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Sanctions Round-Up: Fourth Quarter 2013

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As 2013 drew to a close, a potentially groundbreaking agreement was reached with Iran regarding its nuclear program, leading to much speculation about how certain sanctions might be suspended, and under what conditions. While the majority of this year's actions focused on Iran, OFAC continued to announce a number of designations made under the other US sanctions programs, including those targeting terrorism, transnational criminal organizations, and narcotics traffickers. OFAC also announced a handful of settlements stemming from apparent sanctions-related violations, including the largest-ever settlement with a non-financial institution. Finally, the EU took steps to re-blacklist a number of persons whose designations had previously been annulled by EU courts while those courts continued to review additional contested designations.

Interim Agreement Reached with Iran

On November 23, Iran and the five permanent members of the UN Security Council (China, France, Russia, the United Kingdom, and the United States), and Germany (collectively known as the P5+1), reached a tentative interim agreement regarding Iran's nuclear program. The Joint Plan of Action (JPA) proposes that Iran be granted contingent economic relief from certain US and EU sanctions in exchange for taking verifiable steps to limit its nuclear activities. The JPA does not itself modify any existing sanctions laws and regulations nor authorize any specific transactions or trade with Iran. Further, the sanctions relief measures will be temporary and reversible, and no sanctions will be suspended until Iran complies with its obligations under the JPA.

The proposed sanctions relief includes:

- the suspension of the imposition of any new nuclear-related sanctions for six months;
- the suspension of certain sanctions on gold and precious metals, Iran's auto sector, and Iran's petrochemical exports;
- allowance for limited safety-related repairs and inspections for certain Iranian airlines;
- maintenance of sales of Iranian oil at their currently significantly reduced levels (meaning those countries that currently buy oil from Iran may continue to do so at current volume and pricing);
- allowance for \$400 million in governmental tuition assistance to be transferred from restricted Iranian funds to recognized educational institutions in third countries to defray the tuition costs of Iranian students; and
- facilitation of humanitarian transactions already allowed by US law, including those related to Iran's purchase of food, agricultural commodities, and medicine and medical devices.

None of these proposed measures contemplate authorizing any business dealings with Specially Designated Nationals or otherwise blocked persons.

It does not appear that the sanctions relief proposed under the JPA will apply to US persons, and US companies and their US and non-US subsidiaries will continue to be prohibited from transacting with Iran. Additionally, while the sanctions relief contemplated by the JPA may provide certain non-US companies with limited ability to conduct certain transactions with Iran, these companies will remain subject to the sanctions laws of their respective jurisdictions, to the extent that parallel relief is not provided. The relevant US government agencies and the European Union will be providing additional guidance in the near future. Although no date has been set for the interim agreement to take effect, EU Member States have pledged to suspend some sanctions targeting Iran as soon as the International Atomic Energy Agency verifies that Iran has halted its nuclear work.

For further details, you may wish to refer to our client publication, "[Opportunities and Pitfalls of Proposed Easing of Iran Sanctions](#)," published December 5, 2013.

New Iran-Related Designations

On December 12, OFAC and the State Department coordinated actions to blacklist more than a dozen companies and individuals in Iran, Singapore, and Ukraine for allegedly helping Iran procure equipment for its nuclear and missile programs and otherwise evade sanctions. This included a number of OFAC designations made under E.O. 13645, which, amongst other provisions, targets non-US persons who provide material assistance to certain Iranian persons already subject to US sanctions. Four companies – Mid Oil Asia, Singa Tankers, Siqiriya Maritime, and Ferlund Company Ltd. – were blacklisted pursuant to E.O. 13645 for providing support to the National Iranian Tanker Company (NITC); Ferlund Company Ltd. had previously been designated pursuant to E.O. 13608, which targets foreign sanctions evaders, for facilitating deceptive transactions for or on behalf of NITC. Vitaly Sokolenko, the General Manager of Ferland Company Limited, was also designated pursuant to E.O. 13645 for providing material support to NITC and under E.O. 13608 for acting for or on behalf of Ferland Company Ltd. The Department of State also imposed sanctions on Ferland Company Ltd. pursuant to the Iran Sanctions Act, as amended.

OFAC also blacklisted a network of individuals and entities headed by Iran's Ministry of Defense for Armed Forces Logistics (MODAFL), which oversees Iran's ballistic missile program. MODAFL was designated by the United States in 2007 pursuant to E.O. 13382, which targets proliferators of weapons of mass destruction. The new designees included two officials for the Iranian nuclear procurement firm Neka Novin; Qods Aviation Industries, which is operated by Iran's Islamic Revolutionary Guard Corps; Qods Aviation official Reza Amidi; Qods Aviation cover companies Fan Pardazan and Ertebat Gostar Novin; and the Iran Aviation Industries Organization. Additionally, OFAC provided updated information about previously targeted persons, including names, addresses, phone numbers, biographical information, and the names and flagging information of 33 NITC vessels already listed on the SDN List pursuant to E.O. 13599, which blocks the property of the Government of Iran and Iranian financial institutions.

The State Department targeted five Iranian entities alleged to be directly engaged in the provision of goods, technology, and services that materially contribute to Iran's ability to advance its nuclear program and develop its ballistic missile capabilities. This included Eyvaz Technic Manufacturing Company, an Iranian entity involved in the procurement of sensitive items for use in Iran's centrifuge program; the Exploration and Nuclear Raw Materials Production Company, a subsidiary organization of the Atomic Energy Organization of Iran; Maro Sanat Company, which has acquired items for Iran's Nuclear Reactors Fuel Company; Navid Composite Material Company, an Iran-based subsidiary of the previously designated Sanam Industrial Group; and Negin Parto Khavar, which is alleged to be part of Iran's nuclear procurement network.

The timing of these new designations created tension in the ongoing talks between the P5+1 and Iran, with Iranian diplomats walking out in protest due to their view that the US actions amounted to new sanctions and thus violated the terms of the JPA. Still, negotiations resumed at the end of the year. Meanwhile, the White House negotiated extensively with members of Congress to dissuade the passage of any legislation creating additional Iranian sanctions through at least the end of the year; President Obama has threatened to veto any such legislation that is passed while international negotiations toward a comprehensive deal regarding Iran's nuclear program are ongoing.

Iran Sanction Waivers Extended

In late November, the State Department extended for another six months the sanctions waivers previously granted to China, India, South Korea, Turkey, and Taiwan based on their reduction of purchases of Iranian crude oil earlier this year. Malaysia, South Africa, Singapore, and Sri Lanka, each of which no longer purchases Iranian crude, were also granted waiver extensions.

Additional Myanmar (Burma) Designations

On December 17, OFAC designated Myanmar companies Asia Metal Company Ltd., Soe Min Htike Co. Ltd., and Excellence Mineral Manufacturing Co. Ltd. pursuant to E.O. 13619, which targets persons involved in arms trading between North Korea and Myanmar. OFAC also blacklisted Lt. Col. Kyaw Nyunt Oo, a military officer acting on behalf of the Directorate of Defense Industries (DDI). The DDI was designated in July 2012 for its involvement in purchasing military equipment and related material from North Korea.

OFAC emphasized that this action specifically targets the designated entities to pressure the ongoing military sales relationship between Myanmar and North Korea and does not generally target the Government of Myanmar.

Sudan Sanctions Extended

On October 31, President Obama extended economic sanctions targeting Sudan for another year. Absent such reauthorization, the sanctions, first imposed in 1997, would have expired on November 3.

Major Sanctions-Related Enforcement Actions Announced

Non-Financial Entities: On October 21, Alma Investment LLC, a U.A.E.-based investment and advising company, was fined \$1,500,000 by OFAC for violating the Iranian Transactions and Sanctions Regulations (ITSR), 31 C.F.R. part 560. Between September 2009 and February 2010, Alma processed at least six electronic funds transfers worth a total of \$103,283 through US financial institutions for the benefit of persons in Iran in what OFAC deemed to be egregious violations of the ITSR. Alma did not cooperate with OFAC's investigation.

OFAC announced on October 24 that it had reached a \$434,700 settlement agreement with California-based Ameron International Corporation for apparent violations of the ITSR and the Cuban Assets Control Regulations between March 2005 and October 2006. These violations included approval of capital expenditures by Ameron's overseas subsidiaries for the purchase of equipment used for an oil and gas project in Iran; referral to foreign subsidiaries of business opportunities involving the sale of goods to Iran; and the provision of testing services to a foreign subsidiary with reason to know that those services would eventually be provided to an entity located in Iran. Further, on two occasions, a foreign branch office of Ameron's US subsidiary sold materials to a consortium in which a Cuban company was a partner. On October 25, Sweden-based KMT Group AB agreed to pay \$125,000 on behalf of its US-based subsidiary and a German affiliate to settle potential civil liability for apparent violations of the ITSR in 2009, when the German affiliate attempted to export goods from the US to Germany with knowledge or reason to know that the goods were specifically intended for reexportation to South Pars Industrial Gas Complex in Tehran. US Customs and Border Protection seized the goods, along with partial payment for the goods; in addition to the \$125,000 fine, KMT Group agreed not to contest forfeiture proceedings against those goods and related funds.

In late November, OFAC reached the largest ever settlement outside of the financial/banking industry for apparent violations of US sanctions targeting Iran, Sudan, and Cuba. Oil-and-gas firm Weatherford International Ltd. and a number of its subsidiaries and affiliates agreed to pay \$91 million for conduct including the exportation of goods, technology, and services to Iran, Cuba, and Sudan in connection with its oilfield services businesses and extensive travel-related transactions by Weatherford employees to and from Cuba between 2003 and 2007.

Financial Institutions: On December 11, Royal Bank of Scotland Group agreed to pay \$100 million in fines to OFAC, the Federal Reserve, and the NY Department of Financial Services for violations of multiple US sanctions programs, including sanctions targeting Iran. RBS specifically admitted to taking steps to prevent payments that it processed on behalf of sanctioned countries and entities from being flagged as subject to sanctions by US banks. According to the consent order issued by NY-DFS, RBS conducted more than 3,500 transactions between 2002 and 2011 involving Sudanese and Iranian customers and beneficiaries; OFAC separately stated that RBS had interfered with US sanctions from at least 2005 through 2009.

In early December, Compass Bank reached a \$19,125 settlement agreement with OFAC over an apparent violation of the provisions of the Sudanese Sanctions Regulations (SSR) prohibiting the export of services and the facilitation of transactions between foreign persons. The violation occurred when Compass Bank originated a wire transfer destined for an account at a UK financial institution despite the fact that an invoice accompanying the wire transfer request indicated

that the transaction was payment for the shipment from the UK to Sudan. Compass Bank's compliance personnel appear to have reviewed the invoice and mistakenly concluded that the payment did not violate the SSR because none of the parties involved were on the SDN List and that the underlying purpose of the payment was authorized pursuant to a general license.

On December 17, HSBC Bank USA, N.A. remitted \$32,400 to settle potential civil liability for three apparent violations of the Global Terrorism Sanctions Regulations, 31 C.F.R. part 594 stemming from the processing of funds transfers involving interests of persons on the SDN List.

Investigations: Dell announced in December that it was being investigated by the Department of Justice for possible sales of Dell computers to the Syrian government through a Dubai-based distributor.

Anham FZCO, one of the US military's largest suppliers in Afghanistan, is currently being investigated over allegations that it moved supplies through Iran in violation of US sanctions. Anham, which is based in Dubai and Virginia, won a 2012 contract worth an estimated \$8.1 billion to supply food and water to American forces in Afghanistan.

Additional Terror-, Crime-, and Drug-Related Designations

On October 7, the State Department designated the Muhammad Jamal Network and its founder, Muhammad Jamal, as Specially Designated Global Terrorists (SDGTs) under E.O. 13224, which targets terrorists and those providing support to terrorists or acts of terrorism. Muhammad Jamal was a top military commander for the Egyptian Islamic Jihad in the 1990s and is alleged to have developed connections with senior al Qaida leadership and various al Qaida affiliates and to have established terrorist training camps in Egypt and Libya. On November 13, the State Department designated Nigeria-based militant groups Boko Haram and Ansaru as Foreign Terrorist Organizations under Section 219 of the Immigration and Nationality Act, as amended, and as SDGTs under E.O. 13224. Boko Haram has links to al Qaida in the Islamic Maghreb and is responsible for thousands of deaths throughout Nigeria over the past several years, including an attack in September 2013 that killed more than 160 civilians and the August 2011 suicide bombing of the UN building in Abuja. Ansaru has also conducted several kidnappings of foreigners living or working in Nigeria. These designations include a prohibition against knowingly providing material support or resources to, or engaging in transactions with, Boko Haram and Ansaru, and the freezing of all property and interests in property of the organizations that are in the United States, or come within the United States or the control of US persons. On December 18, OFAC designated two al Qaida supporters as SDGTs pursuant to E.O. 13224. Qatar-based Abd al-Rahman bin 'Umayr al-Nu'aymi was designated for providing financial support to al Qaida and its affiliates in Syria, Iraq, Somalia, and Yemen. Yemen-based Abd al-Wahhab Muhammad 'Abd al-Rahman al-Humayqani was designated for providing financial support to and acting on behalf of al Qaida in the Arabian Peninsula.

OFAC made several designations pursuant to the Foreign Narcotics Kingpin Designation Act this quarter. On October 29, OFAC designated two Spanish nationals and five entities in Spain and Peru as Specially Designated Narcotics Traffickers (SDNTs) for comprising a Spain-based money laundering cell involved in the movement of illicit narcotics funds from Europe to Colombia. On October 31, OFAC designated one individual and twenty companies linked to Rafael Caro Quintero, a major Mexican narcotics trafficker sought by the United States for his role in the murder of a US Drug Enforcement Agency agent. On November 14, OFAC designated Arnoldo Villa Sanchez as a SDNT for acting as the chief of security for the Mexico-based Beltran Leyva drug trafficking organization; a company and another individual linked to Sanchez were also designated.

OFAC also designated dozens of persons pursuant to E.O. 13581, which targets significant transnational criminal organizations. On October 30, OFAC targeted two criminal networks run by previously designated members of the Brothers' Circle, a coordinating body for several Eurasian criminal groups that mediates disputes and directs member criminal activity worldwide. The Brothers' Circle is one of five transnational criminal organizations sanctioned under E.O. 13581. On December 19, OFAC designated four senior members of the Yamaguchi-gumi, a prominent Japanese criminal syndicate within the Yakuza criminal network. Yakuza was identified as a significant transnational criminal organization in July 2011 and maintains a global criminal network of affiliates involved in drug trafficking, human trafficking, extortion, prostitution, fraud, and money laundering.

EU Syria Sanctions Amended

On December 13, the EU introduced a new regulation amending EU sanctions targeting Syria. These amendments aim to enable EU Member States to engage in a number of humanitarian-related activities, including support for the activities of the Organization for the Prohibition of Chemical Weapons in eliminating chemical weapons in Syria; aiding the delivery of UN humanitarian aid to Syria; and the processing of payments through the Commercial Bank of Syria for medical supplies, food, shelter, and sanitation. The amendments also created a new prohibition on trade in items of archaeological, historical, cultural, scientific, and religious importance that have been illegally removed from Syria.

EU Sanctions Annulments Addressed

On October 10, the EU amended its sanctions regime against Iran to target a wider category of individuals and entities potentially subject to being blacklisted, including (i) persons who have evaded or violated the provisions of UN Security Council resolutions or EU sanctions relating to Iran; (ii) entities owned or controlled by or acting on behalf of the Islamic Revolutionary Guard Corps or the Islamic Republic of Iran Shipping Lines (IRISL); and (iii) persons providing insurance or other essential services to IRISL or to entities owned or controlled by or acting on behalf of IRISL.

These amendments were largely viewed as a reaction to the recent annulments by EU courts of EU sanctions targeting certain persons. On November 16, the European Council took steps to re-blacklist a number of persons who had recently won court cases annulling their listings, offering new reasons to support each re-listing. These companies include Hanseatic Trade Trust & Shipping, Persia International Bank Plc, Export Development Bank of Iran, Iran Insurance Company, Post Bank Iran, Bank Refah Kargaran, Good Luck Shipping LLC, Onerbank ZAO, and Iranian Offshore Engineering & Construction Co., along with the individual Naser Bateni, all of whom are accused of acting on behalf of IRISL. Further, on November 27, the EU re-listed IRISL and a number of companies alleged to be connected with IRISL. The re-listed companies and people have two months to apply again to annul their designations if they choose to do so. EU officials emphasized that the move was to re-establish sanctions already imposed rather than to increase pressure on Iran.

Meanwhile, EU sanctions continued to be reviewed, and in some cases rejected, by EU courts. On December 12, the General Court annulled the 2011 designations of eleven individuals that had been based on their perceived relationships with IRISL. The Court held that because IRISL's own designation had been deemed unlawful, no listings made on the basis of connections with IRISL could be lawful. The European Council has two months in which to appeal the decision to the European Court of Justice. Later in December, the EU's highest court ruled that the Iranian energy company Fulmen Group and its largest shareholder and chairman should not be subject to sanctions; however, the court upheld EU sanctions against state-controlled company Manufacturing Support & Procurement Kala Naft Co. The General Court had overturned EU sanctions against the two Iranian companies last year. The European Court of Justice held that proof that

entities are involved in the oil and gas sectors in Iran is sufficient evidence that those entities provide “support” for nuclear proliferation; it also held, however, that to blacklist entities not involved in those sectors, the European Council must provide evidentiary support for allegations of involvement in nuclear proliferation. Following the decision, the European Council and HM Treasury in the UK published notices confirming that Fulmen and its shareholder/chairman are no longer subject to EU sanctions.

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This memorandum is intended only as a general discussion of these issues. It should not be regarded as legal advice. We would be pleased to provide additional details or advice about specific situations if desired.

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