

# Security Assistance Law Expanded the Reach of US Sanctions and Doubled the Statute of Limitations

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On April 24, 2024, President Joe Biden signed the 21st Century Peace Through Strength Act<sup>1</sup> (Act) into law. The Act, which is part of a broader law providing supplemental aid to Israel, Taiwan and Ukraine, contains several important U.S. sanctions-related provisions. We highlight three of those provisions below.<sup>2</sup>

## Doubling the Statute of Limitations for US Sanctions Violations

The Act extends the statute of limitations for sanctions violations from five years to 10 years under both the International Emergency Economic Powers Act (IEEPA), which is the principal statutory authority for most U.S. sanctions programs, and the Trading with the Enemy Act (TWEA), which is the principal statutory authority for U.S. sanctions on Cuba.

The change applies to any violations of IEEPA or TWEA for which the previous five-year statute of limitations had not yet expired as of the date of the Act, and to any new violations or potential violations of IEEPA or TWEA.

The longer statute of limitations is an important new factor in assessing and controlling U.S. sanctions exposure, including for counterparty due diligence and for transactional representations and warranties. The extension may also affect assessments regarding whether to voluntarily self-disclose a violation of sanctions to the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC), particularly in light of the whistleblower provisions in the Anti-Money Laundering Act of 2020 (AMLA), which strengthened whistleblower protections and expanded financial incentives for whistleblowers to report anti-money laundering and sanctions violations.

The Act also creates a "gap" between the applicable statute of limitations for IEEPA and TWEA violations and OFAC's recordkeeping rules, which generally only require recordkeeping for five years. Although OFAC issued an interim final rule and request for comments on May 8, 2024, to amend its reporting, procedures and penalties regulations, it did not address the required record retention period. We expect that OFAC may update its regulations in the future to reflect the increased statute of limitations.

The extended statute of limitations will impact all regulatory programs implemented under IEEPA. While IEEPA has been used most frequently to impose economic sanctions, presidents have also created other regulatory programs pursuant to IEEPA in recent years, including:

- The Information and Communications Technology and Services regulations implemented by the Department of Commerce.
- The so-called "outbound" investment restrictions under development at the Department of the Treasury.
- The new bulk data and cloud services regulations under development by the Departments of Justice and Commerce, respectively.

<sup>1</sup> See 21st Century Peace Through Strength Act, Pub. L. 118-50, Division D.

<sup>2</sup> This client alert is for informational purposes only and does not constitute legal advice. Complex assessments often have to be made as to which sanctions regime applies in any given instance, given the multinational touch points of many entities and individuals. In that regard, given the complex and dynamic nature of these sanctions regimes, there may be developments not captured in this summary. Moreover, while the summary was accurate when written, it may become inaccurate over time given developments. For all of these reasons, you should consult with a qualified attorney before making any judgments relating to sanctions, as there are potentially severe consequences of failing to adhere fully to sanctions restrictions.

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In addition, IEEPA has served as one of the statutory authorities for the U.S. Export Administration Regulations, also implemented by the Department of Commerce, in the absence of other statutory authorizations. The same changes to the statute of limitations described above will apply to these other uses of IEEPA.

## Harmonizing US, EU and UK Sanctions on Russia

The Act also requires the president to submit a report to Congress within 90 days identifying (1) all foreign persons who are subject to EU or U.K. sanctions on Russia, and (2) any such persons who also meet the criteria for the imposition of U.S. sanctions pursuant to the Global Magnitsky Human Rights Accountability Act of 2016 or Executive Orders 14024, 14068 or 14071.

The Act authorizes the President to impose sanctions on any person identified in the report to Congress who meet the criteria for U.S. sanctions against whom U.S. sanctions have not yet been imposed.

While this provision of the Act is designed to encourage the president to harmonize U.S. sanctions with EU and U.K. sanctions on Russia, we do not anticipate that this “harmonization” effort is likely to result in a dramatic change to U.S. sanctions. The U.S. already coordinates closely with the EU and the U.K. on Russia-related sanctions, and the underlying U.S., EU, and U.K. sanctions authorities and designation procedures are similar, though there are important points of divergence.

## Additional Iran-Related Secondary Sanctions

The Act directs the executive branch to impose sanctions on persons engaged in certain shipping-related and refining-related activities involving Iranian petroleum, as well as certain activities

related to Iranian missiles and drones. The sanctions that can be imposed for engaging in these activities include blocking sanctions and, for vessels, a prohibition on landing at any U.S. port.

The Act also directs the executive branch to impose correspondent account sanctions on (a) Chinese financial institutions that engage in one or more significant financial transactions involving the purchase of petroleum or petroleum products from Iran and (b) foreign financial institutions that engage in one or more significant financial transaction (without regard to the size, number, frequency, or nature of the transaction) involving the purchase of Iranian unmanned aerial vehicles, unmanned aerial vehicle parts or related systems.

## Other New Sanctions

The Act includes a range of additional new Iran, terrorism, drug and cyber-related sanctions provisions. Because these new sanctions authorities substantially overlap with existing authorities, we believe it is unlikely that they will result in significant changes to existing OFAC sanctions programs.

## Takeaways

- The Act continues a trend of Congress playing an active role in expanding U.S. sanctions.
- While the Act includes several new sanctions authorities, we believe the Act’s extension of the statute of limitations for IEEPA and TWEA violations is the most significant change to existing law. The lengthier statute of limitations period, which enables U.S. regulators and law enforcement authorities to conduct lengthier investigation into old allegations of violations, will have significant implications for assessing and controlling U.S. sanctions-related risks.