

## Status of Key U.S. Sanction Programs

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November 7, 2017

Recently, many revisions to U.S. sanction programs (both implemented and under consideration) have been the topic of much public discussion. Often, the legal status of these revisions may be difficult to determine. The U.S. sanctions programs are administered and enforced by the Treasury Department's Office of Foreign Assets Control (OFAC). The following provides a chronological overview of key announcements and updates to U.S. sanction programs recently occurring within recent months:

**Cuba:** On July 25, 2017, OFAC published online **frequently asked questions** (FAQs) supporting President Trump's June 2017 policy announcements regarding Cuba. The first FAQ states that "OFAC will implement the Treasury-specific changes via amendments to its Cuban Assets Control Regulations. OFAC expects to issue its regulatory amendments in the coming months. The Department of Commerce will implement any necessary changes via amendments to its Export Administration Regulations (EAR). The announced changes do not take effect until the new regulations are issued." However, importantly, new regulations have not been issued, so the changes announced by President Trump earlier in June have yet not taken legal effect.

**Venezuela:** On Aug. 24, 2017, President Trump issued **Executive Order 13808**, imposing additional sanctions in response to the Venezuelan government's actions taken with respect to the continuing Venezuelan political unrest. Executive Order 13808 prohibits U.S. persons from dealing in new debt of Petr6leos de Venezuela, S.A. (PdVSA) with a maturity longer than 90 days and new debt of the government of Venezuela with a maturity longer than 30 days. Note, however, Executive Order 13808 does not otherwise prohibit U.S. persons from dealing with the government of Venezuela as a counterparty or underwriter in debt transactions, so long as the government of Venezuela is not the borrower. In sum, in light of Executive Order 13808, U.S. persons should proceed cautiously when extending credit to PdVSA and the government of Venezuela and refrain from purchasing securities from the government of Venezuela.

**North Korea:** On Sept. 21, 2017, the president issued **Executive Order 13810** imposing additional sanctions with respect to North Korea. Executive Order 13810, which blocks (i.e., freezes) property of individuals determined by the Secretary of Treasury: "(i) to operate in the construction, energy, financial services, fishing, and information technology, manufacturing, medical, mining, textiles, or transportation industries in North Korea; (ii) to own, control, or operate any port in North Korea, and/or (iii) to have engaged in at least one significant importation from or exportation to North Korea of any goods, services, or technology." Note that an export license under the EAR is still required for the export or reexport to North Korea of all items subject to the EAR (other than food or medicine) that are designated as EAR 99. U.S. persons should continue avoiding transactions with any nexus to North Korea.

**Sudan:** On Oct. 12, 2017, the comprehensive embargo against Sudan was lifted based on reports by the U.S. government that the government of Sudan has continued to take positive steps in cooperating with the U.S. to address regional conflicts, the threat of terrorism, and improve humanitarian access throughout Sudan. The lifting of the comprehensive embargo does not affect the following preexisting U.S. policy actions: those OFAC sanctions related to the conflict in Darfur; the status of Sudanese individuals on OFAC's Specially Designated Nationals and Blocked Persons List designated under executive orders not subject to the revocation of the comprehensive embargo; and, the export license requirements for items and exports otherwise subject to the EAR. The lifting of the comprehensive embargo finalizes the U.S. policy direction on Sudan first taken in **Executive Order 13761** by President Obama on Jan. 13, 2017,

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which itself was as amended by President Trump by **Executive Order 13804** on July 11, 2017.

**Iran:** On Oct. 13, 2017, President Trump chose not to certify Iran's continued compliance with the Joint Comprehensive Plan of Action (JCPOA). Under the Iran Nuclear Agreement Act of 2015 (INARA), the president must certify Iran's continued compliance with the JCPOA every 90 days. **As we explained in a prior alert**, the JCPOA provided limited nuclear-related sanctions relief, which included, among other things, the removal of secondary sanctions on the automotive sector, and the implementation of General License H authorizing certain Iranian transactions relating to non-U.S. subsidiaries of U.S. companies. The president's decision not to certify Iran's continued compliance with the JCPOA places this limited relief in jeopardy, and Congress now has a 60-day window (until Dec. 14, 2017) to decide whether or not to re-impose under INARA the nuclear-related sanctions relief granted by the JCPOA.

For further assistance with your export controls and sanctions compliance, we invite you to contact Miller Canfield or visit the **Export Controls and ITAR Practice Group Page** for additional information and alerts.

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