

ClientAlert

International Trade

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New Executive Order Targeting Persons Responsible for the Situation in South Sudan

On April 3, 2014, President Obama signed Executive Order 13664 ("EO 13664") related to the situation in South Sudan and targeting those responsible for the conflict in that country. EO 13664 allows the United States to impose sanctions against any individual or entity that threatens the peace, stability or security of South Sudan; commits human rights abuses against persons in South Sudan; expands or extends the conflict in South Sudan or obstructs reconciliation or peace talks or processes; or undermines democratic processes or institutions in South Sudan.

This Order authorizes blocking the property and interests in property located in the United States or in the possession or control of a US Person¹ of any person (including individuals and entities) determined to meet certain criteria set forth in the Order. Specifically, the Department of the Treasury may designate persons deemed to be responsible for or complicit in, or to have engaged in, directly or indirectly, any of the following in or in relation to South Sudan:

- Actions or policies that threaten the peace, security or stability of South Sudan;
- Actions or policies that threaten transitional agreements or undermine democratic processes or institutions in South Sudan;
- Actions or policies that have the purpose or effect of expanding or extending the conflict in South Sudan or obstructing reconciliation or peace talks or processes;
- The commission of human rights abuses against persons in South Sudan;
- The targeting of women, children or any civilians through the commission of acts of violence (including killing, maiming, torture, or rape or other sexual violence), abduction, forced displacement or attacks on schools, hospitals, religious sites or locations where civilians are seeking refuge, or through conduct that would constitute a serious abuse or violation of human rights, or a violation of international humanitarian law;
- The use or recruitment of children by armed groups or armed forces in the context of the conflict in South Sudan;



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¹ A US Person is defined to include any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

- The obstruction of the activities of international peacekeeping, diplomatic or humanitarian missions in South Sudan, or of the delivery or distribution of, or access to, humanitarian assistance; or
- Attacks against United Nations missions, international security presences or other peacekeeping operations.

The Department of the Treasury is further authorized to designate persons deemed to be a leader of:

- An entity, including any government, rebel militia or other group, that has, or whose members have, engaged in any of the activities described above, or
- An entity whose property and interests in property are blocked pursuant to this order.

Persons determined to have materially assisted, sponsored or provided financial, material, logistical or technological support for, or goods or services in support of the prohibited activities described above, or to any blocked person, also may be subject to designation and blocking. In addition, any person deemed to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, a person blocked pursuant to EO 13664 may be subject to designation and blocking.

EO 13664 prohibits transactions that evade or avoid, have the purpose of evading or avoiding, cause a violation of, or attempt to violate any of the prohibitions set forth in the Order, including any conspiracy to violate any of the prohibitions. The sanctions authorized by EO 13664 include asset freezes as well as a prohibition on US Persons from doing business with designated entities or individuals. The practice of the United States is to treat as designated not only the entities and individuals specifically named, but also entities that are owned 50 percent or more by a designated entity or individual. The Order also imposes a travel ban, by suspending entry into the United States of individuals that are designated.

Separate and apart from EO 13664, which relates to the situation in South Sudan, the United States also has in place comprehensive sanctions measures with respect to Sudan. Note, however, that EO 13664 does not impact any existing general licenses issued relating to South Sudan under the comprehensive sanctions regime in place with respect to Sudan.

At this time, the President has not yet issued any designations under EO 13664. Companies doing business in this region should monitor closely any designations made pursuant to this Order to ensure compliance. Penalties for noncompliance are severe. We will continue to track and report on these sanctions developments.

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