



US Sanctions Summary
(updated September 2018)

The US Government maintains a variety of economic sanctions, ranging from comprehensive to more limited restrictions. Some sanctions programs are based on multilateral commitments (*e.g.*, pursuant to United Nations Security Council Resolutions), while many more are unilateral.

The sanctions are administered primarily by the US Department of the Treasury's Office of Foreign Assets Control ("OFAC"). The targets of these sanctions include specific territories/countries (such as Crimea, Cuba, Iran, North Korea and Syria), their governments, persons deemed to be problematic for US national security or foreign policy reasons (such as designated terrorists, narcotics traffickers, proliferators of weapons of mass destruction), and certain types of activities or industry sectors (such as issuing new debt or new equity to certain financial institutions in Russia, providing support to unconventional oil and gas activities in Russia, dealing in certain bonds and new financial instruments of the government of Venezuela and related companies, interfering in US elections, etc.)

OFAC's sanctions programs apply in parallel to US export and reexport controls that are promulgated and administered separately by the US Department of Commerce's Bureau of Industry and Security ("BIS") and the US Department of State. While there can be overlapping or shared jurisdiction among the agencies, they focus on different activities, and therefore their rules can have differing extraterritorial reach. Essentially:

- OFAC's jurisdiction under its sanctions extends to "US Persons" and to non-US persons that cause actions to occur in the United States or by US Persons, in furtherance of transactions and activities that are prohibited by US sanctions. Under some circumstances, OFAC's jurisdiction may also apply to exports of goods, software, or technology as well as property that is "blocked"/frozen under US sanctions.
- By contrast, jurisdiction under US export and reexport controls is limited to exports from the United States and transfers or reexports by any person, whether a US or non-US person, of goods, software or technology that are US-origin, non-US made with US content exceeding *de minimis* levels or, in some cases, direct products of certain US technology ("items subject to US jurisdiction").

This memorandum focuses on the OFAC sanctions and provides a high-level summary of the basic principles and prohibitions. While beyond the scope of this memorandum, many of the sanctions programs described here can trigger "blocking" laws of other countries (*e.g.*, the European Union, Canada, Mexico, likely Russia) designed to protect their companies from the extraterritorial impact of certain US sanctions.

This memorandum is not intended to provide in-depth analysis of the different sanctions programs or specific legal advice concerning any particular set of facts. Please contact any member of the Baker McKenzie Outbound Trade Compliance team for further assistance.

1. **TARGETS OF SANCTIONS:** OFAC's comprehensive sanctions target whole territories or countries ("Targeted Territories"), as well as governments ("Targeted Governments") and certain persons, including companies and individuals ("Targeted Persons"). The more limited sanctions target certain sectors in certain countries ("Sectoral Sanctions").

1.1. **Targeted Territories:**¹ The current list of Targeted Territories includes:

Crimea
Cuba
Iran
North Korea
Syria

1.2. **Targeted Governments:** The current list of Targeted Governments (including state-owned/controlled enterprises, wherever they may be located) include:

Cuba
Iran
North Korea
Syria

1.3. **Targeted Persons:** Current Targeted Persons can be found on lists maintained by OFAC, principally OFAC's "Specially Designated Nationals and Blocked Persons List"² ("SDN List"):

1.3.1. This list contains the names of individuals and entities located throughout the world and deemed by OFAC to be associated with restrictive regimes or undermining democracy in various countries or territories, *e.g.*, Western Balkans, Belarus, Burundi, Central African Republic, the Democratic Republic of the Congo, Iraq, Lebanon, Libya, Somalia, the Republic of Sudan, South Sudan, Ukraine, Venezuela, Yemen and Zimbabwe.

1.3.2. In addition, the SDN List contains the names of persons that have engaged in certain activities deemed to be problematic for US foreign policy or national security reasons, such terrorism, narcotics trafficking, proliferation of weapons of mass destruction, activities related to or in support of transnational criminal organizations, malicious cyber-related activities, interference in US elections, etc. The SDN List is updated frequently with new and revised listings and de-listings.

1.3.3. OFAC's prohibitions with respect to Targeted Persons also reach any entity that is 50% or more owned by one or more persons on the SDN List, even if that person is not itself separately identified on the SDN List (the "50% Rule"). OFAC has also indicated its intention to include digital currency addresses associated with SDNs on the SDN List.

1.3.4. OFAC also maintains certain other lists of Targeted Persons subject to slightly lesser restrictions, including the List of Foreign Sanctions Evaders and Sectoral Sanctions Identifications List (see below).

1.4. **Targets of Sectoral Sanctions:** Unlike the country/territory-wide embargoes, sectoral sanctions target certain limited types of activities in or involving the following currently lesser restricted countries. These currently include sectoral sanctions against Russia and Venezuela.

2. **WHO IS SUBJECT TO THE SANCTIONS PROGRAMS:**

2.1. **US Persons:** The OFAC sanctions prohibitions primarily apply to "US Persons," defined to cover companies organized under US laws and their non-US branches, all persons physically within the United States, and US citizens and permanent resident aliens wherever located or employed. The term "US

¹ Sudan was subject to comprehensive OFAC sanctions until October 12, 2017. Now, only certain Targeted Persons within Sudan, South Sudan and Darfur are sanctioned under other programs, *e.g.*, the anti-terrorism sanctions. Sudan remains subject to strict US controls on exports/reexports of controlled (non-EAR99) US-origin and US-content items under the Export Administration Regulations.

² <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>

Person" does not cover separately incorporated non-US subsidiaries of US companies; however, non-US entities that are owned or controlled by US Persons are subject to OFAC's jurisdiction under the Cuba and Iran sanctions programs only.

- 2.2. **Non-US persons causing prohibited transactions:** Importantly, non-US persons can be subject to OFAC's jurisdiction (and have been subject to criminal and civil enforcement actions) to the extent that they cause actions to be taken by US Persons or to occur in the territory of the United States in furtherance of prohibited transactions. Examples include criminal and civil enforcement actions against non-US banks for clearing US dollar funds transfers through US financial institutions in support of transactions occurring outside the United States involving Targeted Territories or Targeted Persons. Any transaction involving US dollars outside the United States should be assumed to implicate sanctions. Non-US persons may also be subject to OFAC's jurisdiction if they reexport goods, technology, or services subject to US jurisdiction to a Targeted Territory.
- 2.3. **Note on "secondary sanctions":** Even where a person or activity is not "subject" to US sanctions as a jurisdictional matter under the primary sanctions, some of the sanctions programs (*e.g.*, Iran, Russia) authorize the imposition of retaliatory "secondary sanctions" designed to deter non-US persons from engaging in certain activities wholly outside US jurisdiction. These sanctions are non-monetary but can be more detrimental to a company's operations than monetary penalties.
3. **COMMON FEATURES ACROSS SANCTIONS PROGRAMS:** While each sanctions program is different, they do share some common features.
 - 3.1. **General prohibitions:** Comprehensive sanctions generally prohibit all transactions involving Targeted Territories, Targeted Governments or Targeted Persons. These transactions can include imports, exports, the provision or receipt of services, dealing in items originating in the Targeted Territories, commercial or financial transactions and transactions that only incidentally appear to involve Targeted Territories, Targeted Governments or Targeted Persons (*e.g.*, the use of a bank that is a Targeted Person in a transaction that does not otherwise implicate the sanctions).
 - 3.2. **Blocking/freezing:** Some comprehensive sanctions also have "blocking" or freezing authorities, which have the legal effect of freezing all property (broadly defined to include tangible and intangible property, such as funds transfers, accounts receivable, contracts, options, IP, etc.) in which a Targeted Territory, Targeted Government or Targeted Person has an "interest" (also broadly defined to include direct and indirect interest "of any nature whatsoever"). Property interests do not necessarily need to be legally recognized, *e.g.*, a Targeted Person is deemed to have a blocked property interest in a sales contract to which it is not a party but where the seller and buyer specifically contemplate that the goods to be supplied are ultimately intended for the Targeted Person. Where a comprehensive sanctions program has a blocking feature, US Persons are legally required to file blocked property reports to OFAC if they "hold" such property, usually within 10 business days of a blocking event and subject to annual reporting thereafter.

The blocking/freezing prohibitions can also affect the acquisition by a US company of a non-US company that has ongoing contracts with Cuba and in some instances Iran. Upon closing, the non-US company will become subject to US jurisdiction and will generally be prohibited from dealing in those contracts. This prohibition is quite expansive and covers even the termination of such contracts, which would require specific authorization from OFAC.
 - 3.3. **Direct/indirect transactions:** All sanctions, whether comprehensive or limited, typically prohibit direct and indirect transactions or activities. For example, if it is prohibited for a US company to sell into a Targeted Territory, it is equally prohibited for that US company to sell to a third party (such as a non-US affiliate or an unrelated distributor or reseller) for resale by that third party into the Targeted Territory.

- 3.4. **Prohibited "facilitation":** Similarly, whether comprehensive or limited, sanctions programs generally all prohibit "facilitation" by US Persons (or other persons subject to OFAC's jurisdiction) of transactions or activities to be undertaken by non-US persons, if those transactions or activities would be prohibited if undertaken directly by the US Person. The concept of prohibited "facilitation" is extremely broad and can include approval of a sales contract, the provision of specific technical or other support for an offshore transaction. Even the referral of a sales order to a non-US person or a change in company operating policies or procedures made by a US Person to enable an offshore transaction involving a sanctions target to proceed are caught. "Facilitation" is a term of art and does not explicitly appear in all sanctions programs, but the concept is nonetheless widely applied, using other prohibitions, such as a prohibition on the export of services intended to "benefit" a Targeted Territory.
 - 3.5. **Compliance advice permitted:** Providing legal advice as to compliance with the sanctions programs is a permissible service. This safe harbor does not extend, however, to negotiating, reviewing, structuring, drafting contracts or other documents, or advising for other legal reasons in furtherance of transactions prohibited by the sanctions.
 - 3.6. **Statutory exemptions:** Many, but not all, of OFAC's programs contain statutorily required exemptions for certain travel-related transactions by individuals and exports/imports of pre-existing "information or informational materials."
 - 3.7. **Common general licenses:** In addition, many sanctions programs against Targeted Territories or Targeted Governments incorporate authorizations (referred to as "general licenses") for certain types of activities. Common examples include: transactions ordinarily incident to licensed activities; intellectual property maintenance activities (limited to intellectual property registration, renewal and the prosecution/defense of infringement claims); mail and telecommunications activities; exports of agricultural commodities, medicine and medical devices; non-commercial, personal remittances; activities ordinarily incident and necessary to publishing; journalism; the provision of limited legal services; certain humanitarian activities; and services related to the conduct of the official business of the US Government or official activities of international organizations (e.g., the United Nations). Each general license is subject to various conditions which can vary between programs. Where a general license is not available, authorizations in the form of "specific licenses" can be requested from OFAC on a case-by-case basis.
 - 3.8. **Other program-specific general licenses:** Similarly, several sanctions programs against Targeted Persons incorporate general licenses permitting certain transactions, under various conditions, where the activities of those Targeted Persons are viewed by OFAC as sufficiently remedial to warrant an easing of restrictions, rather than a full lifting of sanctions. These vary by program.
4. **PENALTIES:**
- 4.1. **Civil/criminal penalties:** As noted above, OFAC's sanctions programs are issued and implemented pursuant to varying statutory authorities. Those statutes dictate the maximum civil and criminal penalties that can be imposed for violations. The maximum civil monetary penalties can be as low as \$86,976 (an inflation-adjusted level that is adjusted periodically) to the greater of \$295,141 (also inflation-adjusted) or twice the value of the transaction, per violation, or in some cases to as high as \$1,466,485 per violation. Criminal penalties include maximum monetary fines ranging from \$1 million to \$10 million and/or 20 years imprisonment, per violation. Other forms of collateral penalties can be imposed, including in instances where OFAC lacks enforcement jurisdiction, such as designation on the SDN List for engaging in activities that are deemed to support persons on the SDN List. The sanctions are strictly and regularly enforced by OFAC, BIS, and the US Department of Justice.
 - 4.2. **Secondary sanctions:** An increasing trend in the trade sanctions arena is the imposition of extraterritorial retaliatory "secondary sanctions" on persons engaging in certain activities contrary to US policy

objectives. These are not civil or criminal penalties as such, but may be imposed even for lawful activities conducted wholly outside US jurisdiction and as such generally target non-US persons. Sanctions can vary, but may include designation as an SDN for engaging in significant transactions with other SDNs, restrictions on access to US correspondent banking accounts, a ban on US government contracting, a ban on export licenses, amongst others.

5. **STATUTORY/REGULATORY AUTHORITIES:** Some of the US sanctions are maintained pursuant to executive orders issued under general statutory authorities, while others are pursuant to specific statutes that mandate the types of sanctions to be imposed and the conditions for any relaxation or lifting of such sanctions. Sanctions imposed pursuant to statutes are less flexible as they can only be modified through further legislation.

The following key program summaries are not intended to cover all aspects or the many nuances of each program; please refer to the Common Principles above and seek specific advice regarding particular sets of facts.

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6. Cuba
7. Iran
8. North Korea
9. Russia/Ukraine and Crimea
10. Syria
11. Venezuela
12. Key Targeted Person Sanctions Programs

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For further updates on US sanctions and export control developments, please refer to our Sanctions & Export Controls Blog at: <http://sanctionsnews.bakermckenzie.com/>.

6. **CUBA:**

- 6.1. **Overview:** The United States continues to maintain a comprehensive country-wide embargo against Cuba implemented through a combination of OFAC's Cuban Assets Control Regulations, 31 C.F.R. Part 515 ("CACR") and the Department of Commerce's Export Administration Regulations ("EAR"). Certain of the sanctions were relaxed during the Obama Administration, although several have since been rolled back under the Trump Administration's *June 2017 National Security Presidential Memorandum (NSPM) Strengthening the Policy of the United States Toward Cuba*. The latest changes took effect on November 9, 2017 and included a renewed ban on individual people-to-people travel and restrictions on direct financial transactions with certain Cuban military, security and intelligence-related parties.
- 6.2. **Scope:** The Cuba sanctions apply to "persons subject to US jurisdiction," which includes both US Persons and non-US entities owned or controlled by US Persons. Despite the limited relaxations, the CACR continue to prohibit most transactions by persons subject to US jurisdiction involving Cuba, the government of Cuba, Cuban SDNs and Cuban nationals. Prohibited transactions include exports, imports, financing, sales, purchases, investments, the provision or receipt of services, as well as dealing in Cuban-origin items. Export/reexport controls over items subject to US jurisdiction are also fully in effect.
- 6.3. **Key Points:**
- 6.3.1. **Owned/controlled non-US entities:** Due to statutory restrictions under the Cuban Democracy Act, non-US subsidiaries owned or controlled by US Persons are sometimes subject to stricter requirements than their US Person parent companies, particularly with respect to exports of foreign-made items to Cuba.
- 6.3.2. **Broad blocking:** Property and interests in property of the Cuban government, Cuban SDNs and also Cuban nationals (entities and individuals) must be blocked.
- 6.3.3. **Dealings with Cuban nationals:** Unlike most of the comprehensive programs, the CACR also apply to Cuban nationals based solely on their nationality (as compared to where they are ordinarily resident). Exceptions include Cuban nationals residing in the United States, Cuban nationals who are US Persons or have taken up permanent residence outside Cuba (subject to certain documentary requirements) and, in either case, provided they are not a prohibited Cuban official or prohibited member of the Cuban Communist Party. Dealings with other Cuban national individuals located outside Cuba are permitted under a general license.
- 6.3.4. **Dealings with Cuba Restricted List parties:** Persons subject to US jurisdiction are prohibited from engaging in certain direct financial transactions with entities and subentities identified by the State Department on the "Cuba Restricted List".³ This list includes entities and subentities that are determined to be under the control of, or act for or on behalf of, the Cuban military, intelligence, or security services or personnel and with which direct financial transactions would disproportionately benefit the Cuban military, intelligence, or security services or personnel at the expense of the Cuban people or private enterprise in Cuba.
- 6.3.5. **Limited authorized travel and related services:** The Cuba program does not include the statutory travel exemption. Persons subject to US jurisdiction are, however, authorized under general licenses to engage in certain non-tourism travel-related transactions related to twelve specified activities. Tourist travel remains prohibited for US Persons.
- 6.3.6. **Examples of other limited authorized activities:** In addition to the more common general licenses (see Section 3.7 above) and certain travel-related general licenses, examples of other

³ <https://www.state.gov/e/eb/tfs/spi/cuba/cubarestrictedlist/>
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limited authorized activities for persons subject to US jurisdiction dealing with Cuba include: establishing a physical or business presence in Cuba in certain sectors (*e.g.* telecommunications, Internet services, mail/parcel transmission, travel service/carrier provider, news, educational, religious and human rights); activities in support of the Cuban people (including human rights and democratic focused activities); provision of Internet-based services and software; importation of goods and services produced by Cuban entrepreneurs; development of the Cuban infrastructure for the direct benefit of the Cuban people; importation, servicing or repair of items previously lawfully exported/reexported to Cuba; transactions relating to the creation or enhancement of certain information and informational materials not otherwise exempt; certain financial transactions (including establishing correspondent banking relationships in Cuba for authorized transactions, the use and processing of US-issued credit/debit cards for authorized transactions and various remittances); and certain types of exports/reexports authorized under various EAR License Exceptions, including, for example: agricultural commodities; exports in support of the Cuban private sector or to strengthen Cuban civil society (*e.g.* building materials, tools and equipment for private sector building, agricultural activity or for use by private sector entrepreneurs, donated items or temporary exports for use in scientific, cultural, archaeological, professional meetings and certain other purposes, or to improve communications, including Internet services or for news media, among the Cuban people); and exports of consumer communications devices and related software (*e.g.*, mobile phones, laptops, etc.).

- 6.3.7. **Medicines and medical devices:** Exports of EAR99 medicines and medical devices subject to US jurisdiction to Cuba require licenses from the Commerce Department but are subject to a favorable licensing policy. Involvement by persons subject to US jurisdiction in exports of medicines and medical devices to Cuba that are subject to US jurisdiction are authorized under a general license; involvement in exports of other medicines and medical devices requires a license from OFAC.

7. IRAN

- 7.1. **Overview:** Iran has been subject to some of the strictest US sanctions, which ultimately led to the Iran nuclear deal, the Joint Comprehensive Plan of Action ("JCPOA"), agreed to between Iran and the "P5+1" countries in 2015. The JCPOA was implemented on January 16, 2016 ("Implementation Day") and saw the waiver of US nuclear-related secondary sanctions as well as limited relaxation of the primary sanctions. On May 8, 2018, President Trump announced that the United States would withdraw from the JCPOA, culminating months of uncertainty around the fate of the deal. By November 4, 2018, all prior US nuclear-related sanctions will be reinstated. Iran, the European Union and other allies have pledged their ongoing commitment to the JCPOA, with the EU Member States seeking to reinvigorate certain "blocking laws" to protect EU companies and nationals from the extraterritorial impact of the US sanctions.
- 7.2. **Scope:** US sanctions against Iran consist of both primary sanctions and secondary sanctions. The primary sanctions apply to activities of US Persons and also owned/controlled non-US entities involving Iran, the government of Iran, Iranian financial institutions and Iranian SDNs. Prohibited activities include exports (including transshipments through Iran), imports, the provision or receipt of services, investments, dealing in Iranian origin items, etc. Certain secondary sanctions present risks to non-US persons for certain activities even outside US jurisdiction. Export/reexport controls over items that are subject to US jurisdiction and are "controlled" (non-EAR99) are also fully in effect.
- 7.3. **Key Points:**
- 7.3.1. **Owned/controlled non-US entities:** Between Implementation Day and May 8, 2018, non-US entities that are owned or controlled by US Persons were authorized by General License H to engage in most Iran-related activities, subject to various conditions, including that there be no US Person involvement, no use of US banks or US dollars, no involvement of SDNs, etc. Following the US decision to withdraw from the JCPOA, General License H was replaced with a wind-down authorization that expires on November 4, 2018, and imposes conditions on such wind-down transactions and activities that are similar to those originally imposed by General License H.
- 7.3.2. **Prohibitions on dealings with Targeted Persons:** On Implementation Day, a large number of Iranian SDNs were removed from the OFAC SDN List, including most Iranian financial institutions. US Persons and owned/controlled non-US entities are prohibited from dealing with Iranian SDNs. By November 4, 2018, however, OFAC has said that most Iranian SDNs that were on the SDN List prior to Implementation Day will be relisted. The primary impact of this development is that non-US persons can face secondary sanctions, including designation as an SDN themselves, for engaging in transactions with Iranian SDNs.
- 7.3.3. **Limited authorizations:** In addition to the more common general licenses, other general licenses available under the ITSR include: General License J-1 authorizing temporary sojourn civil passenger flights; and General License D-1 related to the provision of certain fee-based services, software, and hardware incident to personal communications to Iran; and for exports and sales of agricultural commodities. Certain general licenses and favorable licensing policies, including the authorization for imports of Iranian foodstuffs and carpets and the Statement of Licensing Policy for Activities Related to the Export or Re-export to Iran of Commercial Passenger Aircraft and Related Parts and Services, have also been revoked following the US withdrawal from the JCPOA.
- 7.3.4. **Medicines and medical devices:** The export/reexport of most EAR99 medicines and EAR99 medical devices to or for Iran that are not on the List of Medical Devices Requiring Specific Authorization is authorized under a general license, subject to a number of requirements and conditions. The provision of related training, supply of certain replacement parts and of services and

software for the operation, maintenance and repair of medical devices is also authorized under specific conditions.

- 7.3.5. **Secondary sanctions:** Non-US persons can face secondary sanctions risks, including designation as an SDN, for certain activities including for dealings with SDNs. Following the US decision to withdraw from the JCPOA, the various other nuclear-related secondary sanctions that were waived as of Implementation Day will be reimposed following 90-day and 180-day wind down periods, ending on August 6 and November 4, 2018. For a list of these secondary sanctions, please contact any member of the Outbound Trade Compliance team.

8. NORTH KOREA

- 8.1. **Overview:** North Korea is subject to a comprehensive country-wide embargo based on a mix of unilateral US and multilateral UN sanctions imposed in response to North Korea's apparent continuing nuclear and missile program activities, its involvement in cyber activities, evasion of sanctions through third country trading, shipping and financial entities, forced labor, etc.
- 8.2. **Scope:** The North Korea sanctions broadly prohibit US Persons from engaging in most transactions involving North Korea, the government of North Korea and North Korean SDNs. Prohibited transactions include exports, imports, financing, sales, purchases, investments, and the provision or receipt of services. There are multiple bases for designation of SDNs under the North Korean sanctions, including for undermining cybersecurity, operating in any North Korean industry, involvement in censorship, involvement in significant imports to or exports from North Korea, amongst many others. See further the Common Principles above. Certain secondary sanctions can also be applied, particularly to foreign financial institutions for engaging in certain significant transactions involving North Korea. Export/reexport controls over items subject to US jurisdiction are also fully in effect.

8.3. Key Points:

- 8.3.1. **Products made with North Korean labor:** In addition to a ban on imports into the United States of any goods, services, or technology from North Korea, the importation of any significant goods, wares, articles, and merchandise manufactured by North Korean nationals is prohibited, unless US Customs and Border Protection establishes that they are not the products of convict labor, forced labor, or indentured labor. Any person "knowingly" employing North Korean labor also faces potential designation as an SDN.
- 8.3.2. **Financial restrictions and secondary sanctions:** US financial institutions are prohibited from holding correspondent or payable-through accounts for North Korean banking institutions and from processing transactions for the US correspondent account of a foreign bank if such transactions involve a North Korean financial institution. Foreign financial institutions that are determined to have knowingly conducted or facilitated any "significant transaction" on behalf of a North Korean SDN or otherwise in connection with trade with North Korea can face secondary sanctions, including prohibitions or strict conditions on their own correspondent account access. The names of such foreign financial institutions will be listed on OFAC's "Correspondent Account or Payable-Through Account Sanctions List."
- 8.3.3. **Shipping/vessel restrictions:** US Persons are prohibited from owning, leasing, operating, or insuring any vessel flagged by North Korea, and from registering vessels in North Korea or obtaining authorization for a vessel to fly the North Korean flag. The entry into United States waters of vessels owned or operated by or on behalf of the government of North Korea or a North Korean person and of vessels owned or operated by or on behalf of a foreign country in which a sea port is identified as having failed to implement or comply with UN Security Council resolutions targeting North Korea is prohibited. Aircraft or vessels that have landed or docked in North Korea within the past 180 days are restricted for entry into the United States. A number of North Korean vessels are also designated as SDNs.
- 8.3.4. **Travel:** The North Korea program does include the statutory travel exemption, but this does not apply with respect to SDNs designated under or in respect of activities prohibited under UN Security Council resolutions.
- 8.3.5. **Limited authorized activities:** In addition to some of the common general licenses, certain other general licenses authorize limited activities by US Persons, including: emergency medical services;

investment and reinvestment of certain blocked funds; services in support of non-governmental organizations.

- 8.3.6. **Medicines and medical devices:** Exports/reexports to North Korea of EAR99 medicines subject to US jurisdiction are not prohibited under the EAR. Exports of medical devices subject to the EAR generally require a specific license but are subject to a general policy of approval.
- 8.3.7. **Secondary sanctions:** Non-US persons can face secondary sanctions risks, including designation as an SDN, for engaging in certain activities related to North Korea. For a list of these secondary sanctions, please contact any member of the Outbound Trade Compliance team.

9. RUSSIA/UKRAINE AND CRIMEA

9.1. **Overview:** The United States has maintained sanctions against certain individuals and entities in Russia and Ukraine since March 2014. Crimea has been subject to a full embargo since December 2014. These sanctions target Russia's alleged involvement in, *e.g.* cybersecurity, corruption, human rights violations, undermining democracy, etc., and more recently have included broad secondary sanctions.

9.2. **Scope:** While Crimea is subject to a territory-wide embargo, Russia is not. Sanctions against Russia are more targeted against Targeted Persons and targeted sectors of the Russian economy, along with strict export controls for certain items or end-users/end-uses. Certain secondary sanctions can also be applied to non-US persons for continued business in or with certain Russian sectors and Russian actors. Export/reexport controls over items subject to US jurisdiction are also fully in effect for Crimea.

9.3. Key Points:

9.3.1. **Prohibitions on dealings with Targeted Persons (SDNs):** A large number of Russian individuals, including various government officials and oligarchs, Russian entities, banks and even some government agencies (*e.g.*, the Federal Security Service ("FSB")⁴) have been designated as blocked SDNs. US Persons are prohibited from dealing with these SDNs and non-US persons can be designated themselves for providing "material support" or engaging in certain "significant" transactions with such SDNs. These SDN designations have been extremely disruptive due to the "flow down" effect of SDN designations to unlisted entities under the 50% Rule; many Russian oligarchs hold significant stakes in key companies in Russia which have become "deemed" SDNs by virtue of the oligarch designations. The disruption caused to global supply chains has led to the introduction, in some cases, of wind-down general licenses to allow parties to extricate themselves from relationships with such SDNs within specified time periods.

9.3.2. **Sectoral sanctions in financial, defense and energy sectors:** Since July 16, 2014, OFAC has maintained "sectoral sanctions" targeting entities in Russia's financial services, energy and defense sectors. These sectoral sanctions are maintained under four "OFAC directives." The targeted entities are designated on the Sectoral Sanctions Identification List ("SSI List").⁵ SSIs are not "blocked" like SDNs; US Persons are only prohibited from engaging in specific types of transactions with such SSIs. As with the restrictions on SDNs, however, the sectoral sanctions extend to non-listed entities under the 50% Rule. All other transactions by US Persons with SSI entities are generally not affected. The "new debt" restrictions apply broadly to extensions of credit, loans, commercial payment terms and are also relevant in the context of trade terms and trade financing.

9.3.3. **Exports/reexports:** In addition to the Crimea export ban (see above), various exports/reexports to Russia of items subject to US jurisdiction are prohibited or restricted. These include:

- **"High technology items":** Licenses for such items that could "contribute to Russia's military capabilities" are subject to a policy of denial.
- **Russian Oil Industry Export Restrictions:** Exports, reexports, or in-country transfers by any person of certain items used in the oil and gas industry and subject to the EAR that are classified under specific Export Control Classification Numbers (aka "ECCNs") or described on

⁴ The FSB was designated to the SDN List pursuant to Executive Order 13757 on December 28, 2016, and to the BIS Entity List on January 4, 2017. OFAC subsequently issued a general license authorizing certain transactions with the FSB related to its regulatory function of approving the import, distribution, and use of encryption products in Russia, as well as activities related to the FSB's law enforcement/investigatory role (*e.g.*, anti-bribery investigations). BIS has taken parallel action and has revised the Entity List to allow certain exports related to the foregoing activities.

⁵ https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/ssi_list.aspx

a list of Schedule B numbers in Supplement No. 2 to EAR Part 746 require a license from BIS if for use in Targeted Energy Projects in Russia related to oil or gas.

- **Military end-users/end-uses:** Exports, reexports, or in-country transfers by any person of items identified in Supplement No. 2 to EAR Part 744 require specific licenses from BIS if for a military end-use or military end-user in Russia. The export or reexport of "600-series" items and of defense articles and services are also subject to a policy of denial.
- **Entity List:** Exports, reexports or transfers by any person of items subject to the EAR to Russian entities on the BIS Entity List are restricted under the EAR. Some Russian Entity List parties require licenses for all items subject to US jurisdiction, including non-controlled (EAR99) items. Others (specifically those also subject to OFAC Directive 4) require licenses only when for use in Targeted Energy Projects in Russia to produce oil or gas.

9.3.4. **Secondary Sanctions:** Secondary sanctions are either mandatory or discretionary on parties engaging in certain activities involving Russia even outside US jurisdiction. Examples include: dealing with Russian SDNs (including non-listed entities that are covered by the 50% Rule); investing in certain Russian crude oil projects; engaging in significant transactions with the Russian intelligence or defense sectors; undermining cybersecurity; engaging in significant corruption; making certain investments in the privatization of Russia's state-owned assets; and in relation to Russian energy export pipelines. For a complete list of these secondary sanctions, please contact any member of the Outbound Trade Compliance team.

10. SYRIA

10.1. **Overview:** Syria is subject to a comprehensive country-wide embargo, based on US unilateral and UN multilateral sanctions.

10.2. **Scope:** The Syria sanctions differ from other OFAC sanctions programs as a technical matter in that the basic prohibitions only explicitly address new investments in Syria, dealings in Syrian origin petroleum products, and the exportation or reexportation of services to Syria by US Persons. The latter broad services prohibition has generally been interpreted to apply to all activities involving Syria, including the exportation or reexportation of goods from the United States or by US Persons, as well as purchases of goods from Syrian parties. Most transactions by US Persons involving Syria, the government of Syria and Syrian SDNs are therefore prohibited. Export/reexport controls over items subject to US jurisdiction are also fully in effect.

10.3. Key Points:

10.3.1. **Limited authorized activities:** Beyond the more common general licenses identified above, there are limited additional general licenses authorizing activities by US Persons involving Syria. Such other examples include: authorization to provide services to Syria that are incident to the free exchange of personal communications over the Internet; the provision of services to install, repair or replace items subject to US jurisdiction and previously exported/reexported under an EAR license or other authorization; and services for the National Coalition of Syrian Revolutionary and Opposition Forces or services in support of humanitarian and other not-for-profit activities in Syria. There are favorable licensing policies certain transactions in the private telecommunications sector and the agricultural sector.

10.3.2. **Medicines and medical devices:** US Persons may provide services ordinarily incident to the export/reexport of certain EAR99 medicines and medical devices to Syria and services to install, repair or return EAR99 medical devices subject to the EAR. Exports/reexports of EAR99 medical devices subject to US jurisdiction by non-US persons require a license from the Department of Commerce.

11. VENEZUELA

11.1. **Overview:** US sanctions against Venezuela were first introduced in March 2015 and increased in 2017-2018 in response to the Venezuelan government's alleged political persecution, curtailment of press freedoms, human rights abuses, and widespread corruption. This is a targeted sanctions program, including sectoral sanctions, not a country-wide embargo.

11.2. **Scope:** The Venezuela sanctions do not restrict dealings with Venezuela in general. They currently only target dealings by US Persons with certain Venezuelan SDNs and limited activities involving financial instruments of the government of Venezuela ("GOV"), defined to include any political subdivision, agency, or instrumentality thereof such as the Central Bank of Venezuela, Petróleos de Venezuela S.A. ("PdVSA"), and other enterprises owned or controlled by the GOV, as well as any person owned or controlled by, or acting for or on behalf of, the GOV. These include numerous Venezuelan government officials, including President Maduro himself, members of the Venezuelan Supreme Court, and other high-level government officials - but not the government as a whole.

11.3. Key Points:

11.3.1. **Sectoral sanctions against Venezuelan Government:** Limited sanctions apply to certain financial instrument dealings involving the GOV. Under these sectoral sanctions, US Persons are prohibited from:

- purchasing securities from the GOV (with some exceptions)
- engaging in transactions related to, providing financing for, or otherwise dealing in:
 - new debt⁶ with a maturity of greater than 90 days of PdVSA
 - new debt with a maturity of greater than 30 days or new equity of the GOV
 - certain bonds issued by the GOV prior to August 25, 2017 (with some exceptions)
 - dividend payments or other distributions of profits to the GOV from any entity owned or controlled, directly or indirectly, by the GOV
 - any digital currency, digital coin, or digital token that was issued by, for, or on behalf of the GOV on or after January 9, 2018 (including the Petro and petro-gold)
 - the purchase of any debt owed to the GOV, including accounts receivable
 - any debt owed to the GOV that is pledged as collateral after May 21, 2018, including accounts receivable
 - the sale, transfer, assignment, or pledging as collateral by the GOV of any equity interest in any entity in which the GOV has a 50% or greater ownership interest

The "new debt" restrictions apply broadly to extensions of credit, loans, commercial payment terms and are also relevant in the context of trade terms and trade financing.

11.3.2. **Limited authorizations:** A limited number of general licenses authorize certain transactions by US Persons involving Venezuela that would otherwise be prohibited.

11.3.2.1.1. [General License 2](#) authorizes US Persons to engage in transactions where the only GOV entities involved are CITGO Holding, Inc. (PdVSA's US entity) and/or its subsidiaries.

⁶ Per OFAC FAQs, "debt" includes, amongst other things: "bonds, loans, extensions of credit, loan guarantees, letters of credit, drafts, bankers acceptances, discount notes or bills or commercial paper".

11.3.2.1.2. [General License 3](#) authorizes US Persons to engage in certain transactions involving specific bonds specified in the Annex to General License 3 or that were issued prior to August 25, 2017 by US entities owned or controlled by the GOV (*e.g.*, CITGO Holding, Inc.).

11.3.2.1.3. [General License 4](#) authorizes US Persons to engage in certain transactions involving otherwise prohibited new debt related to exports/reexports of agricultural commodities, medicine, medical devices, or replacement parts and components for medical devices to Venezuela, directly or indirectly. These exports and reexports must be licensed or otherwise authorized under the EAR.

11.3.3. **Exports/reexports:** The EAR imposes license requirements for exports and reexports by any person of certain categories of otherwise non-controlled goods, software and technology subject to US jurisdiction to (1) military end-users or for (2) military end-uses in Venezuela.

12. KEY TARGETED PERSON SANCTIONS PROGRAMS

- 12.1. **Overview:** As indicated in Section 1.3 above, aside from the comprehensive country-wide sanctions programs, there are increasing numbers of Targeted Persons (SDNs) around the world designated under a variety of country or regime-focused or non-country specific sanctions programs. These include the counter terrorism sanctions, the counter narcotics sanctions, cyber-related sanctions, Global Magnitsky sanctions, non-proliferation sanctions, rough diamond trade sanctions, the transnational criminal sanctions, and the foreign interference in a United States election programs. In some cases, persons can be designated under one or more sanctions programs simultaneously such that both sets of prohibitions apply.
- 12.2. **Scope:** US Persons are prohibited from engaging in most transactions involving these SDNs, including non-listed entities under the 50% Rule. The property and interests in property of such persons are blocked if they come into the possession or control of a US Person or into the United States. Non-US persons can be directly liable for causing violations by US Persons involving such SDNs and can also face secondary sanctions, including designation as an SDN themselves, for providing material, financial, technological or other support or engaging in certain significant transactions with SDNs.
- 12.3. **Limited Authorizations:** Note that there are very few general licenses available under these Targeted Person programs and the statutory exemptions (e.g. the travel exemption) do not always apply either.