

New Comprehensive U.S. Sanctions on the Syrian Regime

On August 18, President Obama issued an Executive Order imposing comprehensive economic sanctions on the Syrian regime with immediate effect.¹ The new sanctions expand substantially on existing U.S. sanctions against Syria, adding the following:

- All Syrian government-controlled entities have been subjected to comprehensive sanctions administered by the Office of Foreign Assets Control (OFAC). U.S. persons and entities, including their overseas branches, and persons of any nationality acting within the jurisdiction of the United States (including U.S. branches of foreign financial institutions) are prohibited from engaging in any transactions with, and must freeze any assets within their control belonging to, the Syrian government or any entity owned or controlled by the Syrian government.
 - Any person of any nationality engaging in U.S. dollar transactions with any of the blocked persons or entities risks having clearing transactions for those payments occur within the jurisdiction of the United States, which would result either in the payments' being blocked or in a violation of U.S. sanctions by all persons involved in the transactions.
- The Syrian petroleum industry has been subjected to wide-ranging sanctions. U.S. persons and entities are prohibited from any dealings or transactions relating to Syrian-origin oil and petroleum products, including purchasing, selling, transporting, swapping, brokering, approving, financing, facilitating, or guaranteeing such transactions. All importation of Syrian-origin oil or petroleum products to the United States is also prohibited. Finally, a number of Syrian oil and gas companies have been subjected to comprehensive OFAC sanctions, which as above prohibits them from transacting through the U.S. financial system.

¹ http://www.treasury.gov/resource-center/sanctions/Programs/Documents/syria_eo_08182011.pdf. The press release from the White House is dated (and was released) on August 18, 2011. However, the Executive Order itself is dated August 17, 2011, and states that it is effective at 12:01 a.m. on August 18. This discrepancy is unlikely to have practical effect on parties who comply immediately with the new sanctions.

- The existing ban on providing U.S.-origin goods to Syria has been expanded to services. The direct or indirect exportation or re-exportation of services from the United States, or by a United States person, to Syria is prohibited. This adds to the prohibition against the exportation or re-exportation of U.S.-origin goods to Syria. Licenses for such exports and re-exports may be granted by the Department of Commerce.
 - The prohibition against the re-exportation of U.S.-origin goods and services applies to foreign persons as well as to U.S. persons.
- New investment in Syria by U.S. persons and entities is prohibited.

As is typical, all “facilitation” of any prohibited transaction by any U.S. person or entity or involving any act within the United States is also prohibited. Facilitation is an extremely broad concept putting at risk any activity within U.S. jurisdiction that is connected to a transaction that would be prohibited were it undertaken by a U.S. person.

The Order does not contain a “grandfather” provision permitting the continuing performance of pre-existing contracts, and so any such action to close out a pre-existing obligation would require a person bound by U.S. sanctions to seek relief from OFAC or, for exports and re-exports of U.S.-origin goods and services, the Bureau of Industry and Security of the Department of Commerce.²

Syria has been designated a state sponsor of terrorism since 1979, and since 2004 it has been the subject of a near-total ban on the exportation and re-exportation of U.S. goods to Syria. Over the period 2004-2008, the Bush Administration imposed targeted sanctions, freezing the assets of and prohibiting substantially all dealings with certain Syrian persons and companies connected to Syria’s activities in Lebanon and Iraq, its support of terrorist organizations, and its pursuit of chemical, biological, and nuclear weapons. Following Syria’s crackdown of ongoing domestic protests, President Obama in May issued two Executive Orders imposing sanctions on certain individuals and entities supporting the Syrian regime – including President Bashar Al-Assad, a number of high-level ministers, and the Syrian General Intelligence Directorate. All of these sanctions remain in force, and as

² Simultaneously with the Executive Order, OFAC granted a number of general licenses of limited scope consistent with past sanctions programs, clarifying that the Department of Commerce has jurisdiction over export and re-export licensing and authorizing transactions relating to diplomatic missions, service charges for blocked accounts, the provision of certain U.S. legal services, the provision of certain internet-based free communications services, and certain non-commercial personal remittances.

noted additional Syrian persons and entities have been added to the list of sanctioned parties.³

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If you have any questions, please feel free to contact any of your regular contacts at the Firm or Ken Bachman, Paul Marquardt, or Rick Bidstrup of our Washington office, listed on our website at <http://www.clearygottlieb.com>.

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³ A complete list of the persons and entities subject to sanctions under the Syrian sanctions orders as “Specially Designated Nationals” can be found at <http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>.

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