

Client Alert

June 2019

OFAC Provides Further Guidance on Reporting, Procedures and Penalties

What Happened: On June 20, 2019, the Department of Treasury's Office of Foreign Assets Control (**OFAC**) issued an interim final rule to amend the Reporting, Procedures and Penalties Regulations, 31 CFR part 501 (the **Regulations**), which provide the standard reporting requirements, license application procedures and other procedures relevant to the economic sanctions programs administered by OFAC. This regulatory amendment took effect upon publication in the Federal Register on Friday, June 21, 2019.

The Bottom Line: OFAC is providing updated instructions and new requirements for parties filing reports on blocked property, unblocked property and rejected transactions; amending its licensing procedures; and clarifying the rules that govern the availability of information submitted to OFAC under federal law. Companies subject to US jurisdiction and engaging in activities related to the economic sanctions administered by OFAC should familiarize themselves with this regulatory amendment to ensure compliance with OFAC procedures, reduce the need for OFAC follow-up requests and diminish the burden imposed by the reporting requirements overall.

The Full Story

On June 20, 2019, OFAC issued an interim final rule amending the Regulations that set forth the standard reporting requirements, license application procedures and other procedures relevant to the economic sanctions programs it administers. With this rule, OFAC is revising the reporting instructions and requirements for blocked property, unblocked property and rejected transactions; updating its licensing procedures; and clarifying the rules governing the availability of information under the Freedom of Information Act (**FOIA**).

Through these amendments, OFAC has incorporated greater detail as to the information it requires in connection with initial blocking reports, annual reports and reports on property that is unblocked. According to OFAC, the purpose of this revision is to ensure that all submitters have a list of all required information, reducing the need to request follow-up information. Such required information includes the name and address of the person holding the blocked property; the associated sanctions target(s) whose property is blocked; the date the property was blocked or unblocked; a description of the property and its location; the value of the property in US dollars; and the legal authority under which the property is blocked. In addition to clarifying the information required in connection with these reports, OFAC's revisions also allow for the submission of these reports by email, US mail or any other official reporting option, as specified on OFAC's website, and explain that any information submitted to OFAC is subject to the FOIA and will be released upon a valid request.

The amended regulations also provide greater clarity as to the scope of the transactions to be reported and technical aspects of the reporting requirements. In regard to reports on rejected transactions, for example, the revisions clarify that OFAC's reporting requirements apply to not only rejected fund transfers but also all rejected transactions including wire transfers, securities, foreign exchange and goods or services. Similarly, in regard to reports to be furnished on demand, the revisions add that any person providing documents to OFAC pursuant to this section must produce the documents in a usable format agreed upon by OFAC. As

part of this revision, OFAC provides guidance regarding the definition of the term “document” for purposes of this section and references newly updated guidance on what it considers a usable format.

In addition to allowing the electronic submission of reports, the revisions include information concerning OFAC’s electronic license application procedures, requiring that applications for specific licenses to engage in otherwise prohibited transactions pursuant to OFAC’s sanctions programs or 31 CFR chapter V be filed through OFAC’s Reporting and License Application Forms page or by mail. Persons submitting applications for the unblocking of funds must also submit through one of these means. Lastly, the amended regulations adjust the penalties for willful violations of the Trading with the Enemy Act, in accordance with Section 107(a)(4) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010.

Companies subject to US jurisdiction and engaging in activities related to the economic sanctions administered by OFAC should familiarize themselves with OFAC’s amended regulations in order to comply with and lessen the burden imposed by OFAC’s procedures and requirements.

Hunton Andrews Kurth LLP will continue to closely monitor related developments regarding OFAC’s regulations. Please contact us if you have any questions or would like further information regarding OFAC’s interim final rule to amend the regulations.

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