

The US Responds to Iran's Missile Test with New Sanctions

On 3 February 2017, the US Office of Foreign Assets Control (OFAC) listed 25 individuals and entities from various countries as Specially Designated Nationals (SDNs) in response to Iran's ballistic missile test on 29 January. The action raises the question of whether Congress will pass new sanctions against non-US companies engaged in dealings with Iran.

Overview

The designations had the effect of blocking the assets of 13 individuals from Iran, Lebanon, Kuwait, the UAE, and China; 12 companies from China, Iran, Lebanon, and the UAE; and any companies owned 50% or more by them.

National Security Advisor Michael T. Flynn also publicly warned of possible additional future sanctions in response to Iran's "bad behaviour." The designations follow the statement by Flynn on 1 February that Iran was "on notice" in regard to ballistic missile testing and its support for Houthi rebels in Yemen.

Iran Nuclear Deal

The Trump Administration does not believe the new designations violate US obligations under the Joint Comprehensive Plan of Action (JCPOA), often referred to as the Iran nuclear deal, agreed between Iran, China, France, Russia, the United Kingdom, the United States, the European Union, and Germany on 14 July 2015.

Rather, the designations respond to

Iranian activity (ballistic missile tests) outside the scope of the JCPOA. Based on recent statements by Trump Administration officials, the United States does not appear at present to seek the termination of the JCPOA, but rather to increase pressure on Iran to cease its "hostile and belligerent actions" unrelated to nuclear proliferation.

In fact, last Friday's designations mimic similar designations by the Obama Administration on 17 January 2016, one day after the JCPOA's Implementation Day, in response to Iran conducting a ballistic missile test. At that time, OFAC designated seven individuals and three entities as SDNs due to their involvement with procurement for Iran's ballistic missile program.

The JCPOA does not preclude OFAC from using its designation authority under existing legislation and Executive Orders to block any person globally involved in Iran's development of ballistic missiles and/or other activity involving Iran's Islamic Revolutionary Guard Corps.

Looking forward

The larger question is whether the aggressive statements made by the Trump Administration will increase the

Key issues

- OFAC added a total of 25 individuals and entities from the Middle East and China to the SDN List following Iran's recent missile test.
- The designations are unrelated to Iran's nuclear weapons program, and the Trump administration does not believe the action violates the Iran nuclear deal, known as the JCPOA.
- Looking forward, the action raises the question of whether Congress or the White House will seek new sanctions against non-US companies engaged in certain Iranian dealings outside the JCPOA.

likelihood of passage by Congress of new sanctions that would threaten the designation of non-US companies engaged in entirely non-US commercial activity with Iran that the JCPOA seeks to promote and which European and other non-US governments fully support. The unilateral use of OFAC's designation weapon to deter such JCPOA-

consistent non-US business would threaten the JCPOA.

The Trump Administration's recent statements that the United States will not unilaterally violate the JCPOA, while continuing to be very critical of the deal's terms, confirm that the new President will scrutinise Iran's compliance with its obligations under the JCPOA and aggressively challenge any apparent non-compliance.

In the meantime, we expect that the Trump Administration will endeavour to walk a fine line between increasing pressure on Iran without designating prominent non-US companies for engaging in non-US Iranian business that has no connection to nuclear proliferation or ballistic missile technology.

Contacts



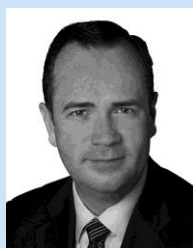
David DiBari
Partner

T: +1 202 912 5098
E: David.Dibari
@CliffordChance.com



George Kleinfeld
Partner

T: +1 202 912 5126
E: George.Kleinfeld
@CliffordChance.com



Edward O'Callaghan
Partner

T: +1 212 878 3439
E: Edward.OCallaghan
@CliffordChance.com



Wendy Wysong
Partner

T: +852 2826 3460
(Hong Kong)
+1 202 290 7634
(Washington)
E: Wendy.Wysong
@CliffordChance.com



Ali Burney
Senior Associate

T: +65 6410 2200
E: Ali.Burney
@CliffordChance.com



Ekaterina Hazard
Associate

T: +1 202 912 5027
E: Ekaterina.Hazard
@CliffordChance.com



Jacqueline Landells
Attorney – Regulatory
Specialist

T: +1 202 912 5061
E: Jacqueline.Landells
@CliffordChance.com



Philip Lockwood
Associate

T: +1 202 912 5417
E: Philip.Lockwood
@CliffordChance.com



Nicholas Turner
Registered Foreign Lawyer

T: +852 2825 8854
E: Nicholas.Turner
@CliffordChance.com

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www.cliffordchance.com

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