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Sanctions Round-Up: Third Quarter 2013

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Following a flurry of activity at the end of the last quarter, U.S. authorities were almost silent on the sanctions front in the third quarter of 2013. In fact, perhaps the most notable actions by OFAC consisted of an easing of Iranian sanctions to allow for humanitarian and goodwill activities and to expand the list of items that may be exported to Iran without a specific license. Still, OFAC continued to announce enforcement actions in relation to a wide range of violations, demonstrating that the Treasury Department will pursue infractions of any size or value, whether or not they were committed with intent. The U.S. also extended its ban on the import of jade or rubies from Burma (Myanmar) and continued to designate individuals and entities on terrorism-related grounds. In the European Union, sanctions against Syria and North Korea were extended against the backdrop of the E.U.'s General Court's continued annulment of sanctions against Iranian entities.

Iranian Sanctions Eased to Allow Additional Humanitarian Exports and Activities

On July 25, OFAC took a number of steps to address ongoing concerns about the limiting effect of Iranian sanctions on the export of medical supplies, agricultural products, and humanitarian aid to Iran. General License 31 CFR 560.530(a)(3), issued in October 2012 to authorize the exportation or re-exportation of medicine and basic medical supplies to Iran, was amended to expand the list of items that may be exported without prior approval. OFAC encouraged exporters to continue to apply for specific licenses for items that do not appear on the expanded list and published a set of frequently asked questions addressing the scope and limitations of the license as amended. Additionally, OFAC issued new "Guidance on

Sales of Food, Agricultural Commodities, Medicine, and Medical Devices to Iran," which details the broad authorizations and various exceptions applicable to the sale of food, agricultural commodities, medicine, and medical devices by non-U.S. persons to Iran. The guidance emphasizes that foreign financial institutions may process transactions for humanitarian goods without violating U.S. sanctions targeting Iran, so long as the transactions do not involve prohibited conduct or certain SDNs, such as Iran's Islamic Revolutionary Guard Corps or designated Iranian banks.

On September 10, OFAC eased restraints on humanitarian and goodwill activities, including athletic exchanges, between Iran and the United States. General License E authorizes the export of services and funds transfers by nongovernmental organizations in support of certain not-for-profit humanitarian activities designed to benefit the people of Iran, including activities to meet basic human needs; disaster response projects; environmental conservation projects; and human rights and democracy building efforts. Transfers of funds in support of these activities may not exceed $500,000 by a single organization in a 12-month period, and organizations operating under the license must submit quarterly report on their activities. Additionally, General License F licenses the import and export of certain services in support of professional and amateur sports activities and exchanges involving the United States and Iran. Persons meeting the criteria under these two General Licenses may engage in such activities without specific OFAC approval. Notably, the General Licenses do not authorize the provision of services to Specially Designated Nationals or in connection with the Iranian military, industrial infrastructure, ports, or energy, auto, shipping, and shipbuilding sectors.

New Iranian Sanctions Designations Announced

In its first Iran-related designation action since June 4, OFAC designated six individuals and four businesses as Specially Designated Nationals (SDNs) on September 6 pursuant to E.O. 13599, which targets the Government of Iran and Iranian financial institutions. (See below for a discussion of designations under other sanctions programs.) Iranian businessman Seyed Seyyedi and a network of U.A.E. companies under his control are alleged to have acted on behalf of various Iranian entities, including the National Iranian Oil Co. ("NIOC") and Naftiran Intertrade Co. ("NICO"). Additionally, two directors at NIOC International Affairs Ltd. were designated for allegedly running a scheme with two directors of Iranian Oil Co. Ltd. to deceptively import Iranian oil into the European Union. The other sanctioned persons include representatives of NIOC and NICO based in the U.K. and Switzerland.

Significant Reduction Waivers Extended

On September 6, the U.S. State Department extended the "significant reduction" waivers previously extended to 10 European Union countries and Japan due to their decreasing oil imports from Iran; this is the fourth time the waivers have been extended. As a result of these waivers, foreign financial institutions in those countries will not face secondary sanctions for their dealings with Iranian financial institutions in relation to Iranian oil imports for the next six months, so long as they follow required procedures. However, of the 11 countries, Japan is the only country still importing oil from Iran. The State Department will decide in December whether to extend the waivers previously granted to China, India, South Korea, and six other countries that continue to consume Iranian oil.

Global Insurance Industry Put On Notice by New York Regulator

Early this quarter, New York's Department of Financial Services (NY-DFS) made clear to both U.S. and non-U.S. insurance companies that it will probe into any activities they may engage in related to Iran, writing to them to highlight the enhanced Iranian sanctions that went into effect on July 1, 2013. Following reports that it had uncovered evidence that at least three non-U.S. firms insured shipments to Iran, the NY-DFS wrote to request 20 leading non-U.S. insurers to provide information regarding any Iran-related lines of business and to explain the procedures they have in place to ensure compliance.

Sanctions-Related Enforcement Actions

OFAC announced a number of settlements and enforcement actions this quarter, ranging from a mere Finding of Violation to a $750,000 fine. While the majority of these actions continued to be related to violations of U.S. sanctions targeting Iran, the U.S. continues to actively enforce its other sanctions programs.

On August 19, OFAC announced a Finding of Violation against VISA International Services Association (VISA) for violations of OFAC's reporting procedures and regulations. OFAC determined that VISA had on two occasions blocked accounts in which Bank Melli, an Iranian financial institution, had an interest but then failed, as the result of an inadvertent oversight, to file blocking reports within the 10-day mandatory time frame. VISA also failed to file an annual report with respect to those two blocked accounts. Further, VISA failed to file a blocking report after blocking an account in which a bank owned by the Government of Syria held an interest because it was attempting to determine the appropriate fees to deduct from the account before filing the report. While OFAC noted that VISA is a large financial institution that had clearly violated the regulations, OFAC also found that no economic benefit had been given to Bank Melli and that a Finding of Violation was sufficient to deter future violations.

On September 5, OFAC announced that Deutsche Bank Trust Company Americas had agreed to pay $18,900 for apparent violations of E.O. 13382, which targets the proliferation of weapons of mass destruction. The violations reportedly stem from the company's failure in 2008 and 2009 to block two funds transfers destined for Iranian SDNs. The next day, OFAC announced that Communications and Power Industries LLC, a California-based company, had agreed to pay $346,530 for apparent violations of Iranian sanctions between 2006 and 2010 when the Swiss branch office of one of the company's U.S. subsidiaries engaged in multiple transactions for the sale and transport of x-ray generators and a medical digital imagining workstation to an Iranian entity. Notably, OFAC found that the company's failure to promptly determine the applicability of U.S. sanctions laws to its subsidiary's Swiss branch reflected a reckless disregard for those laws and indicated the absence of an adequate OFAC compliance program. OFAC also pointed out that the exports at issue likely would have been licensed by OFAC under its existing policies.

A few days later, on September 9, World Fuel Services Corporation of Miami, Florida, agreed to pay $39,501 for alleged violations of U.S. sanctions targeting Iran, Sudan, and Cuba. World Fuel admitted to facilitating the sale of fuel by one of its non-U.S. affiliates for a vessel at port in Iran in 2008. Various U.S. subsidiaries of World Fuel also facilitated the provision of services and fuel purchases for an aircraft landing in Sudan and provided coordination services for 30 unlicensed flights to Cuba between 2007 and 2009.

On September 26, OFAC announced that a Turkey-based trading company had been assessed a penalty of $750,000 for violating U.S. sanctions against Iran by originating, between Feb. 2012 and May 2012, at least three electronic funds transfers totaling $257,808 that were processed through financial institutions located in the United States for the benefit of the Government of Iran or persons in Iran. OFAC determined that the company had violated the prohibition against the exportation of services from the United States to Iran even though two of the transactions were properly blocked by the U.S. financial institution.

In late August, an Iranian company and two subsidiaries agreed to plead guilty in federal court on criminal charges related to the exportation to Iran of more than $30 million of U.S. electronics in circumvention of the U.S. embargo against Iran. Iran-based Business Machinery World Wide (BMWW) and two of its United Arab Emirates-based subsidiaries — Ariana General Trading LLC and Servex DWC LLC — are to pay a total of $150,000, and each company will be subject to five years of probation. BMWW and its subsidiaries will also have to pay approximately $605,000 to satisfy the remainder of a $1 million forfeiture judgment.

Two individuals from Chicago were charged in mid-August with violations of U.S. sanctions targeting Zimbabwe for lobbying on behalf of Zimbabwean President Robert Mugabe without an OFAC license. The two men allegedly arranged for at least five trips to Zimbabwe by U.S. lawmakers at both the federal and state level, during which they met with Mugabe and others. While U.S. sanctions do not prohibit U.S. officials from traveling to Zimbabwe or meeting with SDNs, they prohibit U.S. persons from providing lobbying, public relations, and media consulting services to SDNs. The individuals now face up to 20 years in jail and a $1 million fine.

Ban on Certain Imports from Burma (Myanmar) Extended

On August 7, President Obama issued E.O. 13651, “Prohibiting Certain Imports of Burmese Jadeite and Rubies,” which maintains the U.S. ban on the importation of rubies or jade (or jewelry that contains them) from Burma. In issuing the order, the Obama administration emphasized that despite the recent easing of U.S. sanctions targeting the country, it will continue to impose restrictions on specific activities and actors believed to contribute to human rights abuses or to be involved in undermining Burma’s democratic reform process.

Cuban Vessels Removed from SDN List

On July 30, OFAC announced the unblocking and removal of 26 vessels whose property and interests had been blocked pursuant to the Cuban Assets Control Regulations. OFAC did not provide any explanation for the removal of these vessels from the SDN List.

Continued Terrorism-Related Designations

The United States continued to target terrorist-related actors around the globe this quarter. For instance, in early July, the Department of State designated Abd Al-Ra’Ouf Abu Zaid Mohamed Hamza, who participated in an armed attack in Khartoum in January 2008 that resulted in the deaths of a U.S. diplomat and U.S. embassy staff member. Then, on August 20, OFAC designated a senior al Qaeda official along with a madrassa in Peshawar alleged to be a training center for al Qaeda, Lashkar-e Tayyiba, and the Taliban. The action marked the first ever designation of a madrassa, with OFAC pointing to it as an example of how terrorist groups can subvert what appear to be legitimate, charitable institutions. However, OFAC emphasized that the designation does not target madrassas in general, noting the important role that they play in many communities. Two days later, OFAC designated four members of Hezbollah’s leadership responsible for operations throughout the Middle East, emphasizing the involvement of the group in terrorism-related activities beyond the borders of Lebanon. This includes involvement in supporting the Assad regime in Syria, funding various factions within Yemen, and assisting military leaders responsible for terrorist operations across the region. Finally, on September 18, OFAC designated two individuals based in Indonesia for their links to the groups Jemaah Islamiya and Jemmah Anshorut Tauhid.

Each of these designations was made pursuant to E.O. 13224, which targets terrorists and those providing support to terrorists or acts of terrorism. As a result, all property subject to U.S. jurisdiction in which designated persons have any interest is blocked, any assets they may have under U.S. jurisdiction are frozen, and U.S. persons are generally prohibited from engaging in transactions with them.

EU Renews and Extends Sanctions Against Syria and North Korea

In late July, the European Council renewed and extended its restrictive measures against Syria and North Korea. The new Syrian Regulation, No. 697/2013, expands the list of items requiring authorization prior to sale, supply, transfer, or export. The regulation also prohibits opening bank accounts with Syrian credit or financial institutions, or representative offices, branches, or subsidiaries in Syria without approval from a national competent authority. The new North Korean Regulation, No. 696/2013, gives effect to measures required by U.N. Security Council Resolution 2094, issued in early 2013. Amongst other provisions, the regulation prohibits E.U. credit and financial institutions from opening new bank accounts with credit or financial institutions domiciled in North Korea.

Further Annulment of E.U. Sanctions

The European Union's General Court continued to strike down E.U. sanctions designations targeting Iranian-linked entities this quarter, including the E.U.'s asset freeze on seven companies in the oil and financial services sectors allegedly linked to Iran's nuclear program, the Islamic Republic of Iran Shipping Lines and related firms, and Tose-e Saderat Bank, an Iranian financial institution. The General Court has repeatedly found that the sanctions against these entities were imposed without a proper legal basis due to the failure of E.U. members to present any strong evidence against them. However, the General Court did uphold E.U. sanctions targeting Bank Melli, Iran's largest commercial bank, along with some sanctions against a Germany-based bank that acted as a payment conduit for sanctioned Iranian banks. Further, a different chamber of the E.U. General Court upheld sanctions targeting two Syrian nationals, noting the broad discretion of the E.U. Council in imposing such sanctions.

The E.U. has two months to appeal the unfavorable rulings, and the sanctions will remain in effect until the E.U.'s highest court makes a final decision, which could take up to a year. In the meantime, E.U. member nations are reportedly in the process of developing a means to allow sanctions to withstand such court challenges.

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