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# Sanctions Roundup: First Half of 2017

The first six months of the Trump Administration saw several notable developments for US sanctions, with particular implications for Russia, Iran, and North Korea. The Administration also declared a shift in US policy toward Cuba. Meanwhile, OFAC concluded a major enforcement effort against the Chinese firm ZTE, imposing the largest fine on record against a non-financial entity.

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# Russia

## **Senate Bill Proposing New Russia Sanctions Faces Uncertain Fate**

On June 14, the US Senate passed a bill proposing to codify and strengthen existing sanctions, and to add new sanctions, against the Russian Federation in response to its apparent meddling in last year's US presidential election, as well as its continued activities in Ukraine and Syria. The measure received bipartisan support (passing by a 97–2 vote) demonstrating a strong political appetite in the US to take retributive action against Moscow. It further reflects a continuing assertion by Congress of its having a role in managing sanctions policy, often accompanied (as in previous Iran sanctions laws passed under previous Administrations) by a concern that the Executive will not take or maintain sufficiently strong action.

This Senate measure is not yet law. The bill must still be approved by the House of Representatives and signed by the President before it has legal effect, and there remains significant uncertainty as to the final form any such measure would take. Before the Senate vote, the Trump Administration objected to the new legislative sanctions, preferring the “flexibility to turn the heat up when we need to, but also to ensure that we have the ability to maintain a constructive dialogue,” according to Secretary of State Rex Tillerson. In response to potential delays arising from the House Republican leadership that the Senate bill was inadmissible because it purportedly violated the US constitutional provision requiring that all revenue-raising bills originate in the House, on June 22<sup>nd</sup>, the Senate sent a revised bill to the House (this time passing by a 98–2 margin) correcting that alleged flaw. The House will presumably now take up the bill when it returns from its July 4<sup>th</sup> recess.

However, the US domestic political situation may hinder President Trump's ability to fend off new legislative sanctions permanently. The President faces increased domestic pressure to take a tough stance toward Russia in light of a current investigation of alleged ties between Moscow and members of his 2016 campaign staff.

Despite receiving broad support in the US, the measure prompted a backlash from some European states, especially in regard to its apparent targeting of the Nord Stream 2 project (the offshore natural gas pipeline that would double energy exports from Russia to Germany, expected to begin construction next year), which critics considered an attempt to protect US liquefied natural gas exports. With regard to the Nord Stream project, the bill does not impose mandatory sanctions, but explicitly provides the President with discretion to impose secondary sanctions against non-US persons that make investments in, or otherwise support, the construction of Russia's energy export pipelines. (More specific information on this provision is below.) In a joint statement, the governments of Germany and Austria indicated that the potential US sanctions had brought a “new and very negative” quality to US-Europe relations and that the two countries would consider retaliatory measures should the US attempt to punish European companies supporting the project.

More broadly, the Senate measure indicates a break from the recent tradition of strong cooperation between the EU and US concerning Russian sanctions. While political support for Russian sanctions appears to be waning in the EU, the proposed law takes the opposite course. Indeed, in addition to the proposals outlined below, the Senate bill hints at the possibility of even more drastic sanctions in the future. For example, the bill instructs the Treasury Department to examine and report “[t]he likely effects of imposing debt and equity restrictions on Russian parastatal entities,” “the anticipated effects of adding Russian parastatal entities to the list of specially designated nationals,” and “the potential effects of expanding sanctions . . . to include [Russian] sovereign debt and the full range of derivative products.”

In relevant part, the Senate bill would have the following effects:

- *Codify existing US sanctions* – by adopting existing sanctions against Russia into law, Congress would remove the President’s ability to lift those sanctions unilaterally. Specifically, the bill would require President Trump to submit a report to Congress requesting permission to remove any sanctions, including the various Russia-related executive orders signed during the Obama Administration.
- *Strengthen existing sectoral sanctions* – Executive Order 13662 (signed March 20, 2014) imposes limited sanctions on various entities operating in Russia’s financial, energy, and defense sectors. The Treasury Department implemented E.O. 13662 by issuing four “Directives” applicable to certain listed entities, including major Russian banks, energy companies, and defense manufacturers. (For more information, see Shearman & Sterling’s [Sanctions Roundup for Q3 2014](#).) The Senate bill strengthens these sectoral sanctions by:
  - Adding new sectors (railway and shipping) subject to sanctions under E.O. 13662.
  - Tightening certain debt-financing transactions: Directive 1 (applying to Russia’s financial sector) and Directive 2 (applying to Russia’s energy sector) prohibit US persons from transacting in a listed entity’s new debt of greater than 30 days and 90 days maturity, respectively. The Senate bill would shorten these maturity dates to 14 days and 30 days, respectively.
  - Broadening prohibitions relating to Russia-involved crude oil projects: Directive 4 currently prohibits US persons from providing goods, services (except for financial services), or technology in support of exploration or production for deepwater, Arctic offshore, or shale projects that have the potential to produce oil inside the Russian Federation. The Senate bill would expand this prohibition to cover such crude oil projects located anywhere in the world.
- *Further broaden previous legislative “secondary” sanctions* – The Ukraine Freedom Support Act of 2014 granted the President discretion to impose secondary sanctions on a non-US person who knowingly makes a “significant investment” in certain Russian crude oil projects (which neither the previous nor current Administrations have imposed). The Senate bill would make such sanctions mandatory unless the President determines it is not in the national interest of the US to do so.

Similarly, the Ukraine Freedom Support Act of 2014 granted the President discretion to impose secondary sanctions on “foreign financial institutions” that engaged in transactions involving Russia’s defense and energy sectors. The Senate bill would make such sanctions mandatory unless the President determines it is not in the national interest of the US to do so.

- *Energy-export pipelines* – provides for discretionary secondary sanctions on non-US companies investing in the construction of Russian energy export pipelines, including Nord Stream 2. Section 232 of the bill would grant the President permission—but would not require him—to impose various export and financial sanctions on any firm or individual who provides assistance for the building, maintenance, or expansion of energy pipelines by the Russian Federation.

Sanctionable assistance is broadly defined as any investment that directly and significantly contributes to the enhancement of the ability of the Russian Federation to construct energy export pipelines; as well as the supply of any goods, services, technology, information, or support that could directly and significantly facilitate the maintenance or expansion of the construction, modernization, or repair of energy pipelines. The monetary threshold for sanctionable assistance is \$1 million or an aggregate fair market value of \$5 million over a twelve-month period.

With respect to a sanctioned person, the President may, among other actions, prohibit any US financial institution from making loans to the sanctioned company; direct US executive directors at international financial institutions to oppose loans from those institutions; prohibit transfers of credit between financial institutions; and prohibit transactions involving property subject to US jurisdiction.

- *Cyber activity* – new mandatory blocking sanctions on any person the President determines to be “knowingly engage[d] in significant activities undermining cybersecurity against any person, including a democratic institution, or government, on behalf of the Government of the Russian Federation.”
- *Privatization of state-owned assets* – new mandatory sanctions against any person the President determines to have knowingly made an investment of \$10 million or more, or facilitates such investment, if the investment directly and significantly contributes to the ability of the Russian Federation to privatize state-owned assets in a manner that unjustly benefits government officials or their family members.
- *Defense and intelligence sectors* – new mandatory sanctions against any person the President determines knowingly “engages in a significant transaction with a person that is part of, or operates for or on behalf of, the defense or intelligence sectors of the Government of the Russian Federation.”
- New mandatory sanctions against corrupt actors, sanctions-evaders, and human rights abusers.

## Other Russia Sanctions Developments and Designations

### **Trump Administration Rejects Exxon Request for Exemption From Russia Sanctions**

The Trump Administration has signaled that it does not for now intend to loosen the Ukraine-related sanctions programs imposed by the Obama Administration against Russia in 2014. As noted above, the sectoral sanctions programs prohibit, among other things, US companies from supporting certain arctic offshore and deepwater crude oil projects by listed Russian entities. On April 21, the Treasury Department announced it would not grant Exxon Mobil an exemption to resume a joint venture with Rosneft forged in 2012. Treasury Secretary Steven Mnuchin said he had personally consulted with President Trump before deciding that the Administration “will not be issuing waivers to US companies, including Exxon, authorizing drilling prohibited by current Russian sanctions.”

### **Ukraine-Related Designations**

In a further display of US-Russia tensions, the Trump Administration on June 20 imposed new sanctions on a range of Russian individuals and entities for alleged continued involvement in the ongoing conflict in Ukraine. The Treasury Department reiterated that “US sanctions on Russia related to the situation in eastern Ukraine will remain in place until Russia fully honors its obligations under the Minsk Agreements.” Specifically, Treasury’s Office of Foreign Assets Control (“OFAC”) designated thirty-eight individuals and entities under various Ukraine-related sanctions programs (E.O. 13660, E.O. 13661, E.O. 13662, and E.O. 13685), including one entity that has engaged in the evasion of existing sanctions, two Russian government officials and two individuals acting for or on behalf of a government official, two entities that are owned or controlled by an individual previously designated, and 11 individuals and entities that operate in the Crimea region of Ukraine.

At the same time, OFAC explicitly designated twenty subsidiaries owned by AK Transneft OAO (Transneft), which had already been designated under Directive 2, which prohibits US persons from dealing in new debt of greater than 90 days maturity of the sanctioned entities. Each of these companies were 50 percent or more owned by Transneft, and thus each were technically already covered by the Directive pursuant to OFAC’s 50% rule.

### **Magnitsky Act**

On January 9, OFAC added five Russian individuals to its SDN List under the Magnitsky Act for alleged human rights violations. In the highest profile designations to date, Treasury named **Aleksandr Bastrykin**, head of the federal Investigative Committee—the Russian analogue to the FBI, as well as **Andrei Lugovoi**, a member of Russia’s lower house of parliament. Lugovoi has been accused by British authorities of carrying out the 2006 poisoning of Kremlin critic Aleksandr Litvinenko. Lugovoi’s alleged accomplice, **Dmitry Kovtun**, was also listed. Two other individuals, **Stanislav**

**Gordievsky** and **Gennady Plaksin** were also sanctioned. To date, forty-four Russian individuals have been subjected to blocking sanctions under the Magnitsky Act.

## Iran

### **Amid Tensions, US Continues to Honor Nuclear Deal**

Despite months of harsh campaign rhetoric against the 2015 Joint Comprehensive Plan of Action (JCPOA) brokered by the Obama Administration with Iran, the Trump Administration appears to be standing by the terms of the nuclear agreement for now. On May 17, President Trump formally extended the waiver on US sanctions targeting Iran's oil exports called for by the JCPOA.

Nonetheless, tensions remain high as the Administration simultaneously announced a barrage of non-nuclear sanctions against the country. Indeed, on the same day it extended the JCPOA sanctions relief, the Treasury Department placed new sanctions on seven targets (described further below) connected to Iran's ballistic missile testing program. Treasury Secretary Steve Mnuchin remarked, "This Administration is committed to countering Iran's destabilizing behavior, such as Iran's development of ballistic missiles and support to the Assad regime. It is alarming that individuals involved with Iran's missile program are assisting the brutal Assad regime, and we are taking action to curtail this behavior."

The political climates in Iran and the US provide mixed messages on the viability of improved relations between the two countries. President Rouhani's reelection in May was seen as a success for Iranian reformists seeking to preserve the nuclear deal and continue cooperation with western powers. Meanwhile, the US Senate in June passed proposed additional non-nuclear sanctions against Iran relating to its ballistic missile program, support for terrorism, and human rights abuses (described further below).

Despite the implementation of sanctions relief provided by the JCPOA, foreign investment in Iran has not yet reached levels anticipated by the deal's proponents. Many unilateral US sanctions remain in place, which continue to provide a chilling effect on new investment in the country.

Nonetheless, the JCPOA has led to some notable transactions, including the **Boeing Company's** announced plan to sell 140 aircraft to two Iranian carriers. Iran Air has placed an order for 80 aircraft worth a total of \$16 billion, and Iran Aseman Airlines has placed an order for 30 aircraft with an option for 30 more, worth a combined total of \$6 billion. The potential \$22 billion deal was approved by the Treasury Department in September 2016 and received initial export licenses. However, some congressional Republicans are now calling on President Trump to block the deal, citing what they allege is evidence that Iran is using commercial aircraft to move troops and arms to the Syrian government and terrorist groups. In response, the Administration announced that it will review its Iran policy and Boeing's export license in particular. While the licenses currently remain in place, there are concerns that sanctions could be reintroduced or licenses could be withdrawn if evidence emerges that Iran is not using

the aircraft for civil aviation. The Boeing deal is seen as a test case that might encourage foreign investment in Iran as well as solidify performance of the nuclear deal.

### **US Senate Passes Bill Proposing Additional Iran Sanctions**

On June 14, the US Senate passed S.722, the first legislative expansion of sanctions against Iran since the JCPOA was reached. The measure, which passed 98–2, targets Iran’s ballistic missile program and continued support for terrorism. The bill would place secondary sanctions on any person who contributes to Iran’s ballistic missile program; place the Iranian Revolutionary Guard Corps (IRGC) on the SDN list; grant authority to place sanctions on any person who violates the human rights of people exposing illegal activity or advocating for human rights; and place secondary sanctions on those who would contribute to the supply, sale, or transfer of major weapon systems to Iran. The Senate bill is seen as largely symbolic, considering it does not touch on any new major economic sectors and largely overlaps with existing restrictions. For example, the IRGC is already on the SDN list, and the authority to designate violators of human rights already exists. Still, the bill is significant as a political statement and may portend additional roadblocks for US firms waiting to do business in the country.

### **New Iran Designations**

On February 3, OFAC sanctioned multiple individuals and entities connected to the Iranian ballistic missile program. Specifically, OFAC designated the **Abdollah Asgharzadeh Network** for procuring necessary equipment to build ballistic missiles in Iran. The network used intermediary companies to import dual-use goods from Chinese suppliers and brokers, several of whom also received designations for their part in facilitating the importation scheme. The Gulf-based **Rostamian Network** also received a designation for using front companies to circumvent export laws and trade sanctions.

OFAC also designated **Ervin Danesh Aryan Company** and **Mostafa Zahedi**, who allegedly arranged for the purchase, transfer, and ultimate procurement of laboratory and carbon fiber production equipment to Iran’s missile program. **Mohammad Magham**, **Godrat Zagari**, and the **Zist Pooyesh Company** were similarly designated for their efforts in procuring fiber-based materials that could be used to construct ballistic missiles.

On March 21, the US State Department imposed limited sanctions on a group of eleven entities and individuals for transferring sensitive items to Iran’s ballistic missile program. Nine of the eleven listed persons were Chinese nationals who allegedly sold technology and services in support of Iran’s proliferation of missile technology, which the State Department said “significantly contributes to regional tensions.” The sanctions were issued under the Iran, North Korea, and Syria Nonproliferation Act (INKSNA).

On April 13, OFAC sanctioned the **Tehran Prisons Organization** and **Sohrab Soleimani**, a senior official within Iran’s State Prison Organization, in connection with serious human rights abuses in Iran. According to the Treasury Department, Tehran Prisons Organization is complicit in the commission of serious human rights abuses against political prisoners housed in Evin Prison in Iran.



On May 17, OFAC again designated seven targets associated with the development of Iran's ballistic missile program as SDNs. The targets included two senior Iranian defense officials, **Morteza Farasatpour** and **Rahim Ahmadi**. OFAC also designated Chinese national **Ruan Runling** and three associated Chinese companies for proliferation activities in support of a key designated Iranian defense entity. Ruan and his companies were sanctioned pursuant to E.O. 13382 for allegedly providing missile technology to Iran's Shiraz Electronics Industries (SEI), a designated entity. OFAC also listed Iran-based company **Matin Sanat Nik Andishan** for proliferation activities in support of Iran's ballistic missile program.

## Cuba

### **President Trump Announces a Partial Reversal of Obama Administration's Cuba Policies**

In a speech before a Miami crowd on June 16, President Trump unveiled a new presidential directive that promises to reverse many of the former Obama Administration's policies in Cuba. The directive instructs the Treasury and Commerce Departments to examine existing regulations and propose certain changes within thirty days. OFAC and the Commerce Department will implement the changes by amending the Cuban Assets Control Regulations and the Export Administration Regulations. New policies will go into effect once the regulations are issued.

The primary economic shift in the new policies is a prohibition on transactions with businesses controlled by the Cuban military, intelligence, and security entities. The Cuban military has extensive holdings in the island economy, and the Trump Administration seeks to cut off funds by prohibiting direct transactions. This prohibition threatens to heavily impact the tourism industry and leaves the future of several pending hotel development projects uncertain. For example, Starwood Hotels and Resorts had already contracted to take over management of three Havana hotels connected to the Cuban military. According to the Treasury Department, OFAC licenses and authorizations issued before the regulations will remain effective. The State Department will be publishing a list of prohibited entities and sub-entities with which direct transactions will generally not be permitted.

The proposed regulations will also impact people-to-people travel. The directive promises to overturn an Obama rule allowing individual Americans to arrange trips to Cuba for cultural or educational purposes. Under the Obama Administration, Americans were able to book private trips to Cuba, providing a backdoor to tourism. If the new policies go into effect, Americans will be allowed to visit Cuba only in authorized tour groups for educational purposes. Tour groups must have a sponsored representative accompanying them, and American visitors will no longer be allowed to merely self-report compliance to their airline or travel agent.

White House officials have said the directive will reinforce the commitment to human rights in Cuba and strengthen compliance with the Cuban embargo. The directive potentially results in several new restrictions while preserving key changes from the



Obama Administration's December 2014 deal. The Obama Administration had previously sought to normalize trade relations with Cuba by adding regular air travel, easing trade restrictions on the agriculture and telecommunications industries, permitting remittances from Cuban families residing in the United States, and allowing Americans to use credit and debit cards while in Cuba. The Trump Administration has indicated there are no plans to close the American embassy in Havana or stop cruises and commercial flights.

Whether the new directive is the beginning of a reversal on the normalization of Cuban relations remains to be seen. Until the new regulations are issued, the directive will not have any legal effect. OFAC expects to issue its regulatory amendments in the coming months. In the meantime, the new policies will be heavily debated as the Treasury and Commerce Departments draft the amendments.

## North Korea

### **House Proposes Additional Legislative Sanctions**

On May 5, the House of Representatives overwhelmingly supported legislation tightening sanctions on North Korea in a 419–1 vote. The bill would amend the North Korea Sanctions and Policy Enhancement Act of 2016 to increase the President's authority to impose sanctions, including the power to impose property-based sanctions on foreign persons who employ North Korean forced laborers. The bill would also require US financial institutions to ensure correspondent accounts in foreign financial institutions are not used to provide financial services indirectly to North Korea. Incoming cargo to the US may undergo enhanced security screening if coming through an air or seaport with a history of non-compliance with UN Security Council Resolutions or North Korean territory, or if it was registered by a country with deficient inspection compliance. In addition, goods produced in North Korea may not enter the US if the goods were produced using convict, forced, or indentured labor. The bill would also prevent any vessels owned by North Korea from entering or operating in US waters. The bill must still be approved by the Senate and signed by the President before it is fully enacted.

Tensions further escalated in late June when a 22-year old American college student died shortly after being returned to the US from a North Korean prison. Otto Warmbier arrived home in a vegetative state after spending 17 months detained by North Korean authorities. He had been arrested in 2016 during a sightseeing tour of the country. The North Korean government said Warmbier fell into a coma after contracting botulism and taking a sleeping pill in March 2016. US doctors said they found no evidence of the illness, but said he had suffered "significant brain damage" during his imprisonment.

Warmbier's death evoked bipartisan condemnations from senior US officials, including President Trump. Furthermore, the event prompted the US House of Representatives to "expedite" the May bill and add additional measures that would largely ban US persons from traveling to North Korea. The House Foreign Affairs Committee is expected to take up the bill after returning from its July 4<sup>th</sup> recess.

## **OFAC Continues North Korean Sanctions**

On January 11, pursuant to E.O. 13722, OFAC designated seven individuals and blocked two entities of the North Korean regime in response to the regime's ongoing human rights abuses and censorship activities. The seven individuals were officials of the Workers' Party of Korea involved in the detention, interrogation, torture, and operation of political prison camps. **Kim Won Hong**, Minister of State Security, oversaw torture and inhumane treatment of detainees during interrogation and in the political prisoner camps. **Min Byong Chol**, known as the "angel of death," conducted political inspections and purges to eliminate political resistance. In addition, **Kim Yo Jong** and **Min Byong Chol** managed political censorship in North Korea. **Kim Yo Jong**, younger sister of Kim Jong Un, was the Vice Director of the Workers' Party of Korea Propaganda and Agitation Department, which censored newspapers and television broadcasts. The two entities blocked were the **State Planning Commission** and **Ministry of Labor**. The Ministry of Labor is responsible for North Korea's forced labor camps where prisoners are degraded and intimidated.

On March 31, OFAC designated eleven individuals and one entity connected to the North Korean regime in response to the ongoing development of weapons of mass destruction pursuant to E.O. 13382, E.O. 13687, and E.O. 13722. OFAC designated **Kang Chol Su**, **Pak Il Gyu**, and **Ri Su Yong** for their connection to the previously designated Korea Ryonbong General Corporation, which specializes in acquisition for North Korean defense industries that allegedly support the regime's chemical weapons program. Similarly, OFAC designated **Jang Sung Nam** for working for the previously designated Tangun Trading Corporation, which is involved in North Korea's weapons of mass destruction and missile programs, including the procurement of commodities and technologies to support defense research and development programs. **Han Jang Su**, **Jo Chol Song**, **Kim Tong Ho**, **Kim Mun Chol**, **Kim Nam Ung**, and **Choe Chun Yong** were designated for working for various US-designated banks that support North Korea's weapons development programs. These individuals worked for Foreign Trade Bank, Kwangson Banking Corporation, Tanchon Commercial Bank, Korea United Development Bank, and Ilsim International Bank.

OFAC additionally designated **Paeksol Trading Corporation** for procuring metal or coal from North Korea where the revenue may have aided the North Korean regime. Reportedly, Paeksol aimed to export iron ore to China to fund the Reconnaissance General Bureau, North Korea's primary intelligence agency. **Kim Yong Su**, a shipping representative for the North Korean-controlled Marine Transport Office in Vietnam, was designated for his attempt to establish a cargo route between North Korea and Vietnam.

On June 1, OFAC designated three individuals and six entities in response to North Korea's development of weapons of mass destruction. Pursuant to E.O. 13382, E.O. 13687, and E.O. 13722, the sanctions targeted North Korea's military, nuclear, and weapons of mass destruction programs, its revenue from labor, coal, and minerals, and its overseas financial operations.

Three of the entities identified were the **State Affairs Commission**, the **Korean People's Army (KPA)**, and the **Ministry of People's Armed Forces**. The State

Department updated the alias for two previously designated entities, changing Korea Tangun Trading Corporation to Korea Kuryonggang Trading Corporation, and Namchongang Trading Corporation to Korea Taeryonggang Corporation. OFAC also designated Moscow-based **Ardis-Bearings LLC** and its director, **Igor Aleksandrovich**, for supporting North Korea's missile program by providing supplies to Tangun. **Kim Su-Kwang**, a North Korean intelligence official, was also designated for operating undercover at a UN organization in Europe.

The **Korea Computer Center** was designated for generating revenue for North Korea's Munitions Industry Department, which oversees ballistic missiles, through software development and programming. Three North Korean businesses—**Independent Petroleum Company (IPC)**, **Songi Trading Company**, and the **Korea Zinc Industrial Group**—were designated for providing labor, coal, petroleum, and mineral revenue for North Korea. **Ri Song-hyok**, a Beijing-based banker, was designated for establishing several front companies to procure items and conduct financial transactions for North Korea.

On June 29, OFAC designated two Chinese nationals, **Sun Wei** and **Li Hong Ri**, and one entity, **Dalian Global Unity Shipping**, for helping North Korea's nuclear and missile programs. At the same time, the Treasury Department also accused a Chinese bank, **Bank of Dandong**, of laundering money for North Korea. Treasury Secretary Steven Mnuchin remarked that the Bank of Dandong has “served as a gateway for North Korea to access the US and international financial systems” and facilitated “millions of dollars of transactions for companies involved in North Korea's nuclear and ballistic missile programs.” The Treasury Department announced a proposed rule that would require US banks to ensure that the Bank of Dandong does not directly or indirectly access the US financial system. According to Mnuchin, the proposed rule is “in no way targeting China,” and the Treasury Department looks forward to working with China to stop the illicit financing of North Korea.

## Sudan

On January 13, 2017, President Obama signed an Executive Order titled “Recognizing Positive Actions by the Government of Sudan and Providing for the Revocation of Certain Sudan-related Sanctions.” The Executive Order provides that certain sanctions imposed on Sudan will be revoked on July 12, 2017 on the condition that the Government of Sudan sustains the positive actions that provided the basis for the Executive Order. The Executive Order seeks to incentivize continued improvement in five categories of action, including cooperation on counter-terrorism; addressing the Lord's Resistance Army (LRA) threat; ending hostilities in Sudanese conflict areas; improving humanitarian access; and ending negative interference in South Sudan. Whether the sanctions are permanently lifted will largely depend on Secretary of State Rex Tillerson, who will issue a report on whether the Government of Sudan has sustained positive actions.

Additionally, OFAC announced an amendment to the Sudanese Sanctions Regulations (SSR), 31 C.F.R. part 538, which authorized all transactions previously prohibited by the SSR and Executive Orders 13067 and 13412. Effective January 17, the amendment provides that US persons will generally be free to transact with individuals and entities in Sudan, and property of the Government of Sudan that is subject to US jurisdiction will be unblocked. The Sudanese Government has taken recent efforts to advocate for the removal of the sanctions, including hiring a D.C.-based lobbying firm to help avoid “snap back” of the loosened US sanctions on July 12.

If the sanctions are permanently lifted, the potential for US and Sudanese trade will improve greatly. With fewer trade barriers, US persons and businesses will be able to trade directly with Sudan and facilitate transactions between Sudan and other countries. Notably, however, while the loosening and potential removal of sanctions under the SSR and Executive Orders 13067 and 13412 represent a significant step in US-Sudan trade relations, other OFAC and Executive Order sanctions (such as the Darfur Sanctions Regulations) will remain in effect.

## Syria

On January 12, 2017, OFAC designated eighteen senior regime officials connected to Syria’s weapons of mass destruction program and identified five branches of the Syrian military as blocked agencies or instrumentalities of the Government of Syria. A first group was designated pursuant to E.O. 13752 which targets persons connected to human rights abuses in Syria. These five individuals were senior officials of Syrian Air Force Intelligence (SAFI), Syrian Military Intelligence (SMI), or the Syrian Political Security Directorate (PSD), including SAFI **Colonel Suhayl Hasan al-Hasan**, who commanded fighters in Aleppo and is tied to multiple barrel bombings through Syria. A second group was designated pursuant to E.O. 13573, which targets senior officials of the Syrian Government, including **Major General Ahmad Ballul** who commands both the Syrian Arab Air Force and Syrian Arab Air Defense Forces. Additionally, OFAC designated **Major General Rafiq Shihadah**, a former head of SMI, for materially assisting, sponsoring, or providing financial, material, technological, or other support to the Syrian Government.

OFAC identified the following military branches as blocked agencies or instrumentalities of the Syrian Government: Syrian Arab Air Force, Syrian Arab Air Defense Forces, Syrian Arab Army, Syrian Arab Navy, and the Syrian National Guard.

On April 24, OFAC sanctioned 271 employees of Syria’s Scientific Studies and Research Center for developing chemical weapons similar to those allegedly used by the Syrian Government against civilians in an April 4 attack in the town of Khan Sheikoun. As a result, the employees will be mostly prohibited from accessing property interests under US jurisdiction and transacting within the United States or with US persons.

On May 16, OFAC designated five Syrian individuals and five entities as SDNs under E.O. 13572, which targets persons responsible for human rights abuses in Syria, their supporters, and supporters of senior officials, in response to Syria’s “relentless attacks on

civilians.” Four individuals and four entities are allegedly related to Rami Makhluf, a Syrian businessman and Assad insider who was designated in 2008. The individuals include **Muhammad Abbas, Samir Darwish, Ihab Makhluf, and Iyad Makhluf**. The entities include **al-Ajniyah**, a private Damascus-based company used to move Rami Makhluf’s financial earnings out of Syria; **Barly Off-Shore**, a Lebanon-based front company; **“Al-Bustan” Charity**; and Damascus-based **Cham Islamic Bank**.

OFAC also sanctioned the **Syrian Company for Information Technology**, for being owned or controlled by previously-designated Organization for Technological Industries (OTI), as well as **Muhammed Bin-Muhammed Faris Quwaydir**, contracts director for the Syrian government agency responsible for developing non-conventional weapons.

Efforts to place international sanctions on Syria have been met with resistance. On two separate occasions, the United Nations Security Council faced vetoes on proposed sanctions against Syria for the use of chemical weapons. On February 28, a draft resolution was defeated in the UNSC due to vetoes from Russia and China, despite otherwise having the requisite number of votes. The draft resolution followed findings by the UN and the Organisation for the Prohibition of Chemical Weapons (OPCW) that the Syrian Government launched three chlorine gas attacks. The vetoes received sharp criticism from the other permanent members of the UNSC, namely France, the United Kingdom, and the United States. Following the vote, US ambassador to the UN, Nikki Haley said, “It is a sad day on the Security Council when members start making excuses for other member states killing their own people.”

On April 12, another such UNSC resolution was derailed by a veto from Russia. The resolution followed the reported use of chemical weapons during an attack on the town of Khan Sheikoun, which garnered international attention and prompted the first unilateral cruise missile strike by the United States against the Assad regime. Ten of the fifteen members of the Council voted in favor of the resolution while Russia voted against. China, Ethiopia, and Kazakhstan abstained from the vote.

Both votes highlight major differences between the US and Russia on foreign policy, despite efforts from the White House to improve relations with the Kremlin.

## Venezuela

The Trump Administration has taken significant steps to pressure the Maduro government to accept democratic reforms, including imposing sanctions against the country’s vice president and members of its highest court.

On February 13, OFAC designated Venezuelan **Vice President Tareck Zaidan El Aissami Maddah (El Aissami)** under the Foreign Narcotics Kingpin Designation Act. El Aissami allegedly used his position to facilitate the movement of narcotics from Venezuela, and oversaw narcotics shipments that entered Mexico and the United States. OFAC also alleged that the Vice President received payments to facilitate, coordinate, and protect other narcotics traffickers operating in Venezuela. Importantly, OFAC issued guidance clarifying that the designation of Vice President El Aissami “does not mean that

the government itself is also blocked.” Rather, the prohibitions apply to transactions or dealings with El Aissaimi in his individual capacity. However, OFAC further warned that US persons “should be cautious in dealings with the [Venezuelan] government” to ensure they do not cross the line into transacting directly with blocked persons.

On May 18, OFAC designated eight members of Venezuela’s Supreme Court of Justice (Tribunal Supremo de Justicia, or “TSJ”) as SDNs. The eight officials are the President of Venezuela’s TSJ, **Maikel Jose Moreno Perez**, and the seven principal members of the TSJ’s Constitutional Chamber: **Juan Jose Mendoza Jover**; **Arcadio de Jesus Delgado Rosales**; **Gladys Maria Gutierrez Alvarado**; **Carmen Auxiliadora Zuleta de Merchan**; **Luis Fernando Damiani Bustillos**; **Lourdes Benicia Suarez Anderson**; and **Calixto Antonio Ortega Rios**.

According to the Treasury Department, the officials are responsible for a number of judicial rulings in the past year that have usurped the authority of Venezuela’s democratically-elected legislature, the National Assembly, including allowing the Executive Branch to rule through emergency decree. The move freezes any US assets held by the eight officials as well as denies or revokes their US visas.

## Enforcement Actions

### ZTE

OFAC’s largest and most notable enforcement action of the year thus far is the March 7 settlement with the Chinese firm **Zhongxing Telecommunications Equipment Corporation (“ZTE”)**. The action represents OFAC’s largest settlement ever against a non-financial entity, resulting in criminal and civil fines totaling \$1.192 billion to settle liability with multiple US federal agencies.

From approximately 2010 to 2016, ZTE allegedly engaged in a scheme to use third-party companies, including Beijing 8 Star and ZTE Parsian, to enable transactions with Iran. In 2010, in connection with two contracts to install cellular and landline network infrastructure, ZTE used Beijing 8 Star to export American technological components, including controlled goods on the Commerce Control List, to an Iranian customer. ZTE maintained control over Beijing 8 Star and allegedly used the company to conceal the sale of embargoed goods. According to the Justice Department, ZTE packed the US controlled goods with its own self-manufactured items to hide its violations. Over 251 transactions, with an aggregate value of \$39,622,972, were completed in apparent violation of the Iranian Transactions and Sanctions Regulations.

ZTE agreed to pay \$430,488,798 in criminal fines and forfeitures, as well as enter a guilty plea, in its agreement with the Department of Justice. In addition, ZTE agreed to pay a \$661,000,000 penalty to the Commerce Department (\$300,000,000 is suspended during a seven-year probation period). ZTE will pay \$100,871,266 to OFAC to settle its potential civil liability, and must engage an independent corporate monitor for a three-year period.

One of the factors that contributed to OFAC's decision to impose the record-breaking fine was that ZTE allegedly took extreme measures to conceal its violations, which included destroying evidence and offering the US government false statements and information. ZTE acknowledged that it knew it was violating US sanctions regulations and developed a complex scheme to evade detection by US government agencies. For instance, ZTE used isolation companies to provide a buffer for goods in route to Iran, removed its logos from shipments, using codenames for goods, and authorized employees to delete references to its improper actions.

During the five-year investigation, the Department of Commerce found a document in which ZTE executives revealed that their strategy for working around US export controls came from a company labeled "F7," which media and commentators suspect is a reference to Huawei Technologies Co., one of ZTE's rivals. Some Republican members of Congress have since called on the Department of Commerce to fully investigate "F7." Prosecutions and fines on the scale of ZTE are expected to continue under the Trump Administration.

### **Other Enforcement Actions**

On January 12, OFAC announced a settlement with **Aban Offshore Limited**, a company based in Chennai, India for violations of the Iranian Transactions and Sanctions Regulations, 31 C.F.R. Part 560 ("ITSR"). Specifically, in 2008, Aban's Singapore subsidiary allegedly ordered oil rig supplies from an American vendor with the intended purpose of re-exporting these supplies from the United Arab Emirates to a jack-up oil drilling rig located in the South Pars Gas Fields in Iranian territorial waters. For its apparent violation, Aban paid \$17,500.

Also on January 12, OFAC reached a settlement with an unnamed individual acting in his personal capacity as well as on behalf of the **Alliance for Responsible Cuba Policy Foundation**. According to OFAC, the individual violated the Cuban Assets Control Regulations ("CACR"), by engaging in unauthorized travel-related transactions during business travel to Cuba from on or about August 23, 2010 to on or about August 27, 2010, and separately from on or about September 8, 2011 to on or about September 11, 2011. The individual also allegedly provided unauthorized travel services to twenty people in contravention of the CACR. In the settlement agreement, the individual agreed to pay a \$10,000 fine.

On January 13, OFAC and **Toronto-Dominion Bank ("TD Bank")** reached a \$516,105 settlement for the company's apparent violations of US sanctions programs against Cuba and Iran. TD Bank's Global Trade Finance business allegedly managed a series of accounts and engaged in multiple transactions that were not properly screened for a connection to an OFAC-sanctioned country or entity prior to processing the transactions through the US financial system. These transactions typically involved import-export letters of credit. TD Bank also opened and managed accounts for a number of individuals and entities in contravention of the US block on financial transactions with those listed as SDN. First, TD Bank managed the account of a Canadian company owned by a Cuban entity. Even though the bank had knowledge of the account holder's connections to Cuba, it processed twenty-nine transactions for the



company. Second, TD Bank maintained several accounts for a company that the bank described as a “freight, cargo and shipping business” that sent products to the Middle East. The business, however, was listed as a sales agent for an entity on OFAC’s SDN list. Third, the bank also maintained accounts and processed transactions for Cuban nationals living in Canada. TD Bank conducted over 99 transactions worth \$459,341 on the behalf of the Cuban nationals. TD Bank self-disclosed the violations, and OFAC found them to be non-egregious. However, OFAC considered the insufficient controls, the awareness of gaps in banking procedures, the knowledge that the transactions were on the behalf of Cuban entities, and TD Bank’s sophistication to be aggravating factors.

Additionally, OFAC issued a separate Finding of Violation against TD Bank for the alleged misconduct of its wholly owned subsidiaries **Internaxx Bank SA** and **TD Waterhouse Investment Services (Europe) Limited (“TDWIS”)**, for 3,491 apparent violations of the CACR and ITSR. Internaxx, an online brokerage and banking operation based in Luxembourg, opened and maintained accounts for four customers who resided in or moved to either Iran or Cuba. Internaxx acts as an “order entry system” for securities-related transactions. When customers ordered transactions, Internaxx automatically forwarded the request to TDWIS, a broker-dealer that would execute the transaction. TDWIS executed the securities trades in its own name, not including the underlying customer, through a broker-dealer in the United States. From 2003 to 2008, Internaxx opened accounts for four customers who were either in or had moved to Iran or Cuba. Thousands of transactions totaling \$92,868,862 were completed in violation of US trade sanctions. OFAC concluded the violations emerged as a result of Internaxx’s poor compliance policies rather than a pattern of misconduct. Internaxx’s status as a small institution and its positive history of sanctions compliance in the five previous years mitigated the harms of its violations. OFAC further noted that Internaxx improved its compliance programs and the damage was limited to a single individual in Cuba.

On February 3, OFAC issued a Finding of Violation to **B Whale Corporation (BWC)** for violating the Iranian Transactions and Sanctions Regulations. BWC, a Taipei-based company, is a member of the TMT Group of shipping companies. The Treasury Department alleged that between August and September 2013, the company’s vessel M/V *B Whale* received 2,086,486 barrels of crude oil from another ship owned by the National Iranian Tanker Company, an entity registered on OFAC’s SDN list. Notably, in a new jurisdictional theory, OFAC determined that BWC qualified as a US person within the scope of the ITSR “because it was present in the United States for bankruptcy proceedings when the transaction occurred” and because its vessel was property under the jurisdiction of a US bankruptcy court when the alleged violation occurred (described further below). OFAC claimed BWC demonstrated reckless disregard for US sanctions, attempted to conceal the transfer by leaving ship logs blank and turning off the ship’s automatic identification system, knew or should have known that the crude oil originated from Iran, and provided a significant benefit to Iran. OFAC noted that all of BWC’s assets had been liquidated in bankruptcy.

On February 28, OFAC reached a \$515,400 settlement with **United Medical Instruments, Inc. (UMI)** for apparent violations of the Iranian Transactions and Sanctions Regulations. From 2007 to 2009, UMI allegedly sold medical equipment when it had reason to know that the equipment would be re-sold to purchasers in Iran on at least 56 occasions. UMI committed further alleged violations when it facilitated the sales of medical imaging equipment from a UAE company to Iran. In all, \$2,493,597 worth of medical equipment was sold to buyers located in Iran. OFAC found that UMI had knowledge and prior notice that these shipments were illegal, failed to maintain its compliance program, and knew it needed a license to export products to Iran. In determining the penalty, OFAC noted the following mitigating factors: these shipments were caused by a single employee, UMI took remedial action to correct the compliance program, UMI had no history of penalty notices or findings of violation in the past five years, UMI cooperated with investigators, and UMI is a small business that suffered financial difficulties in recent years.

On June 8, **American Honda Finance Corporation (AHFC)** reached a settlement with OFAC for thirteen violations of the Cuban Assets Control Regulations. Honda Canada Finance, Inc., a subsidiary of AHFC, approved and financed thirteen lease agreements between an unaffiliated Honda dealership in Canada and the Embassy of Cuba. AHFC remitted \$87,255 to settle its potential civil liability.

On June 26, OFAC reached a settlement with **American International Group, Inc. (“AIG”)** of New York, wherein AIG agreed to pay \$148,698 to settle its potential civil liability for 555 apparent violations of US sanctions against Iran, Sudan, and Cuba. According to OFAC, from November 2007 until September 2012, AIG engaged in a total of 555 transactions totaling approximately \$396,530 in premiums and claims for the insurance of maritime shipments of various goods and materials destined for, or that transited through, Iran, Sudan, or Cuba (or that involved a blocked person). Notably, the majority of the alleged violations pertained to global insurance policies, although “dozens” occurred under single shipment policies. The vast majority of apparent violations involved insuring parties that were shipping goods to Iran in apparent violation of the ITSR. OFAC cited as a mitigating factor that AIG had a compliance program in place that included, in most instances, the use of sanctions exclusion clauses to try to prevent the company from issuing policies or processing claims that implicated US economic sanctions. OFAC further noted that AIG self-disclosed the apparent violations and cooperated with the investigation.

## Counter-Terrorism Designations

On January 5, the State Department designated **Ibrahim al-Banna** and **Hamza bin Laden** as Specially Designated Global Terrorists (SDGTs) and placed them on the Specially Designated Nationals list. The SDGT designations prohibit US persons from engaging in transactions or other business with SDGTs and freeze any property the SDGTs may possess subject to US jurisdiction. Pursuant to E.O. 13224, authorities concluded al-Banna and bin Laden posed a significant risk of committing terrorism that threatens the security of US nationals or the United States. Al-Banna is a member and

former security chief of al-Qa'ida in the Arabian Peninsula (AQAP). Hamza bin Laden, son of Osama bin Laden, is an AQAP leader who called for attacks in Washington, D.C., Paris, and Tel Aviv to avenge his father's death.

On January 9, two more individuals were classified as SDGTs. **Ali Damush** allegedly headed the Foreign Relations Department of Hizballah, a Foreign Terrorist Organization, in which he recruited terrorist operatives and acquired intelligence. **Mustafa Mughniyeh** is likewise alleged to be a Hizballah commander who led the organization's operations in the Golan Heights.

On January 10, OFAC and the State Department designated five members of ISIL—**Alexanda Amon Kotey, Neil Christopher Prakash, Khaled Sharrouf, Bachrumsyah Mennor Usman, and Oman Rochman**—as SDGTs. All five members allegedly helped build ISIL's global network by recruiting and spreading propaganda. Usman is said to have commanded ISIL fighters in Indonesia and purchased firearms for ISIL. Rochman proselytized extremist ideology to new recruits and translated ISIL propaganda for dissemination. Kotey is a member of "The Beatles," an ISIL cell composed of British nationals who are notorious for beheading hostages. The State Department also designated an entity, **Jamaah Ansharut Daulah (JAD)** as a SDGT. Based in Indonesia, JAD is a collection of almost two dozen extremist groups with ties to ISIS. In January 2016, authorities attributed a bombing and shooting in central Jakarta to JAD.

On February 3, OFAC designated several Lebanon-based entities and individuals as SDGTs. **Hasan Dehghan Ebrahimi** allegedly facilitated the transfer of millions of dollars to Hizballah. He and his employees use a network of companies to move and launder money to the organization. His employees, **Muhammad Abd-al-Amir Farhat** and **Yahya al-Hajj**, were also designated. Along with three related entities: **Reem Pharmaceutical, Mirage for Engineering and Trading, and Mirage for Waste Management and Environmental**.

On February 23, OFAC imposed sanctions on two individuals based in Syria, **Iyad Nami Salih Khalil** and **Bassam Ahmad al-Hasri**, for providing support to Al-Nusrah Front (ANF), a Syrian terrorist group. OFAC designated the two men as SDGTs while the United Nations imposed similar sanctions that froze their assets, denied them access to the international financial system, and prohibited their international travel. Khalil allegedly worked with security and intelligence operatives to assassinate, imprison, and loot members of the Free Syrian Army. Al-Hasri is the emir of Dar'a, a religious leader to the ANF. A Syrian entity, **Metallic Manufacturing Factory**, also received a SDGT designation for working with the Syrian government to produce non-conventional weapons.

On March 14, OFAC designated **Muhammad Hadi al-'Anizi** as a SDGT. As a Kuwait financier, Al-'Anizi raised hundreds of thousands of dollars to support the travel and operations of the ANF and al-Qa'ida. According to the Treasury Department, al-'Anizi acquired passports for al-Qa'ida's associates and became al-Qa'ida's representative in Syria.

On March 17, **Ahmad Hasan Yusuf** and **Alsayed Murtadha Majeed Ramadhan Alawi** were classified as SDGTs for associating with al-Ashtar Brigades, an Iran-funded terrorist group in Bahrain and Saudi Arabia. Al-Ashtar Brigades launched numerous terrorist attacks against police and security targets in Bahrain, including a bombing that resulted in the death of three police officers in March 2014.

On March 30, the State Department imposed sanctions on five members of ISIL: **El Shafee Elsheikh**, **Anjem Choudary**, **Sami Bouras**, **Shane Dominic Crawford**, and **Mark John Taylor**. They were designated as SDGTs for aiding in ISIL's propaganda efforts, recruitment, and attacks. Elsheikh was a member of the ISIS execution cell, "The Beatles." Choudary, Crawford, and Taylor helped to spread ISIS propaganda and recruit new operatives. In addition to ISIL membership, Bouras was also a member of al-Qa'ida and helped plan suicide attacks. OFAC also added **Muhammad Bahrn Naim** and **Muhammad Wanndy** to the list of SDGTs. Naim allegedly organized and funded the January 14 attacks in Jakarta and gave the orders to bomb a police post, church, and Chinese temple in Solo, Indonesia. In addition, he oversees ISIS recruitment and funding efforts. Wanndy claimed responsibility for a grenade attack on a Malaysian nightclub in June 2016. He also threatened additional attacks, including an assassination of the Malaysian Prime Minister.

On April 6, the State Department designated **Abu Anas al-Ghandour**, a military commander for Hamas, as a SDGT. Ghandour led the Hamas brigade in Gaza and is connected to the 2006 attack on the Israeli military outpost at the Kerem Shalom border crossing. The attack resulted in the deaths of two Israeli soldiers.

On April 13, the State Department placed sanctions on **Tarek Sakr** and **Farah Mohamed Shirdon** and designated them as SDGTs. Sakr conducted sniper training in Syria and possesses links to ANF while Shirdon is an ISIL fundraiser, recruiter, and fighter.

On April 13, OFAC designated as SDGTs **Ali Ahmidah al-Safrani** and **Abd al Hadi Zarqun**, both of whom are based in Libya and alleged to play important roles in Islamic State's financial operations in the country. Alleged Algerian Islamic State supporter **Hamma Hamani** was also sanctioned.

On April 27, the State Department designated the deputy leader of ISIS in Saudi Arabia, **Mubarak Mohammed A Alotaibi**, as an SDGT. According to authorities, the designation notifies the international community and the public that Alotaibi has committed, or poses a significant risk of committing, acts of terrorism.

On May 11, OFAC targeted Pakistan-based terrorist members to disrupt the financial networks of the Taliban, al-Qa'ida, Jama'at ul Dawa al-Qur'an (JDQ), and Lashkar-e-Taiba (LT), ISIL, and ISIL-Khorasan. OFAC designated **Hayat Ullah Ghulam Muhammad (Haji Hayatullah)**, **Ali Muhammad Abu Turab**, **Inayat ur Rahman**, and the entity **Welfare and Development Organization of Jamaat-ud-Dawah for Qur'an and Sunnah (WDO)** as SDGTs. The three individuals were involved in the recruiting, training, and fundraising for multiple terrorist groups operating in and around Pakistan. Inayat controlled the WDO, which supposedly collects

funds for charities. However, OFAC describes the actual WDO as a vehicle to collect intelligence, arrange logistics, and fund Afghan militant operations.

On May 19, the State Department designated **Hasem Safieddine** and **Muhammad al-Isawi** as SDGTs alongside Saudi Arabia's sanctions on Safieddine. As a result of the sanctions, Safieddine's access to financial transactions with US persons and through Saudi Arabia has been cut and his property within their jurisdiction has been frozen. Safieddine is a senior leader of Hizballah, which is responsible for the 1983 Beirut truck bombing attack, the 1984 attack on the US Embassy annex in Beirut, and the 1985 hijacking of TWA Flight 847. Al-Isawi is the leader of the ISIL affiliate in the Sinai and its former media spokesperson. OFAC also designated two members of al-Qa'ida: **Hashim Mushsin Aydarus al-Hamid** and **Khalid Ali Mabkhut al-Aradah**. Both men are Yemen-based tribal leaders who facilitated AQAP operations, including the transfer of money, weapons, explosives, and fighters.

On June 12, OFAC designated **Attallah Salman 'Abd Kafi al-Jaburi**, described as an Iraq-based senior ISIS leader in charge of factories producing improvised explosive devices and chemical weapons. Additionally, the Department of State designated **Marwan Ibrahim Hussayn Tah al-Azawi**, another alleged Iraqi ISIS leader connected to the development of chemical weapons for use in ongoing combat against Iraqi Security Forces.

On June 15, OFAC took further action against ISIS operatives by designating four individuals and one entity, which it described as a "financial facilitation network" for the terrorist organization. Specifically, OFAC listed **Umar al-Kubaysi** and his company, "**Al-Kawthar Money Exchange**," alleged to facilitate the transfer of money both within and outside of ISIS-controlled territory. Simultaneously, the Department of State designated alleged ISIS members **Mohammad Shafi Armar**, **Oussama Ahmad Atar**, and **Mohammed Isa Yousif Saqar Al Binali**.

On June 16, OFAC continued targeting ISIS by designating **Fared Saal**, described as an ISIS facilitator, recruiter, and fighter, as an SDGT. Saal allegedly recruited potential ISIS members, then facilitated their travel to Syria by providing them with specific contacts to reach out to once they arrived at the airport in Istanbul.

On June 26, the State Department designated **Mohammad Yusuf Shah**, also known as (AKA) Syed Salahuddin, as an SDGT. Shah is alleged to be the senior leader of the militant group Hizbul Mujahideen (HM) operating in the Kashmir conflict in India.

## OFAC Targets Narcotics Traffickers, Including Venezuelan Vice President

On February 13, OFAC designated Venezuelan Vice President **Tareck Zaidan El Aissami Maddah (El Aissami)** and his alleged "frontman" **Samark Jose Lopez Bello (Lopez Bello)** under the Foreign Narcotics Kingpin Designation Act. El Aissami allegedly used his position to facilitate the movement of narcotics from Venezuela, and oversaw narcotics shipments that entered Mexico and the United States. OFAC also

alleged that the Vice President received payments to facilitate, coordinate, and protect other narcotics traffickers operating in Venezuela. His business affiliate, Lopez Bello, allegedly laundered the proceeds from the sale of narcotics and handled other illicit financial matters for El Aissami. OFAC also designated thirteen companies, owned or controlled by Lopez Bello, spanning the British Virgin Islands, Panama, the United Kingdom, the United States, and Venezuela. Their designations under the Kingpin Act prohibit US persons from engaging them in transactions and freeze their property subject to US jurisdiction.

On April 20, two Mexican entities were designated as Specially Designated Narcotics Traffickers (SDNTs) under the Kingpin Act. **Yorv Inmobiliaria** and **Grupo Segtac, S.A. de C.V.** acted as front companies for Abigael Gonzalez Valencia, the leader of the Los Cuinis Drug Trafficking Organization. In 2015, OFAC designated Valencia under the Kingpin Act. Valencia's other companies, Bric Inmobiliaria and Ahome Real Estate, S.A. de C.V., received designations in 2015. Valencia established Yorv Inmobiliaria and Grupo Segtac to circumvent the 2015 sanctions on his other two companies.

On May 5, OFAC targeted Peruvian drug trafficker **Gino Dusan Padros Degregori** under the Kingpin Act. He and his three businesses were designated as SDNTs. The Treasury Department reported that OFAC sanctioned Padros Degregori in coordination with the Drug Enforcement Administration, the FBI, and the Customs and Border Protection's National Targeting Center. Padros Degregori shipped cocaine out of Lima to Western Europe, Mexico, and the United States and laundered millions from the sale of drugs. His associate Guillermo Jean Pierre Zegarra Martinez was also designated as a SDNT for facilitating the drug and money laundering scheme.

On May 24, **Jose Luis Ruelas Torres** and the **Ruelas Torres Drug Trafficking Organization** were added to the list of Significant Foreign Narcotics Traffickers pursuant to the Kingpin Act. According to Treasury Secretary Steven Mnuchin, Torres has contributed to heroin trafficking in the United States, including Los Angeles, Detroit, and New York City. In 2015, Torres and his son were charged with running a continuing criminal enterprise, narcotics, and money laundering. OFAC also designated ten of Torres's associates as SDNTs for their role in facilitating his organization's activities.

On May 31, OFAC designated four Colombian nationals and five affiliated companies as SDNTs pursuant to the Kingpin Act. The newly designated Colombian nationals and entities were linked to **Juan Santiago Gallon Henao**, **Pedro David Gallon Henao**, and **La Oficina de Envigado**. La Oficina and the Gallon Henao brothers had been complicit in money laundering, extortion, narcotics trafficking, and murder-for-hire. According to the Treasury Department, OFAC targeted the managers and nominee shareholders of the Gallon Henao brothers' business holdings.

## Other Notable Developments

### **Recent Decisions May Impact OFAC Enforcement Practices**

#### ***Epsilon Electronics, Inc. v. OFAC***

On May 26, the D.C. Circuit issued a mild rebuke to OFAC, even while applying a highly deferential standard of review to uphold OFAC's conclusion that a company violated US sanctions laws. Epsilon Electronics, Inc., a California company, made thirty-four shipments of goods to a Dubai company from 2008 to 2011. In 2012, Epsilon sent five more shipments after an OFAC investigation had been initiated to investigate the previous shipments. According to OFAC, all of these shipments made their way from Dubai to Tehran in violation of the Iranian sanctions, and OFAC pursued a \$4,073,000 penalty against Epsilon. Epsilon responded by filing a lawsuit against OFAC for the issuance of the penalty notice and defended its conduct on the grounds that it had no intention of sending its shipments to Iran. The trial court granted summary judgment to OFAC.

On appeal, the D.C. Circuit upheld the penalties for the thirty-four shipments made between 2008 and 2011. The court, however, found "OFAC failed to explain adequately" why it discounted evidence that Epsilon lacked knowledge of the last five shipments' ultimate destination. Specifically, several company emails suggested that the goods shipped to Dubai were supposed to be sold in the Dubai store. According to the D.C. Circuit's opinion, OFAC did not provide sufficient explanations for why the court should doubt the credibility of these emails. As a result, the determination of the five shipments was sent back to OFAC for further consideration. The decision might force OFAC to more carefully bolster its evidence before bringing future enforcement actions.

#### **B Whale Corporation**

OFAC advanced a new theory in establishing jurisdiction when it pursued an enforcement action against B Whale Corporation (BWC), a Taipei-based shipping company and member of TMT Group. Between August 30, 2013 and September 2, 2013, a BWC ship received 2 million barrels of condensate crude oil from another ship owned by the National Iranian Tanker Company, an entity on the SDN list. BWC is a non-US company whose ship was located outside the United States at all relevant times.

On June 20, 2013, about two months prior to the ship-to-ship transfer, BWC entered Chapter 11 bankruptcy proceedings in the US Bankruptcy Court for the Southern District of Texas. During the proceedings, a creditor of TMT brought up inconsistencies in TMT's documents that suggested an illegal ship-to-ship transfer had occurred, which triggered the OFAC investigation and enforcement action under the Iranian Transactions and Sanctions Regulations, which apply to US persons. OFAC rationalized that BWC was a "US person" within the meaning of the ITSR because the company had been present in the United States for the bankruptcy proceedings at the time of the transaction. On alternative grounds, OFAC argued the BWC ship was property within the jurisdiction of a



US bankruptcy court. If the ship is property under US jurisdiction, then the barrels of crude oil constituted an importation from Iran to the United States.

In the broadest sense, OFAC's theory could be read to imply that any party in a US court proceeding falls within ITSR jurisdiction. On the other hand, this decision may be limited to bankruptcy proceedings. Bankruptcy proceedings are unique because the court has the authority to supervise all significant transactions, including a ship-to-ship transfer of oil. Without further explanation from OFAC, legal observers will have to keep a close eye on how this new theory develops. It has the potential to increase OFAC's jurisdiction tremendously and open many transactions to liability.

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Shearman & Sterling has long advised financial institutions and commercial businesses on the most complex sanctions issues. If you have any questions, please feel free to contact one of our partners or counsel.

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