

# Economic Sanctions Compliance Resources



This document provides informational resources compiled by Steptoe & Johnson's Hong Kong office to assist ASIFMA members in understanding recent US economic sanctions developments and selected non-US developments that have impacted markets in Asia and related topics. This information does not constitute legal advice.

To request additional information about these or other topics, please contact Nick Turner at [nturner@steptoe.com](mailto:nturner@steptoe.com), Dave Stetson at [dstetson@steptoe.com](mailto:dstetson@steptoe.com), or Patrick Pang at [ppang@asifma.org](mailto:ppang@asifma.org).

For more information on these and other compliance topics, visit the [Steptoe International Compliance Blog](#).

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## Table of Contents

### **Sanctions Targeting, Focused on, or Relating to Asia**

- **US Sanctions Related to China/Hong Kong**
  - [Executive Order 13959 "Addressing the Threat From Securities Investments That Finance Certain Companies of the People's Republic of China"](#)
  - [Section 4 of Executive Order 13936 "The President's Executive Order on Hong Kong Normalization"](#)
  - [Hong Kong Autonomy Act](#)
  - [Executive Orders on Chinese Mobile Apps \(e.g., WeChat, TikTok\)](#)
- [Xinjiang-related Sanctions \(multiple countries\) and PRC EU, UK, US, and Canada Sanctions](#)
- [PRC Anti-Foreign Sanctions Law, MOFCOM Blocking Order and the Provisions for the Unreliable Entity List](#)
- [Myanmar-related Sanctions \(multiple countries\)](#)

### **Other Relevant Sanctions**

- [Ukraine/Russia-related Sanctions \(including Sectoral Sanctions and Directive 1\)](#)
- [Venezuela-related Sanctions](#)

### **Glossary of Terms Used in This Document**

*Disclaimer: The materials in this document are provided to ASIFMA members for informational purposes only and do not constitute legal advice. This information may not be the most up-to-date information and may not include all of the information relevant to these topics. For additional information, consult the website of the US Treasury Department's [Office of Foreign Assets Control \(OFAC\)](#) or your legal advisor.*

# Executive Order 13959 (as amended)

## Overview:

The US President issued Executive Order (“EO”) 13959 on 12 November 2020 and amended it on 13 January 2021 under EO 13974. The EO was amended again pursuant to EO 14032 issued by President Biden on 3 June 2021. In effect, EO 14032 revoked EO 13974 and most of the provisions of the original EO 13959. The new EO, which is referred to “the amended EO 13959,” represents a shift from the Trump administration’s policy on “Communist Chinese military companies” (“CCMCs”) to a new, Biden-administration policy focused on “Chinese Military-Industry Complex companies” (“CMICs”), including those operating in the surveillance technology sector.

EO 13959, amended as of 3 June 2021, prohibits “US persons” from purchasing or selling publicly traded securities of companies identified as CMICs by the US Treasury Department. The prohibition extends to publicly traded securities that “are derivative of, or designed to provide investment exposure to” publicly traded securities of CMICs. The prohibitions under the amended EO 13959 take effect on 2 August 2021. (There are no restrictions in place during the transition period between 3 June 2020 and 2 August 2021.)

The prohibitions under the amended EO 13959 take effect 60 days after the identification of a CMIC (i.e., 2 August 2021 for entities identified on 3 June 2021), and US persons are authorized to engage in transactions to effect a divestiture of CMIC securities for a period of one year after the identification of a CMIC (i.e., 3 June 2022 for entities identified on 3 June 2021).

The amended EO 13959 contains an annex listing 59 companies as CMICs that are subject to the restrictions. The US Office of Foreign Assets Control (“OFAC”) has listed the companies, along with identifying information, in its Non-SDN CMIC List (also called the NS-CMIC List). The EO applies only to entities whose names exactly match the name of an entity in the Non-SDN CMIC List. The EO authorizes OFAC to identify other companies as CMICs based on criteria listed in Section 1(a) of the EO.

As a result of EO 14032, OFAC has revoked its previous Non-SDN CCMC List, and the Department of Defense will no longer designate companies for the purposes of the amended EO 13959. Previously identified CCMCs are no longer subject to any restrictions, unless they have been separately identified as CMICs.

### **Selected Source Documents:**

- [Executive Order 13959 of 12 November 2020](#) (US Federal Register)
- [Executive Order 14032 of 3 June 2021](#) (US Federal Register)
- [Non-SDN List of CMICs published by OFAC](#) (as of 3 June 2021) (OFAC website)

### **Selected OFAC Guidance:**

- [FAQ 857](#) – confirming that the restrictions under EO 13959 do not apply to subsidiaries of CMICs unless they are listed on the Non-SDN CMIC List and that the 50 Percent Rule does not apply under EO 13959.
- [FAQ 859](#) – stating that the term “publicly traded securities” includes both exchange-listed and over-the-counter securities in any jurisdiction and currency, for the purposes of EO 13959.
- [FAQ 860](#) – providing examples of financial instruments that are “securities that are derivative of, or are designed to provide investment exposure to” publicly traded securities of CCMCs “to the extent such instruments also meet the definition of ‘publicly traded security’” in Section 3(c) of EO 13959.
- [FAQ 861](#) – stating EO 13959’s restrictions apply to a financial instrument regardless of a CCMC security’s “share of the underlying index fund, ETF, or derivative thereof.”
- [FAQ 863](#) – stating that US persons may engage in activity related to “clearing, execution, settlement, custody, transfer agency, back-end services, as well as other such support services” “to the extent that such support services are not provided to US persons in connection with prohibited transactions.”
- [FAQ 865](#) – stating that “ancillary or intermediary activities that are necessary to effect divestiture [of CMIC securities] during the relevant wind-down periods or that are otherwise not prohibited” are permitted, including by US persons.
- [FAQ 871](#) – stating that “transactions and activities by securities exchanges operated by US persons involving the purchase or sale of [CMIC securities] are not prohibited.”
- [FAQ 898](#) – describing the amended EO 13959.
- [FAQ 899](#) – explaining the relationship between the retired Non-SDN CCMC List and the new Non-SDN CMIC List. Importantly, OFAC states that “[o]nly entities whose names exactly match the names of the entities on the NS-CMIC List are subject to the prohibitions in E.O. 13959, as amended.”
- [FAQ 900](#) – explaining how OFAC intends to identify companies to designate under Section 1(a)(i) and (ii) of the new EO.

- [FAQ 901](#) – stating that US persons can rely on “information available to them in the ordinary course of business” in identifying covered securities (i.e., a reasonable level of due diligence).
- [FAQ 902](#) – stating that in general US persons are not prohibited from “providing investment advisory, investment management, or similar services to a non-US person, including a foreign entity or foreign fund, in connection with the non-US person’s purchase or sale of covered securities.”
- [FAQ 903](#) – clarifying that there is no facilitation prohibition for US persons employed by non-US companies. Specifically: “US persons employed by non-US entities are not prohibited from being involved in, or otherwise facilitating, [permissible] purchases or sales related to a covered security on behalf of their non-US employer . . . in the ordinary course of their employment.”
- [FAQ 904](#) – stating that US market makers may facilitate divestment transactions.
- [FAQ 905](#) – stating that the new EO “does not prohibit activity with entities listed on the NS-CMIC List that is unrelated to such securities.” In other words, unless there is a separate prohibition outside of this EO applicable to a CMIC, US persons can continue to transact with them, sell and buy goods and services, and engage in other transactions with them.

#### **Key Points (in Plain Language):**

- Per Section 1(a) of the amended EO 13959, additional CMICs may be identified by the US Treasury Department (i.e., OFAC) according to the criteria in Section 1(a)(i) to (ii).
- Per Section 1(b) of EO 13959, the prohibitions take effect 60 days after the identification of a CMIC.
- Per Sections 1(c) of EO 13959, US persons are authorized to engage in purchases or sales of CMIC securities for a period of 365 days after a CMIC’s identification “solely to effect the divestment, in whole or in part” of CMIC securities.
- The definition of “US person” is provided in Section 3(d) of EO 13959 and includes any:
  - United States citizen,
  - United States permanent resident alien,
  - entity organized under the laws of the United States or any jurisdiction within the United States
  - foreign branches of an entity organized under the laws of the United States or any jurisdiction within the United States; or
  - person in the United States.

- The definition of “US person” does not include entities incorporated outside of the territory of the United States (i.e., foreign subsidiaries of US companies).
- The definition of “security” is provided in Section 3(c) of EO 13959 and includes financial instruments that are defined as securities under Section 3(a)(10) of the Securities Exchange Act of 1934. (See [FAQ 860](#).)
- Generally speaking, US persons are able to continue acting as intermediaries and provide certain support services in relation to securities of CMICs, provided the underlying transactions are not prohibited under EO 13959. (See [FAQ 863](#).) US persons may also act as investment advisors and managers for non-US persons and funds and may work for non-US companies that transact in CMIC securities. (See [FAQ 902](#) and [FAQ 903](#)).
- OFAC has the power to issue general licenses (for the public) or specific licenses (for named parties) to authorize transactions otherwise prohibited under EO 13959.

[Return to Table of Contents](#)

## Section 4 of Executive Order 13936

### Overview:

The US President issued EO 13936 on 14 July 2020. Section 3 of EO 13936 instructs US agencies to take certain steps to revoke or suspend Hong Kong's special status under US federal laws. Section 4 of the EO authorizes blocking sanctions on individuals and entities in connection with certain political developments in Hong Kong. Persons sanctioned under Section 4 of EO 13936 are found on the List of SDNs and Blocked Persons administered by OFAC.

### Selected Source Documents:

- [Executive Order 13936 of 14 July 2020](#) (US Federal Register)
- [Hong Kong-Related Sanctions Regulations \(31 CFR Part 585\)](#) (US Federal Register)
- [OFAC SDN designations announced 7 August 2020 against 11 individuals](#) (OFAC website)
- [OFAC SDN designations announced 9 November 2020 against 4 individuals](#) (OFAC website)
- [OFAC SDN designations announced 7 December 2020 against 14 individuals](#) (OFAC website)
- [OFAC SDN designations announced 15 January 2021 against 5 individuals](#) (OFAC website)

### Selected OFAC Guidance:

- [FAQ 840](#) – concerning US persons dealing with Hong Kong government offices whose officials are SDNs under EO 13936.

### Key Points (in Plain Language):

- Property and interests in property of SDNs designated under EO 13936 are blocked (frozen) when: (i) in US territory; or (ii) within the possession or control of a US person.
- Unless licensed, US persons are generally prohibited from dealing, directly or indirectly, with SDNs under EO 13936.
- Under OFAC's "50 Percent Rule," blocking sanctions under EO 13936 also apply to any legal entity owned 50 percent or more by one or more SDNs.
- The definition of "US person" is provided in Section 10(c) of EO 13936 and includes any:
  - United States citizen,
  - United States permanent resident alien,
  - entity organized under the laws of the United States or any jurisdiction within the United States

- foreign branches of an entity organized under the laws of the United States or any jurisdiction within the United States; or
- person in the United States.
- The definition of “US person” does not include entities incorporated outside of the territory of the United States (i.e., foreign subsidiaries of US companies).

[Return to Table of Contents](#)

# Hong Kong Autonomy Act

## Overview:

The US Congress passed the Hong Kong Autonomy Act (“HKAA”) on 2 July 2020. The US president signed the HKAA into law on 14 July 2020. Section 5(a) of the HKAA requires the US Secretary of State to submit a report to Congress identifying any foreign person who "is materially contributing to, has materially contributed to, or attempts to materially contribute to the failure" of the Government of China to meet its obligations under the Sino-British Joint Declaration of 1984 or the Basic Law of the Hong Kong Special Administrative Region.

Under Section 5(b) of the HKAA, between 30 and 60 days later, the Secretary of the Treasury must submit a report identifying any foreign financial institution (“FFI”) that knowingly conducts a “significant transaction” with a foreign person identified in the Secretary of State’s report.

Section 7(b) of the HKAA lists a "menu" of 10 sanctions that may be imposed on FFIs identified in a Treasury Department report under Section 5(b). These are:

- 1) A prohibition on lending by US financial institutions
- 2) A prohibition on acting as a primary dealer of US government debt
- 3) A prohibition on serving as a repository of US government funds
- 4) Restrictions on foreign exchange transactions
- 5) Restrictions on banking transactions
- 6) A prohibition or restrictions on property transactions under US jurisdiction
- 7) Restrictions on the export of US goods, technology, or services from the United States to the FFI
- 8) Restrictions on US persons investing in debt or equity of the FFI
- 9) US travel bans against corporate officers, principals, or significant shareholders
- 10) Sanctions against officers of the FFI.

At least five of the sanctions described in Section 7(b) must be imposed on an FFI within one year of its identification in a Section 5(b) report. After two years, all ten of the sanctions listed in Section 7(b) must be applied.



### **Selected Source Documents:**

- [Hong Kong Autonomy Act \(Pub. L. 116-149\)](#) (Congress.gov)
- [State Department Report under Section 5\(a\) dated 14 October 2020](#) (State Department website)
- [Treasury Department Report under Section 5\(b\) dated 11 December 2020](#) (OFAC website)
- [State Department Update to Report under Section 5\(a\) dated 16 March 2021](#) (State Department website)
- [Treasury Department Report under Section 5\(b\) dated 18 May 2021](#) (OFAC website)

### **Selected OFAC Guidance:**

- [FAQ 848](#) – outlining the reporting requirements and secondary sanctions under the HKAA.
- [FAQ 849](#) – concerning the removal of an FFI from a report under Section 5(b) of the HKAA following the criteria listed in Section 5(e) of the HKAA.
- [FAQ 850](#) – providing a list of seven factors the Treasury Department may consider in determining whether a transaction is “significant” for the purposes of the HKAA.
- [FAQ 851](#) – defining “financial institution” and “knowingly” for the purposes of Section 2 of the HKAA.

### **Key Points (in Plain Language):**

- On 14 October 2020, the US State Department issued its report under Section 5(a) of the HKAA, in which it identified 10 individuals.
- Each of the individuals had been named as SDNs on 7 August 2020 under EO 13936.
- On 11 December 2020, the US Treasury Department issued its report under Section 5(b) of the HKAA, in which it stated that it had identified no financial institutions that had knowingly engaged in significant transactions with any of the 10 individuals in the State Department’s report.
- On 16 March 2021, the State Department issued an update to its 14 October 2020 report, in which it identified an additional 24 individuals under Section 5(a) of the HKAA. The Treasury Department is expected to issue an updated Section 5(b) report within 30 to 60 days of the State Department update.
- Each of the 24 individuals had previously been named as SDNs under EO 13936.
- On 18 May 2021, the US Treasury Department issued a second report under Section 5(b) of the HKAA, once again finding no financial institutions that met the criteria.
- As a result of the Treasury Department’s 11 December 2020 and 18 May 2021 reports, no secondary sanctions under Section 7 of the HKAA will be applied for the time being.

- The State Department could identify additional individuals in updates to its Section 5(a) report, and the Treasury Department could later identify financial institutions in updates to its Section 5(b) report.
- SDNs designated under EO 13936 who are not named in the State Department's Section 5(a) report do not carry secondary sanctions risks under the HKAA.

[Return to Table of Contents](#)

# Executive Orders on Chinese Mobile Apps

## Overview:

In 2020, the US President issued three Executive Orders (“EOs”) to restrict certain transactions by US persons involving a total of 10 Chinese mobile apps:

- Alipay
- CamScanner
- QQ Wallet
- SHAREit
- Tencent QQ
- TikTok
- VMate,
- WeChat
- WeChat Pay
- WPS Office

On 9 June 2021, President Biden issued Executive Order 14034 revoking the three EOs and rescinding proposed regulations from the US Commerce Department that would have imposed restrictions on US persons’ transactions in respect of the apps. Instead, the Commerce Department will undertake a review of risks posed by non-US mobile apps to determine if new restrictions, if any, will be adopted at a later date. There are no restrictions currently on investing in, facilitating transactions in, or advising on the issuance of, securities in relation to the apps or their publishers, including Tencent and ByteDance.

## Selected Source Documents:

- [Executive Order 13873 of 15 May 2019](#) (Securing the Information and Communications Technology and Services Supply Chain) (US Federal Register)
- [Executive Order 13942 of 6 August 2020](#) (TikTok) (US Federal Register)
- [Executive Order 13943 of 6 August 2020](#) (WeChat) (US Federal Register)
- [Executive Order 13971 of 5 January 2021](#) (Eight mobile apps) (US Federal Register)
- [Executive Order 14034 of 9 June 2021](#) (Revoking EOs 13942, 13943, and 13971) (US Federal Register)

[Return to Table of Contents](#)

# Xinjiang-Related Sanctions

## and PRC EU, UK, US and Canada Sanctions

### Overview:

On 30 July 2020, OFAC designated Xinjiang Production and Construction Corp. (“XPCC”) as an SDN under EO 13818. As a result, US persons are prohibited from dealing in property or interests in property of XPCC or any entity owned 50 percent or more by XPCC, including XPCC subsidiaries that are issuers of securities. Under General License No. 2A, US persons were provided until 30 November 2020 to wind down transactions involving XPCC subsidiaries blocked under EO 13818 and divest securities of such subsidiaries. The general license expired on 30 November 2020.

In March 2021, the United States, the EU, the EU, and Canada announced coordinated Xinjiang-related sanctions targeting officials and entities alleged to be responsible for human rights abuses. The sanctions include asset freezes and prohibitions on dealing with, or making funds and economic resources available to, the targeted persons.

In response, the PRC Ministry of Foreign Affairs announced retaliatory sanctions on ten EU individuals and four entities, nine UK individuals and three entities, two US individuals, and one Canadian individual and one entity. According to the PRC announcements, the individuals and their families are prohibited from entering the mainland, Hong Kong and Macao of China, and the targets (and organizations associated with them) will be restricted from doing business with China or with Chinese persons.

### Selected Source Documents:

- **US Sanctions**
  - [Executive Order 13818 of 20 December 2017](#) (US Federal Register)
  - [Global Magnitsky Sanctions Regulations \(31 CFR Part 583\)](#) (US Federal Register)
  - [OFAC SDN designations announced 31 July 2020 against Xinjiang Production and Construction Corp \(“XPCC”\) and 2 individuals](#) (OFAC website)
- [EU Sanctions Map – Human Rights Sanctions Regime](#) (with lists of persons, entities and items)
- [UK Financial Sanctions, Global Human Rights](#) (Gov.UK)
- [Canadian Sanctions Related to China](#) (International.GC.CA)

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- **PRC Sanctions**

- [PRC Ministry of Foreign Affairs Announcement of EU Retaliatory Sanctions](#) (FMPRC.Gov.CN)
- [PRC Ministry of Foreign Affairs Announcement of UK Retaliatory Sanctions](#) (FMPRC.Gov.CN)
- [PRC Ministry of Foreign Affairs Announcement of US and Canada Retaliatory Sanctions](#) (FMPRC.Gov.CN)

**Selected General Licenses:**

- [General License No. 2A of 25 September 2020](#) (Expired) authorizing US persons to engage in certain wind-down and divestment transactions and activities involving subsidiaries of XPCC, until 30 November 2020 (OFAC website)

**Key Points about US Sanctions (in Plain Language):**

- Property and interests in property of SDNs designated under EO 13818 are blocked (frozen) when: (i) in US territory; or (ii) within the possession or control of a US person.
- US persons are generally prohibited from dealing, directly or indirectly, with SDNs under EO 13818.
- Under OFAC's "50 Percent Rule," blocking sanctions under EO 13818 also apply to any legal entity owned 50 percent or more by one or more SDNs.
- The definition of "US person" is provided in Section 6(c) of EO 13818 and includes any:
  - United States citizen,
  - United States permanent resident alien,
  - entity organized under the laws of the United States or any jurisdiction within the United States
  - foreign branches of an entity organized under the laws of the United States or any jurisdiction within the United States; or
  - person in the United States.
- The definition of "US person" does not include entities incorporated outside of the territory of the United States (i.e., foreign subsidiaries of US companies).

**[Return to Table of Contents](#)**

# PRC Anti-Foreign Sanctions Law, MOFCOM Blocking Order and Provisions for the Unreliable Entity List

## **Overview:**

On 10 June 2020, the National People's Congress Standing Committee adopted the PRC Anti-Foreign Sanctions Law which affirms and strengthens the legal foundation for actions taken in the prior months by the PRC Ministry of Commerce ("MOFCOM") and the Ministry of Foreign Affairs ("MFA").

Leading up to the law's adoption, MOFCOM had earlier introduced two orders that could, when further implemented, provide the PRC government with the ability to identify "unreliable entities" that would be subject to penalties described in MOFCOM's Order No. 4 of 19 September 2020 ("Provisions for the Unreliable Entity List") and discourage compliance with foreign sanctions pursuant to MOFCOM's Order No. 1 of 9 January 2021 ("Rules on Counteracting Unjustified Extra-territorial Application of Foreign Legislation and Other Measures").

As of 10 June 2021, MOFCOM has yet to identify specific persons or foreign sanctions that would be subject to the orders, although each order provides a framework for additional steps that could be taken at any time.

As explained in the section above on Xinjiang-Related Sanctions and PRC EU, UK, US and Canada Sanctions, the MFA has also announced various sanctions on EU, UK, US, and Canadian persons.

## **Selected Source Documents:**

- [MOFCOM Order No. 4 of 19 September 2020](#) (MOFCOM website)
- [MOFCOM Order No. 1 of 9 January 2021](#) (MOFCOM website)
- [Anti-Foreign Sanctions Law of 10 June 2021](#) (National People's Congress website)

## **Key Points (in Plain Language):**

### **PRC Anti-Foreign Sanctions Law**

- Generally speaking, the Anti-Foreign Sanctions Law affirms and strengthens the legal foundation for actions taken by MOFCOM and the MFA in response to sanctions from the United States, the EU, the UK, and Canada since 2020.
  - PRC state agencies, acting under the coordination of the State Council, are expected to take further steps to implement the law.

- The consequences described in the law were already announced in one form or another by MOFCOM and the MFA, and the new law does not appear to significantly expand the scope of those prior actions.
- The law does not prohibit compliance with specific foreign sanctions.
- The key provisions of the law include:
  - Articles 1, 2, and 3 outline principles that are similar to MOFCOM's Order No. 1 of 2021 and Order No. 4 of 2020 concerning China's national interests and commitment to international law;
  - Articles 4, 5, 6, and 7 provide authorization to PRC government agencies to identify foreign persons involved in making and implementing sanctions against China.
    - Article 5 allows those measures to be applied against associates of those persons (e.g., family members, organizations).
    - Article 6 outlines a menu of consequences (visa bans, asset freezes, restrictions on doing business, and a catch-all "other measures");
  - Article 9 – this suggests that the MFA will announce the decisions;
  - Article 12 prohibits implementing or assisting in implementing sanctions against China.
    - Article 12 states that the consequence for breaching Article 12 is that a Chinese person would be able to bring a law suit for damages in PRC courts. Article 12 does not appear to carry other consequences.

#### MOFCOM Order No. 1 (Blocking Order)

- MOFCOM Order No. 1 of 9 January 2021 has been referred to as a "Blocking Order" or the "Blocking Rules" that could have a similar effect as the EU Blocking Statute of 1996.
  - The MOFCOM Blocking Order allows for the issuance of "prohibition orders" that would identify foreign legislation or other measures that are subject to the Blocking Order.
  - Until then, the Blocking Order does not prohibit compliance with any specific foreign sanctions.
  - The Blocking Order provides for two types of enforcement:
    - Article 9 allows for private litigation for damages against parties that breach a prohibition order under the Blocking Order.

- Article 13 allows for the imposition of warnings or fines for breaches of the Blocking Order.

#### MOFCOM Order No. 4 (Provisions for the Unreliable Entity List)

- MOFCOM Order No. 4 of 19 September 2020 outlines a framework for the creation of an “Unreliable Entity List” identifying foreign persons found to have acted contrary to PRC national interests or other criteria.
- Article 10 outlines six potential consequences of being included on the Unreliable Entity List:
  - Restrictions or prohibitions on engaging in China-related import or export activities;
  - Restrictions or prohibitions on investing in China;
  - Restrictions or prohibitions on entering China;
  - Restrictions or revocation of work permits, status of stay, or residence in China;
  - Fines “according to the severity of the circumstances”; and
  - Other necessary measures.
- The Unreliable Entity List has been compared to other unilateral sanctions and export controls lists such as the US SDN List and the Entity List.
- As of 10 June 2021, no foreign persons have yet been added to the Unreliable Entity List.

[Return to Table of Contents](#)



# Myanmar-related Sanctions

## Overview:

The United States, European Union, the United Kingdom, and other nations have imposed targeted sanctions in response to the 1 February 2021 military coup in Myanmar (Burma) and human rights abuses.

On 11 February 2021, the White House issued EO 14014 authorizing sanctions on, among others, persons responsible for the military coup and their supporters. The US Commerce Department adopted heightened export controls under the Export Administration Regulations (“EAR”). Several weeks later, the European Union and the United Kingdom announced their own targeted sanctions.

Of particular note, OFAC designated Myanmar Economic Holding Limited (“MEHL”) and Myanmar Economic Corporation (“MEC”) as Specially Designated Nationals (“SDNs”) on 25 March 2021. OFAC blocking sanctions also apply to any entity owned 50 percent or more by MEHL, MEC, or other SDNs. The UK and the EU have also sanctioned MEC and MEHL. On 17 May 2021, OFAC imposed blocking sanctions on Myanmar’s State Administrative Council (“SAC”), a military-led body that exercises control over the Myanmar government.

At this time, neither Myanmar nor the Myanmar government as a whole is subject to comprehensive or country-wide sanctions.

## Source Documents:

- **US Sanctions and Export Controls**
  - [Executive Order 14014 of 10 February 2021](#) (US Federal Register)
  - [White House Fact Sheet](#)
  - [US State Department Press Statement](#)
  - [US Commerce Department Announcement](#)
  - [US Commerce Department amendments to the EAR announced 8 March 2021](#) (Federal Register)
  - [US Commerce Department addition of 4 entities to the Entity List announced 8 March 2021](#) (Federal Register)
  - [Burma Sanctions Regulations \(31 CFR Part 525\)](#) (Federal Register)

- **OFAC SDN Designations**

- [10 February 2021 against 10 individuals and 3 entities](#) (OFAC website)
- [23 February 2021 against 2 individuals](#) (OFAC website)
- [10 March 2021 against 2 individuals and 6 entities](#) (OFAC website)
- [22 March 2021 against 2 individuals and 2 entities](#) (OFAC website)
- [25 March 2021 against MEHL and MEC](#) (OFAC website)
  - [General License No. 1](#) – Authorizing Official Business of the US Government
  - [General License No. 2](#) – Authorizing Official Activities of Certain International Organizations and Other International Entities
    - [FAQ 882](#) – Describing covered UN agencies and programs
  - [General License No. 3](#) – Authorizing Certain Transactions in Support of Nongovernmental Organizations’ Activities
  - [General License No. 4](#) – Authorizing the Winding Down of Transactions Involving MEHL and MEC
    - [FAQ 883](#) – Further describing the scope of General License No. 4
- [8 April 2021 against Myanma Gems Enterprise](#) (OFAC website)
- [21 April 2021 against Myanma Timber Enterprise and Myanmar Pearl Enterprise](#) (OFAC website)
- [17 May 2021 against Myanmar’s State Administrative Council \(SAC\) and 16 individuals](#) (OFAC website)
- [EU Sanctions Map – Myanmar \(Burma\)](#) (with lists of persons, entities and items)
- [UK Financial Sanctions, Burma](#) (Gov.UK)
- [Australian Myanmar Sanctions Regime](#) (DFAT.Gov.AU)
- [Canadian Sanctions Related to Myanmar](#) (International.GC.CA)

**Key Points about US Sanctions (in Plain Language):**

- Property and interests in property of SDNs designated under EO 14014 are blocked (frozen) when: (i) in US territory; or (ii) within the possession or control of a US person.
- US persons are generally prohibited from dealing, directly or indirectly, with SDNs under EO 14014.

- Under OFAC’s “50 Percent Rule,” blocking sanctions under EO 14014 also apply to any legal entity owned 50 percent or more by one or more SDNs.
- The definition of “US person” is provided in Section 6(e) of EO 14014 and includes any:
  - United States citizen,
  - United States permanent resident alien,
  - entity organized under the laws of the United States or any jurisdiction within the United States
  - foreign branches of an entity organized under the laws of the United States or any jurisdiction within the United States; or
  - person in the United States.
- The definition of “US person” does not include entities incorporated outside of the territory of the United States (i.e., foreign subsidiaries of US companies).
- General License No. 4 authorizes US persons to engage in activities and transactions that are ordinarily incident and necessary to wind down transactions with MEHL and MEC (including any entities owned 50% or more by them) until 22 June 2021.
  - As stated in FAQ 883, this includes transactions involving the US financial system.
- As the US Commerce Department added MEHL and MEC to the Entity List on 8 March 2021, non-US persons may also require a license to provide US-origin items and certain other items to MEHL and MEC under the EAR.

[Return to Table of Contents](#)

# Ukraine/Russia-related Sanctions

## Overview:

In 2014, the US President issued a series of EOs in response to the annexation of the Crimean territory by the Russian Federation. The EOs and subsequent directives from OFAC provided for: (i) a comprehensive US embargo of the Crimean territory; (ii) blocking sanctions against persons determined to be responsible for the situation in Crimea and named as SDNs; and (iii) sectoral sanctions restricting US persons' dealings with certain Russian entities in the finance, energy, and defense sectors. These sanctions were later strengthened under subsequent OFAC actions and further strengthened under the Countering America's Adversaries Through Sanctions Act ("CAATSA") of 2017.

This section provides information about US sanctions targeting debt or equity of specified entities in the Russian finance, energy, and defense sectors, which are listed on OFAC's List of Sectoral Sanctions Identifications (the "SSI List").

This section also provides information about the CBW Act Directive and Directive 1 under Executive Order 14024 of 15 April 2021 concerning bonds and lending involving the Russian government.

## Selected Source Documents:

- [Executive Order 13662 of 20 March 2014](#) (US Federal Register)
  - [Directive 1 under Executive Order 13662](#) (as amended) (OFAC website)
  - [Directive 2 under Executive Order 13662](#) (as amended) (OFAC website)
  - [Directive 3 under Executive Order 13662](#) (OFAC website)
- [List of Sectoral Sanctions Identifications \(SSI List\)](#) (OFAC website)
- [Ukraine-Related Sanctions Regulations \(31 CFR Part 589\)](#) (US Federal Register)
- [OFAC Notice of Delisting of EN+, Rusal, and EuroSibEnergo](#) (27 January 2019) (OFAC website)
- [Executive Order 13883 of 1 August 2019](#) (US Federal Register)
  - ["CBW Act Directive" under Executive Order 13883](#) (OFAC website)
- [Executive Order 14024 of 15 April 2021](#) (US Federal Register)
  - [Directive 1 under Executive Order 14024](#) (OFAC website)

### **Selected General Licenses:**

- [General License No. 1B of 28 November 2017](#) authorizing certain transactions related to derivatives prohibited by Directives 1, 2, and 3 (OFAC website)
- [General License No. 3 of 6 October 2014](#) authorizing transactions with DenizBank A.S. otherwise prohibited by Directive 1 (OFAC website)

### **Selected OFAC Guidance:**

- [Collection of FAQs on OFAC's Ukraine/Russia-related Sanctions](#) (OFAC website)
- [Collection of FAQs on OFAC's "50% Rule"](#) (OFAC website)
- [FAQ 335](#) – providing examples of OFAC compliance recommendations for firms operating in the securities industry (OFAC website)
- [FAQ 675](#) – providing a summary of the CBW Act Directive (OFAC website)
- [FAQ 676](#) – providing definitions of the terms “US bank” and “Russian sovereign” for the purposes of the CBW Act Directive (OFAC website)
- [FAQ 678](#) – confirming that the CBW Act does not apply to the secondary market for Russian government bonds (OFAC website)
- [FAQ 881](#) – providing a summary of Directive 1 under Executive Order 14024 (OFAC website)
- [FAQ 889](#) – confirming that Directive 1 under Executive Order 14024 does not apply to the secondary market for Russian government bonds (OFAC website)
- [FAQ 890](#) – explaining that Directive 1 under Executive Order 14024 applies to both ruble and non-ruble denominated transactions (as compared to the CBW Act Directive) (OFAC website)
- [FAQ 891](#) – confirming that the 50 Percent Rule does not apply under Directive 1 under Executive Order 14024

### **Selected Enforcement Actions:**

- [OFAC settlement with Haverly Systems Inc. for violations of the Ukraine-Related Sanctions Regulations](#) (25 April 2019) (OFAC website)

### **Key Points (in Plain Language):**

- Unlike SDN sanctions, which prohibit nearly all transactions by US persons, OFAC's sectoral sanctions are focused on transactions in specified debt or equity of SSI entities.
  - The prohibited debt or equity is described in Directives 1, 2, and 3.

- Each SSI entity is sanctioned under one or more of the Directives and is subject to the restrictions described in the relevant Directive.
- Since 2014, Directives 1 and 2 have been amended to further restrict US persons from transacting in debt of specified SSI entities.
  - As a result, the permissible tenor (length) of debt is shorter for more recently issued debt.
  - Debt or equity issued before the effective date of a Directive is not subject to the SSI sanctions.
- The term “debt” is broadly defined and includes bonds as well as trade finance, invoices, and other extensions of credit to an SSI entity.
- Under OFAC’s “50 Percent Rule,” sectoral sanctions under EO 13662 also apply to any legal entity owned 50 percent or more by one or more SSI entities.
- Directive 4 under EO 13662 excludes financial services and concerns exports by US persons or from the United States of certain items used in the offshore energy sector of Russia.
- Together, the CBW Act Directive and Directive 1 under Executive Order 14024 prohibit US banks (under the CBW Act Directive) and US financial institutions (under Directive 1) from, after the relevant effective dates, (i) participating in the primary market for ruble and/or non-ruble denominated bonds issued by the Russian sovereign (under the CBW Act Directive) or by Russia’s Central Bank, National Wealth Fund, or Ministry of Finance (under Directive 1) ; and (ii) non-ruble lending to the Russian sovereign (under the CBW Act Directive) and non-ruble and ruble lending to Russia’s Central Bank, National Wealth Fund, or Ministry of Finance (under Directive 1).

[Return to Table of Contents](#)

# Venezuela-related Sanctions

## **Overview:**

OFAC maintains a complex sanctions program targeting the Government of Venezuela and numerous SDNs under a series of EOs issued beginning in 2015. Of particular relevance are EOs 13884, 13808, and 13850 (each as amended), which, among other things, impose blocking sanctions on the Government of Venezuela and state-owned or controlled entities (and entities owned 50 percent or more by them), some of which are issuers of securities. OFAC has also issued several general licenses to permit US persons to engage in limited activities related to certain securities, subject to strict conditions described in the licenses.

## **Selected Source Documents:**

- [Executive Order 13692 of 8 March 2015](#) (US Federal Register)
- [Executive Order 13808 of 24 August 2017](#) (US Federal Register)
- [Executive Order 13850 of 1 November 2018](#) (US Federal Register)
- [Executive Order 13857 of 25 January 2019](#) (US Federal Register)
- [Executive Order 13884 of 5 August 2019](#) (US Federal Register)
- [Venezuela-Related Sanctions Regulations](#) (31 CFR Part 591) (US Federal Register)
- [OFAC SDN designation announced on 30 November 2020](#) against CEIEC under EO 13692 (OFAC website)

## **Selected General Licenses:**

- [General License No. 3H of 12 May 2020](#) authorizing US persons to engage in certain transactions related to Venezuelan bonds specified in the Annex to the general license (OFAC website)
- [General License No. 5F of 23 December 2020](#) authorizing US persons to engage in certain transactions related to PdVSA 2020 8.5 Percent Bond on or after 21 July 2021 (OFAC website)
- [General License No. 9G of 12 May 2020](#) authorizing US persons to deal in certain securities of PdVSA, PDV Holdings, Inc., and CITGO Holdings, Inc. (OFAC website)

## **Selected OFAC Guidance:**

- [Collection of FAQs on OFAC's Venezuela-related Sanctions Program](#) (OFAC website)
- [Collection of FAQs on OFAC's "50% Rule"](#) (OFAC website)

- [FAQ 335](#) – providing examples of OFAC compliance recommendations for firms operating in the securities industry (OFAC website)

**Key Points (in Plain Language):**

- Property and interests in property of SDNs designated under the Venezuela-related EOs (including the Government of Venezuela) are blocked (frozen) when: (i) in US territory; or (ii) within the possession or control of a US person.
- Unless licensed, US persons are generally prohibited from dealing, directly or indirectly, with SDNs (including the Government of Venezuela) under the Venezuela-related EOs.
- The term “Government of Venezuela” is defined broadly in Section 6(d) of EO 13884 to mean:
  - the state and Government of Venezuela,
  - any political subdivision, agency, or instrumentality of the Government of Venezuela, including, but not limited to:
    - the Central Bank of Venezuela, and
    - Petroleos de Venezuela, S.A. (PdVSA),
  - any person owned or controlled, directly or indirectly, by the foregoing,
  - any person who has acted or purported to act directly or indirectly for or on behalf of, any of the foregoing, including as a member of the Maduro regime.
- The term “Government of Venezuela” does not include any United States citizen, any permanent resident alien of the United States, any alien lawfully admitted to the United States, or any alien holding a valid United States visa.
- Under OFAC’s “50 Percent Rule,” blocking sanctions under the Venezuela-related EOs also apply to any legal entity owned 50 percent or more by one or more SDNs.
- The definition of “US person” provided in the Venezuela-related EOs includes any:
  - United States citizen,
  - United States permanent resident alien,
  - entity organized under the laws of the United States or any jurisdiction within the United States
  - foreign branches of an entity organized under the laws of the United States or any jurisdiction within the United States; or
  - person in the United States.



- The definition of “US person” does not include entities incorporated outside of the territory of the United States (i.e., foreign subsidiaries of US companies).

[Return to Table of Contents](#)

## Glossary of Terms

Term	Meaning
BIS	US Commerce Department's Bureau of Industry and Security
CAATSA	Countering America's Adversaries Through Sanctions Act
CCMC	"Communist Chinese military company"
EAR	Export Administration Regulations
EO	Executive Order
FAQ	Frequently Asked Question
FFI	Foreign Financial Institution
GL	General License
HKAA	Hong Kong Autonomy Act
ICTS	Information and Communication Technology and Services
MFA	PRC Ministry of Foreign Affairs
MOFCOM	PRC Ministry of Commerce
OFAC	US Treasury Department's Office of Foreign Assets Control
SDN	Specially Designated National
SSI	Sectoral Sanctions Identifications
XPCC	Xinjiang Construction and Production Corps

[Return to Table of Contents](#)

