

US Imposes New Sanctions Targeting Turkish Government Officials and Entities

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In light of Turkey's military intervention in northeast Syria, President Donald Trump issued, on October 14, 2019, Executive Order 13894 (EO 13894), "Blocking Property and Suspending Entry of Certain Persons Contributing to the Situation in Syria." Under the authority of this Executive Order, the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) simultaneously designated three key Turkish government officials; the Turkish Ministry of Energy and Natural Resources; and the Turkish Ministry of National Defense, and added these individuals and ministries to the List of Specially Designated Nationals and Blocked Persons (SDN List). In addition to the new sanctions, on the same day, the president announced that the United States would halt trade negotiations with Turkey and raise steel tariffs on Turkey by 50 percent, and prosecutors in New York filed criminal charges against a Turkish state-owned bank alleging a conspiracy to evade U.S. sanctions against Iran.

The possibility for further sanctions remains, particularly if the current reported cease-fire does not hold. In accordance with the commitments made in the Joint U.S.-Turkish Statement on Northeast Syria (Joint Statement), the Trump administration stated on October 17 that it will remove the new sanctions if Turkey's Operation Peace Spring is "halted." Separately, legislation has already been introduced in both the Senate and the House of Representatives to impose sanctions on Turkey, raising the prospect of congressional measures.

Impact of New Sanctions

The sanctions issued under EO 13894 create a risk of both "primary" sanctions (*i.e.*, prohibitions enforceable with respect to U.S. persons or transactions with a U.S. nexus) and "secondary" sanctions (*i.e.*, sanctions that may be imposed on non-U.S. persons for, among other activities, certain dealings with sanctioned persons). OFAC also issued three general licenses authorizing certain transactions.

Primary Sanctions

Unless otherwise authorized by OFAC, U.S. persons are now broadly prohibited from transacting with persons blocked under EO 13894 — including persons designated on October 14 and entities owned 50 percent or more by one or more of such persons. Any property or interest in property of such persons that is in the United States or comes within the possession or control of a U.S. person must be blocked (*i.e.*, frozen).

EO 13894 also provides OFAC the authority to impose additional sanctions on those it determines to:

1. be responsible for or complicit in actions that contribute to the threat to undermine the peace, security and stability in the region,
2. be a current or former official of the government of Turkey,
3. be any subdivision, agency or instrumentality of the government of Turkey
4. operate in sectors of the Turkish economy as may be determined by the secretary of the Treasury, or
5. have provided material assistance to persons whose property and interests in property are blocked pursuant to this executive order, as well as any person owned or controlled, directly or indirectly, by such persons.

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Secondary Sanctions on Foreign Financial Institutions

Under EO 13894, the secretary of the Treasury is authorized to impose sanctions on foreign financial institutions upon determining that the foreign financial institution “knowingly conducted or facilitated any significant financial transaction” for or on behalf of any person designated pursuant to the executive order. Specifically, the secretary of the Treasury may prohibit opening, and prohibit or impose strict conditions on maintaining, U.S. corresponding accounts or payable-through accounts by identified foreign financial institutions. Such sanctions could have a widespread, adverse effect on the operations of a foreign financial institution utilizing U.S. correspondent accounts to process transactions.

Secondary Menu-Based Sanctions

Non-U.S. persons could face the imposition of sanctions under the executive order if they are determined to be: (i) responsible for or complicit in certain actions that contribute to the destabilizing actions in northeast Syria, (ii) an adult family member of such person, or (iii) responsible for or complicit in the expropriation of property, including real property, for personal gain or political purposes in Syria. EO 13894 gives the secretary of State a “menu” of sanctions to impose on non-U.S. persons engaging in such conduct, such as restrictions on the provision of loans and other financial services, a denial of U.S. government contracts, a loss of U.S. import privileges and a full blocking of assets. Executive officers of companies engaging in these activities can also face similar sanctions.

Three General Licenses

Concurrent with its announcement, OFAC issued three general licenses authorizing certain transactions and activities otherwise prohibited by the executive order that are necessary to conduct official business of the U.S. government, wind down dealings with the sanctioned Turkish government ministries and permit the activities of certain international organizations involving such Turkish government ministries:

- **General License 1** permits all transactions and activities that are related to the official business of the United States government by its employees, grantees or contractors.
- **General License 2** authorizes until 12:01 a.m. EST on November 13, 2019, transactions and activities that are “ordinarily incident and necessary to the wind down of operations, contracts, or other agreements involving the Ministry of National Defense or the Ministry of Energy and Natural Resources of the Government of Turkey.” General License 2

also applies to any entity in which one or more of the designated ministries owns, directly or indirectly, a 50 percent or greater interest.

- **General License 3** permits all transactions and activities involving the blocked Turkish government ministries or entities owned 50 percent or more by such Turkish ministries that are for the official business of the United Nations and related organizations, including, among others, the World Bank, International Monetary Fund, U.N. Food and Agriculture Organization, and World Health Organization.

Going Forward

The October 14 sanctions will have a significant impact on persons engaged in dealings, both directly and indirectly, with the government of Turkey’s defense and energy ministries. Persons engaged in transactions that are subject to U.S. primary sanctions jurisdiction should diligently work to wind down such transactions or activities within the provided 30 days. There is also significant risk for non-U.S. persons even where there is no U.S. nexus; non-U.S. persons should exercise care in their dealings with the individuals and entities designated under the new Syria-related sanctions authorities.

There is the potential for additional sanctions targeting the government of Turkey or, more broadly, the Turkish economy. EO 13894 already authorizes the secretary of the Treasury to identify any sector of the Turkish economy and designate persons operating in those sectors. The secretary has used similar authorities to target the finance, energy, and defense sectors of Russia. Further, both Republicans and Democrats in Congress have expressed a strong willingness to impose sanctions on Turkey. Multiple pieces of legislation, including several bipartisan bills, have been introduced in the Senate and the House of Representatives that could, if passed, apply new sanctions to senior Turkish officials, including President Erdogan, key Turkish banks, and defense and energy transactions in support of the Turkish Armed Forces or require sanctions against the government of Turkey for its purchase of the S-400 air and missile defense system.

President Trump and Vice President Mike Pence have indicated that such congressional sanctions are unnecessary, and, in accordance with the Joint Statement, the Executive Branch will not issue any additional sanctions during the five-day ceasefire in Syria. Under the Joint Statement, the Trump administration would withdraw the sanctions imposed under EO 13894 if a permanent ceasefire enters into effect.

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