



DECODING ENFORCEMENT

# Incorporating Insights from Enforcement Actions into Comprehensive Compliance Programs

MARCH 21, 2024

# With You Today



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# Agenda



Webcast Overview



Key Elements of an Effective Compliance Program



Case Studies



Thematic Observations & Lessons Learned



Questions/Discussion

# Webcast Overview



## Learning Objectives

**At the conclusion of the webcast, participants should be able to:**

- ▶ Analyze real-world case studies to gain insights into the circumstances leading up to enforcement actions to help identify red flags
- ▶ Identify common compliance program pitfalls that may lead to enforcement actions
- ▶ Describe proactive compliance measures to mitigate the risk of potential future enforcement action
- ▶ Use practical strategies for identifying, communicating, and implementing compliance improvements within an organization
- ▶ Describe the importance of continuous monitoring, testing, and enhancement of a comprehensive compliance program



# Regulators & Enforcement Agencies



## New York Department of Financial Services (DFS)

NYDFS is the regulatory agency overseeing financial services in New York State. It regulates banks, insurance companies, and other financial institutions, ensuring compliance with state laws and regulations, including sanctions compliance oversight.



## Bureau of Industry and Security (BIS)

BIS is a U.S. Department of Commerce agency that regulates exports to advance national security and economic objectives. BIS administers and enforces export control laws, including the Export Administration Regulations (EAR), to safeguard US goods and technology.



## Office of Foreign Assets Control (OFAC)

OFAC is a U.S. Treasury Department agency responsible for enforcing economic and trade sanctions based on U.S. foreign policy and national security goals. It administers and enforces economic sanctions targeted against countries, individuals, entities, and groups.



## U.S. Department of State Directorate of Defense Trade Controls

The Directorate of Defense Trade Controls (DDTC) ensures commercial exports of defense articles and defense services advance U.S. national security and foreign policy objectives.

## Question #1

What federal regulator is primarily responsible for designating persons and entities subject to U.S. Sanctions?

A

Department of Transportation

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B

BDO + Barnes & Thornburg

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C

Department of Commerce

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D

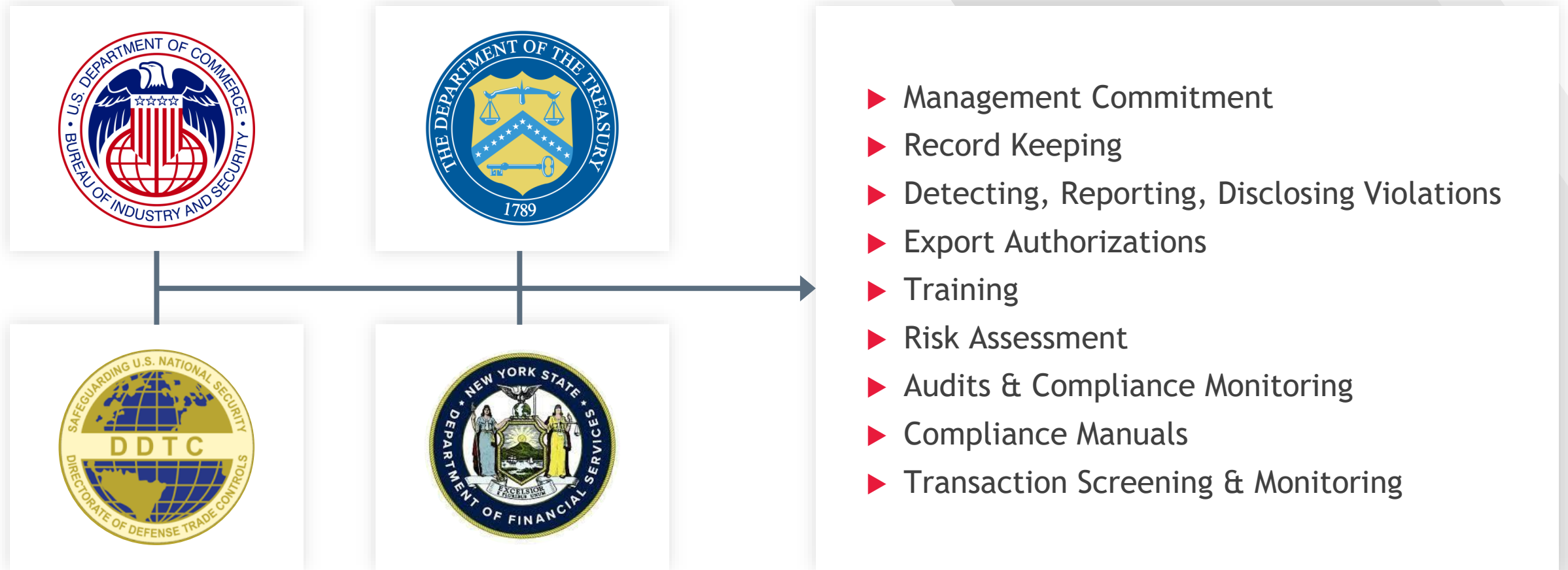
Department of the Treasury -  
Office of Foreign Assets Control

# Key Elements of an Effective Compliance Program





# Key Elements of an Effective Compliance Program



## Question #2

Which element of an effective compliance program is aimed at reinforcing a culture of compliance at an organization?

A

Record Keeping

B

Management Commitment

C

Financial Incentive

D

Risk Assessment

# Case Studies



## CASE STUDY #1

# International Banking Institution

Entity Overview

Enforcement Action

Compliance Deficiencies

Themes

International banking institution with more than 30 branches, and assets totaling over \$44 billion, licensed by NYDFS to operate a foreign bank branch in New York State.



## CASE STUDY #1

# International Banking Institution

Entity Overview

Enforcement Action

Compliance Deficiencies

Themes

## New York Department of Financial Services (NYDFS)

In 2018, and again in 2021, the foreign bank entered into consent orders concerning deficiencies related to the bank's BSA/AML and OFAC sanctions compliance program. The bank failed to maintain an effective program, and did not disclose prohibited transactions with Sudanese entities.





## CASE STUDY #1

# International Banking Institution

Entity Overview

Enforcement Action

**Compliance Deficiencies**

Themes



Intentional obfuscation of transactions with sanctioned jurisdictions

Deficient policies and procedures

Lack of management commitment

Insufficient training



## CASE STUDY #1

# International Banking Institution

Entity Overview

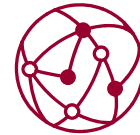
Enforcement Action

Compliance Deficiencies

Themes



Cooperation with  
Regulators



Complexity of Global  
Transactions



Willful Violations



Inadequate Compliance  
Programs

## Question #3

What effect does cooperation with regulatory inquiries and investigations have on organizations?

A

Reputational damage

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B

Potential to decrease severity of penalties

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C

Increased risk of additional enforcement actions

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D

Threats to national security

## CASE STUDY #2

# Cryptocurrency Exchange

Entity Overview

Enforcement Action

Compliance Deficiencies

Themes

Operated as an institutional brokerage firm, cryptocurrency exchange and digital wallet, offering a platform to buy and sell cryptocurrencies and digital tokens.



## CASE STUDY #2

# Cryptocurrency Exchange

Entity Overview

Enforcement Action

Compliance Deficiencies

Themes

## Office of Foreign Assets Control (OFAC)

In 2022, the company reached a \$20MM settlement with OFAC related to over 100,000 apparent violations of multiple sanctions programs. Company failed to screen, detect, and prevent restricted persons located in Crimea, Cuba, Iran, Sudan and Syria from using platform.





## CASE STUDY #2

# Cryptocurrency Exchange

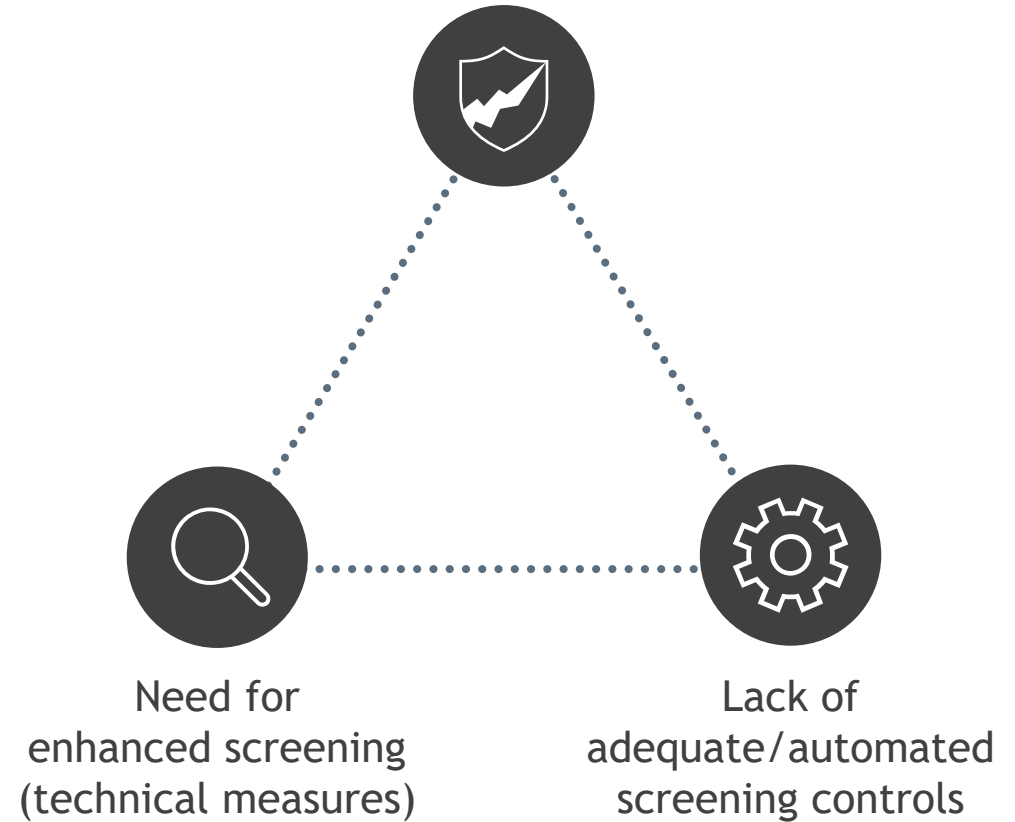
Entity Overview

Enforcement Action

**Compliance Deficiencies**

Themes

Nonexistent sanctions compliance program



## CASE STUDY #2

# Cryptocurrency Exchange

Entity Overview

Enforcement Action

Compliance Deficiencies

Themes



Initial focus on products/ service innovation and market growth over compliance



Inadequate compliance resources and training



Failure to apply advanced technology for sanctions screening



## Question #4

What is an example of enhanced sanctions compliance screening?

A

Google searches

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B

Screening transactions for IP and physical addresses

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C

Prioritizing high-value transactions

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D

Closing expired alerts without review

## CASE STUDY #3

# Multinational Computer Company

Entity Overview

Enforcement Action

Compliance Deficiencies

Themes

After the United States imposed new U.S. export controls on certain companies for national security reasons, the company continued its business with a restricted company to become its sole provider of foreign produced hard disk drives (HDDs).



## CASE STUDY #3

# Multinational Computer Company

Entity Overview

Enforcement Action

Compliance Deficiencies

Themes

## Bureau of Industry and Security (BIS)

On April 19, 2023, BIS imposed the largest penalty of \$300 million against this company to resolve alleged violations of U.S. export controls related to selling foreign-produced hard disk drives (HDDs) to Huawei in violation of the Entity List foreign direct product (FDP) rule. The company had HDDs made with equipment, including test equipment, subject to U.S. export controls without export authorization.



BIS's Entity List Source: <https://www.ecfr.gov/current/title-15/subtitle-B/chapter-VII/subchapter-C/part-744/appendix-Supplement%20No.%204%20to%20Part%20744>.

CASE STUDY #3

# Multinational Computer Company

Entity Overview

Enforcement Action

**Compliance Deficiencies**

Themes

Insufficient Customer  
Screening



Ignored Compliance  
Red Flags



Failure to  
assess risks

## CASE STUDY #3

# Multinational Computer Company

Entity Overview

Enforcement Action

Compliance Deficiencies

Themes



Management Oversight  
or Negligence



Inadequate Compliance  
Programs



Failure to Respond to  
Red Flags



National Security threats &  
Strengthened enforcement  
of laws and policies



## CASE STUDY #4

# Global Telecom Company

Entity Overview

Enforcement Action

Compliance Deficiencies

Themes

Founded in Florida and headquartered in California, this global telecommunication company researches and develops Internet Protocol Multi-Protocol Label Switching (IP/MPLS) routing solutions for network communications both wired and wireless technology.





## CASE STUDY #4

# Global Telecom Company

Entity Overview

Enforcement Action

Compliance Deficiencies

Themes

## U.S. Department of State Directorate of Defense Trade Controls

Allegedly exported defense articles to Vietnam, a proscribed destination at the time of the unauthorized exports. In 2021, the same company also filed a concurrent voluntary disclosure with Department of Commerce's Bureau of Industries and Security (BIS). BIS found six violations of the EAR and settled a \$1.9 million penalty, plus expenditures on compliance and hiring a director of trade compliance.



CASE STUDY #4

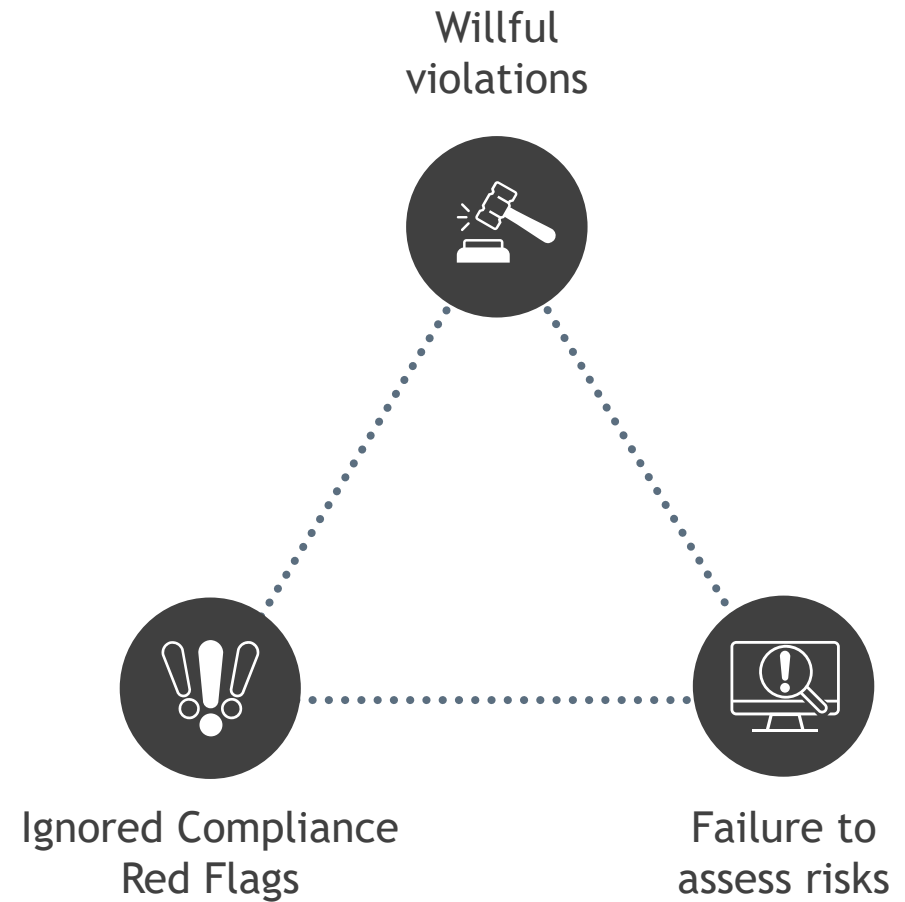
# Global Telecom Company

Entity Overview

Enforcement Action

**Compliance Deficiencies**

Themes



CASE STUDY #4

# Global Telecom Company

Entity Overview

Enforcement Action

Compliance Deficiencies

**Themes**



Management Oversight  
or Negligence



Cooperation between  
agencies, industries,  
and countries



National Security threats &  
Strengthened enforcement  
of laws and policies

# Thematic Observations & Lessons Learned




# Thematic Observations & Lessons Learned




# Thematic Observations & Lessons Learned


## DO'S

-  Monitor recent enforcement actions for effects on operations


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-  Use, test, and enhance automated screening software continuously

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-  Cooperate with regulators and enforcement agencies


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-  Promote a culture of compliance

## DON'TS

-  Conceal violations

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-  Ignore Red Flags

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-  Stagnant compliance programs

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-  Prioritize profit over compliance



# Questions & Discussion



A modern office interior featuring a staircase with a glass railing on the left, a reception desk with the BDO logo on the right, and large windows overlooking a city skyline. The scene is dimly lit, with light coming from the windows and the BDO logo on the desk.

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