



SHEARMAN & STERLING

# Sanctions Roundup

January 27, 2021



# FOURTH QUARTER 2020

As the Trump Administration wound down, the President, through Executive Orders, and the State, Treasury, and Commerce Departments, through designations, FAQs, and other guidance, continued to impose new and expanded sanctions, particularly with respect to China and Iran. For that reason, we delayed publication of this issue until the inauguration of the new Administration in the expectation that the pace may slow down as the Biden Administration appointees take stock and determine which of the existing sanctions programs, particularly those implemented between the election and the inauguration, align with the new Administration's foreign policy approach. Indeed, as we go to press, President Biden's newly confirmed Secretary of Treasury, Janet Yellen, has announced a review of sanctions policy to ensure that sanctions are used "strategically and appropriately," and President Biden ordered the Departments of State, Treasury, and Commerce to review U.S. sanctions to evaluate whether they are "unduly hindering responses to the COVID-19 pandemic."

This quarter saw numerous developments, including:

- The Trump Administration bans U.S. investment in public securities of "Communist Chinese Military Companies" and signs new executive order targeting Chinese app developers.
- In parting shot, President Trump concludes "maximum pressure" campaign by announcing new sanctions against Iran's financial sector and steel industry, among others.
- Despite presidential veto threat, Congress passes expanded sanctions against Nordstream/Turkstream pipeline projects.
- Enforcement action against French bank shows compliance risks related to internal USD transactions despite remote connection to sanctions targets.

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# CHINA



The People's Republic of China remained at the forefront of U.S. sanctions developments during the final months of 2020 and early 2021, with the Trump Administration using its waning months to issue a whirlwind of new restrictions. Most prominently, President Trump issued a new executive order aimed at cutting off dozens of Chinese companies from U.S. investors. Meanwhile, as the Treasury Department published formal Hong Kong Sanctions Regulations, OFAC continued to target PRC officials for their alleged role in the perceived democratic encroachments in Hong Kong. The Department of Commerce also published a list of Chinese Military End-Users. In response, China passed legislation aimed at protecting its companies from U.S. sanctions, and itself sanctioned twenty-eight U.S. officials, including outgoing Secretary of State Mike Pompeo.

## **US Bans Trading in Public Chinese Companies with Perceived Military Ties**

On November 12, President Trump issued Executive Order 13959, titled "Addressing the Threat from Securities Investments that Finance Communist Chinese Military Companies," which prohibits U.S. persons from investing in dozens of Chinese companies identified by U.S. officials as being closely linked to Chinese military and intelligence agencies (CCMCs). Effective January 11, 2021, the order prohibits U.S. persons from transacting in publicly traded securities of CCMCs, as well as any securities that are derivative of, or "designed to provide investment exposure" to, such securities. Initially, thirty-one companies were listed as CCMCs by the Department of Defense, including entities in China's aerospace, shipbuilding, construction, technology and communication industries. By January 14, 2021, the Department of Defense designated additional companies, taking the list to forty-four. The E.O. also authorizes the Secretary of the Treasury to identify additional CCMCs or their subsidiaries.

Upon the E.O.'s release, there was initial confusion as to whether the restrictions would apply only to those entities specifically listed by the Treasury Department, or whether OFAC's traditional 50 percent rule would

apply to cover trades in securities of subsidiaries and affiliates of the companies. This and other compliance questions prompted OFAC and the White House to issue a series of guidance announcements and amendments.

- OFAC will not apply its traditional “50 percent rule” to entities listed under E.O. 13959, meaning that the prohibitions only apply to subsidiaries of listed entities after the subsidiary is publicly listed by the Treasury Department. (See [FAQ 857](#).) However, OFAC confirmed it intends to update the list to add subsidiaries issuing publicly traded securities that are majority-owned or controlled by the listed CCMCs.
- OFAC published a consolidated [list](#) of all CCMCs listed to date, and clarified that the name of any entity that “exactly or closely matches” a name in the list is subject to the prohibitions in the E.O. (See [FAQ 858](#).) This approach thus captures legal entities that are *not* on the Defense Department list and was widely understood to be a means of avoiding the 60-day delay in implementation had the Treasury Department exercised its authority to designate subsidiaries of companies on the Defense Dept. list.
- On January 13, 2021, the White House amended E.O. 13959 to clarify that prohibited “transactions” include both sales and purchases for value and that U.S. persons are required to divest all holdings within a one-year wind-down period.
- The prohibitions apply to a broad range of “publicly traded securities” denominated in any currency that trade on a securities exchange or over-the-counter (OTC), anywhere in the world, including derivatives, warrants, ADRs, GDRs, ETFs, index funds, and mutual funds. (See [FAQ 859, 860](#).) Significantly, because many exchanges in the world are owned by U.S. companies, OFAC issued a general license authorizing non-US exchanges to continue processing trade in such securities, provided no US person was a buyer or seller.
- U.S. persons are prohibited from investing in U.S. or foreign funds that hold publicly traded securities of a Communist Chinese military company “regardless of such securities’ share of the underlying index fund, ETF, or derivative thereof.” ([See FAQ 861](#).)
- Prohibitions on transactions involving entities named in the future will go into effect 60 days after an entity is listed by OFAC. E.O. 13959 establishes a wind-down period to allow for divestment. In particular, U.S. persons must divest CCMC securities (held as of January. 11, 2021) by November. 11, 2021. ([FAQ 872](#)). For future listed CCMCs, investors must divest within one year of the date of listing ([GL No. 2](#)).

In response to the new order, the New York Stock Exchange announced it would de-list shares in three Chinese telecom companies: China Telecom Corp Ltd, China Mobile Ltd, and China Unicom Hong Kong Ltd. Despite OFAC’s efforts to explain the restrictions, significant ambiguity remains as to which entities are subject to the ban, and the timelines by which market participants must comply. Moreover, as with much of the Trump Administration’s sanctions regime, it is unclear whether President Biden will maintain these prohibitions, walk them back, or even escalate the restrictions on CCMCs.

## **Outgoing Trump Administration Issues Executive Order Addressing Data Collection by Chinese Applications**

In an effort to curb the proliferation of Chinese technology in the U.S. market, the outgoing Trump Administration issued Executive Order 13971 on January 5, 2021 to prohibit transactions with several Chinese connected software applications. The new order builds on the broad foundations set forth in Executive Order 13873, from May 2019, which sought to prohibit information and communication technology transactions involving foreign adversaries. The new order specifically targets Chinese software designed to collect, process, or transmit data via the internet. The order highlights the historical collection of personally identifiable information and private information of U.S. citizens by Chinese government-connected agents, including in the well-publicized data breaches of Anthem and Equifax. The order is scheduled to take effect in February 2021.

Just before his term ended, President Trump issued a second executive order, titled “Steps to Address the National Emergency with Respect to Significant Malicious Cyber-Enabled Activities” that amends E.O. 13694 to

address the use of United States Infrastructure as a Services (IaaS) products by foreign malicious cyber-actors. IaaS products enable persons to engage in anonymous activity on the internet, which make it difficult for the government to monitor, track, and address potential wrongdoing by cyber-actors. If implemented, the Order would require IaaS providers to verify and document the identity of foreign nationals that use U.S. IaaS services. The Order also authorizes the Commerce Department to prohibit or impose conditions on IaaS accounts engaged in malicious activity. Although not specifically aimed at China, the Order creates an enforcement mechanism for taking actions against any “foreign jurisdiction [that] has any significant number of foreign persons offering U.S. IaaS products that are used for malicious cyber-enabled activities.”

## PRC Officials Designated for Undermining Hong Kong’s Autonomy

The PRC’s actions with respect to Hong Kong continued to draw scrutiny this quarter. The U.S. twice took action to target senior PRC officials involved in implementing the Hong Kong national security law, which the U.S. claims is being used to curb democratic dissent. On November 9, OFAC and the State Department jointly sanctioned four officials in Hong Kong’s governing and security establishment: **Deng Zhonghua**, deputy director of the Hong Kong and Macau Affairs Office; **Edwina Lau**, deputy commissioner of police in Hong Kong; and **Li Jiangzhou** and **Li Kwai-wah**, two officials at the newly established national security office in Hong Kong. In early December, the State Department designated fourteen members of the National People’s Congress Standing Committee (NPCSC), which voted to adopt the national security law. Six more officials were targeted on January 15, 2021 for their alleged roles in the mass-arrest of pro-democratic activists: **You Quan**, Vice Chairman of the Central Leading Group on Hong Kong and Macau Affairs; **Sun Wenqing**, Deputy Director of the Office for Safeguarding National Security; **Tam Yiu-Chung**, Hong Kong delegate to the National People’s Congress Standing Committee; and Hong Kong police officials **Frederic Choi Chin-Pang**, **Kelvin Kong Hok Lai**, and **Andrew Kan Kai Yan**.

## Financial Institutions Spared Secondary Sanctions under HKAA

As we previously reported, President Trump signed into law the Hong Kong Autonomy Act of 2020, legislation that authorized, in part, mandatory sanctions on foreign financial institutions who do business with persons determined to have assisted in undermining Hong Kong’s autonomy. Two provisions set forth the process for imposing such sanctions. First, Section 5(a) of the HKAA requires the Secretary of State to submit a report to Congress identifying foreign persons who have (or who have attempted) to materially contribute to the failure of the Government of China to meet its obligations under the Sino-British Joint Declaration and Hong Kong’s Basic Law. Section 5(b), in turn, requires the Treasury Secretary to submit a report identifying foreign financial institutions that knowingly conduct “significant” transactions with a person identified in the Section 5(a) report. On December 11, the Treasury Department issued its initial report pursuant to Section 5(b), stating that the agency has not identified any foreign financial institution at risk for secondary sanctions under the HKAA. Although its first report under Section 5(b) named no FFIs for sanctions, the Treasury Department noted that it will continue to monitor activity and could update its report at any time.

## Commerce Department Issues List of Military End-Users

In late December, and in response to public request, the Bureau of Industry and Security at the U.S. Department of Commerce amended the Export Administration Regulations to add a new Military End User (MEU) List of entities that pose an unacceptable risk of diversion to armed services in China, Venezuela, and Russia. The MEU List helps to clarify earlier changes to the EAR in April 2020 that broadened the scope of U.S. export controls to cover any U.S.-origin item that supports or contributes to the operation, installation, maintenance, repair, overhaul, refurbishing, development, or production of military items. As the April rule did not originally identify which specific entities posed a known risk for military end-use, the final rule seeks to provide clarity regarding license requirements for export to a company with ties to a military end user. The final rule specifies 102 entities, 58 of which are Chinese. The Commerce Department anticipates the MEU List will ease companies’ compliance burden, but the list, which included 57 Chinese and 45 Russian entities in its initial publication, is non-exhaustive, and parties not listed may not necessarily be exempt from MEU regulatory prohibitions—which means due diligence practices in place before the publication of the MEU List will likely need to continue.

## **China Enacts Legislation to Shield Its Companies from Economic Sanctions**

The Chinese State Council passed legislation on January 9, 2021 that seeks to limit the impact of foreign sanctions on Chinese companies and other companies operating in the country. Titled “Measures for Blocking the Improper Extraterritorial Application of Foreign Laws and Measures,” the legislation permits Chinese courts to penalize global companies that comply with “unjustified” foreign sanctions and sets guidelines for the Ministry of Commerce to determine which foreign sanctions are unjustified under the new rules. Such a determination would be based on whether the sanctions violate international law, the impact on Chinese sovereignty, and the impact on the economic rights of Chinese entities. At its core, the legislation aims to limit the use of secondary sanctions, including by the U.S. government, as a tactic to influence behavior without a clear US nexus. Significantly, as an enforcement mechanism, the new rules also permit parties harmed by another party’s compliance with prohibited foreign sanctions to bring a case for damages.



# RUSSIA



Last quarter, U.S. authorities acted pursuant to existing and new authorities to counteract the expansion of Russia's influence with European and NATO allies. After months of threats, the Trump Administration announced targeted sanctions against Turkey over its purchase and installation of the S-400 missile defense system. Meanwhile, the U.S. Congress expanded legislative sanctions against the Nordstream 2 and Turkstream pipelines, prompting European leaders to contemplate countermeasures.

## US Congress Expands Sanctions on NS2 Pipeline Actors

The U.S. Congress escalated measures against those involved in completing construction of the controversial Nordstream 2 and Turkstream pipelines, which would provide natural gas between Russia and Europe. Section 1242 of the National Defense Authorization Act for 2021, passed over President Trump's veto, provides for penalties on parties involved in a wider range of pipe-laying activities than previously authorized. Under Section 1242, the definition of "pipe-laying activities" was broadened to include "activities that facilitate pipe-laying, including site preparation, trenching, surveying, placing rocks, backfilling, stringing, bending, welding, coating, and lowering of pipe." In addition, Section 1242 authorizes sanctions on foreign persons that support the expanded definition of pipe-laying activities, such as by providing underwriting services, insurance, or reinsurance for vessels engaged in pipe-laying activities for the two pipelines.

## CAATSA-Related Sanctions Imposed in Response to Variety of Russian Activity

Pursuant to Section 224 of the Countering America's Adversaries Through Sanctions Act, on October 23 OFAC sanctioned **State Research Center of the Russian Federation FGUP Central Scientific Research Institute of Chemistry and Mechanics**, a Russian government research institution connected to the malware known as "Triton." CAATSA Section 224 authorizes sanctions on persons who knowingly engage in activities that undermine cybersecurity on behalf of the Government of the Russian Federation. The Triton malware—also known also as TRISIS and HatMan—was designed specifically to target and manipulate industrial safety systems protecting critical infrastructure facilities. Among recent deployments of the Triton malware was a 2017 operation that targeted a petrochemical facility in the Middle East.

The Trump Administration at long last imposed sanctions on Turkey, a NATO ally, for its purchase of the S-400 missile defense system from Russia. Specifically, on December 14, the U.S. acted pursuant to Section 231 of the



CAATSA to sanction Turkey's **Presidency of Defense Industries (SSB)** for knowingly engaging in a significant transaction with Russian's defense industry. The sanctions were imposed in connection with Turkey's purchase of the S-400 surface-to-air missile system from with Rosoboronexport, Russia's main arms export entity. From a menu of sanctions available pursuant to Section 231, the U.S. imposed a ban on all U.S. export licenses and authorizations to SSB, as well as asset freezes and visa restrictions on SSB's president and other officers. The action comes after numerous warnings issued by the U.S. to Turkey that the S-400 system posed a national security threat to the U.S., and that Turkey could face sanctions if it followed through with the purchase, receipt, and testing of the missile system. President Trump's move pursuant to CAATSA appeared designed to pre-empt certain provisions of the 2021 NDAA, which mandated that the President impose at least five out of a possible twelve sanctions measures in response to Turkey's S-400 purchase.

Finally, on the final full day of the Trump Administration, the State Department sanctioned Russia-based entity **KVT-RUS** and identified the vessel **Fortuna** as blocked property. KVT-RUS was sanctioned pursuant to Section 232 of CAATSA for knowingly selling, leasing, or providing to the Russian Federation goods, services, technology, information, or support for the construction of Russian energy export pipelines.

## **OFAC Targets Attempted Interference in US Elections**

On January 11, 2021, OFAC designated seven individuals and four entities associated with Russian intelligence agent Andrii Derkach, who was previously sanctioned pursuant to E.O. 13848 for his attempt to influence the 2020 U.S. presidential election. Specifically, OFAC targeted former Ukrainian government officials **Konstantin Kulyk**, **Oleksandr Onyshchenko**, **Andriy Telizhenko** and current Ukraine Member of Parliament **Oleksandr Dubinsky**, who allegedly coordinated with Derkach to disseminate false information about then-candidate Joe Biden and other U.S. political candidates, accusing him of corrupt dealings with respect to Ukraine. In addition, OFAC designated Derkach's "disinformation apparatus" responsible for pushing out the disinformation to U.S. media outlets, including media front companies **NabuLeaks** and **Era-Media TOV** media team members **Dmytro Kovalchuk**, **Anton Simonenko**, and **Petro Zhuravel** and two of Zhuravel's companies, **Only News** and **Skeptik TOV**.

# NORTH KOREA



## OFAC Targets North Korea's Export of Human and Natural Resources

This quarter OFAC continued to target North Korea's export revenues. First, on November 19, OFAC designated two entities for their alleged role in exporting workers from North Korea to work in Russia. Acting pursuant to E.O. 13722, which authorizes sanctions on those engaged in the exportation of forced labor from North Korea, OFAC designated **Mokran LLC**, a Russian construction company, and **Korea Cholsan General Trading Corporation**, a North Korean company operating in Russia.

In December, OFAC targeted six entities and identified four vessels allegedly engaged in the transport of coal from North Korean ports to places such as Vietnam. The designations were taken pursuant to E.O.s 13687, 13722, and 13810, which target the Worker's Party of North Korea and those operating in North Korea's transportation industry. OFAC further noted that the transport of coal, a key revenue generator to the North Korean regime, is in violation of United Nations Security Council resolution 2371. The designated entities include China-based **Weihai Huijiang Trade Ltd**, along with **Always Smooth Ltd**, and **Good Siblings Ltd**; Hong Kong-based **Silver Bridge Shipping Co-HKG**; North Korea-based **Korea Daizin Trading Corporation**; and Vietnam-based **Thinh Cuong Co Ltd**. The identified vessels include **Calm Bridge**, **Asia Bridge**, **Lucky Star**, and **Star 18**.

# IRAN



In a seeming final effort to entrench its maximum-pressure policy against Iran, the Trump Administration announced a host of new sanctions measures last quarter. U.S. authorities applied new sanctions to Iran's financial sector and designated several non-Iranian companies for supporting Iran's petrochemical and steel sectors. The Administration's entrenchment efforts notably also included deliberate action to re-designate a host of Iranian individuals and entities under its counterterrorism authorities (discussed further below). The move appears designed specifically to make it more difficult for the Biden Administration to ease sanctions against Iran by making removal from U.S. sanctions lists politically more difficult.

## OFAC Sanctions Key Actors Iran's Financial & Steel Sectors

On October 8, OFAC and the State Department announced that Iran's financial sector would be added to the list of sectors of Iranian economy subject to the restrictions contained in Executive Order 13902. That order previously authorized the imposition of primary and secondary sanctions against persons operating in Iran's construction, mining, manufacturing, and textiles sectors. The addition of the financial sector means that sanctions may now be imposed on (i) persons operating in Iran's financial sector; (ii) persons who have knowingly engaged in a "significant transaction" in connection with Iran's financial sector; and (iii) persons who materially assist, sponsor, or support any person designated under E.O. 13902 for operating in Iran's financial sector.

Simultaneously with the announcement, OFAC designated eighteen new Iranian financial institutions, including: **Amin Investment Bank, Bank Keshavarzi Iran, Bank Maskan, Bank Refah Kargaran, Bank-E Shahr, Eghtesad Novin Bank, Gharzolhasaneh Resalat Bank, Hekmat Iranian Bank, Iran Zamin Bank, Islamic Regional Cooperation Bank, Karafarin Bank, Khavarmianeh Bank, Mehr Iran Credit Union Bank, Pasargad Bank, Saman Bank, Sarmayeh Bank, Tosee Taavon Bank and Tourism Bank.**

On January 5, 2021, OFAC and the State Department jointly designated thirteen entities with varying roles in the country's steel sector pursuant to E.O. 13871. Most notably, OFAC targeted **Kaifeng Pingmei New Carbon Materials Technology Co., Ltd. (KFCC)**, a China-based supplier of carbon materials essential for steel production, for fulfilling orders on behalf of Iranian manufacturers. OFAC also designated an additional twelve



entities, including Iranian steel companies and their foreign based sales agents. Concurrently, the State Department sanctioned **KFCC, Hafez Darya Arya Shipping Company**, a subsidiary of Islamic Republic of Iran Shipping Lines, and one of its principal executives, **Majid Sajdeh**. The State Department's designations were imposed pursuant to the Iran Freedom and Counter-Proliferation Act of 2012 for having knowingly sold, supplied, or transferred, directly or indirectly, graphite to or from Iran, and such graphite was sold, supplied, or transferred to or from an Iranian person on the SDN List.

Finally, the State Department on January 15 announced the designation pursuant to the IFCA of seven entities and two individuals in response to the transfer of grain-oriented electrical steel to Iran. Among the entities targeted were Iran-based **Islamic Republic of Iran Shipping Lines**; China-based supplier **Jiangyin Mascot Special Steel Co., LTD**; and UAE-based **Accenture Building Materials**.

## Secondary Sanctions Imposed for Dealings with Iranian Petrochemical Company

OFAC acted twice this quarter to disrupt the commercial activities of Iran-based Triliance Petrochemical Co. Ltd., which was itself designated as an SDN in January 2020 pursuant to E.O. 13846 (authorizing sanctions on Iran's petrochemical sector). OFAC targeted a total of twelve entities across the world for their involvement in the sale and purchase of Iranian petrochemicals connected to Triliance. In its first action, OFAC targeted entities located in China, Iran, and Singapore for engaging in transactions facilitated by Triliance, or otherwise assisting Triliance's efforts to process and move funds generated by the sale of petrochemical products. Those designated include **Morvarid Petrochemical; Arya Sasol Polymer Company; Jiaxiang Energy Holding PTE. LTD; Binrin Limited; Elfo Energy Holding Limited; Glory Advanced Limited; Jane Shang Co. Limited; and Sibshur Limited**. In December, OFAC designated China-based **Donghai International Ship Management Limited** and **Petrochem South East Limited**, and UAE-based entities **Alpha Tech Trading FZE** and **Petroliance Trading FZE** for providing Triliance with shipping services and conducting financial transactions on its behalf.

## Cyber-Enabled Election Interference Effort Prompts Sanctions

On October 22, OFAC designated five Iranian entities for their alleged attempt to influence the November 2020 U.S. presidential election. Those designated include the **Islamic Revolutionary Guard Corps, the IRGC-Qods Force, Bayan Rasaneh Gostar Institute, the Iranian Islamic Radio and Television Union and International Union of Virtual Media**. According to OFAC, the malign operations targeted readers via social media platforms and messaging applications and sought to sow discord using disinformation. The designations were made pursuant to E.O. 13848 for having directly or indirectly engaged in, sponsored, concealed, or otherwise been complicit in foreign interference in the 2020 U.S. presidential election.

## OFAC Takes Aim at Conventional Arms and WMD Proliferators

Amid reports that Iran will continue to enrich its uranium stockpile beyond the limits imposed under the JCPOA, OFAC acted twice this quarter to target proliferators of weapons of mass destruction and their supporters. OFAC first acted on November 10 to designate a network of six companies and four individuals that allegedly facilitated the procurement of sensitive goods, including U.S.-origin electronic components, for Iran Communication Industries, a U.S. and EU-sanctioned Iranian military firm owned or controlled by Iran's Ministry of Defense and Armed Forces Logistics. ICI produces defense and military-related items, including military communication systems, avionics, electronic warfare, and missile launchers. The network of designated individuals and entities include **Hoda Trading, Proma Industry Co., Ltd., DES International Co., Ltd., Naz Technology Co., Ltd., Soltech Industry Co., Ltd., Artin San'at Tabaan Company, Shih Mei (Amber) Sun, Chin-Hua (Jinee) Huang, Mohammad Banihashemi and Mohammad Soltanmohammadi**. The U.S. Attorney's Office for the District of Columbia also filed a criminal complaint against two entities and one individual involved in the network. The complaint contained allegations that the parties engaged in a conspiracy to violate U.S. sanctions and export control laws.

In another action, OFAC designated chemical weapons research firm **Shahid Meisami Group** and its director, **Mehran Babri**. Shahid Meisami Group, a subordinate to the OFAC-sanctioned Iranian Organization of Defensive Innovation and Research (SPND), allegedly is responsible for several WMD-related projects that include testing and producing incapacitation agents and optimizing their effectiveness and toxicity.

The State Department built upon Executive Order 13949, issued last quarter on September 21, 2020, to impose sanctions on those who assist Iran's conventional weapons procurement. In this action, the State Department targeted three entities who allegedly manufacture weapons employed by Iran to further its malign regional operations. Specifically, the State Department sanctioned Iran's **Marine Industries Organization, Aerospace Industries Organization**, and **Iran Aviation Industries Organization** for engaging in activities that materially contribute to the supply of Iran with military arms, including attack boats, missiles, and combat drones. The weapons manufactured by these three entities are used by Iran's military, including the Islamic Revolutionary Guards Corps. MIO, AIO, and IAIO were all previously sanctioned pursuant to the U.S.'s WMD counterproliferation authority.

## **Supreme Leader's Patronage Network Faces Sanctions**

On November 18, OFAC targeted the **Islamic Revolution Mostazafan Foundation**, a vast patronage network of the Supreme Leader of Iran. The Foundation comprises 160 holdings that do business in key sectors of Iran's economy, including finance, energy, construction, and mining. A total of 50 of the Foundation's subsidiaries were targeted, in addition to sanctioning members of the Foundation's leadership (some of whom are also alleged to have ties to the IRGC). Acting pursuant to E.O. 13876, which targets Iran's Supreme Leader and the Supreme Leader's Office, as well as their affiliates, OFAC alleges that Iran's Supreme Leader expropriates the Foundation's holdings to enrich himself and his allies, despite its purported charitable mission.

# VENEZUELA



This quarter, OFAC continued to sanction allies of the Maduro regime, targeting, among others, a Venezuelan supplier of election voting machines and a Chinese technology firm alleged to be supplying the Maduro government with surveillance and censorship tools.

## Chinese Tech Firm Sanctioned over Maduro Ties

On November 30, OFAC designated Chinese technology company **CEIEC** (a.k.a. China National Electronic Import-Export Company) as an SDN pursuant to E.O. 13692 for its support of the Maduro regime and its alleged efforts to undermine democracy in Venezuela. According to OFAC, CEIEC's surveillance tools have helped the regime engage in internet service restrictions, digital surveillance, and cyber operations against political opponents. CEIEC has also provided technical training and support for Venezuelan government officials and agencies, including the state-run telecom and internet provider Venezuelan National Telephone Company (CANTV). CEIEC's technology allowed CANTV, for example, to restrict access to websites and other screening tools that permit censorship. Concurrent with the designation, OFAC issued a general license that, for forty-five days, authorizes all transactions and activities prohibited by E.O. 13692 that are ordinarily incident and necessary to the wind-down of transactions involving CEIEC.

## Efforts to Corrupt Parliamentary Elections Spark Sanctions

Last quarter, OFAC acted twice to punish individuals allegedly involved with Maduro-led schemes to undermine democracy in Venezuela by corrupting Venezuela's parliamentary elections. In December, OFAC designated Venezuelan-registered biotechnology company **Ex-Cle Soluciones Biometricas C.A.**, as well as two of its executives, **Guillermo Carlos San Agustin** and **Marcos Javier Machado Requena**, for allegedly supporting the Maduro regime in its scheme to rig the outcome of the country's recent parliamentary elections. Since 2016, **Ex-Cle C.A.** has served as the electoral hardware and software vendor to the Maduro regime, including the regime's indirect purchase of voting machines from vendors subject to OFAC sanctions.



## OFAC Sanctions Judge and Prosecutor of “CITGO 6”

On December 30, OFAC announced the SDN designations of Venezuelan judge **Lorena Carolina Cornielles Ruiz** and prosecutor **Ramon Antonio Torres Espinoza**, for their involvement in prosecuting and sentencing the so-called “Citgo Six,” a group of six U.S. persons, all former oil executives, convicted on corruption charges in 2017. In designating the Venezuelan judge and prosecutor, OFAC stated that the executives were lured to Caracas under false pretenses, unjustly detained, and sentenced after a trial that lacked fair trial guarantees.

## US. Continues to Target Venezuelan Oil Exports

On January 19, 2021, OFAC and the State Department designated three individuals, fourteen entities, and six vessels allegedly involved in the illicit sale of Venezuelan oil. The sanctions evasion scheme, OFAC noted, is tied to a broader network orchestrated by the Maduro regime, state-owned oil company PdVSA, and sanctioned individual Alex Nain Saab Moran to facilitate the sale, brokering, and transport of oil. Chief among those designated in this action were **Alessandro Bazzoni, Francisco Javier D’Agostino Casado, Philipp Paul Vartan Apikian, Elemento Ltd, and Swissoil Trading SA**. OFAC alleges that Bazzoni and D’Agostino orchestrated the lifting and sale of Venezuelan oil to third parties by Elemento, as well as the transport of oil cargos to customers in Asia by Swissoil.

Chevron and oil-service providers Halliburton Co., Schlumberger Ltd., Baker Hughes Co. and Weatherford International Plc received another extension to carry out transactions that are essential to preserve their assets in Venezuela, keep employees safe, and pay contractors. General License 8G, issued on November 17, extends the authorization for these limited activities until June 3, 2021. GL 8G still does not allow these companies to engage in drilling activities, nor can they sell, buy, or transport oil products. Beset by low production volumes, Venezuela is seeking ways to increase petroleum outputs which have been reduced further by crippling sanctions. In January 2021, PdVSA reportedly warned foreign oil companies with whom it has joint venture projects to either increase production volumes or be subject to having their license to operate in the country reviewed.

# COUNTERTERRORISM DESIGNATIONS



The Trump Administration's aggressive posture towards Cuba culminated on January 11, 2021 when the State Department designated Cuba as a state sponsor of terrorism, adding the island nation to a list that includes only Syria, Iran, and North Korea. The move reverses an Obama era policy that removed Cuba from the list nearly five years ago. Secretary of State Mike Pompeo stated that Cuba repeatedly provid[es] support for acts of international terrorism in granting safe harbor to terrorists. The move is more than symbolic, as it carries with it a host of potential punitive measures, including restrictions on U.S. foreign assistance; a ban on defense exports and sales; certain controls over exports of dual use items; and other financial restrictions. The move also makes it more difficult for the Biden Administration to roll-back the Trump Administration's reversal of the Obama Administration's opening of relations with Cuba. In addition to domestic political considerations, removal requires a formal State Department review, a presidential certification to Congress, and a forty-five day waiting period during which Congress can object to the removal.

On October 19, 2020, pursuant to E.O. 13224, OFAC designated **Ahmed Luqman Talib** as specially designated global terrorist and **Talib and Sons** as being owned, controlled, or directed by him. According to OFAC, Talib, who is based in Australia, assisted and supported Al-Qa'ida's global terrorist activities. He allegedly helped move individuals and funds in respect of the organization's objectives. Additionally, Talib allegedly provided critical financial and technological support to Al-Qa'ida's operations in Brazil, Colombia, Sri Lanka, Tanzania, Turkey, and the Gulf.

On October 22, 2020, OFAC designated **Nabil Qaouk** and **Hassan Al-Baghdadi** for their alleged leadership roles in Hizballah. According to OFAC, Qaouk served on Hizballah's Executive Council and its Central Council and delivered speeches on behalf of the organization to commemorate deceased Hizballah members. Baghdadi allegedly also participated in political events and delivered speeches on behalf of Hizballah, defending the organization's targeting of American citizens.

On the same day, OFAC also designed the Iranian Ambassador to Iraq, **Iraj Masjedi** for overseeing a program to train and support Iraqi militia groups, which the agency alleges are responsible for attacks on U.S. and coalition forces in Iraq. Masjedi allegedly facilitated financial transfers on behalf of Iran's Islamic Revolutionary

Guard Corps-Qods Force (IRGC) and obtained tens of billions of dinars on behalf of IRGC in Iraq. Likewise on October 22, 2020, OFAC designated three Iranian entities for attempting to influence U.S. elections, naming **Bayan Rasaneh Gostar Institute, International Union of Virtual Media, and Islamic Radio and Television Union** for their alleged role in the Iranian disinformation effort during the presidential election cycle.

On October 26, 2020, pursuant to E.O. 13224, OFAC designated eleven entities and eight individuals as a part of its global crackdown on the illicit sale of Iranian oil and petroleum products, including sales to fund the Maduro regime in Venezuela and the Assad regime in Syria. OFAC designated **Atlantic Ship Management Company, Atlas Ship Management, Imam Khomeini Shazand Oil Refining Company, Iranian Oil Pipelines and Telecommunication Co., Mobin Holding Limited, Mobin International Limited, National Iranian Oil Engineering and Construction Company, National Iranian Oil Products Distribution Company, National Iranian Oil Refining and Distribution Company and Oman Fuel Trading Ltd** in connection with these efforts, as well as the Iranian government's **Ministry of Petroleum**. The designation efforts extend also to the following individuals, designated for their role in the transport and sale of oil products in contravention of U.S. sanctions: **Masoud Karbasian, Mahmoud Madanipour, Behzad Mohammadi, Ali Akbar Purebrahim, Alireza Sadiqabadi, Nasrollah Sardashti, Bijan Zanganeh and Viyan Zanganeh**. Relatedly, OFAC also designed the vessels **Longbox Lake and Wu Xian** as property of the National Iranian Oil Company.

On November 17, 2020, OFAC designated two senior leaders of al-Shabaab, **Abdullahi Osman Mohamed and Maalim Ayman** for their alleged involvement in the Somalia-based group's terrorist activities. OFAC alleges that Osman Mohamed served as an explosives expert and is responsible for al-Shabaab's explosives operations. Maalim Ayman allegedly leads Jaysh Ayman, an al-Shabaab unit responsible for terrorist attacks in Kenya and Somalia, including an attack that killed several Americans in Kenya in January 2020.

On December 8, 2020, OFAC acted pursuant to E.O. 13224 to curtail the activities of **Al-Mustafa International University** as a recruiting ground for the IRGC. The university allegedly develops exchanges with foreign universities to indoctrinate and recruit foreign sources and collect intelligence. Recruits of the university have allegedly been sent to Syria to fight on behalf of IRGC-led militias. Relatedly, OFAC also designated Pakistani national **Yousef Ali Muraj** for his involvement in IRGC's efforts to coordinate operations in the Middle East and the U.S. and **Hasan Irlu**, an official in the Revolutionary Guard and Iranian envoy to the Houthi rebels in Yemen, for his alleged role in providing weapons and training to the Houthis on behalf of IRGC.

On December 11, 2020, OFAC designated **Ashraf al-Qizani** for his alleged role as the emir of Jund al-Khilafah, an ISIS affiliate in Tunisia. According to OFAC, Jund al-Khilafah, an organization that pledged its allegiance to ISIS in 2014, carried out a number of attacks in Tunisia under the leadership of al-Qizani.

As part of a busy final few weeks for the outgoing Administration, on January 12, 2021, pursuant to E.O. 13224, OFAC designated **Muhammad Abbatay, Isma'il Fu'ad Rasul Ahmed, Sultan Yusuf Hasan al-'Arif, Fuad Ahmad Nuri Ali al-Shakhan, and Niamat Hama Rahim Hama Sharif** as specially designated global terrorists. According to OFAC, Abbatay and al-'Arif, both based in Iran, serve in al-Qa'ida's senior leadership. OFAC also alleges that Ahmed, al-Shakhan, and Sharif serve as leaders of the al-Qa'ida Kurdish Battalions, an al-Qa'ida-linked group situated on the border between Iran and Iraq.

On January 13, 2021, OFAC designated **Ahmad Marvi and Mohammad Mokhber** for their alleged leadership roles in organizations connected to the Iranian Supreme Leader Ali Khamenei. According to OFAC, Mokhber serves as head of the Execution of Imam Khomeini's Order (EIKO), which had previously been designated by OFAC and which operates in nearly every economic sector to bolster the financial interests of the Iranian government. Marvi allegedly leads the **Astan Quds Razavi (AQR)**, a charitable organization overseeing the operations of a shrine in Mashhad, Iran and designated for its vast economic interests in several sectors, including logistics, mining, energy, manufacturing, and financial services, on behalf of the Supreme Leader. OFAC designated other entities for their direct financial link to (1) EIKO: **Tadbir Drilling and Development Company, Abadan Power Generation Company, Iran Mobin Electronic Development Company and Barkat Ventures** and (2) AQR: **Razavi Economic Organization, Shahab Khodro Co., Iran Combine Manufacturing Co., Quds Razavi Housing and Construction Co., Quds Razavi Mines Co., Quds Razavi Traditional Tile Co., Razavi**



**Brokerage Firm, Razavi Oil and Gas Development Co., Razavi Supply Chain Management Co., Razavi Information and Communication Technology Co., and Mofidrahbar Audit Firm.**

On the same day, OFAC designated **Abd al-Aziz Malluh Mirjirash al-Muhammadawi** for his alleged role as the former secretary general of Kata'ib Hizballah, an Iran-backed terrorist organization operating in Iraq. The group allegedly orchestrated attacks on peaceful protesters and activists in Iraq and other terrorists related to the group abducted hundreds of men from areas liberated from ISIS control.

On the next day, January 14, 2021, pursuant to E.O. 13224, OFAC designated **Alaa Ali Ali Mohammed al-Samahi** and **Yahya al-Sayyid Ibrahim Musa** for their leadership roles in Harakat Sawa'd Misr, a Foreign Terrorist Organization active in Egypt. According to OFAC, Musa and al-Samahi are Turkey-based leaders of the group and participated in planning terrorist attacks on an embassy and hospital in Cairo.

# OFAC TARGETS HUMAN RIGHTS ABUSERS AND CORRUPT ACTORS



Last quarter, OFAC announced a number of sanctions pursuant to E.O. 13818, which builds upon and implements the Global Magnitsky Human Rights Accountability Act to sanction alleged human rights abusers:

- On November 6, OFAC announced the designation of **Gibran Bassil**, the President of the Free Patriotic Movement political party and Member of Parliament in Lebanon. OFAC alleges that Bassil has long been at the forefront of systemic corruption that pervades the Lebanese government. In particular, Bassil is alleged to have used his high-ranking positions in the Lebanese government to appoint personal allies to government positions and misuse public funds.
- On December 9, OFAC targeted a host of corrupt actors in Africa and Asia. For corrupt acts in Liberia, OFAC designated prominent lawyer and public official **Harry Varney Gboto-Nambi Sherman**, who allegedly offered bribes to judges associated with his trial for a 2010 bribery scheme. OFAC further alleges that Sherman had an undisclosed conflict of interest with the judge who ultimately returned a not guilty verdict in connection with a July 2019 trial alleging bribery. For his participation in a customs scheme that laundered at least \$700 million from the Kyrgyz Republic, OFAC designated **Raimbek Matraimov**. According to OFAC, Matraimov worked on behalf of a company to clear through customs expensive products as low value goods and would distribute bribes to ensure that cash and goods would pass through the borders of the Kyrgyz Republic. Lastly, OFAC designated **Wan Kuok Koi**, also known as “**Broken Tooth**,” as well as three entities under his control. Broken Tooth is a leader of the Chinese criminal organization called 14K Triad. According to OFAC, 14K Triad engages in, among other criminal activities, drug trafficking, illegal gambling, racketeering, and human trafficking.
- On December 10, OFAC designated alleged human right abusers in Haiti, Yemen, and Russia. Among those designated were **Jimmy Cherizier**, **Fednel Monchery**, and **Joseph Pierre Richard Duplan**, all of whom are alleged to be involved in the planning and carrying out of the 2018 La Saline attack in Haiti, during which at least 71 people were killed and over 400 houses were destroyed. In Yemen, OFAC designated numerous officials of three security and intelligence agencies, the National Security Bureau,

the Political Security Organization, and the Criminal Investigation Department for engaging in human rights abuses, including arbitrary detention and torture. Finally, in Russia, OFAC targeted **Ramzan Kadyrov**, the Head of the Chechen Republic and an organization called the Kadyrovtsy. According to OFAC, the Kadyrovtsy were involved in the murder of Putin-opposed politician named Boris Nemtsov.

- Finally, on January 15, 2021, OFAC sanctioned Cuba's **Ministry of Interior** and **General Lazaro Alberto Álvarez Casas**, the Minister of Interior, for alleged serious human rights abuses in Cuba. Specialized units within the Ministry of Interior are responsible for monitoring political activity and target dissident individuals for arrest by Cuba's police. As just one example, the State Department highlighted the arrest and physical abuse of dissident Joe Daniel Ferrer, who was allegedly held in isolation and beaten, and offered no medical attention.

U.S. officials also targeted specific actors for alleged human rights abuses in Iran. On November 18, OFAC designated Iran's Minister of Intelligence and Security **Mahmoud Alavi**, pursuant to E.O. 13553 for his alleged role in human rights abuses against Iranian citizens who engaged in protests. In a related action, the U.S. State Department sanctioned IRGC military officials under Section 7031(c) Department of State, Foreign Operations, and Related Programs Appropriations Act of 2020 for their involvement in gross violations of human rights. The State Department alleges that Brigadier General **Heidar Abbaszadeh** and IRGC Colonel **Reza Papi** were involved in the killing of nearly 150 individuals in the city of Mahshahr during anti-regime protests in November 2019.

On December 14, the State Department imposed sanctions on two Iranian intelligence officers allegedly involved in the March 2007 abduction of Robert ("Bob") Levinson. Specifically, **Mohammad Baseri** and **Ahmad Khazai** were designated for acting in their capacity as officers of designated entity Ministry of Intelligence and Security. OFAC alleges that these officers were involved in the abduction, detention, and probable death of Mr. Levinson. Both were designated pursuant to E.O. 13553 for acting for or on behalf of MOIS.

On January 15, 2021, the Trump Administration eased sanctions against Dan Gertler, the Israeli billionaire sanctioned in 2017 for alleged corruption in the Democratic Republic of the Congo. Although Mr. Gertler was not removed from OFAC's SDN list, OFAC issued a license which authorized, through January 2022, U.S. institutions to lift asset freezes and conduct transactions on behalf of Mr. Gertler and the companies he owns. Mr. Gertler was twice sanctioned by OFAC for leveraging his friendship with former-DRC president Joseph Kabila to secure hugely lucrative mining contracts. Acting as a "middleman for mining asset sales" in the DRC, OFAC at the time alleged that Gertler realized over a billion dollars in revenues from the underpricing of mining assets that were sold to companies linked to Gertler.



# OFAC TARGETS NARCOTICS TRAFFICKERS & CRIMINAL ORGANIZATIONS



Pursuant to the Kingpin Act, on December 1, 2020, OFAC designated four Colombian individuals, **Jhon Fredy Zapata Garzon**, **Tatiana Marguerid Zapata Garzon**, **Euclides Correa Salas**, and **Einer Murillo Palacios**, for their alleged involvement in a cocaine trafficking organization known as the Clan del Golfo (also known as Los Urabeños). Los Urabeños was designated as a narcotics trafficker in 2013 and has since evolved into the largest armed criminal organization in Colombia with operations in Colombia, Panama, and other Central American countries. In connection with these individual designations, OFAC also designated four companies, **Las Ingenierias S.A.S.**, **Fresno Home S.A.S.**, **Distriecor S.A.S.**, and **Multioperaciones de Occidente S.A.S.**, as owned or controlled by the four associates listed above. The companies are allegedly used to facilitate movement of cocaine and illicit drugs and to launder the proceeds of the drug trafficking operation.

On December 2, 2020, OFAC designated Mexican national **Lucia Rodriguez Serrano** for his work on behalf of Rafael Caro Quintero, a Mexican narcotics trafficker allegedly responsible for the death of DEA agent Enrique Camarena in 1985. According to OFAC, Rodriguez Serrano has helped Caro Quintero, who remains on the FBI's list of Ten Most Wanted Fugitives, evade capture by U.S. authorities

# ENFORCEMENT ACTIONS



On October 20, **Berkshire Hathaway, Inc.**, the Nebraska-based holding company, and its foreign subsidiary in Turkey, **Iscar Kesici Takim Ticareti ve Imalatı Limited Sirket** (“Iscar Turkey”), agreed to pay \$4,144,651 to settle potential civil liability arising from 144 apparent violations of Iran sanctions. Between December 2012 and January 2016, Iscar Turkey allegedly exported 144 shipments of cutting tools and related inserts to two third-party distributors knowing that the shipments were destined for end-users in Iran. Iscar Turkey also purchased goods produced by other Berkshire subsidiaries to fulfill orders destined for Iranian end-users. According to OFAC, at the time of the apparent violations, managers at Iscar Turkey believed that U.S. and EU sanctions on Iran would be lifted. In an effort to position Iscar Turkey for that possibility, the managers established a small commercial relationship with an Iranian distributor and used techniques designed to conceal its plans with the Iranian distributor. These techniques included using private email addresses and false names to bypass corporate controls, as well as providing false assurances to compliance inquiries. In setting the penalty amount, OFAC determined that Berkshire voluntarily disclosed the conduct and that the apparent violations constituted an egregious case.

On December 28, Saudi Arabia-headquartered **National Commercial Bank** agreed to settle its potential civil liability for thirteen apparent violations of the Sudanese Sanctions Regulations and the Syrian Sanctions Regulations. Between November 2011 and August 2014, OFAC alleges that NCB processed thirteen U.S. dollar transactions to the benefit of Sudanese and Syrian counterparties. According to OFAC, none of those counterparties was an actual customer of NCB. In determining the \$653,347 penalty, OFAC noted that NCB has undertaken efforts to modernize its compliance controls, and that the transactions constituted a non-egregious case.

On December 30, OFAC announced a settlement agreement with U.S.-based **BitGo, Inc.**, a technology company that specializes in security and management services for digital currencies. For 183 apparent violations of multiple sanctions programs, BitGo agreed to pay \$98,830 to settle its potential civil liability. According to OFAC, between March 2015 and December 2019, BitGo processed transactions on behalf of numerous persons in sanctioned jurisdictions, including the Crimea region of Ukraine, Cuba, Iran, Sudan, or Syria that were using BitGo’s non-custodial secure digital wallet management service. OFAC stated that BitGo had reasons to believe that its users were located in sanctioned jurisdictions but that its sanctions compliance program did not have controls designed to prevent such user from accessing its “hot wallet” and digital currency trading platform. Specifically, while BitGo had in place a mechanism to track IP addresses to see where their customers logged into their accounts, BitGo did not use this mechanism as a sanctions screening tool. As a result, users in prohibited countries were able to access and trade digital currencies despite BitGo having the knowledge sufficient to prevent such access.

On January 14, 2021, Indonesian paper manufacturer **PT Bukit Muria Jaya** agreed to settle its potential civil liability for twenty-eight apparent violations of the North Korea Sanctions Regulations between March 2016 and May 2018. According to the settlement agreement, BMJ exported cigarette papers to entities in the Democratic Republic of North Korea and to an entity in China for the benefit of a person blocked by U.S. sanctions. Payments for these sales were then directed by BMJ to an account held at a non-U.S. financial institution. Because the non-U.S. account was maintained in U.S. dollars, however, BMJ caused U.S. banks to clear wire transfers related to the paper exports. In determining the \$1,016,000 penalty, OFAC noted that BMJ voluntarily disclosed the apparent violations and that they constituted a non-egregious case.

## **French Bank Fined for Internal USD Transfers on Behalf of Syrian Client**

OFAC entered into a settlement with **Union de Banques Arabes et Françaises** on January 4, 2021 for apparent violations of the U.S. government's Syrian sanctions program related to financial services provided to a sanctioned entity in Syria. For several of the transactions in question, the bank conducted an internal foreign exchange transfer with the sanctioned entity on its own books, in which it debited the entity's account in one currency and credited the same account in another currency. To balance its foreign currency reserves, UBAF then completed U.S.-cleared foreign exchanges with a non-sanctioned third party. Importantly, although those U.S.-cleared transactions (which correlate to OFAC's jurisdictional hook) were not consummated with a sanctioned entity, OFAC nonetheless viewed the transactions as being made on behalf of the sanctioned Syrian client and thus prohibited. Of note, the bank also processed U.S. dollar transfers between a non-sanctioned client and a sanctioned client, and then processed transfers on behalf of the non-sanctioned client through the U.S. banking system—a step removed but still in apparent violation of OFAC sanctions.

Given the number (and value) of transactions, the statutory maximum penalty for the conduct amounted to over four billion dollars. Significantly, as UBAF had a compliance program in place at the time of the apparent violations and as it voluntarily self-disclosed the conduct to OFAC, the agency assessed only \$8,527,500 in civil penalties to resolve the conduct—roughly half of the base penalty amount of \$15,870,000.

This settlement again highlights that even an attenuated connection is sufficient for OFAC enforcement and the carefulness with which financial institutions must operate when conducting U.S. dollar transactions. In this case, USD transactions to balance the foreign exchange obligations of the bank in respect of its prior internal transfers on behalf of a sanctioned entity qualified as apparent violations of U.S. sanctions. Similarly, U.S.-cleared transactions on behalf of a non-sanctioned client may also be subject to sanction if those transactions closely correlate to (and follow) internal transfers with sanctioned entities.



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**AUSTIN**  
**BEIJING**  
**BRUSSELS**  
**DALLAS**  
**DUBAI**  
**FRANKFURT**  
**HONG KONG**  
**HOUSTON**  
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