Sanctions Remain Key; Implementation of Sweeping Anti-Money Laundering Legislation Begins

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Sanctions

The Biden administration has made clear that economic sanctions will continue to be an important U.S. foreign policy tool and has initiated a comprehensive review of current sanctions policies and practices. While the assessment is underway, the U.S. continues to impose new measures in response to national security threats and, as anticipated, the new administration appears to be placing greater emphasis on multilateralism and diplomacy.

Burma. In February 2021, the Biden administration imposed targeted sanctions in response to the military coup in Burma (Myanmar), which now include blocking sanctions against Myanma Economic Holdings Public Company Limited (MEHL) and Myanmar Economic Corporation Limited (MEC), two major conglomerates controlled by the Burmese military. (See our February 16, 2021, client alert "US Imposes Restrictions on Burma Following Military Coup.") The European Union has also imposed new sanctions with respect to Burma, including against MEHL and MEC.

Russia. The president announced additional sanctions against Russia in April 2021 stemming from its interference in U.S. elections and other malicious cyber activities. The order targeted technology companies that support Russian intelligence services, among others; and the Department of the Treasury's Office of Foreign Assets Control issued a new directive prohibiting U.S. financial institutions from participating in the primary market for newly issued ruble- or nonruble-denominated bonds issued by the Russian Central Bank, National Wealth Fund and Ministry of Finance, or lending ruble or nonruble funds to those bodies. In partnership with the EU, United Kingdom, Canada and Australia, the U.S. also imposed sanctions on certain individuals and entities associated with Russia's efforts to annex the Crimea region of Ukraine. (See our April 22, 2021, client alert "US Imposes Additional Round of Sanctions on Russia Amid Increasing Tensions.")

China. President Biden has so far maintained various sanctions imposed on China by the Trump administration, including those against designated Communist Chinese military companies, but the Biden White House has advocated for a coordinated approach with allies in Europe and the Pacific Rim to address the challenges that China presents, including human rights concerns in the Xinjiang region.

Iran. The administration initiated indirect talks with Iran in April 2021 to discuss the possibility of the U.S. rejoining the Iran nuclear deal known as the Joint Comprehensive Plan of Action. If an agreement is reached, expectations are that it would include a lifting of at least some sanctions against Iran.

International Criminal Court. In a second notable shift from the previous administration, the Biden administration revoked sanctions against personnel of the International Criminal Court, saying the concerns that led to the sanctions would be better addressed through dialogue.

Anti-Money Laundering

Thanks to newly enacted legislation, the Biden administration will have an important opportunity to shape the development of new rules to strengthen the U.S. anti-money laundering and counterterrorist financing regulatory framework.

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The Biden administration is responsible for implementing the Anti-Money Laundering Act of 2020 and the Corporate Transparency Act (CTA), both included in the 2021 National Defense Authorization Act. (See our January 7, 2021, client alert "US Enacts Historic Legislation To Strengthen Anti-Money Laundering and Counterterrorist Financing Legal Framework.") Among other key changes, this legislation imposes new beneficial ownership reporting requirements, expands the authority of the Treasury and Justice Departments to subpoena records from foreign banks with U.S. correspondent accounts, and establishes a more robust whistleblower program to address money laundering.

On April 1, 2021, the Treasury's Financial Crimes Enforcement Network (FinCEN) issued an advance notice of proposed rulemaking regarding the beneficial ownership reporting requirements of the CTA, kickstarting the implementation process for the CTA. The administration has requested $191 million for FinCEN in its 2022 federal budget, $64 million above the 2021 enacted level, to fund the creation of the beneficial ownership database required by the CTA. (See our April 23, 2021, client alert "FinCEN Commences Rulemaking Process To Implement New Beneficial Ownership Requirements.")

The Biden administration will also determine the fate of rules proposed during the final months of the Trump administration. Among these is a rule jointly proposed by FinCEN and the Federal Reserve Bank on October 27, 2020, which would lower the threshold at which international fund transfers must be reported, from $3,000 to $250. (See our November 10, 2020, client alert "FinCEN and Federal Reserve Propose To Significantly Lower Threshold for International Funds Transfers Under Recordkeeping and Travel Rules.") A second rule proposed on December 23, 2020, would impose new reporting, recordkeeping and verification requirements on banks and money services businesses for certain virtual currency transactions. (See our January 19, 2021, client alert "FinCEN Proposes New Reporting, Recordkeeping and Verification Requirements for Transactions Involving Unhosted Wallets.")

The Biden administration recently appointed a new acting FinCEN director, though it is too early to say whether that appointment will be permanent and how it may influence the promulgation of the proposed rules.

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