

THE WORLDECR EXPORT CONTROLS AND SANCTIONS FORUM 2018

WASHINGTON, DC



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4-5 June, at the offices of Hogan Lovells US LLP, Washington DC

Welcome



**Tom Blass,
Editor,
WorldECR**

We've moved the WorldECR Forum forward in the calendar this year – it may be less than a year that separates the 2018 London and DC Forums from last year's, but what a difference seven months can make! Our line-up of sessions this year reflects all the major developments and trend directions that have emerged or accelerated since then:

- The prospect of talks between the United States and North Korea (and super-heavy sanctions against the latter in the meantime)
- Another term for Vladimir Putin and a frostier relationship between East and West
- Human rights and Magnitsky sanctions – now firmly on the compliance agenda
- The impact of BREXIT from a trade controls perspective – and not just for UK businesses
- China's new export control regime – a welcome safeguard against non-proliferation, or strategically placed 'mirror' to US regulations?

Of course, the Forum is not a place only for discussion of the impact on trade of geopolitical developments – there's enormous benefit to be gained from shared experiences in practical issues and questions such as:

- Are my colleagues compliant when they travel abroad and – likewise – are we compliant when we have visitors to our premises and facilities?
- How should my company be responding to the long-term threats and opportunities presented by technological innovation such as additive manufacturing and AI?
- Bitcoin and blockchain – shaking up business processes, but what does it mean for compliance?
- Is our compliance function equipped to manage a plurality of export control regimes?
- Is our restricted party screening process fit for purpose?
- Am I using data efficiently – and in such a way that supports the bottom line?

All food for thought which you'll have the opportunity to share at both our Washington DC (4-5 June) and London (28-29 June) events with our line-up of hugely experienced practitioners from companies including GE, Accenture, Arconic, Google, Rolls-Royce, Saab, ZTE, MTU Aero and more, as well as with leading lawyers and experts from leading international institutions.

Past attendees of *WorldECR* Forum events know that they provide an unparalleled opportunity to make contacts, learn from peers and mentors, share ideas and concerns, broaden horizons – and take the lead in the increasingly demanding and complex domain of sanctions and export control compliance.

As in previous years, you can enjoy an **optional dinner** on the first evening of the Forum, following the drinks reception. To date, this relaxed and informal dinner for speakers, panellists and delegates, held in a local restaurant, has proven a great success. It is optional – there is an additional charge – but it is always a fun end to a long day and a great opportunity to build new contacts.

Key dates and offers

Please allow me to draw your attention to the following:

- If you register by 18 May you can save \$300
- Additional delegates from the same organisation can save an additional \$200
- *WorldECR* subscribers and past Forum attendees can claim a 10% discount.

Join us in DC this June. We look forward to seeing you. Booking forms and logistics are at the end of this document.

Tom Blass
Editor, WorldECR



Hon. Sue Eckert – Proliferation finance developments and compliance trends

Still awaiting a standardised definition, the term ‘proliferation finance’ is understood to refer to the provision of funds used in the manufacture, acquisition, export or other activities related to military, WMD or dual-use goods.

Understanding the nexus between proliferation finance and controlled goods is pivotal to making the regimes successfully function. But the relationship between PF and export controls is not always clearly understood.

There are few better positioned to explain that nexus than the Honorable Sue Eckert, Senior Fellow At the Center For a New American Security (teaching a Master’s Degree Program in Financial Integrity) and former Assistant Secretary of Commerce for Export Administration.

In her presentation, Sue will talk both about recent developments in thinking on proliferation finance (and Financial Action Task Force guidelines) – and its relevance to the everyday practice of compliance.



Satish Kini and Carl Micarelli – The global sanctions terrain 2018

Eighteen months into the Donald Trump presidency, and in some respects, sanctions are more prominent in the terrain of global business than ever before.

As to Iran, the JCPOA is left intact, but almost in a state of limbo, awaiting a renewal of political will (or change of wind) from the US administration, with the EU and other signatories poised to resist any change. Meanwhile, the US-Cuba ‘thaw’ remains on ice. Against Venezuela and North Korea, the US administration appears determined to show it is no soft touch. North Korea, the focus of concerted international convergence, is drawing the attention of ever greater numbers of businesses as the net tightens and North Korea increasingly resorts to deceptive tactics to evade global sanctions.

Russia sanctions have become a contested domestic political issue in the US. CAATSA – the Countering America’s Adversaries Through Sanctions Act – is as bold as its name, though some members of Congress have charged that the Trump administration has failed to implement its Russia-related provisions faithfully. The EU and other nations, however, have been disinclined to expand Russia sanctions beyond their current scope.

In this presentation, Satish Kini and Carl Micarelli from the law firm Debevoise & Plimpton will give a tour d’horizon of US, EU and UN sanctions, emphasising those areas less well understood by compliance personnel. They will describe the general direction of travel of key agencies such as OFAC, grey areas, and interactions between the respective regimes of different jurisdictions.

This is a must-attend presentation given by two lawyers who advise businesses and financial institutions at the highest level – both on practical, day-to-day matters – and for strategic planning.





Barbara Linney and Saskia Zandieh – Secondary sanctions: sometimes a primary concern?

Secondary sanctions target non-US persons engaged in activities sanctionable under US law, including doing business with entities or countries sanctioned by the United States – even where there's no US nexus. If imposed, individuals and entities alike can find themselves on the OFAC Specially Designated Nationals (SDN) or Foreign Sanctions Evaders (FSE) Lists, locked out of the US financial services market and other sectors of the US economy, and prevented from doing business with US companies.

Up until now, the majority of secondary sanctions were imposed on companies and banks trading with Iran, but the lifting of many of these sanctions pursuant to the JCPOA may be in jeopardy. In addition, the Countering Americas Adversaries Through Sanctions Act (CAATSA) introduced a slew of possible new secondary sanctions, especially as regards doing business with Russia and North Korea, and many of these new sanctions have a human rights or anti-corruption focus.

The future of Iran sanctions is uncertain and the language in CAATSA is sometimes vague, but what is clear is that the issue of secondary sanctions is a live one and creates significant compliance risks for non-US companies – and their US business partners alike.

We're delighted that Miller & Chevalier's Barbara Linney will be on hand to fine-tune our understanding of the notion and nature of secondary sanctions, their application – and why, in 2018, they're riding high on the compliance agenda. Her colleague Saskia Zandieh will explore the steadily increasing deployment of US secondary sanctions as instruments of the human rights and anti-corruption movements in addition to their traditional role as foreign policy tools and how these new objectives impact sanctions compliance.



Kevin Cuddy – Forward thinking on future challenges

What are the compliance challenges of tomorrow and how do we prepare for them? In what is sure to be a thought-provoking session, Kevin Cuddy – senior international trade manager for GE, and now the Stimson Center's inaugural Trade, Technology and Security Fellow, looks at the potential impact of:

- New technical developments such as AI, additive manufacturing (3D printing) – and cutting-edge biotech
- New proliferation threats potentially posed by new and non-state actors
- Emerging human rights and security concerns
- ...and the way in which governments and multilateral organisations

(Wassenaar Arrangement and others) may seek to control, limit or respond to them. Is it enough for business to take a wait-and-see approach to the future? If that's not how your company views the world, this is a conversation that you need to be a part of.

As an experienced international trade manager in one of the world's best known corporations, Kevin is uniquely well placed to open the discussion, and share his thinking on the future compliance challenges faced by industry.



John Pisa-Relli – Information overload? Make data tools your friend!

Increasingly businesses are exploring the opportunities presented by new data collection and collation platforms – hugely powerful tools enabling the storage, analysis and management of information. For the trade compliance function, they present both challenges and many potential benefits.

The obvious challenge is: how to manage controlled data whilst maximising the efficiencies that such tools provide? But also – how can realisation through such data tools be used to empower the compliance function and create commercial advantages which will be appreciated across the Board? And what kind of relationship is needed with other company functions to do so?

We're delighted that John Pisa-Relli, Managing Director of Global Trade Compliance at Accenture in Washington DC, will be on hand to talk with us about his company's journey as it gets to grips with the 'informatics revolution' and the discoveries made therein.

Is this relevant to you? Yes. If these kinds of technology have yet to cross your path, they're sure to very, very soon.



Cyndee Todgham Cherniak – The five most misunderstood aspects of Canadian export law

At almost 4,000 miles, the border between the United States and its northern neighbour is the world's longest (and that's without factoring in Alaska). Which means that the two nations see a lot of each other (though not always eye to eye).

Indeed, while annual US/Canadian trade is in the region of \$500bn per annum, when it comes to export control and trade compliance, US and Canadian law are remarkably different, reflecting their very different histories, and global roles (and, currently, the world views of their respective administrations).

What, then, are the five aspects of Canadian export law most likely (and thus causing hold-ups and delays) to be misunderstood by US businesses? This presentation will answer that question.

Amongst Toronto's leading international trade lawyers, Cyndee Todgham Cherniak has many years' experience advising US companies on all aspects of Canadian regulation. If you have ever come unstuck with any aspect of Canadian export controls or sanctions – Cyndee may well know how to get you back on track.



Jay Nash – Asia export control update

The past year has seen India's accession to the Wassenaar Arrangement and Australia Group, China announce a new paradigm of export control (which pleases some, and worries others), Japan, Korea and others in the region responding to the nuclear threat posed by North Korea, and the coalescing of export control regimes in Thailand, the Philippines and elsewhere in Asia.

What do these changes mean for investors and businesses manufacturing and trading with Asian countries? And what compliance strategies are available to companies looking to meet emerging requirements cost-effectively, and efficiently?

In his presentation, Jay P. Nash – who, as a global trade compliance consultant specialising in Asian export controls, has extensive experience with and insights into export control regimes in that region – will outline some of the key regulatory, political and practical developments in Asian export controls, and provide valuable pointers in the direction of developments that may be just around the corner.



Lila Rose Landis – Laptops, lab coat and the airport lounge: ensuring compliant factory visits and employee travel

On a day-to-day basis, ensuring that visits to manufacturing sites by non-national employees, and managing the travel programs of employees with access to controlled technology can be a struggle for companies of all sizes:

- How should manufacturing sites be laid out in such a way that controlled areas are not inadvertently in sight?
- Which licences are required to be obtained and for whom?

Travel presents its own headaches. As the 'information age' matures new threats and vulnerabilities emerge. It may be tempting to log on to the nearest 'hotspot', but is it wise?

Armed with salutary 'how not to' tales, PolyONE Empowered Official Lila Rose Landis outlines the danger areas, both on the factory floor – and on the lecture circuit.

Lila will discuss how you can implement policies and conduct training in such a way that minimises the risk, not only of a regulatory breach – but possibly valuable commercial data also.



Gerd Schwendinger – Compliance and enforcement of export controls in Germany

Germany is the largest exporter of plant machinery and hi-tech goods in the European Union, and enjoys long-established trading relationships with both Russia and Iran. It also has a strong culture of corporate compliance and well-resourced regulatory authorities – amongst them, the Federal Office for Economic Affairs and Export Control, better known as BAFA, the agency which administers and implements EU export controls and sanctions in Germany.

How are German businesses looking to take advantage of the apparent opportunities created by the relaxation of EU Iran sanctions in the wake of the Joint Comprehensive Plan of Action? What has been the impact of increasingly-tightened sanctions against Russia? How do German regulatory agencies enforce export control compliance, and what consequences face companies and individuals in case of a violation of the applicable regulations? How do German exporters ensure compliance with EU and other control lists, and what are the lessons to be learnt from recent enforcement actions and recent case law in relation to compliance management systems?

These are amongst the questions that Gerd Schwendinger of GVW Graf von Westphalen will be addressing in this presentation – issues, of course, which have a bearing not only for German companies and investors in Germany, but for all other manufacturers and their subsidiaries and exporters of controlled goods in the EU.



Satish Kini and Carl Micarelli – The ‘50% Rule’: application and implications

In 2014, in the wake of the first tranche of sanctions against Russia for its involvement in Ukraine and annexation of Crimea, OFAC published its ‘50%’ rule, which holds that if a blocked entity owns, directly or indirectly, 50% or more of a property, then that property (or company) is itself blocked.

An aggregate principle also applies: if two blocked entities own, between them, 50% or more of an entity, the rule applies. And if that blocked entity *were* to own another entity – the effect cascades down...

Given the difficulty of ascertaining beneficial ownership in many cases, the situation can get pretty complicated. Add to that, the companies frequently need to also apply EU guidelines on ownership and control.

Satish Kini and Carl Micarelli of Debevoise & Plimpton will be explaining the 50% rule and its EU equivalent, and outlining in practical terms best practice in ascertaining beneficial ownership under both regimes.

Given the prospect of increased numbers of designations (particularly under the Russia sanctions regimes), this is a not-to-miss session for those in the field of trade compliance.





Ken Teslik and Matt Bell – The multijurisdictional juggling act

The need to balance multijurisdictional trade control regimes has become a commonplace for global companies. But that's not to say that it is straightforward. Different countries and blocs have their own foreign policies and interests, reflected in control lists, designations and sometimes blocking statutes.

Also, where nations share interests and outlooks, that's not to say that the administrative or procedural nuts and bolts are aligned. And there is potential for greater divergence, with the EU rewriting its export control policy, China doing likewise, and the United Kingdom looking to 'unshackle' itself from Brussels.

Kennan Teslik, Head of Group Trade Compliance for Swiss-based ABB, and Matt Bell, Chief Export Control Compliance Officer and Legal Officer at China's ZTE, are well placed to discuss strategies for managing – and complying with – multiple export control regimes. We look forward to their insights.



Roy Liu – A word on your EAR? Export control enforcement, trends and lessons to learn

Enforcement actions for export control breaches or alleged violations can have a serious bottom line impact for companies of all stripes and sizes – and if it is to implement effective compliance, the business community is well-counselled to understand enforcement trends. Roy Liu, counsel at the DC office of Hogan Lovells, will be on hand to facilitate exactly that.

In his presentation, Roy will cover the emerging direction of travel of enforcement including:

- Those areas and industries and sectors (of both US and non-US companies) where agencies such as the Bureau of Industry and Security (BIS) are focusing their attention
- The increased use of the EAR Entity List (and difficulties, compliance challenges and ambiguities resulting therein)
- What can be discerned from the pattern and reasoning of recent settlements
- The potential impact of the US export control enforcement on China's own Export Control Reform



Tracey Vega and Kevin Cuddy – Best practice in restricted party screening and due diligence

Restricted party screening – or ‘knowing your party’ – lies at the heart of trade control compliance. Software tools are essential to sifting through multiple restricted party lists. But in many respects, screening, and other forms of due diligence, remain more art than science if companies are to make intelligent decisions about third parties – and the activities that it is appropriate to engage in with them.

- How to meet and juggle the respective requirements of the OFAC ‘50%’ rule and its EU equivalent?
- What are the implications of CAATSA for those doing business with Russia?
- How to avoid taking a ‘tick-list’ approach to screening which is commercially detrimental – and jeopardises business relationships?

These are the kinds of questions which Tracey Vega, Corporate Director, Global Trade Compliance at Arconic, and Kevin Cuddy, Senior Manager for International Trade Compliance at GE, will be addressing – alongside any that you may have – in the course of their panel discussion on restricted party screening and due diligence.



Andrew Keller – Controlled energy: sector challenges and practical responses

The energy sector may be the lifeblood of the global economy; it is also amongst the most scrutinised and regulated of sectors – in part on account of the geographical distribution of the resources it harvests, and attendant geopolitical and other issues.

Recent sanctions developments have had major consequences for many oil and gas players.

Andrew Keller, partner in the DC office of law firm Hogan Lovells will lead a panel discussion on the real and potential impact of:

- The Countering America’s Adversaries Through Sanctions Act (CAATSA)
- The ratcheting of sanctions against Venezuela and its state oil company, PDVSA
- Continued certainty around the Joint Comprehensive Plan of Action (JCPOA)
- The UN and unilateral sanctions regimes against North Korea

The panel will also discuss active enforcement by regulatory agencies, and the fallout from recent settlements.

FURTHER SESSIONS, SPEAKERS AND PANELLISTS TO BE ANNOUNCED

THE WORLDECR EXPORT CONTROLS & SANCTIONS FORUM

4-5 June 2018, at the offices of Hogan Lovells US LLP,
555 13th St NW, Washington, DC 20004

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1) I will pay by card on line: please go to

<http://www.worlddec.com/conference-payment-us>

2) Please invoice me for payment by check or bank transfer.

Please email your completed registration form to mark.cusick@worlddec.com

(Please note, to qualify for Early Bird discount, payment must be received by WorldECR by 18 May 2018)

Signed _____

Date _____

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Please note, by registering for this event you accept the terms and conditions below.

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Your fee includes the attendance at both days of the conference; morning, mid-morning and afternoon coffee and pastries, and lunch on both days; drinks reception on day 1; programme materials.

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Payment must be received in full by the conference date. 'Additional delegate' prices are only available to delegates from the same organisation as the original full-fee delegate.

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You must notify the conference organiser 48 hours before the conference if you wish to change the delegate.

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