

New US Sanctions Measures to Prevent Evasion of Iran and Syria Embargoes

In response to evasion by non-US persons of US sanctions against Iran and Syria, President Obama issued an Executive Order today "Prohibiting Certain Transactions with and Suspending Entry into the United States of Foreign Sanctions Evaders with Respect to Iran and Syria" (the "**FSE EO**"). The FSE EO gives the US Secretary of the Treasury authority to designate non-US individuals and entities that have violated, attempted to violate, conspired to violate, or caused a violation of US sanctions against Iran or Syria, or that have facilitated deceptive transactions for persons subject to US sanctions concerning Syria or Iran.

At present, the US Department of Treasury's Office of Foreign Assets Control ("**OFAC**") maintains comprehensive US trade and commercial embargoes against Iran and Syria. These embargoes generally prohibit the supply of US-origin goods to Iran or Syria or the processing of payments or other transactions by US financial institutions or other US persons related to Iran or Syria. Although the full extent of the FSE EO remains unclear, guidance published today by OFAC suggests that OFAC will use its new sanctions authority under the FSE EO to deter non-US persons from seeking to involve US persons or US-origin goods on a surreptitious basis in Iranian and Syrian transactions. Examples of such evasion can include removing references to Iran from a SWIFT payment message, providing misleading information to a US bank about an Iran or Syria-related transaction or obtaining goods and services from US suppliers under false pretenses in order to divert them to Iran or Syria.

Although such evasion is already subject to administrative and criminal enforcement action in the United States, establishing US jurisdiction over the non-US persons responsible for such evasion may be difficult or impossible. In order to overcome these jurisdictional limitations, the FSE EO provides an alternative form of remedy, through a sanctions designation of any non-US person that OFAC believes to have used deceptive means to engage in

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OFAC-prohibited activities involving the US financial system or US-origin goods.

Designation of a non-US person under the FSE EO would prohibit US persons from any commercial dealings or engagement with that person, globally. Although OFAC would not block the property of such persons, the designation would be intended to deprive them of access to the US financial system or US-origin goods. Armed with this powerful new instrument, OFAC will have greater leverage to "persuade" non-US persons to cooperate with requests for information and other investigation activity by OFAC intended at uncovering potential violations of US sanctions against Iran and Syria.

For reference, below is a link to today's press release from the Department of Treasury, the FSE EO itself, and the frequently asked questions (FAQs) section of the OFAC website which provides further guidance and information.

<http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20120501.aspx>

This publication does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.

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