US Department of the Treasury Publishes Sanctions Review Results

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10 / 26 / 21

If you have any questions regarding the matters discussed in this memorandum, please contact the following attorneys or call your regular Skadden contact.

Jamie L. Boucher
Partner / Washington, D.C.
202.371.7369
jamie.boucher@skadden.com

Eytan J. Fisch
Partner / Washington, D.C.
202.371.7314
eytan.fisch@skadden.com

Ondrej Chvosta
Associate / Washington, D.C.
202.371.7579
ondrej.chvosta@skadden.com

One Manhattan West
New York, NY 10001
212.735.3000

1440 New York Avenue, N.W.
Washington, D.C. 20005
202.371.7000

On October 18, 2021, the U.S. Department of the Treasury released the results of its broad review of economic and financial sanctions. The review, initiated by the Biden administration, included discussions with Congress, interagency partners, the private sector, foreign governments, nongovernmental organizations, academics and the Treasury's own sanctions workforce. The results do not indicate a seismic shift in sanctions policy and implementation, and are consistent with recent messaging from the U.S. government regarding sanctions, including the need for increased coordination with U.S. allies and the rising risks presented by cybercriminals and by the growing use of digital assets.

The sanctions review's key findings and recommendations include:

- **The need for a "structured policy framework."** The Treasury emphasizes that sanctions need to have a clear policy objective and be used alongside other measures in furtherance of that policy. This new structured policy framework appears to be intended to ensure that, before sanctions are imposed, the government takes into account all relevant considerations, including "rigorous economic analysis" and intelligence to ensure that sanctions are the right tool to accomplish the given policy objective.
- **Responding to new threats and challenges.** New threats and challenges posed by digital assets such as cryptocurrency and alternative payment platforms are a primary focus in the review. We note that even before the sanctions review, both the Treasury's Office of Foreign Assets Control and the Financial Crimes Enforcement Network had been increasingly focused on the risks posed by digital assets, and have, for example, published guidance documents specifically addressing virtual currency. The review observes that cybercriminals and other malicious actors use evolving technologies in an effort to avoid the reach of U.S. sanctions. Moreover, increased use of new technologies can contribute to reduced reliance on the U.S. dollar and the U.S. financial system, which in turn impacts the efficacy of U.S. sanctions. Countering these challenges and finding ways to enhance the effectiveness of U.S. sanctions — including through the use of the "structured policy framework"— will likely remain a top priority for the Treasury and the U.S. government as a whole.
- **Multilateral coordination.** The Treasury states that sanctions are most effective when coordinated with allies and the international community. The Treasury reiterated its commitment to international cooperation, where possible, including sharing intelligence and resources.
- **Mitigating unintended negative consequences.** The Treasury will seek to mitigate the unintended economic and political impacts of sanctions on U.S. workers and businesses, allies and nontargeted populations abroad. The Treasury highlighted the importance of ensuring that sanctions do not prevent humanitarian activities and indicated it would consider expanding available general licenses or exemptions to facilitate the flow of legitimate humanitarian assistance where needed.
- **Investing in the Treasury's sanctions workforce.** The review notes the need to ensure the Treasury has "the right expertise, technology, and staff to support a robust and effective sanctions policymaking and implementation process." In particular, the Treasury highlights the need to "invest in deepening its institutional knowledge and capabilities in the evolving digital assets and services space."

Although the published review may offer little insight into the concrete steps the Treasury will take to address its findings and implement its recommendations, the review sends a clear signal to the public that the Treasury is proactively working to enhance the efficacy of U.S. sanctions. Such efforts are increasingly important in the face of challenges presented by rapidly evolving technologies and new patterns of malign or illicit activities.