常业务过程中发现的任何明显违规或系统性缺陷的根本原因。**

A. 在评估其 OFAC 风险时，组织应利用现有信息为评估过程提供依据。反过来，风险评估通常会指导在关系或交易的不同阶段开展尽职调查工作的程度。这可能包括：

1. 客户准入：该组织在建立客户关系之初，利用客户提供的信息(例如通过了解你的客户或客户尽职调查流程)以及该组织进行的独立研究，酌情为客户、客户群体或账户关系制定制裁风险评级。该信息将指导未来尽职调查工作的时机和范围。确定制裁风险评级时需要考虑的重要因素可在OFAC的风险矩阵中找到。
2. 合并与收购(M&A)：如上所述，适当的风险评估应包括并涵盖每个组织的多种因素和数据点。组织应在风险评估中纳入的众多领域之一--近年来似乎在OFAC制裁方面带来了诸多挑战--是合并与收购。合规职能也应纳入合并、收购和整合流程。无论是作为咨询方还是参与方，该组织都应开展适当的尽职调查，以确保与制裁相关的问题被识别、上报至相关高级别层级、在任何交易完成前得到处理，并纳入该组织的风险评估流程。在M&A交易完成后

completed, the organization's Audit and Testing function will be critical to identifying any additional sanctions-related issues.

II. The organization has developed a methodology to identify, analyze, and address the particular risks it identifies. As appropriate, the risk assessment will be updated to account for the conduct and root causes of any apparent violations or systemic deficiencies identified by the organization during the routine course of business, for example, through a testing or audit function.

INTERNAL CONTROLS

An effective SCP should include internal controls, including policies and procedures, in order to identify, interdict, escalate, report (as appropriate), and keep records pertaining to activity that may be prohibited by the regulations and laws administered by OFAC. The purpose of internal controls is to outline clear expectations, define procedures and processes pertaining to OFAC compliance (including reporting and escalation chains), and minimize the risks identified by the organization's risk assessments. Policies and procedures should be enforced, weaknesses should be identified (including through root cause analysis of any compliance breaches) and remediated, and internal and/or external audits and assessments of the program should be conducted on a periodic basis.

Given the dynamic nature of U.S. economic and trade sanctions, a successful and effective SCP should be capable of adjusting rapidly to changes published by OFAC. These include the following: (i) updates to OFAC's List of Specially Designated Nationals and Blocked Persons (the "SDN List"), the Sectoral Sanctions Identification List ("SSI List"), and other sanctions-related lists; (ii) new, amended, or updated sanctions programs or prohibitions imposed on targeted foreign countries, governments, regions, or persons, through the enactment of new legislation, the issuance of new Executive orders, regulations, or published OFAC guidance or other OFAC actions; and (iii) the issuance of general licenses.

General Aspects of an SCP: Internal Controls

Effective OFAC compliance programs generally include internal controls, including policies and procedures, in order to identify, interdict, escalate, report (as appropriate), and keep records pertaining to activity that is prohibited by the sanctions programs administered by OFAC. The purpose of internal controls is to outline clear expectations, define procedures and processes pertaining to OFAC compliance, and minimize the risks identified by an entity's OFAC risk assessments. Policies and procedures should be enforced, and weaknesses should be identified (including through root cause analysis of any compliance breaches) and remediated in order to prevent activity that might violate the sanctions programs administered by OFAC.

I. The organization has designed and implemented written policies and procedures outlining the SCP. These policies and procedures are relevant to the organization, capture the organization's day-to-day operations and procedures, are easy to follow, and designed to prevent employees from engaging in misconduct.

完成后，组织的审计和测试职能对于识别任何额外的制裁相关问题至关重要。

II. 组织已制定方法，以识别、分析并处理其识别出的特定风险。风险评估将酌情更新，以考虑组织在日常业务过程中(例如通过测试或审计职能)识别出的任何明显违规或系统性缺陷的行为和根本原因。

内部控制

有效的SCP应包含内部控制，包括政策和程序，以便识别、拦截、升级、报告(视情况而定)与可能被OFAC管理的法规和法律所禁止的活动相关的信息并保存记录。内部控制的目的是明确清晰的期望，界定与OFAC合规相关的程序和流程(包括报告和升级链条)，并最大限度地降低机构风险评估所识别的风险。政策和程序应予执行，薄弱环节应予识别(包括通过对任何合规违规行为的根本原因分析)并予以补救，且应定期对该计划进行内部和/或外部审计和评估。鉴于美国经济和贸易制裁的动态性质，成功且有效的SCP应能够迅速适应OFAC发布的变化。这些变化包括以下内容：(i) 对OFAC特别指定国民名单和被封锁人员名单("SDN名单")、行业制裁识别名单("SSI名单")及其他制裁相关名单的更新；(ii) 通过颁布新立法、发布新行政命令、法规或已发布的OFAC指引或其他OFAC行动，对目标外国国家、政府、地区或人员实施的新增、修订或更新的制裁计划或禁令；以及(iii) 一般许可的发布。SCP的一般方面：内部控制

有效的OFAC合规计划通常包括内部控制，包括政策和程序，以便识别、拦截、上报、报告(酌情)并保存与OFAC执行的制裁计划所禁止的活动相关的记录。内部控制的目的是明确清晰的期望，界定与OFAC合规相关的程序和流程，并最大限度降低实体的OFAC风险评估所识别的风险。政策和程序应得到执行，薄弱环节应被识别(包括通过对任何合规违规行为的根本原因分析)并予以整改，以防止可能违反OFAC执行的制裁计划的活动。

I. 组织已设计并实施书面政策和程序，概述SCP。这些政策和程序与组织相关，涵盖组织的日常运营和程序，易于遵循，并旨在防止员工从事不当行为。

II. **The organization has implemented internal controls that adequately address the results of its OFAC risk assessment and profile. These internal controls should enable the organization to clearly and effectively identify, interdict, escalate, and report to appropriate personnel within the organization transactions and activity that may be prohibited by OFAC. To the extent information technology solutions factor into the organization's internal controls, the organization has selected and calibrated the solutions in a manner that is appropriate to address the organization's risk profile and compliance needs, and the organization routinely tests the solutions to ensure effectiveness.**

III. **The organization enforces the policies and procedures it implements as part of its OFAC compliance internal controls through internal and/or external audits.**

IV. **The organization ensures that its OFAC-related recordkeeping policies and procedures adequately account for its requirements pursuant to the sanctions programs administered by OFAC.**

V. **The organization ensures that, upon learning of a weakness in its internal controls pertaining to OFAC compliance, it will take immediate and effective action, to the extent possible, to identify and implement compensating controls until the root cause of the weakness can be determined and remediated.**

VI. **The organization has clearly communicated the SCP's policies and procedures to all relevant staff, including personnel within the SCP program, as well as relevant gatekeepers and business units operating in high-risk areas (e.g., customer acquisition, payments, sales, etc.) and to external parties performing SCP responsibilities on behalf of the organization.**

VII. **The organization has appointed personnel for integrating the SCP's policies and procedures into the daily operations of the company or corporation. This process includes consultations with relevant business units, and confirms the organization's employees understand the policies and procedures.**

TESTING AND AUDITING

Audits assess the effectiveness of current processes and check for inconsistencies between these and day-to-day operations. A comprehensive and objective testing or audit function within an SCP ensures that an organization identifies program weaknesses and deficiencies, and it is the organization's responsibility to enhance its program, including all program-related software, systems, and other technology, to remediate any identified compliance gaps. Such enhancements might include updating, improving, or recalibrating SCP elements to account for a changing risk assessment or sanctions environment. Testing and auditing can be conducted on a specific element of an SCP or at the enterprise-wide level.

二、该机构已实施内部控制，充分应对其OFAC风险评估和概况的结果。这些内部控制应使机构能够清晰有效地识别、拦截、升级可能被OFAC禁止的交易和活动，并向机构内适当人员报告。在信息技术解决方案纳入机构内部控制的范围内，机构已以适合应对机构风险概况和合规需求的方式选择和校准这些解决方案，且机构定期测试这些解决方案以确保有效性。

III.组织通过内部和/或外部审计执行其作为OFAC合规内部控制一部分实施的政策和程序。

IV.组织确保其与OFAC相关的记录保存政策和程序充分考量其根据OFAC管理的制裁计划所承担的要求。

V.组织确保在获悉其与OFAC合规相关的内部控制存在薄弱环节后，将尽可能立即采取有效行动，识别并实施补偿性控制，直至该薄弱环节的根本原因得以确定和补救。

VI.组织已向所有相关员工明确传达SCP的政策和程序，包括SCP计划内的人员，以及在高风险领域(例如客户获取、付款、销售等)运营的相关把关人和业务部门，以及代表组织履行SCP职责的外部各方。

VII.组织已任命人员负责将SCP的政策和程序整合到公司或企业的日常运营中。该过程包括与相关业务部门协商，并确认组织员工理解这些政策和程序。

测试与审计

审计评估当前流程的有效性，并检查这些流程与日常运营之间的不一致之处。SCP内全面且客观的测试或审计职能确保组织识别计划弱点和缺陷，组织有责任加强其计划，包括所有与计划相关的软件、系统和其他技术，以 remediate 任何已识别的合规差距。此类增强可能包括更新、改进或重新校准SCP要素，以考虑不断变化的风险评估或制裁环境。测试和审计可以针对SCP的特定要素或在整个企业层面进行。

General Aspects of an SCP: Testing and Auditing

A comprehensive, independent, and objective testing or audit function within an SCP ensures that entities are aware of where and how their programs are performing and should be updated, enhanced, or recalibrated to account for a changing risk assessment or sanctions environment, as appropriate. Testing or audit, whether conducted on a specific element of a compliance program or at the enterprise-wide level, are important tools to ensure the program is working as designed and identify weaknesses and deficiencies within a compliance program.

I. The organization commits to ensuring that the testing or audit function is accountable to senior management, is independent of the audited activities and functions, and has sufficient authority, skills, expertise, resources, and authority within the organization.

II. The organization commits to ensuring that it employs testing or audit procedures appropriate to the level and sophistication of its SCP and that this function, whether deployed internally or by an external party, reflects a comprehensive and objective assessment of the organization's OFAC-related risk assessment and internal controls.

III. The organization ensures that, upon learning of a confirmed negative testing result or audit finding pertaining to its SCP, it will take immediate and effective action, to the extent possible, to identify and implement compensating controls until the root cause of the weakness can be determined and remediated.

TRAINING

An effective training program is an integral component of a successful SCP. The training program should be provided to all appropriate employees and personnel on a periodic basis (and at a minimum, annually) and generally should accomplish the following: (i) provide job-specific knowledge based on need; (ii) communicate the sanctions compliance responsibilities for each employee; and (iii) hold employees accountable for sanctions compliance training through assessments.

General Aspects of an SCP: Training

An adequate training program, tailored to an entity's risk profile and all appropriate employees and stakeholders, is critical to the success of an SCP.

I. The organization commits to ensuring that its OFAC-related training program provides adequate information and instruction to employees and, as appropriate, stakeholders (for example, clients, suppliers, business partners, and counterparties) in order to support the organization's OFAC compliance efforts. Such training should be further tailored to high-risk employees within the organization.

SCP的一般方面：测试与审计

SCP内全面、独立且客观的测试或审计职能确保实体了解其计划在何处以及如何执行，并应酌情更新、增强或重新校准，以考虑不断变化的风险评估或制裁环境。测试或审计，无论是针对合规计划的特定要素还是在整个企业层面进行，都是确保计划按设计运行并识别合规计划内弱点和缺陷的重要工具。

I. **组织承诺确保测试或审计职能对高级管理层负责，独立于被审计的活动和职能，并在组织内拥有充分的权力、技能、专业知识、资源和权威。**

II. **组织承诺确保其采用与其SCP水平和复杂程度相适应的测试或审计程序，并且该职能(无论是内部部署还是由外部方部署)反映对组织OFAC相关风险评估和内部控制的全面和客观评估。**

III. **组织确保在获悉与其SCP相关的经确认的负面测试结果或审计发现后，将尽可能立即采取有效行动，识别并实施补偿性控制，直至确定并修复该弱点的根本原因。**

TRAINING

有效的培训项目是成功SCP不可或缺的组成部分。培训项目应定期(至少每年一次)向所有适当的员工和人员提供，并且通常应实现以下目标：(i)根据需求提供岗位特定知识；(ii)传达每位员工的制裁合规责任；以及(iii)通过评估让员工对制裁合规培训负责。

针对实体的风险状况以及所有适当的员工和利益相关者量身定制的充分培训项目，对SCP的成功至关重要。

I. **组织承诺确保其OFAC相关培训计划向员工以及酌情向利益相关方(例如客户、供应商、业务合作伙伴和交易对手)提供充分的信息和指导，以支持组织的OFAC合规工作。此类培训应进一步针对组织内的高风险员工量身定制。**

II. **The organization commits to provide OFAC-related training with a scope that is appropriate for the products and services it offers; the customers, clients, and partner relationships it maintains; and the geographic regions in which it operates.**

III. **The organization commits to providing OFAC-related training with a frequency that is appropriate based on its OFAC risk assessment and risk profile.**

IV. **The organization commits to ensuring that, upon learning of a confirmed negative testing result or audit finding, or other deficiency pertaining to its SCP, it will take immediate and effective action to provide training to or other corrective action with respect to relevant personnel.**

V. **The organization's training program includes easily accessible resources and materials that are available to all applicable personnel.**

II.组织承诺提供OFAC相关培训，其范围适合其提供的产品和服务；其维护的客户、顾客和合作伙伴关系；以及其经营所在的地理区域。

III.组织承诺根据其OFAC风险评估和风险状况，以适当的频率提供与OFAC相关的培训。

IV.组织承诺确保在获悉经确认的负面测试结果或审计发现，或与其SCP相关的其他缺陷后，将立即采取有效行动，向相关人员提供培训或其他纠正措施。

V.组织的培训计划包括所有适用人员均可获取的易于获取的资源和材料。

Root Causes of OFAC Sanctions Compliance Program Breakdowns or Deficiencies Based on Assessment of Prior OFAC Administrative Actions

Since its publication of the Economic Sanctions Enforcement Guidelines, 31 C.F.R. part 501, App. A (the "Guidelines"), OFAC has finalized numerous public enforcement actions in which it identified deficiencies or weaknesses within the subject person's SCP. These items, which are provided in a non-exhaustive list below, are provided to alert persons subject to U.S. jurisdiction, including entities that conduct business in or with the United States, U.S. persons, or U.S.-origin goods or services, about several specific root causes associated with apparent violations of the regulations it administers in order to assist them in designing, updating, and amending their respective SCP.

I. Lack of a Formal OFAC SCP

OFAC regulations do not require a formal SCP; however, OFAC encourages organizations subject to U.S. jurisdiction (including but not limited to those entities that conduct business in, with, or through the United States or involving U.S.-origin goods, services, or technology), and particularly those that engage in international trade or transactions or possess any clients or counter-parties located outside of the United States, to adopt a formal SCP. OFAC has finalized numerous civil monetary penalties since publicizing the Guidelines in which the subject person's lack of an SCP was one of the root causes of the sanctions violations identified during the course of the investigation. In addition, OFAC frequently identified this element as an aggravating factor in its analysis of the General Factors associated with such administrative actions.

II. Misinterpreting, or Failing to Understand the Applicability of, OFAC's Regulations

Numerous organizations have committed sanctions violations by misinterpreting OFAC's regulations, particularly in instances in which the subject person determined the transaction, dealing, or activity at issue was either not prohibited or did not apply to their organization or operations. For example, several organizations have failed to appreciate or consider (or, in some instances, actively disregarded) the fact that OFAC sanctions applied to their organization based on their status as a U.S. person, a U.S.-owned or controlled subsidiary (in the Cuba and Iran programs), or dealings in or with U.S. persons, the U.S. financial system, or U.S.-origin goods and technology.

With respect to this specific root cause, OFAC's administrative actions have typically identified additional aggravating factors, such as reckless conduct, the presence of numerous warning signs that the activity at issue was likely prohibited, awareness by the organization's management of the conduct at issue, and the size and sophistication of the subject person.

III. Facilitating Transactions by Non-U.S. Persons (Including Through or By Overseas Subsidiaries or Affiliates)

Multiple organizations subject to U.S. jurisdiction—specifically those with foreign-based operations and subsidiaries located outside of the United States—have engaged in transactions or activity that violated OFAC's regulations by referring business opportunities to, approving or

基于以下原因的OFAC制裁合规计划失效或缺陷的根本原因 关于对OFAC先前行政行动的评估

自发布《经济制裁执法指南》(31 C.F.R.part 501, App.A，以下简称"《指南》")以来，OFAC已最终确定众多公开执法行动，其中识别了主体人员SCP内的缺陷或弱点。以下以非穷尽清单形式提供的这些项目，旨在提醒受美国管辖的人员，包括在美国境内或与美国人或美国原产商品或服务开展业务的实体，注意与其所管理法规的 apparent violations 相关的若干具体根本原因，以协助他们设计、更新和修订各自的SCP。

I. 缺乏正式的OFAC SCP

OFAC法规不要求正式的SCP；然而，OFAC鼓励受美国管辖的组织(包括但不限于在美国境内、与美国人或通过美国开展业务或涉及美国原产商品、服务或技术的实体)，特别是那些从事国际贸易或交易或拥有位于美国境外的任何客户或交易对手的组织，采用正式的SCP。自公布《指南》以来，OFAC已最终确定众多民事罚款，其中主体人员缺乏SCP是调查过程中识别的制裁违规行为的根本原因之一。此外，OFAC在分析与此类行政行动相关的General Factors时，经常将这一要素识别为加重因素。

II. 误解或未能理解OFAC法规的适用性

众多组织因误解OFAC的法规而实施了制裁违规行为，特别是在主体人员认定所涉交易、经营或活动要么未被禁止、要么不适用于其组织或运营的情形下。例如，若干组织未能认识到或考虑到(或在某些情况下主动无视)以下事实：OFAC制裁基于其作为美国人、美国拥有或控制的子公司(在古巴和伊朗项目中)的身份，或基于涉及或与美国人、美国金融系统或美国原产货物和技术的交易而适用于其组织。就这一具体根本原因而言，OFAC的行政行动通常还认定了额外的加重因素，例如鲁莽行为、存在表明所涉活动很可能被禁止的众多警示信号、组织管理层对所涉行为的知情，以及主体人员的规模和复杂程度。

III. 为非美国人促成交易(包括通过海外子公司或关联公司)

多个受美国管辖的组织--特别是那些在境外设有业务且子公司位于美国境外的组织--参与了违反OFAC法规的交易或活动，其方式包括将商业机会介绍给、批准或

signing off on transactions conducted by, or otherwise facilitating dealings between their organization's non-U.S. locations and OFAC-sanctioned countries, regions, or persons. In many instances, the root cause of these violations stems from a misinterpretation or misunderstanding of OFAC's regulations. Companies and corporations with integrated operations, particularly those involving or requiring participation by their U.S.-based headquarters, locations, or personnel, should ensure any activities they engage in (i.e., approvals, contracts, procurement, etc.) are compliant with OFAC's regulations.

IV. Exporting or Re-exporting U.S.-origin Goods, Technology, or Services to OFAC-Sanctioned Persons or Countries

Non-U.S. persons have repeatedly purchased U.S.-origin goods with the specific intent of re-exporting, transferring, or selling the items to a person, country, or region subject to OFAC sanctions. In several instances, this activity occurred despite warning signs that U.S. economic sanctions laws prohibited the activity, including contractual language expressly prohibiting any such dealings. OFAC's public enforcement actions in this area have generally been focused on companies or corporations that are large or sophisticated, engaged in a pattern or practice that lasted multiple years, ignored or failed to respond to numerous warning signs, utilized non-routine business practices, and—in several instances—concealed their activity in a willful or reckless manner.

V. Utilizing the U.S. Financial System, or Processing Payments to or through U.S. Financial Institutions, for Commercial Transactions Involving OFAC-Sanctioned Persons or Countries

Many non-U.S. persons have engaged in violations of OFAC's regulations by processing financial transactions (almost all of which have been denominated in U.S. Dollars) to or through U.S. financial institutions that pertain to commercial activity involving an OFAC-sanctioned country, region, or person. Although no organizations subject to U.S. jurisdiction may be involved in the underlying transaction—such as the shipment of goods from a third-country to an OFAC-sanctioned country—the inclusion of a U.S. financial institution in any payments associated with these transactions often results in a prohibited activity (e.g., the exportation or re-exportation of services from the United States to a comprehensively sanctioned country, or dealing in blocked property in the United States). OFAC has generally focused its enforcement investigations on persons who have engaged in willful or reckless conduct, attempted to conceal their activity (e.g., by stripping or manipulating payment messages, or making false representations to their non-U.S. or U.S. financial institution), engaged in a pattern or practice of conduct for several months or years, ignored or failed to consider numerous warning signs that the conduct was prohibited, involved actual knowledge or involvement by the organization's management, caused significant harm to U.S. sanctions program objectives, and were large or sophisticated organizations.

批准由其组织非美国地点与OFAC受制裁国家、地区或个人进行的交易，或以其他方式为其提供便利。在许多情况下，这些违规行为的根本原因源于对OFAC法规的误解或错误理解。拥有一体化运营的公司和企业，特别是那些涉及或需要其美国总部、地点或人员参与的公司和企业，应确保其从事的任何活动(即批准、合同、采购等)符合OFAC的法规。

IV. 向OFAC制裁人员或国家出口或再出口美国原产商品、技术或服务

非美国人多次购买美国原产货物，其特定意图是将物品再出口、转让或出售给受OFAC制裁的个人、国家或地区。在若干情况下，尽管存在美国经济制裁法律禁止该活动的警示信号(包括明确禁止任何此类交易的合同语言)，该活动仍然发生。OFAC在该领域的公开执法行动通常侧重于规模较大或较为复杂的公司或企业，其行为模式或惯例持续多年，无视或未能回应众多警示信号，采用非常规商业做法，并且在若干情况下以故意或鲁莽的方式隐瞒其活动。

V. 利用美国金融体系，或为涉及OFAC制裁人员或国家的商业交易向美国金融机构付款或通过美国金融机构处理付款

许多非美国人通过处理向美国金融机构或经由美国金融机构的金融交易(几乎全部以美元计价)而实施了违反OFAC法规的行为，这些交易涉及与OFAC受制裁国家、地区或个人相关的商业活动。尽管可能没有受美国管辖的组织参与基础交易--例如从第三国向OFAC受制裁国家运送货物--但在与这些交易相关的任何付款中纳入美国金融机构，往往导致被禁止的活动(例如从美国向全面制裁国家出口或再出口服务，或在美国境内处理被冻结财产)。OFAC的执法调查通常侧重于以下人员：实施故意或鲁莽行为，试图隐瞒其活动(例如通过剥离或操纵付款信息，或向其非美国或美国金融机构作出虚假陈述)，从事持续数月或数年的行为模式或惯例，无视或未能考虑众多表明该行为被禁止的警示信号，涉及组织管理层的实际知情或参与，对美国制裁项目目标造成重大损害，并且属于大型或复杂组织。

VI. Sanctions Screening Software or Filter Faults

Many organizations conduct screening of their customers, supply chain, intermediaries, counter-parties, commercial and financial documents, and transactions in order to identify OFAC-prohibited locations, parties, or dealings. At times, organizations have failed to update their sanctions screening software to incorporate updates to the SDN List or SSI List, failed to include pertinent identifiers such as SWIFT Business Identifier Codes for designated, blocked, or sanctioned financial institutions, or did not account for alternative spellings of prohibited countries or parties—particularly in instances in which the organization is domiciled or conducts business in geographies that frequently utilize such alternative spellings (i.e., Habana instead of Havana, Kuba instead of Cuba, Soudan instead of Sudan, etc.),

VII. Improper Due Diligence on Customers/Clients (e.g., Ownership, Business Dealings, etc.)

One of the fundamental components of an effective OFAC risk assessment and SCP is conducting due diligence on an organization's customers, supply chain, intermediaries, and counter-parties. Various administrative actions taken by OFAC involved improper or incomplete due diligence by a company or corporation on its customers, such as their ownership, geographic location(s), counter-parties, and transactions, as well as their knowledge and awareness of OFAC sanctions.

VIII. De-Centralized Compliance Functions and Inconsistent Application of an SCP

While each organization should design, develop, and implement its risk-based SCP based on its own characteristics, several organizations subject to U.S. jurisdiction have committed apparent violations due to a de-centralized SCP, often with personnel and decision-makers scattered in various offices or business units. In particular, violations have resulted from this arrangement due to an improper interpretation and application of OFAC's regulations, the lack of a formal escalation process to review high-risk or potential OFAC customers or transactions, an inefficient or incapable oversight and audit function, or miscommunications regarding the organization's sanctions-related policies and procedures.

IX. Utilizing Non-Standard Payment or Commercial Practices

Organizations subject to U.S. jurisdiction are in the best position to determine whether a particular dealing, transaction, or activity is proposed or processed in a manner that is consistent with industry norms and practices. In many instances, organizations attempting to evade or circumvent OFAC sanctions or conceal their activity will implement non-traditional business methods in order to complete their transactions.

VI.制裁筛查软件或过滤故障

许多组织对其客户、供应链、中介机构、交易对手、商业和金融文件以及交易进行筛查，以识别OFAC禁止的地点、当事方或交易。有时，组织未能更新其制裁筛查软件以纳入SDN名单或SSI名单的更新，未能纳入相关标识符(如被指定、被冻结或受制裁金融机构的SWIFT Business Identifier Codes)，或未考虑被禁止国家或当事方的替代拼写--特别是在组织注册地或开展业务所在地区经常使用此类替代拼写的情形中(即Habana而非Havana,Kuba而非Cuba,Soudan而非Sudan等)。

VII.对客户/顾客的尽职调查不当(例如所有权、商业交易等)

有效的OFAC风险评估和SCP的基本组成部分之一是对组织的客户、供应链、中间商和交易对手进行尽职调查。OFAC采取的各类行政行动涉及公司或法人对其客户(例如其所有权、地理位置、交易对手和交易)以及其对OFAC制裁的知识和了解进行不当或不完整的尽职调查。

VIII.分散化的合规职能与SCP适用不一致

虽然每个组织都应基于自身特点设计、制定和实施其基于风险的SCP，但若干受美国管辖的组织因分散化的SCP而实施了明显违规行为，其人员和决策者往往分散在不同的办公室或业务部门。特别是，由于对OFAC法规的不当解释和适用、缺乏审查高风险或潜在OFAC客户或交易的正式升级流程、监督和审计职能效率低下或能力不足，或对组织与制裁相关的政策和程序存在沟通不畅，这种安排导致了违规行为。

IX.利用非标准支付或商业惯例

受美国管辖的组织最有能力确定某项特定交易、交易或活动是否以符合行业规范和惯例的方式提议或处理。在许多情况下，试图规避或绕过OFAC制裁或隐瞒其活动的组织会采用非传统商业方法来完成其交易。

X. Individual Liability

In several instances, individual employees—particularly in supervisory, managerial, or executive-level positions—have played integral roles in causing or facilitating violations of the regulations administered by OFAC. Specifically, OFAC has identified scenarios involving U.S.-owned or controlled entities operating outside of the United States, in which supervisory, managerial or executive employees of the entities conducted or facilitated dealings or transactions with OFAC-sanctioned persons, regions, or countries, notwithstanding the fact that the U.S. entity had a fulsome sanctions compliance program in place. In some of these cases, the employees of the foreign entities also made efforts to obfuscate and conceal their activities from others within the corporate organization, including compliance personnel, as well as from regulators or law enforcement. In such circumstances, OFAC will consider using its enforcement authorities not only against the violating entities, but against the individuals as well.

X.个人责任

在若干案例中，个别员工--尤其是处于监督、管理或高管层职位的员工--在导致或促成违反OFAC所执行法规的行为中发挥了不可或缺的作用。具体而言，OFAC已识别出涉及美国拥有或控制的实体在美国境外运营的情形，在这些情形中，尽管该美国实体已制定了完善的制裁合规计划，但这些实体的监督、管理或高管层员工仍与OFAC制裁的人员、地区或国家进行或促成了交易或往来。在其中一些案例中，外国实体的员工还努力向公司组织内的其他人(包括合规人员)以及监管机构或执法部门混淆和隐瞒其活动。在此类情况下，OFAC将考虑不仅对违规实体、也对个人使用其执法权力。

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