

The background of the image is a dark red gradient. It is filled with numerous stacks of US dollar bills, primarily \$100 bills, which appear to be falling from the top. The stacks are rendered in a semi-transparent, faded style, creating a sense of motion and abundance. On the right side of the image, there is a vertical strip of black background. This strip contains several stacks of US dollar bills that are not faded, appearing as if they are falling from the top edge of the frame. The bills are clearly visible, showing the '100' and the portrait of Benjamin Franklin.

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# UNITED STATES

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*The United States has traditionally been a leading jurisdiction in imposing sanctions, as well as in monitoring and enforcing their compliance. This has at times included the launch of civil and criminal proceedings. Since the Russian invasion of Ukraine, the country has boosted the operational capacity of its law enforcement agencies, enabling them to use existing tools more efficiently, and strengthened cooperation with other jurisdictions around coordination of enforcement actions.*

### Legislative and institutional framework

Since the beginning of 2022, the United States came up with various new initiatives that aim to strengthen its capacity to effectively implement and enforcement sanctions nationally and among its partner countries.

Shortly after the invasion of Ukraine, the US Department of Justice announced the creation of the interagency Task Force KleptoCapture to help enforce the new myriad of sanctions and export controls it imposed on Russian individuals and companies. The Task Force's mission is broad, with a focus on both tackling sanctions evasion and "using civil and criminal asset forfeiture authorities to seize assets belonging to sanctioned individuals or assets identified as the proceeds of unlawful conduct".<sup>157</sup>

The offences that the Task Force can investigate and prosecute must broadly be related to its mission, which includes conspiracy to defraud the United States; money laundering; false statements to a financial institution; bank fraud; and tax offenses. The maximum criminal penalty under these offences individually is 20 years in prison and/or up to USD 1 million (approx. EUR970,000) per violation.<sup>158</sup>

Around the same time as the Task Force KleptoCapture was established, the Russian Elites, Proxies, and Oligarchs (REPO) multilateral task force also came in to being. It was created as a channel for information sharing and international cooperation regarding sanctions, asset freezing, civil and criminal asset seizure, and criminal prosecution.<sup>159</sup> The US also expanded its internal capacity to investigate and prosecute sanctions evasions, export controls violations, and other economic crimes by hiring 25 new prosecutors.<sup>160</sup> Furthermore, interagency enforcement cooperation was strengthened between the US Department of Commerce's Bureau of Industry and Security (BIS), the US Department of Justice (DOJ) and the US Treasury Department's Office of Foreign Assets Control (OFAC).<sup>161</sup>

Traditionally, the key regulator in enforcing sanctions regulations has been the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC). OFAC administers and enforces U.S. economic and trade sanctions programs, including the publication of compliance guidelines for companies.<sup>162</sup> OFAC's enforcement proceedings are of a civil nature. In cases where it is believed that enforcement proceedings will require criminal penalties, OFAC can refer a case to the US Department of Justice (DOJ), although the DOJ may at times pursue cases at its own initiative.<sup>163</sup> Both OFAC and the DOJ have a rich track record of enforcement actions, including the use of civil and criminal asset forfeiture statutes.<sup>164</sup>



## Investigations into assets linked to sanctioned individuals

The DOJ has launched a number of investigations into alleged violations of US sanctions by Russian individuals. For example, PEPs Konstantin Malofeyev, Andrei Derkach, and Oleg Deripaska, Alexander Babakov face charges for sanctions evasion and other related crimes. Several individuals from other countries, including US citizens have been charged with facilitating their attempt at sanctions evasion. The seizure and forfeiture of assets linked to Russia sanctions, including yachts, have been coordinated by the DOJ's Task Force KleptoCapture, with assets amounting to more than USD 500 million seized, forfeited, or restrained over first year of the sanctions.<sup>165</sup>

In most of these cases, US strategy has been to first obtain a seizure warrant based on a probable cause to believe that an asset of a sanctioned Russian individual or entity is subject to forfeiture because of its connection to a criminal offence. At times, US authorities have sought the assistance of courts in jurisdictions where the asset was located to serve the warrant and take custody of the asset, such as in the case of the yachts Tango or Amadea. The ultimate step to pursue and confiscate the asset is then to file a civil (non-conviction-based) forfeiture action related to the particular asset.<sup>166</sup>

While US authorities indicted over 30 individuals for the evasion of sanctions and other related crimes in 2022<sup>167</sup> and have seized a number of properties belonging to sanctioned Russian individuals, they have moved forward with civil forfeiture only in couple of cases so far. Even for the well-equipped US authorities, it is predicted that these cases might take years to resolve at trial or settle and it remains to be seen to which level of success.<sup>168</sup> US authorities

may therefore be cautious when starting any action until they are certain that the evidence that they have gathered will be able to withstand judicial scrutiny.

A successful case of forfeiture of funds and their subsequent transfer to Ukraine to aid in its recovery concerned USD 5.4 million belonging to a businessman Konstantin Malofeyev. The DOJ charged Malofeyev with violating Russian sanctions, which were imposed on him after the invasion of Ukraine, claiming he was helping to finance the aggression.<sup>169</sup>

Beyond the heightened capacity and cooperation efforts of US authorities, another tool that might be aiding the US efforts to gather information relevant for prosecuting cases of illicit wealth, including those of sanctioned individuals, is its whistle-blower incentives programme. The United States operates a Kleptocracy Asset Recovery Rewards Program which offers monetary rewards to people who provide information to the US authorities which would lead to "the restraint or seizure, forfeiture, or repatriation of stolen assets, [...] linked to foreign government corruption".<sup>170</sup> The Program also envisages the return of such assets to the country harmed by the acts of corruption where appropriate and feasible. While the authorities accept information regarding corruption cases linked to any foreign governments, they specifically advertise for cases of interest: for example cases related to Russian government, the Malaysia Sovereign Wealth Fund (so-called 1MDB case) and Odebrecht bribery case spanning number of countries in Latin America.