

U.S. government issues new executive order targeting Turkey and sanctions the Turkish Ministry of Defense, Ministry of Energy and Natural Resources, and others

16 October 2019

On 14 October President Donald Trump issued Executive Order 13894, [Blocking Property and Suspending Entry of Certain Persons Contributing to the Situation in Syria](#) (EO). Pursuant to the EO, the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) added two Turkish ministries – the Ministry of Energy and Natural Resources and the Ministry of National Defence (MOD), and three Turkish ministers – Hulusi Akar, the Minister of National Defence, Süleyman Soylu, the Minister of Interior, and Fatih Dönmez, the Minister of Energy, to the Specially Designated Nationals and Blocked Persons List (SDN List). As a result, U.S. persons generally are prohibited from engaging in any transactions or dealings with these new SDNs, and non-U.S. persons also are prohibited to the extent there is a U.S. nexus. The prohibition applies to any entity that is owned, directly or indirectly, 50 percent or more, individually by an SDN or when aggregated with the ownership interests of any SDNs. Non-U.S. persons could face exposure under secondary U.S. sanctions for providing "material support" to these new SDNs (or entities owned by them), or for engaging in types of sanctionable activities identified in the EO, even if the underlying transaction has no U.S. nexus.

The EO provides authority for additional designations of parts of the government of Turkey and provides authority to impose a variety of sanctions on foreign persons involved in hindering a potential ceasefire or potential political solution in Syria, foreign financial institutions that knowingly conduct or facilitate transactions with designated persons, and any foreign person that provides "material support" to the MOD or other SDNs.

The EO provides broad authority to designate additional parts of the Turkish government, Turkish officials, and private companies

The U.S. government can now designate any current or former officials of the government of Turkey; any subdivision, agency, or instrumentality of the government of Turkey; and persons operating in certain sectors of the Turkish economy to be determined by OFAC and the U.S. Department of State.

Because these are broad designations, additional entities in the Turkish government and particularly the Turkish defense industry could be designated in the future.

The U.S. government can also designate any persons who have materially assisted or acted on behalf of any person designated pursuant to the EO, as well as persons responsible for or complicit in actions or policies that threaten peace and stability in Syria or involve the commission of serious human rights abuses.

Any such designation would block the property of those persons and would prohibit all activity involving the designated entities and U.S. persons.

The EO provides authority to impose a variety of sanctions on foreign persons determined to hinder a potential ceasefire or political solution, or who prevent displaced persons from returning to Syria voluntarily or forcibly repatriate persons to Syria

Sanctions can be imposed on foreign persons, and adult family members of such persons, who hinder a potential ceasefire or efforts to promote a political solution in Syria or prevent displaced persons from returning to Syria voluntarily or force persons or refugees to return to Syria. Sanctions can also be imposed on foreign persons determined to expropriate property for personal or political gain in Syria.

Options include blocking the sanctioned persons' property in the United States, denying sanctioned persons' visas and excluding them from entry into the United States, and prohibiting U.S. government agencies from procuring or entering into a contract for procurement of goods or services from the sanctioned persons. We note that the principal executive officer or officers, or persons performing similar functions of the sanctioned persons, can also be subject to similar sanctions.

The EO authorizes sanctions on certain foreign financial institutions

The U.S. government can also prohibit the opening of or impose strict conditions on the maintenance in the United States of a correspondent account or a payable-through account of foreign financial institutions that have knowingly conducted or facilitated any significant financial transaction for or on behalf of persons blocked pursuant to this EO.

General licenses authorize certain prohibited activity and allow operations and existing contracts with the MOD and the Ministry of Energy and Natural Resources to be wound down by 13 November 2019

Three general licenses authorize all transactions and activities:

- For the conduct of official U.S. government business (by employees, grantees, or contractors) otherwise prohibited by Sections 1 through 3 of the EO ([General license 1](#)).
- Ordinarily incident and necessary to the wind-down of activities involving the MOD or Ministry of Energy and Natural Resources, or any entity in which one or more ministries own, directly or indirectly, a 50 percent or greater interest (note, this general license expires on **13 November 2019** so authorized activities would have to be completed before this date) ([General license 2](#)).
- For the official business of the United Nations that are prohibited by Sections 1 through 3 of the EO and involve the MOD or the Ministry of Energy and Natural Resources, or any entity in which one or more ministries own, directly or indirectly, a 50 percent or greater interest. ([General license 3](#)).

Legislation has been proposed in both the U.S. House and Senate to impose a range of sanctions on Turkey for its actions in Syria, but it is not clear whether legislation will move forward in Congress in light of the EO and associated designations.

European actions against the Turkish government

The United States is not the only country to target Turkey for its actions in Syria. France, Germany, the Netherlands, Finland, the Czech Republic, Italy, the United Kingdom, Spain, and Sweden have announced they will no longer issue licenses for exports of military equipment to Turkey that could be used in military operations in Syria (and the United Kingdom has added that it would review existing licenses).

The Council of the European Union (the council) has publicly condemned Turkey's military action and announced its intent to agree on a coordinated EU-wide response, which could potentially consist of an EU-wide suspension of military equipment exports to Turkey.

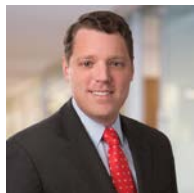
In addition, the council adopted conclusions with respect to Turkey's drilling activities in the Eastern Mediterranean (i.e., in Cyprus' territorial waters and/or exclusive economic zone). The council reiterated its solidarity with Cyprus and its previous conclusions reached on 15 July 2019 and supported the delimitation of exclusive economic zones and continental shelf through dialogue and negotiations in good faith. The council agreed to put in place a framework of restrictive measures targeting persons and entities responsible for or involved in the illegal drilling of hydrocarbons in the area of the Eastern Mediterranean. To this end, the council called on the EU High Representative of the Union for Foreign Affairs and Security Policy and the European Commission to present proposals for a sanctions framework against such actors.

Next steps

Businesses should remain alert to additional actions, whether under forthcoming executive orders, additional designations, or legislation from Congress. Businesses should also review current contracts and projects to determine involvement of any newly designated SDNs and determine the involvement of any U.S. persons, U.S.-origin items or services, or any U.S.-dollar transactions or financial institutions. Even if no U.S. nexus is present, businesses should assess whether any continued dealings with these SDNs may be viewed by OFAC as provision of "material support" to these SDNs, which could lead to exposure under secondary sanctions.

For further information or assistance, please contact any of the Hogan Lovells lawyers identified below.

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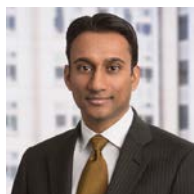
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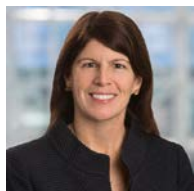
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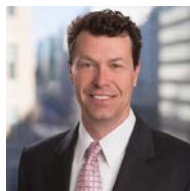
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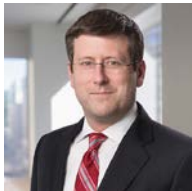
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