

Latest OFAC Sanctions on Syria, Iran and Burma

Meeting Strict and Rapidly Changing U.S. Sanctions Requirements

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1pm Eastern | 12pm Central | 11am Mountain | 10am Pacific

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U.S. Sanctions Update: Iran, Syria and Burma

Strattford Webinar

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Program Summary

- Sanctions Overview
- Recent Developments in Sanctions Programs
 - Iran
 - Syria
 - Burma
- Questions/Discussion

Sanctions Overview – OFAC Sanctions

- Administered by the Office of Foreign Assets Control (OFAC) of the U.S. Treasury Department
- Some sanctions are administered by the State Department (e.g., certain provisions of the Iran Sanctions Act, as amended)
- Over 25 different OFAC sanctions programs:
 - Comprehensive programs (Cuba, Iran, Sudan, and Syria)
 - Limited programs (e.g., Burma and North Korea)
 - List-based programs
 - Based on prohibited activities (e.g., Counter-Terrorism, Foreign Sanctions Evaders)
 - Based on regimes (e.g., Belarus, Cote D'Ivoire, and Zimbabwe)

Sanctions Overview – SDNs

- OFAC designates Specially-Designated Nationals (SDNs) under its sanctions programs and publishes on its website a consolidated list of all SDNs
- U.S. Persons are not permitted to have any dealings with SDNs, or with any entity 50 percent or more owned by an SDN (even if such entity is not listed on OFAC's SDN List), unless authorized by OFAC through a general or specific license
- SDNs include individuals, entities, aircraft, and vessels and may be located anywhere in the world
- The SDN List is updated frequently by OFAC

Sanctions Overview – Jurisdiction (U.S. Persons)

- “**U.S. Persons**” must comply with OFAC sanctions laws
 - For most sanctions programs, U.S. Persons include:
 - All U.S. citizens and permanent residents, wherever located or employed
 - All U.S.-organized or incorporated entities, including foreign branches of a U.S. entity (but not its foreign subsidiaries)
 - All individuals or entities physically present/located in the United States
 - For Cuba
 - Any U.S. Person, and any entity owned or controlled by a U.S. Person, which includes foreign subsidiaries of U.S. companies
 - For Iran
 - Any U.S. Person, **plus** U.S. Persons are subject to civil liability for transactions by their non-U.S. subsidiaries that would be prohibited if undertaken from the United States or by a U.S. Person

Sanctions Overview – Jurisdiction (Non-U.S. Persons)

- Sanctions programs (and particularly the Iran sanctions) have increasingly focused on the conduct and activities of **non-U.S. parties**, including non-U.S. financial institutions
 - Penalties are in the form of restricted access to U.S. markets and benefits, rather than monetary penalties
- U.S. government has been aggressive in its enforcement against non-U.S. entities

Sanctions Overview – State Sanctions Laws

- U.S. states are increasingly enacting sanctions laws
- Congress (in CISADA) gave state sanctions laws a new momentum
 - Previously, state sanctions laws were often found to be unconstitutional
 - CISADA authorized states to enact divestment laws relating to Iran
 - Pre-CISADA state sanctions laws may be grandfathered
- States have also enacted non-procurement laws

Syria Sanctions – Background

- Prior to August 2011, sanctions against Syria were limited to OFAC list-based sanctions targeting certain individuals and entities (SDNs) and a comprehensive export ban on all unlicensed U.S.-origin items (except EAR 99 food and medicine) implemented by the Department of Commerce

Syria Sanctions – Background

- Executive Order 13582 (August 17, 2011) established comprehensive OFAC country sanctions on Syria, which block all property and interests in property of the Government of Syria (including the Central Bank of Syria) and prohibit:
 - New investment in Syria by any U.S. Person
 - The direct or indirect exportation, reexportation, sale or supply of any services to Syria from the United States or by a U.S. Person
 - The importation into the United States of Syrian-origin petroleum or petroleum products
 - Any transaction or dealing by a U.S. Person in or related to Syrian-origin petroleum or petroleum products
 - Any approval, financing, facilitation, or guarantee by a U.S. Person of a transaction by a foreign person that would be prohibited if performed by a U.S. Person or within the United States

Syria Sanctions – Background

- Iran Threat Reduction and Syria Human Rights Act expanded sanctions on Syria (signed on August 10, 2012)
 - Sanctions on persons engaged in human rights abuses and censorship in Syria
 - Restrictions on persons who (i) transfer, or facilitate the transfer, of goods and technology to Syria likely to be used to commit human rights abuses in Syria, or (ii) provide services with respect to those goods or technology
 - Applies to both U.S. and non-U.S. parties that sell specified goods or technology to Syria, including certain “sensitive technology.”
 - “Sensitive technology” means hardware, software, telecommunications equipment, or any other technology determined to be used specifically to restrict the free flow of unbiased information in Syria, or to disrupt, monitor, or otherwise restrict speech of the Syrian people.

Syria Sanctions – Recent Developments

- To date, OFAC has issued sixteen General Licenses authorizing certain activities that otherwise would be prohibited by the Syria sanctions
- In 2013, OFAC issued two General Licenses:
 - General License 11A (effective June 12) authorizes NGOs to export and reexport services to Syria in support of certain not-for-profit activities, and permits financial institutions to process funds transfers on behalf of NGOs to or from Syria in support of such activities
 - General License 16 (effective March 14) authorizes U.S. Persons to provide to the National Coalition of Syrian Revolutionary and Opposition Forces certain services, including transfers of funds

Syria Sanctions – Recent Developments

- OFAC Statement of Licensing Policy issued June 12, 2013, invites U.S. Persons to apply to OFAC for specific licenses that would enable them to participate in certain economic activities in Syria. Favorable licensing policy regime for transactions involving:
 - Syria's telecommunications sector—to enable private persons in Syrian to have better Internet access
 - Syria's agricultural sector—to enhance food security for the people of Syria
 - Petroleum and petroleum products of Syrian origin for the benefit of Syrian opposition forces
- No blocked property may be involved and no involvement by the Government of Syria in such transactions

Syria Sanctions – Recent Developments

- Effective September 10, 2013, the State Department imposed certain sanctions on Syria pursuant to the Chemical and Biological Weapons Control and Welfare Elimination Act of 1991, not pursuant to OFAC sanctions regulations, in response to the Syrian Government's use of chemical weapons:
 - A prohibition on exports to Syria of national security sensitive goods and technology (these items would have previously required an export license from the Commerce Department)
 - Termination of all sales to Syria of defense articles, defense services, or design and construction services, and termination of licenses for the export to Syria of any item on the U.S. Munitions List
 - Denial to Syria of any credit, credit guarantee, or other financial assistance by the U.S. government

Syria Sanctions – Recent Developments

- State Department sanctions, continued:
 - Termination of all foreign military financing for Syria under the Arms Export Control Act
 - Termination of assistance to Syria under the Foreign Assistance Act of 1961, except for urgent humanitarian assistance and food or other agricultural commodities or products
- However, the U.S. government has waived the application of these sanctions with respect to those activities determined by the U.S. government to be in furtherance of U.S. policies regarding the Syrian conflict. Such determinations will be made on a case-by-case basis.
- On September 14, 2013, the United States and Russia reached agreement on a framework for the elimination of Syrian chemical weapons. We can expect further developments in this area.

Burma Sanctions – Background

- The United States began easing sanctions against Burma in 2012 in recognition of political reforms taking place
- OFAC issued General Licenses authorizing U.S. Persons to engage in activities that were previously prohibited, including:
 - Direct or indirect exportation and reexportation of financial services to Burma
 - New investment in Burma

Burma Sanctions – Recent Developments

- OFAC issued General License 18, effective November 16, 2012, authorizing the importation into the United States of Burmese-origin items, except for jadeite or rubies mined or extracted from Burma and any articles of jewelry containing Burmese jadeite or rubies
- On August 7, 2013, the President issued an Executive Order repealing the broad import ban on products from Burma, but maintaining the restrictions on jadeite and rubies noted above. General License 18, therefore, was no longer needed and was withdrawn.

Burma – Recent Developments

- Effective February 22, 2013, OFAC issued General License 19 authorizing transactions involving (but no new investment in or with) four SDN banks in Burma:
 - Asia Green Development Bank
 - Ayeyarwady Bank
 - Myanma Economic Bank
 - Myanma Investment and Commercial Bank
- U.S. financial institutions are permitted to maintain correspondent accounts for these banks
- The four banks remain on the SDN List and all property and interests in property of these banks remains blocked

Burma Sanctions – Recent Developments

- The primary restrictions that remain under OFAC's Burma sanctions:
 - No transactions with any person whose property and interests in property are blocked (SDNs) including entities in which such blocked person owns a 50 percent or greater interest
 - No transactions with (i) the Burmese Ministry of Defense, (ii) any state or nonstate armed group, or (iii) any entity in which any of the foregoing owns a 50 percent or greater interest
 - State Department reporting requirements may apply to new investment in Burma by U.S. Persons

The background features a stylized world map in a light blue hue. In the lower right corner, there is a graphic of a globe showing the Americas, with blue and white curved lines flowing around it. The title 'Iran Sanctions' is written in a large, white, italicized serif font, centered horizontally and partially overlapping the world map.

Iran Sanctions

*Strafford Webinar
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Iran - Background

- Comprehensive sanctions
- In place since approximately 1980
- Generally administered by US Treasury Department
- State Department also involved



Relevant Statutes

- International Emergency Economic Powers Act (IEEPA)
- Comprehensive Iran Sanctions, Accountability and Divestment Act (CISADA)
- Iran Sanctions Act (ISA)
- Iran Threat Reduction and Syria Human Rights Act (ITRSHRA)

Regulations / Executive Orders

- Iranian Transactions and Sanctions Regulations, 31 CFR Part 560
- Iranian Assets Control Regulations, 31 CFR Part 535
- Approximately 25 Eos since 1980. For example:
 - EO 13599 (Feb 2012): Property blocking
 - EO 13608 (May 2012): Sanctions evaders
 - EO 13645 (July 2013): Sanctions on foreign financial institutions

Jurisdiction

- US Persons prohibited from conducting virtually any transaction with / in Iran
 - Includes indirect transactions, e.g., export of services or facilitation
- Iranian Government assets blocked



Extraterritorial Jurisdiction



- Any entity *owned or controlled* by a US person
- Foreign persons who **evade** US sanctions
- Foreign financial institution\$
- Anyone who causes a sanctions violation

ITRSHRA

- *Foreign financial institutions.* If designated, harder to open accounts in United States
- *Insurance companies.* Subject to sanction for insuring transportation of certain goods
- *Entities affiliated with Iran's Revolutionary Guard Corps.* Transactions prohibited
- *Human rights abusers.* Sanctioned if aiding Iran in committing abuses

ITRSHRA (cont'd)

- Focus on parties / transactions involving petroleum industry
- Measures targeting individuals
 - US entry restrictions
 - Asset freezing

ITRSHRA (cont'd)

- Focused on conduct of non-US persons ...
- ... but new reporting requirements on issuers
 - Must make public disclosure filing to SEC if it, or any affiliate, has knowingly engaged in certain prohibited activities
 - In certain cases, President must initiate investigation

OGSR

- SEC's Office of Global Security Risk
 - Established in 2004
 - Part of Division of Corporate Finance
 - Issues comment letters to publicly-traded companies
 - Questions re materiality of business with terrorist-sponsoring countries

Permitted Transactions

- Licenses may be granted for:
 - Food
 - Medicine and medical devices
 - Personal communications
 - Software and hardware
 - Athletic activities

