

Obama Administration Announces Suspension and Planned Termination of Sudan Sanctions

January 16, 2017

On Friday, January 13, the Obama Administration announced that sanctions against Sudan will be suspended (via issuance of a general license) on Tuesday, January 17. The President also issued an Executive Order eliminating the Sudan sanctions program in six months' time, on July 12, 2017, if the Secretary of State (in consultation with the heads of other relevant agencies) certifies that the Government of Sudan has continued its positive actions in ending armed conflict in Sudan, improving humanitarian access, and cooperating in the fight against terrorism.

Should you have any questions regarding these matters, please reach out to your regular Firm contact or the following author.

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The general license authorizes all transactions with the Government of Sudan and its controlled entities, the territory of Sudan, and any Specially Designated National (SDN) in Sudan currently designated with the tag [SUDAN]. It also unblocks all property previously blocked under the Sudanese sanctions. The license does not, however, affect other sanctions programs, and other SDNs located in Sudan but designated under different programs (including those relating to Darfur, South Sudan, and terrorism) will remain sanctioned. Furthermore, a number of restrictive export licensing policies will remain in place (as Sudan is still designated as a state sponsor of terrorism). Any violation of Sudanese sanctions occurring prior to the effective date of the general license is unaffected, and transactions conducted pursuant to the general license prior to termination of the Sudan sanctions are still subject to OFAC's recordkeeping requirements. Finally, this action does not automatically void state-level divestment statutes that may require certain state-owned institutional investors (such as pension funds) to identify and divest the securities of companies doing business in Sudan.

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Suspending a sanctions program, in whole or in part, by general license prior to formal termination is not unusual and provides an incentive to the sanctions target to continue to address U.S. concerns (as sanctions may easily be reimposed). The simultaneous issuance of an Executive Order terminating sanctions with a delayed effective date is more unusual, and it underscores the imminent change of administration. While a mechanism has been put in place for an end to the Sudan sanctions program without further action by President Trump, which appears to be the goal, it remains true that Trump Administration officials will have to make the required certifications before sanctions are ultimately terminated and that President Trump retains authority to reverse course and re-impose sanctions at any time.

Documents relating to this action may be found at the following links:

Treasury Department Fact Sheet: https://www.treasury.gov/resource-center/sanctions/Programs/Documents/sudan_fact_sheet.pdf

Executive Order: <https://www.whitehouse.gov/the-press-office/2017/01/13/executive-order-recognizing-positive-actions-government-sudan-and>

General license: https://www.treasury.gov/resource-center/sanctions/Programs/Documents/SSR_amendment.pdf

OFAC FAQs: https://www.treasury.gov/resource-center/faqs/Sanctions/Pages/faq_other.aspx#sud_gl

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