

Memorandum

U.S. Sanctions Turkish Ministries and Officials in Response to Syria Offensive

October 17, 2019

On Monday, October 14, President Trump issued an executive order imposing economic sanctions in response to Turkey's military operations in northern Syria (the "Executive Order"). The two major targets of the new U.S. sanctions are the Turkish Ministry of National Defense and the Ministry of Energy and Natural Resources; these sanctions could implicate significant state-sponsored industries including, for example, the Mechanical and Chemical Industry Corporation, Turkish Aerospace Industries, military pharmaceuticals, and oil and natural gas projects. The Executive Order grants the administration broad authority to target entire sectors of the Turkish economy, so any businesses having a significant interest in the Turkish market could be affected if sanctions are further expanded to cover entire sectors of the Turkish economy. Since existing contracts and business with entities owned by the sanctioned ministries must be wound down by November 14, U.S. persons and non-U.S. entities employing U.S. persons, should evaluate their Turkey-related dealings to determine whether any counterparties may be subject to these new sanctions. It is unknown whether any future sanctions will be coupled with a similar wind down period, so even unaffected businesses may wish to review their exposure to Turkey.

The Executive Order authorizes the designation and imposition of sanctions on a range of persons operating in Turkey including current or former officials of the Government of Turkey, subdivisions, agencies, or instrumentalities of the Government of Turkey, and persons found to be responsible for or complicit in actions that threaten the stability of Syria or in the commission of serious human rights abuses, among others. The Office of Foreign Assets Control of the U.S. Department of the Treasury ("OFAC") responded to the Executive Order by adding two Turkish ministries (National Defense and Energy and Natural Resources) and three individuals to the Specially Designated Nationals and Blocked Persons ("SDN") List.

Additionally, the Executive Order authorizes the designation of non-U.S. persons that provide material assistance, support, goods, or services to persons designated under the Executive Order and secondary sanctions on any foreign financial institution ("FFI") that knowingly conducts or facilitates any significant transaction for or on behalf of any person designated pursuant to the Executive Order. OFAC also simultaneously issued three general licenses which provide limited exceptions for official U.S. Government business, and transactions involving certain specified international organizations, and provides a 30-day wind-down period (ending on November 13, 2019) for existing dealings with the entities designated pursuant to the Executive Order.

Designation of Turkish SDNs

OFAC designated the following two entities and three individuals on the SDN List:

1. Hulusi Akar, Turkish Minister of Defense;
2. Fatih Dönmez, Turkish Minister of Energy and Natural Resources;
3. Suleyman Soylu: Turkish Minister of the Interior, Deputy Chairman of President Recep Erdoğan's Justice and Development Party ("AKP");
4. Ministry of National Defense; and
5. Ministry of Energy and Natural Resources.

Note that the Executive Order also blocks entities owned fifty percent or more, individually or in the aggregate, by any of the designated individuals or entities.

Broad New Designation Authorities

The Executive Order authorizes the designation of various persons operating in Turkey or Syria, including persons or entities determined to:

- Be a current or former official of the Government of Turkey;
- Be any subdivision, agency, or instrumentality of the Government of Turkey;
- Operate in such sectors of the Turkish economy as may be determined by the Secretary of the Treasury;
- Be responsible for or complicit in actions or policies that threaten the peace, security, stability, or territorial integrity of Syria or the commission of serious human rights abuses;
- Be responsible for or complicit in, to finance, or attempt to engage in various destabilizing activities in Syria including but not limited to obstructing, disrupting, or preventing a ceasefire in northern Syria;
- Be responsible for or complicit in the expropriation of property for personal gain or political purposes in Syria; or
- Have materially assisted, sponsored, or provided financial, material, or technological support for or provided goods or services to or in support of any person who is designated pursuant to the Executive Order.

Authorization of Secondary Sanctions

Additionally, the Executive Order authorizes the imposition of secondary sanctions on FFIs which knowingly conduct or facilitate significant financial transactions on behalf of SDNs designated pursuant to the Executive Order. FFIs sanctioned under the Executive Order may be prohibited from opening or maintaining a

correspondent account or a payable-through account in the U.S., thereby preventing them from engaging in U.S. dollar-denominated transactions and accessing the U.S. financial system.

Consequences of Designation

U.S. persons may not engage in any transactions with or provide any goods or services to the entities and individuals that have been designated pursuant to the Executive Order or to any entities that such designated persons own or control and must block any property of such designated persons that come within their possession. Non-U.S. persons similarly may not engage in any U.S. dollar-denominated transactions with any such designated persons or engage in any other transactions with such persons that otherwise involve the U.S. financial system.

General Licenses and Wind Down Period

OFAC issued three general licenses to permit certain transactions with the designated persons to continue:

- **General License 1:** Authorizes all transactions for the conduct of U.S. Government official business by employees, grantees, and contractors;
- **General License 2:** Authorizes a 30-day Wind Down Period, ending at 12:01 AM on November 13, 2019. The Wind Down Period applies *only* to the Turkish Ministry of Defense and Ministry of Energy and Natural Resources and entities that they own or control; the Wind Down Period *does not* apply to the individuals designated pursuant to the Executive Order (Akar, Dönmez, and Soylu). During the Wind Down period, persons may engage in transactions ordinary incident and necessary to wind down operations, contracts, and other agreements with the Turkish Ministries and entities that they own or control that were in effect prior to October 14, 2019. General License 2 does not authorize debits from the accounts of a blocked person from the books of U.S. financial institutions; and
- **General License 3:** Authorizes transactions for the conduct of official business of the United Nations and certain other specified international organizations. General License 3 applies only to the Turkish Ministry of Defense and Ministry of Energy and Natural Resources and entities that they own or control; General License 3 *does not* apply to the individuals designated pursuant to the Executive Order (Akar, Dönmez, and Soylu).

Implications for U.S. and International Businesses

U.S. persons with Turkey-related dealings will need to review operations to determine if they involve any designated persons or otherwise subject them to sanction. Similarly, non-U.S. firms and FFI's with Turkey dealings similarly should review their Turkey touch points. The Executive Order may be particularly relevant to firms operating in energy and defense industries. Financial institutions should review their Turkish customers and transactions.

The Executive Order also includes broad designation authorities that pave the way for targeting sectors of the Turkish economy. Additionally, news reports indicate that lawmakers plan to introduce Turkey-related sanctions legislation in Congress, although the precise nature and scope of such legislation is not yet clear. In light of the foregoing, the Turkey sanctions program appears to be evolving and may be subject to rapid change. As such, firms with active Turkey operations or Turkey-related business should monitor developments in the sanctions regime.

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