

United States Imposes Sanctions Targeting the Turkish Government in Response to its Actions in Syria

October 16, 2019

On October 14, 2019, President Trump issued a new **Executive order** (the “**October 14 E.O.**”), which authorizes the U.S. Departments of the Treasury and State to impose sanctions targeting the Turkish government in connection with its actions in Syria.¹ The October 14 E.O. introduces these new sanctions as part of a broad U.S. economic effort to stop Turkish military operations in northern Syria, which also includes an announced 50 percent tariff on imports of steel from Turkey, as well as the cancellation of trade agreement negotiations.

In connection with the issuance of the October 14 E.O., on October 14, 2019, the Treasury Department’s Office of Foreign Assets Control (“**OFAC**”) **announced** the designation under the order of three Turkish government officials, as well as the country’s defense and energy ministries. OFAC also issued **three new general licenses** (“**GLs**”). The new GLs mitigate the impact of the blocking sanctions imposed on the designated individuals and entities by authorizing U.S. persons to engage in transactions incident to the wind-down of operations, contracts, or other agreements involving the sanctioned ministries, as well as authorizing transactions for the official business of the U.S. government and certain intergovernmental organizations.

The October 14 E.O. provides broad authorities that could be used to carry out **public statements** from President Trump emphasizing the Trump administration’s willingness to “destroy” Turkey’s economy if Turkey does not end its incursion into northern Syria. OFAC’s initial actions under the order are largely symbolic, however. Given the narrow scope of the sanctions, it remains to be seen whether the U.S. government will be able to leverage these authorities to force changes in Turkey’s behavior, and whether and to what extent it will follow through on threats to enforce further sanctions against Turkey. The U.S. government has announced that Vice President Pence will travel to Turkey to meet with Turkish President Erdogan to discuss the situation in Syria, and it is likely that a decision on imposing additional sanctions will be deferred until after those meetings are concluded.

We provide below a brief overview of the relevant sections of the October 14 E.O., as well as the OFAC designations and GLs.

Overview of the October 14 E.O.

The October 14 E.O. authorizes three types of sanctions targeting persons contributing to the destabilization of northern Syria: (1) blocking sanctions implemented by the Treasury Department that can be used to target the Turkish government, identified sectors of the Turkish economy, and persons engaged in certain conduct; (2) “menu-based” sanctions implemented by the State Department that can be used to target foreign persons engaged in other destabilizing conduct related to Syria; and (3) secondary sanctions that can be used to target foreign financial institutions that knowingly conduct or facilitate significant transactions for certain persons sanctioned under the order. Each of these categories of sanctions is described in detail below.

¹ Executive Order, “Blocking Property and Suspending Entry of Certain Persons Contributing To The Situation in Syria” (October 14, 2019).

Blocking Sanctions

Section 1(a) of the order blocks all property and interests in the property of persons determined by the Secretary of the Treasury, in consultation with the Secretary of State:

- to be responsible for or complicit in, or to have directly or indirectly engaged in, or attempted to engage in, any of the following in Syria:
 - actions or policies that further threaten the peace, security, stability, or territorial integrity of Syria; or
 - the commission of serious human rights abuse;
- to be a current or former official of the Government of Turkey;
- to be any subdivision, agency, or instrumentality of Government of Turkey;
- to operate in such sectors of the Turkish economy as may be determined by the Secretary of Treasury, in consultation with the Secretary of State;
- to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, any person whose property and interests in property are blocked pursuant to the order; or
- to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to the order.

“Menu-Based” Sanctions

Section 2(a) of the October 14 E.O. authorizes the Secretary of State, in consultation with the Secretary of the Treasury and other appropriate officials of the U.S. government, to impose sanctions upon determining that a foreign person:

- is responsible for or complicit in, has directly or indirectly engaged in, or attempted to engage in, or financed, any of the following:
 - the obstruction, disruption, or prevention of a ceasefire in northern Syria;
 - the intimidation or prevention of displaced persons from voluntarily returning to their places of residence in Syria;
 - the forcible repatriation of persons or refugees to Syria; or
 - the obstruction, disruption, or prevention of efforts to promote a political solution to the conflict in Syria, including:
 - the convening and conduct of a credible and inclusive Syrian-led constitutional process under the auspices of the United Nations (“UN”);
 - the preparation for and conduct of UN-supervised elections, pursuant to the new constitution, that are free and fair and to the highest international standards of transparency and accountability; or
 - the development of a new Syrian government that is representative and reflects the will of the Syrian people;
- is an adult family member of a person designated under the provision described above; or
- is responsible for or complicit in, or has directly or indirectly engaged in, or attempted to engage in, the expropriation of property, including real property, for personal gain or political purposes in Syria.

Upon determining that a foreign person meets any of the criteria described above, the Secretary of State, supported by the Secretary of the Treasury or other federal agencies as applicable, may impose on that person one or more of the following sanctions specified in Sections 2(b) and 2(c) of the order:

- a ban on U.S. government procurement;
- denial of visas and exclusion from entry into the United States of any alien that is a corporate officer of a sanctioned person;
- a prohibition on U.S. financial institutions making loans or providing credit to the sanctioned person totaling more than \$10 million in any 12-month period, unless such person is engaged in activities to relieve human suffering and the loans or credits provided for such activities;
- a prohibition on any transactions in foreign exchange that are subject to the jurisdiction of the United States and in which the sanctioned person has any interest;
- a prohibition on any transfers of credit or payments between banking institutions or by, through, or to any banking institution, to the extent that such transfers or payments are subject to the jurisdiction of the United States and involve any interest of the sanctioned person;
- the blocking of all property and interests in property subject to U.S. jurisdiction of the sanctioned person;
- a prohibition on any U.S. person investing in or purchasing significant amounts of equity or debt instruments of the sanctioned person; or
- restrictions on or the prohibition of imports of goods, technology, or services, directly or indirectly, into the United States from the sanctioned person.

The above sanctions may also be imposed, as applicable, on the principal executive officer or officers, or persons performing similar functions and with similar authorities, of a sanctioned entity.

Secondary Sanctions against Foreign Financial Institutions

Section 3 of the order authorizes the Secretary of the Treasury to prohibit the opening, or prohibit or impose strict conditions on the maintenance, in the United States of a correspondent account or payable-through account by any foreign financial institution if it is determined that such institution knowingly conducted or facilitated a significant financial transaction for or on behalf of a person whose property or interests in property are blocked pursuant to Section 1 of the order.

SDN List Updates

As noted above, OFAC imposed sanctions under section 1 of the October 14 E.O. on two Turkish government ministries: the Ministry of Defence and the Ministry of Energy and Natural Resources, as well as on three individuals:

- Hulusi Akar, the current Turkish Minister of Defence;
- Fatih Donmez, the current Minister of Energy and Natural Resources; and
- Suleyman Soyly, the current Minister of the Interior.

These individuals and entities were added to OFAC's List of Specially Designated Nationals and Blocked Persons ("**SDN List**"). As a result of the designations, all property and property interests of the designated persons in the United States or the possession or control of a U.S. person is blocked, and U.S. persons are prohibited from engaging in transactions involving the designated persons except as authorized by OFAC or exempt. These prohibitions extend as well to any entity that is 50 percent or more owned, individually or in the aggregate, by one or more of the sanctioned persons.

General Licenses

OFAC issued three new GLs in connection with the issuance of the October 14 E.O. All GLs are effective as of October 14, 2019. OFAC's new GLs authorize the following categories of transactions:

- **Official U.S. Government Business: GL 1** authorizes all transactions and activities prohibited by the October 14 E.O. that are for the conduct of the official business of the United States Government by employees, grantees, or contractors thereof.
- **Wind-Down Transactions: GL 2** authorizes transactions and activities ordinarily incident and necessary to the wind-down of operations, contracts, or other agreements involving the Ministry of National Defence or the Ministry of Energy and Natural Resources of the Government of Turkey, or any entity 50 percent or more owned by one or more such ministries, that were in effect prior to October 14, 2019. The authorization is valid through 12:01 e.s.t. on **November 13, 2019** and does not permit the debiting of blocked accounts.
- **United Nations Activities: GL 3** authorizes transactions and activities that are for the official business of the United Nations involving the Ministry of National Defence or the Ministry of Energy and Natural Resources of the Government of Turkey, or any entity in which one or more of such ministries own, directly or indirectly, a 50 percent or greater interest. For purposes of this authorization, the United Nations is defined to include its Programmes and Funds, and its Specialized Agencies and Related Organizations such as the:
 - World Bank;
 - International Monetary Fund;
 - UN Food and Agriculture Organization;
 - UN Office for the Coordination of Humanitarian Affairs;
 - UN Office of the United Nations High Commissioner for Human Rights;
 - UN Habitat;
 - UN Development Program;
 - UN Population Fund;
 - Office of the UN High Commissioner for Refugees;
 - UN Children's Fund;
 - World Food Program; and
 - World Health Organization, including the Pan-American Health Organization.

Looking Forward

The initial sanctions announced by OFAC are symbolic, narrowly targeted, and unlikely to have a substantial practical impact on either Turkey's economy or on U.S. persons required to comply with the sanctions. It is quite possible, however, that additional sanctions will be imposed in short order, either in response to a further deterioration of the situation in northern Syria or to **pressure** from the U.S. Congress for additional sanctions. These sanctions could be significant, particularly given the ability of the Treasury Department to target sectors of Turkey's economy and foreign financial institutions for sanctions under the order, and President Trump's threat to "destroy" the Turkish economy. U.S. companies that do business in Turkey should carefully monitor sanctions-related developments to ensure that they remain compliant. Similarly, non-U.S. companies should carefully consider their potential exposure to sanctions, particularly if they elect to continue to engage in transactions with persons or entities named to the SDN List.

If you have any questions regarding the matters covered in this publication, please contact any of the lawyers listed below or your regular Davis Polk contact.

John B. Reynolds	+1 202 962 7143	john.reynolds@davispolk.com
Jeanine P. McGuinness	+1 202 962 7150	jeanine.mcguinness@davispolk.com
Will Schisa	+1 202 962 7129	will.schisa@davispolk.com

Law Clerk Kendall Howell helped with this client memorandum.

© 2019 Davis Polk & Wardwell LLP | 450 Lexington Avenue | New York, NY 10017

This communication, which we believe may be of interest to our clients and friends of the firm, is for general information only. It is not a full analysis of the matters presented and should not be relied upon as legal advice. This may be considered attorney advertising in some jurisdictions. Please refer to the firm's [privacy notice](#) for further details.