

United States Issues Executive Order, General License Easing Sudan Sanctions

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On January 13, 2017, President Obama signed an Executive Order entitled “Recognizing Positive Actions by the Government of Sudan and Providing for the Revocation of Certain Sudan-Related Sanctions.”

The new Executive Order provides that certain Sudan-related sanctions will be revoked on July 12, 2017 if the Government of Sudan sustains positive actions that gave rise to the new Executive Order.¹ In conjunction with the new Executive Order, the US Department of the Treasury's Office of Foreign Assets Control (OFAC) has announced an amendment to the Sudanese Sanctions Regulations (SSR)² that will authorize all transactions prohibited by the SSR and by two previous Executive Orders targeting Sudan through a general license effective upon the date of publication, which is expected to be January 17, 2017.³ The amendment will generally authorize US persons to transact with individuals and entities in Sudan, and the property of the Government of Sudan in the United States or in the possession or control of US persons will be unblocked.

Certain Sudan-related measures remain in effect. In particular, this action does not affect the list-based Darfur sanctions maintained under Executive Order 13400 or South Sudan sanctions maintained under Executive Order 13664. Parties blocked under the Darfur or South Sudan sanctions programs will remain blocked and cannot be dealt with by US persons.

Sudan continues to be included on the US State Department's List of State Sponsors of Terrorism. As a result, restrictions on exports of items controlled under the Export Administration Regulations (EAR) administered by the Bureau of Industry and Security of the US Department of Commerce (BIS) will continue to apply to transactions involving Sudan.

January 13, 2017 Executive Order

The new Executive Order signed by President Obama on January 13 provides for the potential revocation of sanctions that the United States has imposed on Sudan pursuant to the following:

¹ See new Executive Order [here](#).

² 31 C.F.R. Part 538

³ See SSR Amendment [here](#).

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- **Sections 1 and 2 of Executive Order 13067 of November 3, 1997,**⁴ which imposed a trade embargo against the entire territory of Sudan and a comprehensive blocking of the Government of Sudan; and
 - **Executive Order 13412 of October 13, 2006,**⁵ which continued the comprehensive blocking of the Government of Sudan (but exempted the then-regional Government of South Sudan from the definition of the Government of Sudan, thereby allowing most transactions with the Government of South Sudan) and prohibited all transactions by US persons relating to Sudan's petroleum and petrochemical industries.

The new Executive Order provides that these sanctions will be revoked on July 12, 2017 if the Secretary of State determines on or before that date that the Government of Sudan has sustained certain positive actions it has taken over the past 6 months, including carrying out its pledge to maintain a cessation of hostilities in conflict areas in Sudan; continued improvement of humanitarian access throughout Sudan; and maintaining its cooperation with the United States on addressing regional conflicts and the threat of terrorism.

After July 12, 2017, the Secretary of State will be required to provide annual reports to the President assessing whether the Government of Sudan has sustained the aforementioned actions. To the extent that the report concludes that the Government of Sudan has or has not sustained such actions, the Secretary of State must provide to the President recommendations on appropriate US Government responses.

Amendment of the SSR; New General License

In conjunction with the new Executive Order, OFAC will amend the SSR to add a new general license authorizing all transactions previously prohibited by the SSR and by Executive Orders 13067 and 13412, including all transactions that involve property in which the Government of Sudan has an interest. The amendment will take effect immediately upon publication in the *Federal Register*, which is expected on January 17, 2017. As a result of the amendment to the SSR:

- All property and interests in property blocked pursuant to the SSR will be unblocked;
- All trade between the United States and Sudan that was previously prohibited by the SSR will be authorized;
- All transactions by US persons relating to the petroleum or petrochemical industries in Sudan that were previously prohibited by the SSR will be authorized, including oilfield services and oil and gas pipelines; and
- US persons will no longer be prohibited from facilitating transactions between Sudan and third countries, to the extent previously prohibited by the SSR.

Sudan Sanctions Restrictions that Remain in Place

TSRA

The new EO and the general license cannot remove the statutory requirements imposed under the Trade Sanctions Reform and Export Enhancement Act (TSRA) regarding exports of agricultural commodities, medicine, and medical devices to Sudan. OFAC has therefore issued a corresponding general license in the SSR for the export of such agricultural commodities, medicine, and medical devices to Sudan.

Darfur/South Sudan

The new general license only authorizes transactions prohibited by the SSR and by Executive Orders 13067 and 13412. It does not authorize transactions that are prohibited under any other OFAC sanctions program, including transactions that are prohibited under the Darfur Sanctions Regulations⁶ or the South Sudan Sanctions Regulations,⁷ or under Executive Orders 13400⁸ or 13664.⁹

⁴ See Executive Order 13067 [here](#).

⁵ See Executive Order 13412 [here](#).

⁶ 31 C.F.R. Part 546

⁷ 31 C.F.R. Part 558

State Sponsor of Terrorism Designation

The new EO and general license do not affect Sudan's inclusion on the State Department List of State Sponsors of Terrorism. Restrictions, such as export controls, related to Sudan's inclusion on the list, will remain in place.

Export Controls

As a result of Sudan's continued inclusion on the State Department's List of State Sponsors of Terrorism, BIS will continue to restrict the export of all items subject to the EAR that are controlled on the Commerce Control List (i.e., items that are not designated EAR99), unless a license exception applies. This includes most US-origin products, as well as some non-US made items that incorporate greater than *de minimis* US-origin content and items that are the direct product of certain US-origin technology.

Enforcement

Although most transactions with Sudan should be permissible upon the effective date of the general license, this action does not affect past, present, or future OFAC enforcement investigations or actions related to any apparent violations of the SSR that occurred prior to the issuance and effective date of the general license.

Companies should monitor closely any measures targeting Sudan imposed by the US to ensure compliance. Penalties for noncompliance can be severe.

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8 See Executive Order 13400 [here](#).

9 See Executive Order 13664 [here](#).