

## U.S. Government Authorizes Economic Sanctions on Turkey

October 16, 2019

### Key Points:

- A new Executive Order signed October 14, 2019, authorizes U.S. sanctions related to the military conflict between Turkey and Syria, providing broad authority to impose sanctions against Turkish government agencies, officials and entities operating in the Turkish economy, as well as other persons contributing to the instability in Syria.
- Under the authority of the new Executive Order, OFAC added two Turkish ministries and three Turkish ministers to the SDN List, prohibiting U.S. companies from dealing with these ministries and ministers, as well as entities owned 50 percent or more by them.
- Three General Licenses were issued, authorizing U.S. companies to wind-down existing business with these ministries and ministers by November 13, 2019, and to continue to engage in transactions and activities for the official business of the U.S. government, the United Nations and other specified international organizations on an ongoing basis.
- Statements of Administration officials suggest that additional U.S. sanctions measures against Turkey, as well as possible further general and specific licenses, are being contemplated.

### Introduction

On October 14, 2019, the Trump administration issued a new **Executive Order**<sup>1</sup> that authorizes the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) to designate on OFAC's list of Specially Designated Nationals and Blocked Persons ("SDN List") Turkish officials and government entities and others that have engaged in actions resulting in serious human rights abuses in Syria or that threaten the peace, security, stability or territorial integrity of Syria.

OFAC's first exercise of authority under this new executive order was the designation of two Turkish ministries (the Turkish Ministry of Energy and Natural Resources and the Ministry of National Defence) and three Turkish ministers on the SDN List. As a result, U.S. persons are now broadly prohibited from dealing with these persons

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absent a license issued by OFAC and must block their property if it comes into the possession or control of U.S. persons. In addition, non-U.S. persons may be exposed to secondary sanctions for dealing with these parties. Concurrently, OFAC issued three general licenses that authorize certain transactions that would otherwise be prohibited under U.S. sanctions, including a 30-day period to wind-down certain existing business.

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This client alert provides an overview of these recent measures and the possibility of additional sanctions measures that may be imposed against Turkey by the United States.

### Overview of Executive Order

The new Executive Order<sup>1</sup> signed on October 14, 2019, authorizes OFAC to designate on the SDN List: (1) current or former officials of the government of Turkey; (2) subdivisions, agencies or instrumentalities of the government of Turkey; (3) persons operating in certain sectors of the Turkish economy to be specified by the U.S. government; and (4) other persons deemed to have threatened the peace, security, stability or territorial integrity of Syria or committed serious human rights abuses in Syria.

The Executive Order also provides the U.S. State Department and OFAC authority to impose secondary sanctions from a menu of options on other foreign persons determined to have engaged in other activities contributing to instability in Syria. These “menu-based” sanctions include government procurement restrictions; visa restrictions; loan, banking and foreign exchange restrictions; SDN designations; investment restrictions; import prohibitions; and measures aimed at corporate officers.

The Executive Order also provides secondary sanctions authorities that allow the U.S. government to designate as SDNs persons who materially assist, sponsor or provide financial, material or technology support for, or goods or services to or in support of, SDNs and blocked persons under this Executive Order. Additionally, foreign financial institutions that knowingly facilitate significant transactions on behalf of SDNs or blocked persons could be subject to sanctions that restrict their access to U.S. correspondent or payable through accounts.

### SDN List Designations of Two Turkish Ministries and Three Turkish Ministers

Pursuant to the authority granted under the new executive order, OFAC designated on the SDN List Turkey’s Ministry of Energy and Natural Resources and Ministry of National Defence. Additionally, OFAC designated the following three individual ministers of the Republic of Turkey as SDNs: (1) Hulusi Akar, the Minister of National Defence; (2) Suleyman Soylu, the Minister of Interior; and (3) Fatih Donmez, the Minister of Energy.

As a result of these actions, U.S. persons are generally prohibited from engaging in any business, transactions, contracts or other dealings with these Turkish ministries and ministers, as well as entities that they own 50 percent or more, unless authorized by OFAC by a general or specific license. Additionally, property or property interests of these ministries, ministers and entities owned 50 percent or more by them must be blocked if they come into the possession or control of a U.S. person.

Recognizing the potential ramifications that these actions will likely have on Turkey's energy sector and U.S. companies doing business in this sector, OFAC noted in its press release that "it is prepared to issue authorizations, such as general or specific licenses, as appropriate, to ensure that the new designations do not disrupt Turkey's ability to meet its energy needs."<sup>2</sup>

### General Licenses

OFAC also issued three General Licenses that authorize certain transactions that would otherwise be prohibited under U.S. sanctions.

Of particular importance, OFAC issued a 30-day "Wind Down" General License ([General License 2](#)<sup>3</sup>), which authorizes U.S. persons to engage in transactions and activities "that are ordinarily incident and necessary to the wind down of operations, contracts, or other agreements involving the Ministry of National Defence or the Ministry of Energy and Natural Resources . . . or any entity in which one or more of such ministries own, directly or indirectly, a 50 percent or greater interest," provided such operations, contracts or agreements were in effect prior to October 14, 2019. This General License expires on **November 13, 2019**, meaning that U.S. persons must generally wind down their pre-sanctions operations, contracts and agreements with these ministries by that date.

OFAC also issued [General License 1](#)<sup>4</sup> which authorizes U.S. persons to engage in transactions and activities otherwise prohibited by these sanctions "that are for the conduct of the official business of the United States Government by employees, grantees, or contractors thereof." For example, this general license authorizes U.S. companies to engage in contracts with the U.S. government for official U.S. government business related to the Ministry of National Defence and Ministry of Energy and Natural Resources, but it does not authorize sales of goods or services (including dual-use or military items) to such ministries that are not related to official U.S. government business, even if such sales are authorized under an export license issued by the U.S. Department of Commerce or U.S. Department of State.

Furthermore, OFAC issued [General License 3](#)<sup>5</sup> which authorizes transactions and activities involving the Ministry of National Defence or the Ministry of Energy and Natural Resources (including entities owned 50 percent or more by such ministries) that are for the official business of the United Nations, its specialized agencies, and related organizations.

### Possibility of Additional Sanctions Measures

Secretary of the Treasury Steve Mnuchin stated that although these sanctions are "starting small," they could become a "maximum pressure" campaign that could "destroy the Turkish economy."<sup>6</sup> It appears that additional sanctions measures may be under preparation at this time for possible implementation in the near future. In addition, several pending bills in Congress would, if enacted, mandate additional sanctions against Turkey. These pending bills continue to have bipartisan support, although it remains to be seen what effect the October 14 sanctions will have on Congressional consideration and further action on these bills.

With uncertainty on the ground in Syria and Turkey, additional pending sanction legislation, and continuing conflict between the Trump administration and Congress

regarding the administration's recent actions associated with Turkey and Syria, the course and further development of this very new U.S. sanctions program remains unpredictable and may continue to quickly evolve.

1 Executive Order of October 14, 2019, [https://www.treasury.gov/resource-center/sanctions/Programs/Documents/syria\\_eo\\_10142019.pdf](https://www.treasury.gov/resource-center/sanctions/Programs/Documents/syria_eo_10142019.pdf).

2 Press Release, Treasury Designates Turkish Ministries and Senior Officials in Response to Military Action in Syria (Oct. 14, 2019) <https://home.treasury.gov/news/press-releases/sm792>.

3 General License 2 to E.O. of October 14, 2019, [https://www.treasury.gov/resource-center/sanctions/Programs/Documents/syria\\_eo\\_gl2.pdf](https://www.treasury.gov/resource-center/sanctions/Programs/Documents/syria_eo_gl2.pdf).

4 General License 1 to E.O. of October 14, 2019, [https://www.treasury.gov/resource-center/sanctions/Programs/Documents/syria\\_eo\\_gl1.pdf](https://www.treasury.gov/resource-center/sanctions/Programs/Documents/syria_eo_gl1.pdf).

5 General License 3, [https://www.treasury.gov/resource-center/sanctions/Programs/Documents/syria\\_eo\\_gl3.pdf](https://www.treasury.gov/resource-center/sanctions/Programs/Documents/syria_eo_gl3.pdf).

6 Mnuchin defends delay in sanctions against Turkey: 'This is a complicated, developing situation' (Oct. 14, 2019) <https://thehill.com/homenews/sunday-talk-shows/465566-mnuchin-defends-delay-in-sanctions-against-turkey-this-is-a>.

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