

- **Additional Restrictions on Exports to Cuba**
- **New Sanctions on Turkey as a Result of Military Activity in Syria**
- **Magnitsky Act Sanctions on South African Corruption Network**
- **28 Chinese Entities Blocked for Human Rights Violations**
- **CFIUS Expansion: Non-Controlling Foreign Investments and Real Estate**
- **CBP Enforces Withhold Release Orders (WROs)**

*Foley Hoag's Trade Sanctions & Export Controls Practice offers experienced, proactive regulatory advice to help clients avoid regulatory compliance missteps and to prevail in official proceedings. For more information about global compliance, visit the [Foley Hoag Trade Sanctions & Export Controls Practice Group](#).*

---

### **Additional Restrictions on Exports to Cuba**

On October 15, 2019, the Department of Commerce (DOC) amended the Export Administration Regulation (EAR) to [further restrict the export and reexport of items to Cuba](#). The changes create a new general policy of denial for any leases of aircrafts to Cuban state-owned airlines, and clarifies that aircrafts and vessels are not eligible for the Aircraft, Vessels and Spacecraft License Exception if leased or chartered by a Cuban national. Another change is that goods exported to Cuba are now subject to a 10 percent "de minimis rule," which applies to foreign-made goods that contain greater than 10 percent of U.S.-origin content. Under the de minimis rule, a license or license exception is required to export these goods to Cuba. The new rule also amends the License Exception Support for the Cuban People to 1) exclude items donated to organizations administered or controlled by the Cuban government or communist party; 2) clarify that the telecommunications infrastructure exception only applies to individuals and the private sector (i.e., not Government entities or state-run hotels); and 3) eliminates an authorization that allowed for the export of free promotional items to Cuba.

---

### **New Sanctions on Turkey as a Result of Military Activity in Syria**

On October 14, 2019, the Trump Administration issued Executive Order (EO) 13894 "[Blocking Property and Suspending Entry of Certain Persons Contributing to the Situation in Syria](#)" in response to Turkey's military actions in Syria. The EO imposes sanctions on current or former officials or agencies of the Government of Turkey, as well as individuals and entities not affiliated with the Turkish government which the Department of the Treasury deems to threaten or undermine the stability of Syria. The EO also applies to any entity which is owned by, controlled by, acting for, or materially assisting any person or entity blocked by the EO.

On the same day as the EO, the Office of Foreign Assets Control (OFAC) also added several Turkish government officials and ministries to the Specially Designated Nationals and Blocked Persons List (SDN List). The blocked ministries and officials are the Ministry of National Defense, the Ministry of Energy and Natural Resources, the Minister of National Defense (Hulusi Akar), the Minister of Energy and Natural Resources (Fatih Donmez), and the Minister of the Interior (Suleyman Soyulu). The OFAC press release is available [here](#). On October 23, 2019, the Ministry of National Defense and the Ministry of Energy and Natural Resources [were removed](#) from the SDN List.

---

**Editors:**[Gwendolyn Jaramillo](#)[Shrutih Tewarie](#)**Author:**[Anna Annino](#)

## Magnitsky Act Sanctions on South African Corruption Network

On October 10, 2109, OFAC added members of a South African corruption network belonging to the Gupta family to the SDN List. This action was pursuant to [EO 13818 “Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption,”](#) which implements the [Global Magnitsky Human Rights Accountability Act](#). The Act focuses on members of family businesses engaged in corruption, including bribery and misappropriation of state assets. The Guptas and their associates bribed South African officials to influence government actions and advance their own business interests. Sigal Mandelker, Treasury Under Secretary for Terrorism and Financial Intelligence, stated that “[t]he Gupta family leveraged its political connections to engage in widespread corruption and bribery, capture government contracts, and misappropriate state assets.” Ajay Gupta, Atul Gupta, Rajesh Gupta, and Salim Essa were added to the SDN List under the new sanctions. The OFAC press release is available [here](#).

---

## 28 Chinese Entities Blocked for Human Rights Violations

On October 7, 2019 the Department of Commerce (DOC) [added 28 Chinese entities](#) to the Bureau of Industry and Security (BIS) [Entity List](#), which identifies entities known or believed to pose a risk to national security or foreign policy interests of the U.S. This addition amends the Export Administration Regulations (EAR), which imposes additional licensing requirements, limits the availability of licensing exceptions, and restricts export or re-export to entities on the List. The newly added Chinese entities include government agencies and companies that develop surveillance technology, such as voice and facial recognition. DOC stated that these “entities have been implicated in human rights violations and abuses in the implementation of China’s campaign of repression, mass arbitrary detention, and high-technology surveillance against Uighurs, Kazakhs, and other members of Muslim minority groups.” This is a significant use of the Entity List to explicitly condemn human rights violations. The DOC press release is available [here](#).

## CFIUS Expansion: Non-Controlling Foreign Investments and Real Estate

On September 17, 2019, the Department of the Treasury issued [two new proposed regulations](#) to the Foreign Investment Risk Review Modernization Act of 2018 (FIRRMA) which expand the scope of transactions subject to review by the Committee on Foreign Investment in the United States (CFIUS). The first proposed regulation ([31 CFR Part 800](#)) expands CFIUS jurisdiction to review non-controlling foreign investments in U.S. businesses involved in critical technology, critical infrastructure, or sensitive personal data. These businesses are referred to as “TID businesses”— technology, infrastructure, and data. The proposed rule adds a mandatory filing requirement for certain transactions that result in a foreign government gaining a “substantial interest” in a U.S. business. Filing is also mandatory for covered transactions involving U.S. businesses related to critical technologies.

The second proposed regulation ([31 CFR Part 802](#)) would expand CFIUS authority to review certain types of real estate transactions involving “foreign persons.” Under the proposed regulation, CFIUS would be able to review certain real estate transactions where a foreign person gains property rights even absent control of a U.S. entity. CFIUS review would be triggered in those transactions if the real estate is related to an airport and maritime port, or located near U.S. government properties with national security importance, such as military facilities. This includes real estate that will function as, is included within, or is part of an airport or maritime port; real estate in physical to certain military/national security sites; and real estate that is within a specified geographic area around missile fields and off-shore ranges.

The final regulations will be put into effect by February 13, 2020. Department of the Treasury FAQs regarding the proposed regulations can be found [here](#); a Fact Sheet is available [here](#); and more information can be found on the [CFIUS webpage](#).

---

## CBP Enforces Withhold Release Orders (WROs)

In February 2016, the Tariff Act was amended by the [Trade Facilitation and Trade Enforcement Act of 2015](#) (TFTEA) which closed a loophole that previously allowed the import of goods made with forced labor if the consumption of the goods in the U.S. exceeded domestic production capacity.

By eliminating the “consumption demand clause,” [Customs and Border Protection](#) (CBP) gained greater enforcement power in the fight against forced labor and human trafficking. On February 4, 2019, [CBP issued a Withhold Release Order](#) (WRO) against tuna and tuna products from a Taiwanese-owned fishing vessel (Tunago No. 61), based on information that the tuna had been harvested with the use of forced labor. This is the first enforcement action by CBP under the new amendment. On February 22, 2019, CBP published a new [mapping process](#) for TFTEA enforcement actions. A list of active CBP WROs is available [here](#).

*For more information about cross-border compliance, visit the [Foley Hoag Trade Sanctions & Export Controls Practice Group](#).*



---

This publication is for information purposes only and should not be as construed as legal advice or legal opinion on any specific facts or circumstances. You are urged to consult your own lawyer concerning your own situation and any specific legal questions you may have. United States Treasury Regulations require us to disclose the following: Any tax advice included in this publications and its attachments is not intended or written to be used, and it cannot be used by the taxpayer, for the purpose of avoiding penalties that may be imposed on the taxpayer.

Copyright © 2019 Foley Hoag LLP.

Attorney Advertising. Prior results do not guarantee a similar outcome.