

## THE US IMPOSES SANCTIONS IN RESPONSE TO TURKEY'S INCURSION INTO SYRIA

The US has issued an Executive Order ("EO") authorizing the imposition of sanctions in response to the Turkish offensive in northern Syria. While so far the US has only designated two Turkish ministries and three ministers as sanctions targets, the EO could be used to target the Government of Turkey more broadly and to target persons transacting in certain sectors of the Turkish economy.

On October 14, 2019, the US issued an EO "Blocking Property and Suspending Entry of Certain Persons Contributing to the Situation in Syria" that authorizes the imposition of blocking sanctions and secondary sanctions designations in response to Turkey's incursion in northern Syria following the withdrawal of US troops in the region. The sanctions come as no surprise after the Trump administration faced mounting pressure from the US Congress following President Trump's decision to withdraw US troops from northern Syria. Several members of Congress announced intentions to introduce legislation enacting sanctions against Turkey and on October 11, 2019, the US Treasury Department announced that President Trump would sign an EO granting the Treasury Department greater sanctions authority relating to Turkey.

### Designation of Certain Turkish Government Ministers and Ministries

Section 1 of the EO authorizes the Treasury Department, acting through the Office of Foreign Assets Control ("OFAC"), to impose blocking sanctions on certain individuals and entities. To date OFAC has designated Turkey's Ministry of National Defence, the Ministry of Energy and Natural Resources, and three associated ministers as Specially Designated Nationals ("SDNs") under authority of the EO.

These SDN designations require US persons to block the property and interests in property of the SDNs and under OFAC's so-called "50 Percent Rule", any entities owned 50% or more, directly or indirectly by such SDNs. In addition, the blocking sanctions prohibit the involvement of US persons and the US financial

system in transactions directly or indirectly with such blocked person unless authorized by an OFAC license.

The EO also provides authority to impose blocking sanctions on additional Turkish government officials and agencies.

Regarding these designations, US Treasury Secretary Steven Mnuchin released a statement that "the United States is holding the Turkish Government accountable for escalating violence by Turkish forces, endangering innocent civilians, and destabilizing the region."

### **Additional Secondary Sanctions Designation Risk**

The EO authorizes the Treasury Department (acting through OFAC) and the State Department to designate non-US persons to the extent they engage in certain types of sanctionable activity. The Trump Administration can use, or not use, these authorities as it sees fit to deter sanctionable activity. Section 1 of the EO authorizes OFAC to designate as an SDN any person that the US government determines: "[...] to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of any person whose property and interests in property are blocked pursuant to this order."

In addition, Section 2 of the EO authorizes the State Department to impose sanctions on persons that the State Department determines to be "responsible for or complicit in" or to have "directly or indirectly engaged in, or attempted to engage in, or financed" a range of activities including obstructing a peaceful solution to the conflict in Syria, forcible repatriation of refugees in Syria, preventing displaced persons from voluntarily returning to Syria, and expropriation of property for personal gain or political purposes in Syria. The sanctions that the State Department and OFAC have authority to impose in response to these sanctionable activities range in severity, but could include blocking sanctions.

Further, Section 3 of the EO authorizes OFAC to impose sanctions on any foreign financial institution that OFAC determines has "knowingly conducted or facilitated any significant financial transaction for or on behalf of any person whose property and interests in property are blocked pursuant to section 1 of this order." In response to such a significant transaction, OFAC may prohibit the opening, and prohibit or impose strict conditions on the maintaining in the US of, a correspondent account or a payable-through account by the foreign financial institution.

Whether the Trump Administration will use these authorities to impose sanctions on additional Turkish government authorities or on third parties remains to be seen and appears to depend heavily on the duration and nature of Turkey's current presence in Syria.

### **OFAC General Licenses**

Concurrent with its adoption of the EO, OFAC issued three General Licenses ("GLs") that provide limited exceptions to the sanctions as follows:

- GL 1: Authorizes certain transaction and activities otherwise prohibited under the EO for the conduct of official business of the US Government.

- GL 2: Authorizes certain transactions and activities related to winding down of operations or existing contracts involving the Ministries of National Defence or Energy and Natural Resources. In order to be covered by GL 2 a transaction with the Ministry of Energy or the Ministry of Defence must be ordinarily incident to a wind down of a pre-October 14, 2019 contract, agreement or operation. GL 2 is in effect until November 13, 2019.
- GL 3: Authorizes certain transactions and activities that are conducted for the official business of the World Bank, IMF and the United Nations, including UN Programmes, Funds, Specialized Agencies and Related Organizations.

### **Trump Administration, Congress Prepared to Impose Additional Sanctions**

The Treasury Department published that it is "prepared to impose additional sanctions on Government of Turkey officials and entities, as necessary." Further, the EO authorizes the Secretary of Treasury to impose blocking sanctions on persons operating in sectors of the Turkish economy to be determined by the Treasury and State Departments.

On the legislative side, several Congress members, including Senators Lindsay Graham and Chris Van Hollen, Representative Elizabeth Cheney, and House Foreign Affairs Committee Chairman Eliot Engle and Lead Republican Michael, have announced intentions to introduce legislation implementing legislative sanctions on Turkey.

### **Conclusion**

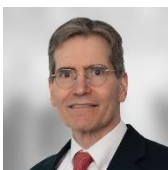
The present sanctions designations are a first step towards a potential expansion of sanctions in pursuit of US negotiating objectives with Turkey. The EO provides broad authority for additional designations and exposes both US and non-US persons to risk for engaging in transactions with blocked persons or that involve sanctionable activity. In addition, Congress could seek to pass legislation imposing stronger sanctions targeting the Turkish government.

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