

Client Alert

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OFAC Adds Bans on U.S. Subsidiaries to Iran Sanctions Regulations

In a Federal Register notice dated December 26, the Office of Foreign Assets Control (OFAC) of the Dept. of the Treasury updated its regulations to include prohibitions on foreign subsidiaries of U.S. corporations from doing business with Iran. 77 F.R. 75848. The amended regulations also make clear that penalties for trading with Iran by a foreign subsidiary can be imposed on its U.S. parent. Such penalties will not be applied if the U.S. parent divests or terminates its business with the foreign entity not later than February 6, 2013. The amendments also incorporate expansions of the Specially Designated Nationals list (SDN).

These amendments implement the Iran Threat Reduction and Syria Human Rights Act of 2012, which went into effect on August 10, 2012, and Executive Order 13628 of October 9, 2012. Thus, while the amendments do not provide any new authority for sanctions against Iran, they do represent an important reminder of the breadth of U.S. trade restrictions against Iran, and in particular that, like the sanctions against Cuba, the Iran sanctions extend to foreign subsidiaries as well as to U.S. persons or entities. They also flag the February 6, 2013 deadline for avoiding penalties resulting from Iran transactions by foreign subsidiaries.

In addition, the amendments are a reminder of the wide range of persons or entities whose property and interests in property are blocked under the SDN. The SDN is a constantly changing list of over 6,000 persons or entities with which U.S. persons or entities are prohibited from engaging in transactions anywhere in the world. The SDN includes not only persons or entities from sanctioned countries, such as Cuba and Iran, but also persons or entities deemed by the U.S. government to have engaged in certain sanctioned activities, such as narcotics trafficking or terrorism. The SDN prohibitions also include entities, whether or not on the SDN, in which a person or entity on the SDN has a 50% or greater interest. In the case of Iran, under the amended regulations the SDN can extend to persons or entities deemed to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, the National Iranian Oil Company, the Naftiran Intertrade Company, or the Central Bank of Iran, or the purchase or acquisition of U.S. bank notes or precious metals by the Government of Iran (those activities being deemed to provide important support for Iran's nuclear ambitions). Thus, the amendments highlight the breadth of the SDN, and the potential need for U.S. companies to screen their customers or counterparties against the SDN.

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