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OFAC Update: Publication of Updated Sudanese Sanctions Regulations

January 17, 2017 | Client Update | 4-minute read

On January 13, the U.S. Department of the Treasury's Office of Foreign Assets Control ("**OFAC**") announced amendments to the Sudanese Sanctions Regulations, 31 C.F.R. part 538 ("**SSR**") authorizing all transactions previously prohibited by the SSR and by Executive Orders ("**E.O.s**") 13067 and 13412, including transactions involving property in which the Government of Sudan has an interest. The amendments, which will be implemented as a General License ("**GL**") added at section 538.540 of the SSR, will become effective upon publication in the Federal Register, scheduled for **January 17, 2017**. In conjunction with these amendments, the President signed a new E.O. on January 13, "Recognizing Positive Actions by the Government of Sudan and Providing for the Revocation of Certain Sudan-Related Sanctions," which provides for the revocation of the sanctions provisions in E.O.s 13067 and 13412 on July 12, 2017, if the Government of Sudan sustains positive actions it has taken over the last six months related to bilateral cooperation, the ending of internal hostilities, regional cooperation, and improvements to humanitarian access.

When the new GL goes into effect on January 17, 2017, U.S. persons will generally be able to transact with individuals and entities in Sudan, and the property of the Government of Sudan subject to U.S. jurisdiction will be unblocked. Specifically, the GL establishes that:

- All property and interests in property blocked pursuant to the SSR will be unblocked;
- All trade between the United States and Sudan that was previously prohibited by the SSR will be authorized;
- All transactions by U.S. persons relating to the petroleum or petrochemical industries in Sudan that were previously prohibited by the SSR will be authorized, including oilfield services and oil and gas pipelines;
- U.S. persons will no longer be prohibited from facilitating transactions between Sudan and third countries, to the extent previously prohibited by the SSR; and
- All transactions prohibited by E.O.s 13067 and 13412 will be authorized.

However, section 906 of the Trade Sanctions Reform and Export Enhancement Act of 2000, as amended ("**TSRA**") will continue to require that the export of agricultural commodities, medicine, and medical devices to Sudan shall be made pursuant to one-year licenses issued by the U.S. government (except that the requirements of such one-year licenses shall be no more restrictive than general licenses administered by the Treasury Department).

Additionally, OFAC published a number of new and updated Frequently Asked Questions ("**FAQs**") related to this GL. Among other things, the FAQs:

- Underscore that the GL will not eliminate the need to comply with other applicable provisions of the law, including, but not limited to, other provisions of 31 C.F.R. chapter V (such as those parts relating to terrorism, the proliferation of weapons of mass destruction, or narcotics trafficking), and the Export Administration Regulations administered by the Bureau of Industry and Security of the Department of Commerce; (FAQ #490)
- Note that the GL does not authorize transactions that are prohibited under any other OFAC sanctions program, including transactions that are prohibited under the Darfur Sanctions Regulations, 31 C.F.R. part 546, the South Sudan Sanctions Regulations, 31 C.F.R. part 558, or E.O.s 13400 or 13664; (FAQ #491)
- Clarify that the GL supersedes other GLs in the SSR; (FAQ #492)

- Confirm that U.S. persons engaging in activities pursuant to an OFAC specific license issued pursuant to the SSR do not need to renew such licenses or apply for additional specific licenses; (FAQ #493) and
- Advise that the GL does not impact pending or future OFAC enforcement investigations against individuals or entities for apparent violations of the SSR that occurred prior to the effective date of the GL. (FAQ #494)

According to OFAC and the White House, these actions are an outcome of ongoing engagement between the United States and the Government of Sudan, and the result of sustained progress by the Government of Sudan on several fronts, including a reduction in offensive military activity, a pledge to maintain a cessation of hostilities in conflict areas, an improvement in humanitarian access throughout Sudan, and cooperation with the United States on counterterrorism and addressing regional conflicts.

For further details, please follow these links to view the Treasury Department's OFAC Recent Actions page and related press release, the Final Rule, the fact sheet, the FAQs, and the E.O.

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

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