

SHEARMAN & STERLING

Sanctions Roundup

January 14, 2020

Shearman

FOURTH QUARTER 2019

- Congress closes the year by passing new sanctions against China over human rights concerns, while OFAC clarifies the scope of recent actions against Chinese shipping companies.
- In the wake of rising military tensions, the U.S. takes new aim at Iran's construction, metals, and transport sectors, while continuing to target the country's oil trading partners.
- Exxon scores a rare court victory against OFAC, overturning civil penalty for alleged Ukraine-related sanctions violations.
- DOJ issues revised guidance to incentivize voluntary self-disclosures of sanctions and export-control violations.
- U.S. continues efforts to disrupt Venezuelan oil trade, while extending waivers for major U.S. companies.
- OFAC secures record number of enforcement actions, highlighting importance of screening controls and inter-organization communication channels.

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CHINA



Even despite reported progress on [“Phase One”](#) of a comprehensive trade deal between the two countries, this quarter saw new congressional sanctions in response to China’s perceived human rights abuses. Simultaneously, OFAC took action to mitigate the fallout from previously announced sanctions against Chinese shipping firms.

OFAC Extends Wind-Down Period for Dealing with Sanctioned Chinese Shipping Firms

In September, global freight costs skyrocketed in response to the U.S.’s announcement of blocking sanctions on a number of major Chinese shipping firms for transporting oil from Iran, including COSCO Shipping Tanker (Dalian) Co., a unit of China’s largest shipping company that owns or operates dozens of tank vessels.

In October, OFAC issued General License K, authorizing transactions and activities that are ordinarily incident and necessary to the maintenance or wind-down of transactions involving COSCO Dalian Tanker, through December 20, 2019. OFAC expressly noted that GL K does not apply to any transactions or activities with COSCO Shipping Tanker (Dalian) Seaman and Ship Management Co., Ltd. In December, OFAC [amended GL K](#) to further extend the wind-down period through February 4, 2020.

In subsequent guidance, OFAC explained in its [Frequently Asked Questions](#) that the authorization for the “maintenance” of business generally includes “all transactions and activities ordinarily incident to obtaining goods or services from, or providing goods or services to” COSCO Dalian Tanker, even despite the absence of any pre-existing contract, so long as the business is consistent with past practices that existed between the parties prior to the announcement of the sanctions.

Additionally, OFAC emphasized that the sanctions do not apply to the Dalian entities’ ultimate parent, COSCO Shipping Corporation Ltd., or its other subsidiaries and affiliates (provided that such entities are not owned 50

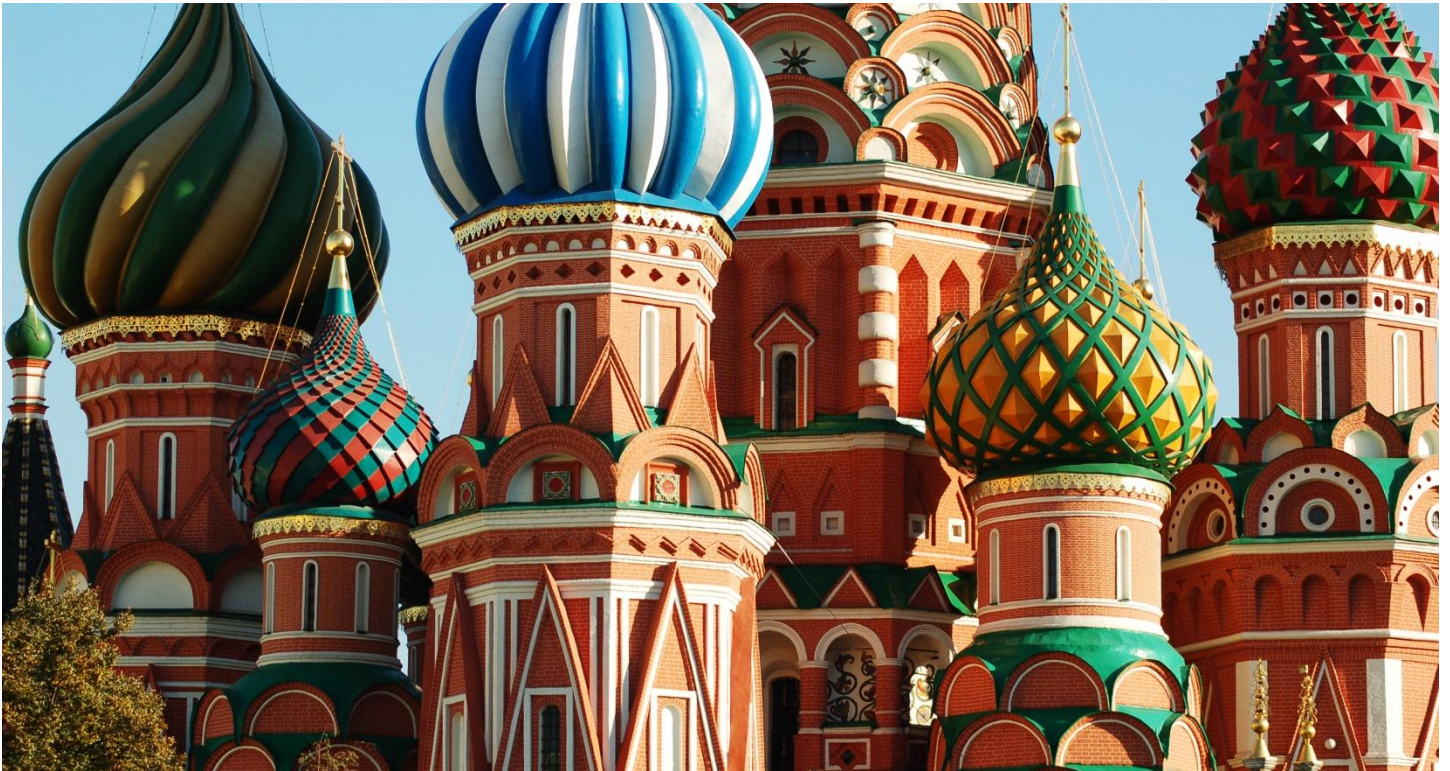
percent or more in the aggregate by one or more blocked persons). Importantly, OFAC also clarified that, because COSCO Shipping Tanker (Dalian) Co. and the other shipping entities were sanctioned under section three of E.O. 13846, non-U.S. persons are generally not exposed to secondary sanctions for dealing with them *unless* their transactions with the designated COSCO entities fall within the scope of the Iranian secondary sanctions themselves. See [FAQ 804-805](#).

US Congress Passes New Sanctions in Response to Human Rights Concerns

In November, President Trump signed into law the “Hong Kong Human Rights and Democracy Act of 2019” in response to reported human rights abuses carried out by the Chinese government relating to the recent democratic protests in Hong Kong. The bi-partisan legislation addresses the U.S.’s special recognition of Hong Kong’s legal and economic independence and requires the President to impose property and visa-blocking sanctions on any foreign persons determined to have carried out human rights violations there.

In December, the U.S. House passed its amended “Uighur Human Rights Policy Act” in response to China’s reported mass surveillance and internment of more than one million Uighurs and other minorities in the Xinjian region. If passed by the Senate and signed into law, the bill would require the U.S. State Department to apply sanctions, such as asset freezes and visa bans, on high-level Chinese government officials determined to have played a role in the mistreatment of ethnic minority Muslims. The bill also permits a prohibition on the sale or provision of any U.S.-origin goods or services to “any state agent in Xinjiang.”

RUSSIA



The U.S. struck a mixed posture toward Russia this quarter. Congress passed bi-partisan sanctions to curb construction of the controversial Nord Stream 2 and TurkStream pipelines. Other legislation contemplating additional sanctions on Russia for its 2016 election meddling advanced through Congress, but President Trump expressed resistance to the additional measures. The Trump Administration flexed its muscle elsewhere, including imposing sanctions on malicious Russian cyber-actors and publicly warning allies against purchasing Russian defense equipment.

New Congressional Sanctions Likely Too Late to Derail Nord Stream 2 and TurkStream

On December 20, President Trump signed bi-partisan legislation that imposes sanctions on the development of two pipelines that will carry Russian natural gas to Europe: TurkStream and Nord Stream 2. Nord Stream 2, the long-planned pipeline project designed to deliver Russian natural gas to Germany and the EU, has long been criticized by President Trump, who has remarked that it will make “Germany hostage to Russia,” while flattening Europe’s demand for liquefied natural gas from U.S. suppliers. The sanctions measures, introduced as part of a larger defense authorization bill, contemplated sanctions not against Nord Stream 2’s owners or investors, but rather against the engineering firms, construction companies, and vessels involved in installing the pipeline under the Baltic Sea, as well as executives of those companies. In response, a key pipeline layer, Swiss-Dutch company Allseas, immediately suspended its work to avoid US sanctions, despite the fact that the sanctions are accompanied by a thirty-day “wind-down” period for companies to cease sanctionable activities. Despite the new U.S. sanctions, the near-finished pipeline is expected to be completed by 2020, even if it requires re-assigning the final installation tasks to Russian companies. European leaders criticized the new U.S. measures, with Germany noting that it strongly opposes the “extraterritorial sanctions,” which it views as interference in domestic European affairs. The sanctions were also targeted at the development of the TurkStream pipeline, designed to carry natural gas from Russia to Turkey. Reports suggested that work on TurkStream’s first pipe were already completed and operable in early 2020, so the sanctions likely came too late. U.S. officials noted that sanctions could apply, however, to the construction of any additional lines built in the future.

Despite Resistance from Trump Administration, “Crushing” Sanctions Bill Advances in US Senate

This quarter, amid suspicions that Russia will again seek to interfere in the 2020 U.S. election, the U.S. Senate advanced a long-pending bill that would impose additional significant sanctions on Russia for its previous meddling in the 2016 U.S. election. The legislation, tentatively titled “Defending American Security from Kremlin Aggression Act” or “DAKSA,” would authorize a host of sanctions measures, including against Russian individuals, cyber-operators, and liquid natural gas export facilities, as well as impose harsh restrictions on dealings in Russian sovereign debt. DAKSA was first proposed in early 2019, but until now had failed to advance out of congressional committee. The Trump Administration has expressed resistance to the measure, citing collateral economic damage that might result from its passage. DAKSA faces an uncertain future, as it is yet unclear whether the measure will be brought before the full Senate for a vote or, if it passes, that it will receive President Trump’s signature.

Russian Arms Sales Expose US Allies to Threat of CAATSA Secondary Sanctions

This quarter, U.S. Congressional leaders urged the Trump Administration to impose additional sanctions on Turkey following its testing of the S-400 missile-defense system, purchased from Russia in early 2019. The U.S. initially threatened to refuse to sell U.S.-made F-35 fighter jets unless Turkey reversed course and later threatened to impose sanctions pursuant to the 2017 Countering America’s Adversaries Through Sanctions Act, which mandates sanctions on any country that “engages in a significant transaction” with the Russian defense and intelligence sector. Despite Congressional prodding, the Trump Administration has thus far been reluctant to take the unprecedented step of imposing sanctions against a NATO ally. Turkey’s President, Tayyip Erdogan, reiterated his country’s refusal to abandon the S-400 system and threatened to evict U.S. forces from two military bases in Turkey if the U.S. were to follow through on its sanctions threat.

The risk of CAATSA-related sanctions implicated two other countries for arms deals with Russia. The U.S. issued warnings to Serbia, which recently purchased and received Russia-made helicopters and also purchased anti-aircraft launchers, delivery of which is expected in early 2020. Following a visit by a U.S. State Department envoy, Serbian President Aleksandar Vucic announced in December that Serbia would stop buying weapons from Russia. Meanwhile, in November, the U.S. warned Egypt’s government of possible sanctions over its decision to move forward with a planned purchase of Russian fighter jets. Rostec’s CEO has stated that U.S. sanctions have not affected Russian military exports.

OFAC Targets Malicious Russian Cyber-Actors

Following last quarter’s designation of state-sponsored North Korean hacking groups, OFAC focused its attention this quarter on malicious cyber-actors in Russia. Pursuant to E.O. 13694, OFAC designated on December 5, 2019 **Evil Corp.**, a Russia-based cybercriminal organization allegedly responsible for the development and distribution of the malware commonly known as Dridex. According to OFAC, Evil Corp. is alleged to have deployed its Dridex malware globally to infect computers and harvest login credentials from hundreds of banks and financial institutions, causing more than \$100 million in theft. Concurrently, the U.S. Department of Justice charged two of Evil Corp.’s members with criminal violations, and the Department of State announced that it would award up to five million dollars for information that would lead to the capture or conviction of the organization’s leader. In total, OFAC designated seventeen individuals and seven entities, including Evil Corp., its core cyber operators, multiple associated businesses, and its financial facilitators.

IRAN



This quarter, the Trump Administration continued to escalate its “maximum pressure” campaign against Iran, announcing new industry-wide sanctions on the country’s construction and metals sectors, and continuing to designate Iranian government officials. Moreover, OFAC imposed additional sanctions on Iran’s key transportation entities, Islamic Republic Shipping Lines and Mahan Air. The year ended with a sharp escalation of military conflict following the assassination of IRGC-QF commander Qassem Soleimani, in response to which Iran announced it would abandon limits on uranium enrichment set by the JCPOA.

US Announces Secondary Sanctions Targeting Iran’s Construction & Metals Sectors

On October 31, the U.S. State Department issued two findings pursuant to the Iran Freedom and Counter-Proliferation Act of 2012 that will impose new secondary sanctions on Iran’s construction sector, after finding it to be under the effective control of the Iranian Revolutionary Guard Corp. In conjunction, the State Department sought to impose restrictions on Iran’s acquisition of strategic materials after finding that those materials can be used in connection with Iran’s missile development program. Because the State Department deemed the Iran’s construction sector under IRGC control, under IFCA section 1245 the President is now required to impose five or more “menu based” restrictive measures against any person determined to have knowingly engaged in the sale, supply, or transfer to or from Iran of raw or semi-finished metals, graphite, coal, and software for industrial purposes if those materials are intended for use in Iran’s construction sector or in connection with Iran’s nuclear, military, or ballistic missile programs. Importantly, these sanctions measures apply to non-U.S. persons and include, among others, the possibility of SDN designation, U.S. export restrictions, and a prohibition on U.S.-dollar transactions and payments through U.S. banks.

OFAC Imposes WMD-Related Sanctions on Iran’s Largest Airline and Shipping Group

On December 11, the U.S. State Department expanded sanctions against three entities allegedly linked to Iran’s development of weapons of mass destruction. Specifically, the State Department acted pursuant to E.O. 13382 to target the **Islamic Republic of Iran Shipping Lines**, its China-based subsidiary, **E-Sail Shipping Company Ltd.**, and Iranian airline **Mahan Air**. Among other facilitative conduct, the State Department alleges that all three

entities engage in the shipment of materials necessary to the development of ballistic missiles. Although both IRISL and Mahan Air are already designated pursuant to E.O. 13599 as property of the Government of Iran, OFAC noted that their designation under its WMD authorities will subject dealings with those companies to the prohibitions under the Weapons of Mass Destruction Proliferators Sanctions Regulations and, notably, expose non-U.S. persons who transact with the companies to the risk of secondary sanctions. State Department officials noted that the heightened risk of WMD-related sanctions are designed to cut off IRISL, E-Sail, and Mahan Air's access to particular ports, access routes, and conduits of delivery, as well as increase pressure on other countries to cease business activities with these entities. The U.S. provided a 180-day wind-down period before the sanctions against IRISL and E-Sail take effect so that customers with existing contracts are not affected.

OFAC has for months warned General Sales Agents against transacting with designated Iranian airlines and on December 11 designated three GSAs for providing ticketing, freight, and cargo services to Mahan Air. The GSAs include Dubai-based **Gatewick LLC** and **Jahan Destination Travel and Tourism**, as well as Hong Kong-based **Gomei Air Services Co., Ltd.**

US Targets Senior Iranian Officials for Alleged Censorship Activities

This quarter, OFAC took action pursuant to E.O. 13846 to target a number of Iranian officials for acts of censorship that restricted Iranian citizens' access to the internet, social media, and other forms of free expression and assembly. First, on November 22, OFAC designated **Mohammad Javad Azari Jahromi**, Iran's Minister of Information and Communications Technology. Jahromi is allegedly involved in widespread internet censorship in Iran, including "black outs" of internet connectivity in response to rising anti-regime protests throughout Iran. In addition to internet connectivity disruptions, OFAC alleges that the Ministry of Information and Communications Technology has taken other restrictive measures, including bans on the use of certain social media platforms. Similarly, on December 19, OFAC designated **Abolghassem Salavati** and **Mohammad Moghisseh**, two judges presiding over branches of Iran's Revolutionary Court. According to OFAC, the judges conducted "show trials" in which journalists, attorneys, political activists, and members of other minority groups were penalized for engaging in acts of free expression and assembly. The accused were sentenced to a variety of harsh punishments, including lengthy prison terms, physical violence, and, in some cases, to death

In addition to punishing abusive official practices, OFAC also targeted Iranian officials tied to Iran's Supreme Leader, Ayatollah Ali Khamenei. On November 4, pursuant to E.O. 13876, which authorizes sanctions on associates of Iran's Supreme Leader, OFAC designated, Iran's **Armed Forces General Staff** and nine associated individuals. Among those targeted were appointees in the Office of the Supreme Leader, the Expediency Council, the Armed Forces General Staff, as well as members of the Judiciary. According to OFAC, these individuals are linked to malign behaviors of Iran, including the 1993 bombings of U.S. marine barracks in Beirut and other activities designed to oppress the Iranian people.

VENEZUELA



This quarter saw continued efforts by the U.S. to cut off the Maduro regime’s ability to export oil from Venezuela. Additionally, OFAC continued to designate Venezuelan government officials, partially in conjunction with new sanctions announced by the European Union and Canada. Meanwhile, the Trump Administration issued a [general license](#) extending Chevron Corp.’s waiver to operate in Venezuela until Jan. 22, 2020. OFAC also extended waivers for U.S. oil services providers Baker Hughes Co., Halliburton Co., Schlumberger Ltd. and Weatherford International Ltd.

OFAC Continues Efforts to Disrupt Venezuelan Oil Exports

As in previous quarters, OFAC sought to disrupt the reciprocal oil-related relationship between Venezuela and Cuba, which OFAC believes provides a lifeline to each regime. According to OFAC, Cuba provides to Venezuela security and intelligence assistance in exchange for Venezuelan oil. Specifically, OFAC took two actions to sever ties between the two countries pursuant its Venezuela-related authorities. First, on November 26, OFAC designated Cuba’s **Corporacion Panamericana S.A.** for being owned or controlled by, or having acted for or on behalf of, Cuban state-run oil import and export company, Cubametales, an entity designated in July 2019 for operating in the oil sector of the Venezuelan economy. In announcing the designation, OFAC alleged that Cubametales, struggling to continue operations following its own designation, repeatedly substituted Corporacion Panamericana as a party to various energy deals and commercial dealings with several countries and even moved certain Cubametales employees to work for Corporacion Panamericana. OFAC further noted that the designation demonstrates its commitment to target entities that facilitate the activities of companies who refuse to end their support for the Maduro regime.

Second, on December 3, OFAC targeted the physical transport of oil by identifying six vessels as blocked property of Venezuelan state-owned oil company Petr leos de Venezuela, S.A. for delivering Venezuelan oil to Cuba. In announcing the identifications, OFAC highlighted the evasive conduct Venezuela and Cuba take to avoid OFAC scrutiny, including by frequently changing the name of the vessels. Additionally, OFAC identified the vessel **Esperanza** as blocked property owned by Caroil Transport Ltd., an entity designated in September 2019 for operating in the oil sector of the Venezuelan economy. Pursuant to E.O. 13884, OFAC identified the

following six vessels: **Icaro, Lusia Caceres de Arsimendi, Manuela Saenz, Paramaconi, Terepaima, and the Yare.**

OFAC Targets Venezuelan Government Officials for Corruption

On December 9, OFAC designated **Gustavo Adolfo Vizcaino Gil** and **Juan Carlos Dugarte Padron** pursuant to E.O. 13692, which authorizes sanctions on current and former officials of the Government of Venezuela. Vizcaino and Dugarte are both associated with Venezuela's Administrative Service of Identification, Migration, and Immigration, or "SAIME." OFAC alleges that Dugarte, the former Director General of SAIME, and Vizcaino, the current Director General of SAIME, both engaged in acts of corruption during their directorships, including corrupt dealings in the overpriced sale of passports for personal gain.

President Trump "Harmonizes" US Sanctions with Global Partners

On November 5, OFAC designated five current Government of Venezuela officials in an effort to "harmonize" U.S. sanctions with those of the European Union and Canada, which recently imposed sanctions on these same individuals. The designations signal the U.S.'s commitment to a unified effort to punish the Maduro regime. The designated officials, who are alleged to have engaged in "rampant violence" against protesters, included:

- **Remigio Ceballos Ichaso**, an Admiral in the Venezuelan Navy and Commander of the Strategic Operational Command of the National Armed Forces.
- **Nestor Neptali Blanco Hurtado**, a Major in the Bolivarian National Guard.
- **Jose Adelino Ornelas Ferreira**, the Secretary General of the National Defense Council.
- **Pedro Miguel Carreno Escobar**, a Deputy of the illegitimate Venezuelan National Constituent Assembly.
- **Carlos Alberto Calderon Chirinos**, a senior official in Bolivarian National Intelligence Service.

EXXON WINS RARE COURT VICTORY CHALLENGING SANCTIONS PENALTY FOR RUSSIA SDN DEALINGS



In a rare loss for OFAC, on December 31, 2019 a U.S. district court in Dallas ruled in favor of Exxon Mobil Corp. in its challenge to a \$2 million civil penalty levied against it for alleged violations of Ukraine-related sanctions. While chiding Exxon for its “risky” conduct and failure to seek guidance, the court found that the sanctions regulations, coupled with official executive branch statements, failed to give Exxon “fair notice” that its conduct was prohibited and therefore vacated the penalty.

The predicate facts date to 2014, in the aftermath of Russia’s invasion and annexation of Crimea. In response, President Obama issued two executive orders, the first authorizing sanctions on persons determined to have been responsible for Russia’s Ukraine-related conduct and a second order finding that Russia’s actions posed a threat to U.S. national security. The regulations promulgated to implement the orders called for OFAC to designate individuals and entities as SDNs, blocking their property and interests in property, and further prohibiting U.S. persons from receiving services from those designated. Pursuant to the regulations, OFAC designated Igor Sechin, the President and Chairman of the Management Board of Russian petroleum giant Rosneft. The 2014 designation targeted Sechin in his individual capacity, and OFAC chose not to, and specifically noted, that Rosneft had not been sanctioned.

In spite of Sechin’s designation, and as it had for over twenty years, Exxon continued to do business with Rosneft by executing eight contracts, each of which was signed by Sechin in his capacity as a representative of Rosneft. OFAC later determined that those contracts violated the relevant regulations prohibiting the receipt of services

from a SDN. In 2017, OFAC imposed a \$2 million civil penalty against Exxon for alleged violations of the Ukraine Sanctions Regulations. Exxon immediately filed suit challenging the penalty.

Although Exxon challenged the penalty on three independent grounds, the court focused only on whether the regulations provided Exxon with “ascertainable certainty” that its conduct was forbidden. The court reasoned that the text of the regulations failed to provide fair notice. In particular, the text of the regulations did not provide fair notice that a U.S. person was prohibited from signing business contracts with a non-blocked entity that are also signed by a SDN. Because Rosneft was not designated, and Sechin did not own or control Rosneft, the court found in favor of Exxon.

The decision is noteworthy also for the additional factors that influenced the court’s fair notice determination. First, the court found that a regulated party, such as Exxon, may be justified in relying, in good faith, on “extra-regulatory” sources such as contemporaneous statements made by OFAC and executive branch officials. In Exxon’s case, OFAC and administration officials made explicit that the designation targeted Sechin in his individual capacity, and more explicitly that U.S. persons would not be prohibited from transacting with Rosneft. Those statements suggested that OFAC’s focus was on the “cronies of the Russian government” and their personal assets, and not “on companies that they manage or oversee.”

Second, the court considered OFAC’s subsequent guidance – issued in the form of FAQs three months after Exxon signed the Rosneft contracts – that cautioned U.S. persons against dealing with non-blocked entities when a SDN is involved, even if the dealing involved a SDN in a representative capacity. The court found that the clarifications issued in the FAQs provided at least some indicia that the regulations lacked initial clarity at the time of Exxon’s alleged violation. Further, the court found unpersuasive OFAC’s argument that Exxon was on notice that its conduct was prohibited because similar guidance had been issued with respect to a different sanctions regime, in this case OFAC’s Burmese sanctions. Prior guidance in a separate sanctions regime was insufficient, held the court, particularly in light the Ukraine regulations disclaimer that “differing foreign policy and national security circumstances may result in different interpretations” from other sanctions regimes.

Lastly, the court considered whether Exxon should have sought OFAC’s guidance before executing its contracts. Despite having not sought such guidance, and deeming that failure as relevant in a fair notice analysis, the court determined that the “burden of providing fair notice remains with the agency—not the regulated party.”

While representing a rare loss for OFAC, the decision was carefully crafted based on the unique circumstances of the case. However, the decision could have implications for U.S. persons and OFAC alike. On one hand, the ruling could encourage compliance-focused companies to challenge OFAC penalties in the face of unclear regulations. On the other, the exceptional circumstances of the case could prompt U.S. companies to exercise caution to avoid the appearance of using unclear regulations to obtain a business advantage. As the *Exxon* court dryly noted, it was tasked with determining which party “receives the benefit of having its cake and eating it, too.” As to OFAC, the decision should prompt it issue explicit interpretive guidance soon after issuing regulations so that regulated parties are on immediate notice as to the scope of OFAC’s prohibitions. Had OFAC’s clarification been issued three months earlier, the court would likely have reached a different conclusion.

OFAC NAMES NUMEROUS TARGETS AROUND THE GLOBE FOR ALLEGED CORRUPTION AND HUMAN RIGHTS ABUSES



This quarter OFAC took sweeping action under the Global Magnitsky Human Rights Accountability Act (E.O. 13818) in response to alleged human right abuses and public corruption across the globe. In six separate actions, some of which coincided with International Corruption Day, OFAC named new sanctions targets in Africa, Asia, Europe, the Middle East, and Latin America.

On October 10, OFAC targeted a large South African corruption network pursuant to the Global Magnitsky Act, which authorizes sanctions on corrupt actors and human rights abusers. Specifically targeted were members of the influential Gupta family, including **Ajay Gupta, Atul Gupta, Rajesh Gupta**, and their business associate, **Salim Essa**. According to OFAC, the network leveraged overpayments on government contracts, paid bribes, and engaged in other corrupt acts to fund political contributions and curry influence over official government actions. Among the many corrupt efforts alleged by OFAC are a number of “pay to play” schemes. For example, Gupta family members allegedly promised a potential South African Minister of Finance millions of dollars to secure that person’s assistance in removing government officials that might present obstacles to the family’s profiteering schemes. In another effort, Gupta family members allegedly offered bribes to government officials in exchange for assistance with business ventures, such as a mining project.

On October 11, OFAC designated two individuals and five entities allegedly engaged in corrupt activities on behalf of South Sudanese government officials. OFAC targeted **Ashraf Seed Ahmed Al-Cardinal** and **Kur Ajing Ater**, two South Sudanese businessmen allegedly involved in bribery, illegal kickbacks, and procurement fraud with senior government officials of South Sudan. According to OFAC, Al-Cardinal permitted a senior government official to use his company’s bank to store personal assets to evade potential sanctions. In addition, Al-Cardinal allegedly diverted payments meant to supply government forces with food into the personal pockets of South Sudanese government officials. Ajing Ater is alleged to have paid bribes to maintain influence and access to the South Sudanese oil market, and to have routed a percentage of payments related to government oil and food supply contracts outside of authorized channels and back to government officials. OFAC also designated five

entities connected to Al-Cardinal: **Alcardinal General Trading Limited, Alcardinal General Trading LLC, Al Cardinal Investments Co. Ltd, Alcardinal Petroleum Company Ltd, and NILETEL.**

On December 6, OFAC designated three leaders of the Iran-backed Asa'ib Ahl al-Haq militia, **Qais al-Khazali, Laith al-Khazali, and Husayn Falih 'Aziz al-Lami**, for their alleged role in suppressing public protests in Iraq. According to OFAC, the militia fired upon and killed protesters throughout Iraq in 2019 and is further responsible for forced disappearances, killings, and torture of Sunni Iraqis in the Diyala Province of Iraq. OFAC also alleges that Husayn Falih 'Aziz al-Lami is connected to a group of IRGC-QF proxies who, through the use of force, suppressed and intimidated protesters, and ordered the assassination of protesters in Baghdad. In the same action, OFAC designated **Khamis Farhan al-Khanjar al-Issawi**, an Iraqi businessman and millionaire, for allegedly using his financial resources to engage in widespread corruption and bribery in Iraq.

On the occasion of International Corruption Day, December 9, OFAC announced designations against a host of allegedly corrupt actors and their networks across Europe, Asia, and Latin America. Remarking that corruption "undermine[s] the foundations of stable, secure, and functioning societies," OFAC designated fourteen individuals and numerous associated entities. In one Latvia-focused action, OFAC designated oligarch **Aivars Lembergs** for alleged corruption that plundered public coffers, as well as harmed the security of Latvia and the NATO Alliance. Lembergs, the mayor of Ventspils, Latvia, has used his official position to engage in money laundering, bribery of political figures and law enforcement for personal gain. In connection, OFAC designated four entities controlled by Lembergs: **Ventspil Freeport Authority, Ventspil Attistibas Agentura, Biznesa Attistibas Asociacija, and Latvijas Tranzita Biznesa Asociacija**, for their alleged role in facilitating Lembergs' actions. In response to the sanctions, the Latvian government passed legislation giving the government full control over the nation's largest seaports.

Similarly, OFAC designated Cambodian national **Try Pheap** and eleven entities under his control for allegedly engaging in corruption and misappropriation of Cambodian state assets in furtherance of an illegal logging scheme. Pheap's corrupt acts include allegations that he purchased the protection of the Cambodian military to safeguard his illegal timber trafficking to international buyers. OFAC also took notable action to impose sanctions against nine individuals and nine entities, who are alleged facilitators of Balkan arms dealer **Slobodan Tesic**. Despite his designation in September 2017, Tesic continues to engage in the arms trade, using companies he indirectly owns or controls to facilitate the sales.

On December 10, OFAC continued to name global targets. Among those designated were **Marian Kocner** and six Slovakian entities controlled by Kocner. According to OFAC, Kocner hired a hitman to murder a journalist who had reported on Kocner's proceeds from fraudulent tax returns. For alleged human rights abuses in Libya, OFAC targeted **Mahmud al-Warfalli**, a commander in the al-Saiqa Brigade. According to OFAC, al-Warfalli is responsible for the killings of forty-three unarmed detainees, many of them recorded and published to social media. The recordings show al-Warfalli shooting the victims, in some instances continuing to do so after the initial execution. Also designated was Pakistan-national **Rao Anwar Khan**, who allegedly used his power as Senior Superintendent of Police for District Malir to stage fake encounters with local police that resulted in the deaths of over 400 people. Furthermore, Khan allegedly operated a network of police and criminals that perpetrated numerous crimes including extortion, murder, narcotics, and land grabbing. In total, eighteen individuals and six entities in Burma, Pakistan, Libya, Slovakia, the Democratic Republic of the Congo, and South Sudan were designated.

COUNTER-TERRORISM DESIGNATIONS



On November 18, pursuant to E.O. 13224, OFAC designated two individuals and four companies for allegedly providing logistical aid to ISIS across Europe and the Middle East, as well as a charitable organization that assisted ISIS members in Afghanistan. According to OFAC, both **Ismail Bayaltun** and **Ahmet Bayaltun**, directly and through a business they control, **ACL Ithalat Ihracat**, provided material support to ISIS by means of equipment and procurement services. Additionally, OFAC designated **Sahloul Money Exchange Company**, **Al-Sultan Money Transfer Company**, and **Tawasul Company** for allegedly assisting ISIS in the transfer of funds. Finally, OFAC designated Afghanistan-based **Nejaat Social Welfare Organization** and members of its leadership, **Sayed Habib Ahman Khan** and **Rohullah Wakil**, for allegedly providing a charitable cover of legitimacy to ISIS activities in Afghanistan.

On December 11, OFAC acted pursuant to E.O. 13224 to curtail activities of an IRGC-QF weapons smuggling network operated by **Abdolhossein Khedri**. According to OFAC, Khedri, an Iranian businessman and an alleged longtime facilitator of IRGC-QF activities, operates a network of companies and vessels that smuggles weapons from Iran to Yemen on behalf of the IRGC-QF. The designated entities of the network include two shipping companies, **Khedri Jahan Darya Co.** and **Maritime Silk Road LLC**. In addition, OFAC identified two vessels as property of Khedri Jahan Darya Co., the **Geneva 11** and the **Geneva 12**. This action continues the U.S. government's efforts to cut off aid to Houthi rebels.

OFAC also designated on December 11 three General Sales Agents that provide ticketing, freight, and cargo services to Mahan Air, itself a designated entity for its support of the IRGC-QF's malign activities. The GSAs include Dubai-based **Gatewick LLC** and **Jahan Destination Travel and Tourism**, as well as Hong Kong-based **Gomei Air Services Co., Ltd.** The designations continue OFAC's recent efforts to target members of the aviation industry that maintain relationships with designated entities.

ENFORCEMENT ACTIONS



On December 13, 2019, the National Security Division at the U.S. Department of Justice published updated policy guidance for companies considering voluntary self-disclosure submissions for U.S. export control and sanctions violations under the Arms Export Control Act, the Export Control Reform Act, and the International Emergency Economic Powers Act. The “Export Control and Sanctions Enforcement Policy for Business Organizations” notes that U.S. companies are the “gatekeepers of export-controlled technologies” and therefore play a vital role in protecting U.S. national security. The updated guidance sets forth the criteria that the Department of Justice will use when determining the appropriate resolution for organizations who submit voluntary self-disclosures. According to the guidance, absent aggravating factors such as ties to terrorism or WMDs, there will be a presumption that a company will receive a non-prosecution agreement and will not pay a fine when an organization (1) voluntarily self-discloses violations, (2) cooperates with enforcement agencies, and (3) takes prompt remedial action. In the event aggravating factors are present, which also includes the involvement of senior management in the violations, companies may still reap benefits from self-disclosure. In that circumstance, DOJ may not require the appointment of a monitor and recommend a reduced fine at least 50% less than the amount available under the alternative fine provision, effectively capping the fine at the gain or loss in the illegal transaction. The

policy’s release is the latest effort by U.S. enforcement agencies to provide clarity about sanctions compliance and enforcement, and follows OFAC’s April 2019 “Framework for OFAC Compliance Commitments,” which provided companies long-awaited guidance on effective sanctions compliance controls.

On October 1, OFAC announced a settlement agreement with U.S.-based **The General Electric Company** to settle potential civil liability arising from 289 alleged violations of OFAC’s Cuba sanctions regulations by three current and former GE subsidiaries. The three subsidiaries included Getsco Technical Services Inc., Bentley Nevada, and GE Betz. According to OFAC, between December 2010 and February 2014, the GE companies accepted payments from The Cobalt Refinery Company—an OFAC-designated SDN—for goods and services provided to one of GE’s Canadian customers. Cobalt is one of three entities owned by a public joint venture between the Canadian customer and the Cuban government. According to OFAC, the GE Companies maintained their customer relationship despite publicly available information connecting the Canadian customer to the Government of Cuba. During the relevant period, the GE Companies accepted payments directly from Cobalt for its goods and services, and the GE Companies deposited the payments directly into its Canadian bank accounts. In addition to its failure to recognize the Cuba connections, OFAC alleges GE had in place deficient sanctions screening software that failed to account for its customer’s Cuba-related activities. Specifically, the software screened only the abbreviation for Cobalt’s SDN name, rather than its full legal entity name as it appears on OFAC’s SDN List. In determining the \$2,718,581 penalty, OFAC noted that GE voluntarily disclosed the conduct and that they constituted a non-egregious case.

On November 7, OFAC announced an agreement with U.S.-based aviation investment manager **Apollo Aviation Group, LLC**, to settle potential civil liability arising from twelve apparent violations of OFAC's Sudanese Sanctions Regulations. According to OFAC, Apollo violated U.S. sanctions by leasing three aircraft engines to a UAE-incorporated entity, which then subleased the engines to a Ukrainian airline, which in turn installed the engines on aircraft operated by Sudan Airlines. At the time of the transactions, Sudan Air was identified on OFAC's SDN List as a person meeting the definition of "Government of Sudan." Despite having contractual lease provisions prohibiting the lessee from transferring the engines to countries subject to U.S. and United Nations sanctions, Apollo failed to take steps to ensure that the engines were in fact utilized in a manner that complied with U.S. sanctions. Specifically, Apollo failed to obtain U.S. export law compliance certificates from its lessees and sublessees, and failed to monitor their activities to ensure sanctions compliance. Apollo only learned of the engine's use by Sudan Airlines upon their return at the end of the lease. In determining the penalty amount, OFAC noted that Apollo voluntarily self-disclosed the apparent violations and that the apparent violations constituted a non-egregious case.

On November 25, OFAC announced an agreement with **Apple, Inc.** to settle its potential civil liability arising from apparent violations of the Foreign Narcotics Kingpin Sanctions Regulations. Specifically, OFAC alleges that, from February 2015 to May 2017, Apple processed payments to a Slovenian software development company SIS, d.o.o., an entity previously identified on OFAC's SDN List as a significant foreign narcotics trafficker. Despite the blacklisting of SIS, its director, and SIS's majority owner, Apple continued to host, sell, and facilitate the transfer of SIS software applications. According to OFAC, Apple's sanctions screening software failed to identify SIS because its program did not capture the lower-case "d.o.o." name of SIS, and only searched the SDN List for individuals identified as "developers" and not the names of individuals holding different corporate positions, such as "account administrators." In determining the \$466,912 penalty, OFAC noted that Apple voluntarily disclosed the violations and that they constituted a non-egregious case.

On December 9, OFAC announced that Chicago-based casualty insurer **Allianz Global Risks U.S. Insurance Company** will pay \$170,535 to settle potential civil liability arising from 6,474 apparent violations of the Cuban Assets Control Regulations. AGR US is a wholly owned subsidiary of German financial services provider Allianz SE, and operates a Canadian branch office called AGR Canada. According to OFAC, from August 2010 to January 2015, AGR US failed to provide adequate oversight of AGR Canada to prevent it from fronting travel insurance policies that covered Canadian residents' travel to Cuba in violation of the CACR. Specifically, neither AGR Canada nor AGR US collected information regarding the travel destination upon issuance of the insurance policy, failed to investigate the practice when it was on notice that travel to Cuba was being facilitated, and did not maintain specific OFAC compliance procedures to detect and prevent violations. OFAC determined that AGR US voluntarily self-disclosed the apparent violations and that they constituted a non-egregious case.

Also on December 9, OFAC announced a \$66,212 settlement with **Chubb Limited**, as successor legal entity of the former Switzerland-headquartered ACE Limited, a global provider of insurance and reinsurance services. Prior to the merger of ACE Limited and Chubb, ACE Limited operated a U.S.-incorporated holding company, ACE Group Holdings, Inc., which in turn operated a U.K.-subsidiary known as ACE Europe. Between January 2010 and December 2014, ACE Europe processed over 20,000 transactions, including premium payments related to Cuba-related travel insurance, and claims payments paid out under the insurance coverage. According to OFAC, ACE misunderstood the applicability of U.S. sanctions against Cuba with respect to this activity. Specifically, ACE Europe was advised that travel insurance provided to European travelers was permissible under the EU's Anti-Blocking Regulation. In determining the penalty, OFAC noted that ACE made a voluntary self-disclosure of the apparent violations and that these apparent violations constitute a non-egregious case.

On December 12, OFAC issued a Finding of Violation to Texas-based **Aero Sky Aircraft Maintenance, Inc.**, which negotiated and entered into maintenance and repair services contracts with Mahan Air in violation of the Global Terrorism Sanctions Regulations. Specifically, in December 2016, Aero Sky agreed to provide non-exclusive maintenance and repair services to Mahan Air—a designated entity—and further agreed to enter into a joint-venture agreement, thereby dealing in the property and interests in property of Mahan Air. Although Aero Sky was aware of Mahan Air's status as an SDN, Aero Sky mistakenly believed that its business with Mahan Air was authorized pursuant to General License I, authorizing certain transactions related to commercial passenger aircraft, parts, and services. GL I, however, did not authorize dealings with SDNs designated pursuant to other

U.S. sanctions authorities, including SDNs designated under OFAC's counterterrorism authorities, as was the case with Mahan Air. In announcing the penalty, OFAC alleged that Aero Sky engaged in "reckless violation of the law by failing to exercise a minimal degree of caution or care." Rather than impose a significant civil penalty, OFAC determined that a finding of violation was warranted given Aero Sky's small size and poor financial condition. Aero Sky dissolved after the violations were reported.

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Authors & Contributors

Philip Urofsky
Danforth Newcomb
Stephen Fishbein
Brian G. Burke
Christopher L. LaVigne
Barnabas Reynolds
Mark D. Lanpher
Susanna Charlwood
Paula Howell Anderson

Associate Contributors

Jacob Fields
Cole Pritchett

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