

## **OFAC Announces Amendments Authorizing General Licenses For Humanitarian Relief**

On December 20, 2022, the United States Department of Treasury's Office of Foreign Assets Control ("OFAC") announced the amendment of multiple regulations to add or revise certain general licenses across OFAC sanctions programs to ease the delivery of humanitarian aid. This is a significant development for non-governmental organizations, including public charities and private foundations, that provide humanitarian aid in places where the need is greatest and these amendments will ease the compliance concerns associated with the provision of such aid. Although careful, individualized transaction review is still a must, most aid programs will qualify under the new general licenses.

### ***OFAC and trade sanctions programs***

OFAC administers and enforces economic sanctions imposed by the United States against various countries and individuals by 1) establishing comprehensive sanctions programs that broadly prohibit transactions with all individuals and companies in particular countries (e.g., Cuba, Iran, North Korea, Russia, and Syria) and 2) establishing more targeted sanctions programs that prohibit transactions with specifically named individuals and entities in certain countries who are engaged certain activities that are inconsistent with U.S. national security and foreign policy objectives, such as terrorism, proliferation of weapons of mass destruction, or international narcotics trafficking. Doing business with a sanctioned party can be punishable by substantial civil fines or even criminal prosecution in some cases.

Given the broad nature of some of these prohibitions, OFAC will often authorize exceptions through general licenses or specific licenses for certain categories of transactions. These permit individuals to engage in conduct that otherwise would run afoul of sanctions regulations.

### ***OFAC spurred on by the United Nations and a review of United States sanctions***

OFAC issued these General Licenses primarily in response to 1) an October 2021 Treasury Sanctions [Review](#) and 2) the recent adoption of United Nations Security Council Resolution (UNSCR) [2664](#).

In October 2021, a Treasury Sanctions Review ("Review") found, among other things, that while sanctions remain an essential and effective policy tool, they must also be carefully calibrated to help address their impact on the flow of legitimate humanitarian aid to those in need. The Review recommended implementing or streamlining, where possible and appropriate, humanitarian authorizations across sanctions programs, noting that the United States must lead global efforts to address systematically the challenges associated with conducting humanitarian activities.

More recently, on December 9, 2022, the United Nations Security Council approved UNSCR 2664, which is a resolution that carves out a humanitarian relief exception to the asset freeze provisions of certain UN sanctions programs. The resolution was proposed by the United States and Ireland. The new general licenses authorizing humanitarian relief (which were issued by the Department of Treasury just a few days later) are meant, in part, to implement this resolution.

### ***The new general licenses and implications***

Pursuant to the new general licenses, the following four categories of transactions are now authorized across OFAC sanctions programs:

- [the official business of the U.S. government;](#)
- [the official business of certain international organizations and entities, such as the United Nations or the International Red Cross;](#)
- [certain humanitarian transactions in support of nongovernmental organizations' \("NGOs"\) activities, such as disaster relief, health services, distribution of food and medicine and assistance to individuals with disabilities; activities to support democracy and education; non-commercial development projects that directly benefit civilians; activities to support environmental and natural resource protection; and activities to support peacebuilding and conflict prevention;](#) and
- [the provision of agricultural commodities, medicine, and medical devices, as well as replacement parts and components and software updates for medical devices, for personal, non-commercial use.](#)

The general licenses do not authorize funds transfers initiated or processed with knowledge or reason to know that the intended beneficiary is a person on OFAC's Specially Designated Nationals list.

The purpose of these general licenses is to enable the flow of legitimate humanitarian assistance supporting the basic human needs of vulnerable populations while continuing to deny resources to malicious actors. Without such general licenses, the OFAC sanctions programs would continue to unintentionally prevent help from reaching those that are most harmed by the sanctioned regimes. It is also notable that while OFAC has categorized all of these types of assistance under the umbrella of "humanitarian aid," the assistance authorized by the general licenses is broad and specifically includes, among other things, "[a]ctivities to support education, including combating illiteracy, increasing access to education, international exchanges, and assisting education reform projects."

OFAC also issued four "FAQs" concerning these general licenses. In FAQ 1106, OFAC explains that U.S. financial institutions may process funds transfers and take other steps in support of the activities authorized by the general licenses. Likewise, non-U.S. persons, including non-governmental organizations located outside of the United States, are permitted to engage in or facilitate transactions that are exempted by these general licenses. In addition, FAQ 1108 clarifies that the issuance of the general licenses does not restrict the scope of any existing OFAC authorizations for humanitarian activities.

### ***The issuance of the general licenses is welcome news***

In light of these general licenses, organizations seeking to provide goods or services in furtherance of humanitarian relief or medical assistance in sanctioned countries or with sanctioned parties, are now authorized to do so. Additionally, NGOs including the United Nations, the African Development Bank Group, the International Centre for Settlement of Investment Disputes, and other humanitarian-focused NGOs (including 501(c)(3) charitable organizations) are now similarly authorized to conduct official business with sanctioned countries or parties. For additional information regarding the scope of these General Licenses see OFAC's [FAQ](#) page.

Note that organizations are not required to report these authorized transactions to OFAC, though they should still maintain detailed records of their activities, including a description of the goods, services, or funds provided, any other organizations involved, and a list of beneficiaries.

To the extent that a particular transaction falls outside of the general licenses and is therefore not otherwise authorized or exempt, it is important to remember that OFAC continues to consider specific license requests on a case-by-case basis and prioritizes applications, compliance questions, and other requests related to humanitarian activity. OFAC identified the removal of landmines and economic development projects to benefit civilians as two types of activity that could be permitted by a specific

license. An application for a specific license must describe the proposed transaction or activity and explain how allowing that activity would not conflict with the goals of the sanctions program.

These changes should come as welcome news to organizations seeking to provide humanitarian and educational aid abroad. Organizations should review their humanitarian aid programs in light of these changes and consider the impact of the changes of their current and future programs. Of course, given the evolving nature of global conflicts and the sanctions regime, organizations should still continue to closely monitor OFAC regulations and news releases.

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