Foreign Subsidiaries Now Must Comply with U.S. Sanctions Against Iran

A new U.S. law requires foreign subsidiaries of U.S. companies to comply with sanctions against Iran, as if they were U.S. companies.

On August 10, 2012, President Obama signed into law the Iran Threat Reduction and Syria Human Rights Act of 2012 ("the Act"). The president is required to implement the Act by October 9, 2012. It is anticipated that implementation will be accomplished by Executive Order or regulations administered by the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC).

In order to prepare for implementation of the Act, U.S. companies should review the operations of their non-U.S. subsidiaries that may be dealing with Iran (directly or indirectly). Depending upon the nature of the dealings, the foreign subsidiary may be required to cease or restrict dealings with Iran in order to comply with U.S. sanctions.

Please note that U.S. companies that divest or terminate their ownership or control of subsidiaries engaged in Iran-related activities **before February 6, 2013** (180 days from the date the law was signed) will **not** be held liable for Iran-related activities of their foreign subsidiaries. The law does not require, however, that U.S. companies divest or terminate their ownership or control. Instead, the foreign subsidiaries must be acting in compliance with U.S. sanctions against Iran.

Expanding the Scope of Iran Sanctions

Under the Act, if any U.S.-owned or -controlled foreign subsidiary violates U.S. sanctions against Iran, the U.S. parent company may be assessed all of the same penalties as if it had committed the violation itself. The Act also stipulates that U.S. companies that are required to file annual or quarterly reports with the Securities and Exchange Commission (SEC) must disclose to the SEC any Iran sanctions violations, whether committed by the U.S. company or any of its affiliates or subsidiaries in the United States or abroad. The SEC must communicate disclosures under the Act to the U.S. Congress and the president. The president is required to initiate an investigation into the reported violations.

While the Act implies that non-U.S. subsidiaries may engage in activities that would be lawful if done by a U.S. company, it remains to be seen whether and how the existing sanctions regulations will be updated to articulate this expressly, and whether any General Licenses might be issued to cover conduct by non-U.S. subsidiaries of U.S. companies.

We anticipate that OFAC will continue to permit U.S. companies to engage in certain limited activities such as exporting and reexporting food and "agricultural commodities" to Iran. It is our understanding, and would be consistent with U.S. policy, for OFAC even after the Act is implemented by the president to permit non-U.S. subsidiaries to export or reexport food and agricultural commodities (even non-U.S. origin product). It is unclear, however, whether or how OFAC might authorize those activities (ex. changes to the existing sanctions regulations or new General License(s)).

Additional Iran Sanctions

The Act also imposes a number of specific new Iran sanctions measures, including penalties for the following activities:

- Providing to Iran petroleum-related resources, goods, or services valued in excess of $1 million, or in excess of $5 million over a 12-month period;
- Selling or leasing to Iran petrochemical-related goods, services, or technology in excess of $250,000, or in excess of $1 million over a 12-month period;
- Participating in uranium-related joint ventures with Iran's government or any associated entities; and
- Owning, controlling, insuring, or reinsuring any vessel deemed to have transported crude oil from Iran to another country.

Additional Syria Sanctions

With regard to Syria, the Act directs the president to impose sanctions on individuals responsible for violations of human rights in Syria, and on individuals who transfer certain goods and technology to the Syrian government.
We will continue to monitor these important developments and will provide updates as soon as the president or OFAC issues further guidance.

This *GT Alert* was prepared by **Kara Bombach** and **Cy Brennan**. Questions about these regulatory changes, or other export controls or U.S. sanctions matters, can be directed to the Greenberg Traurig Export Controls Group.

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