

# ClientAlert

## International Trade

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### US Issues New Executive Order Targeting Foreign Sanctions Evaders With Respect to Iran and Syria

On May 1, 2012, as part of an ongoing US and international campaign to isolate Iran and Syria, President Obama issued Executive Order 13608 expanding the US Treasury Department's authority to find sanctionable conduct by, and impose sanctions measures against, foreign persons as a result of an expanded range of transactions relating to Iran or Syria.

The Executive Order, entitled "Prohibiting Certain Transactions With and Suspending Entry Into the United States of Foreign Sanctions Evaders With Respect to Iran and Syria" (the "FSE Order"), allows the Treasury Department's Office of Foreign Assets Control ("OFAC") to publicly identify and list foreign persons deemed to have violated, attempted or conspired to violate, or caused a violation of US sanctions laws against Iran and Syria, or to have "facilitated deceptive transactions for or on behalf of persons subject to US sanctions."<sup>1</sup> The FSE Order defines "deceptive transaction" as "any transaction where the identity of any person subject to US sanctions concerning Iran or Syria is withheld or obscured from other participants in the transaction or any relevant regulatory authorities."

The FSE Order refers in comprehensive fashion to prior Executive Orders authorizing sanctions with respect to both Iran and Syria, as well as broader Executive Orders sanctioning parties for activity relating to proliferation of weapons of mass destruction and terrorism activity, including certain Iranian and Syrian designated parties. This includes the recent GHRAVITY Executive Order of April 23, 2012, imposing sanctions and blocking the property interests of persons in Iran and Syria deemed to have abused information technology to facilitate human rights violations.<sup>2</sup>

According to OFAC, the FSE Order provides the Treasury Department with the capability "to put the world on notice" of the activities of deemed "foreign sanctions evaders," and to help prevent US persons from unwittingly engaging in transactions with foreign persons that may present a risk of sanctions violations.



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<sup>1</sup> *Executive Order 13608 of May 1, 2012*

<sup>2</sup> White & Case LLP International Trade Alert, April 25, 2012—*New Iran and Syria Information Technology Sanctions*

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The FSE Order enhances sanctions by authorizing OFAC to restrict US persons from providing to, or procuring from, persons designated under the FSE Order goods, services or technology, thereby effectively denying such designated persons access to the US commercial and financial systems. Designated individuals also may be prevented entry into the United States. OFAC has explained that it may invoke this authority in situations where it appears that a foreign person has violated US sanctions on Iran or Syria, but such person may not meet criteria for designation under existing Executive Orders or where it may not otherwise be possible to impose sanctions under pre-existing sanctions measures.

The FSE Order is not a blocking Order in that it does not require blocking or freezing of property or property interests of parties designated under this Order. US Persons, however, will require authorization from OFAC before engaging in any transaction relating to the property in which parties designated under the FSE Order have an interest. The FSE Order, for example, requires US financial institutions to restrict accounts of designated persons, unless otherwise authorized by OFAC, and to reject any wire transfers involving such persons.

The FSE Order raises the risk of US sanctions violations to any foreign person engaged in transactions relating to Iran or Syria. Ensuring compliance will require foreign persons to understand the potential reach of these US measures and to establish appropriate practices and procedures.

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