

OFAC Streamlines Humanitarian General Licenses Across Sanctions Programs

December 22, 2022

On December 21, 2022, the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC), in consultation with the U.S. Department of State, published two final rules amending its regulations to add or update certain general licenses (GLs) in various sanctions programs in an effort to ease the delivery of humanitarian aid (see 87 FR 78470 and 78484). The rules add new GLs across sanctions programs that did not previously have humanitarian exceptions and amend or update certain existing humanitarian GLs. In sum, OFAC's action provides a standardized set of humanitarian aid authorizations across OFAC-administered programs, which rectifies inconsistencies between certain sanctions programs.

OFAC's action follows the United Nations Security Council's recent adoption of Resolution 2664 (UNSCR 2664), which created a carveout across United Nations sanctions programs that protects humanitarian assistance and other activities that support basic human needs. According to OFAC, the United States co-drafted the UNSCR 2664 policy alongside Ireland, and the United States is the first UN Member State to fully implement the policy.

Specifically, OFAC added or updated GL authorizations in the following categories:

- (1) the official business of the U.S. government;
- (2) the official business of certain international organizations and entities (e.g., the United Nations or the International Red Cross);
- (3) certain humanitarian transactions in support of nongovernmental organizations' activities (e.g., disaster relief,

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health services, and activities to support democracy, education, environmental protection, and peacebuilding); and

(4) the provision of agricultural commodities, medicine, and medical devices, as well as replacement parts and components and software updates for medical devices, to blocked persons for personal, non-commercial use.

As background for the new rule adding or amending the GLs authorizing transactions for the conduct of the official business of certain international organizations, OFAC highlighted that, “[b]ased on the foreign policy considerations of each sanctions program, the general licenses may list different sets of international organizations across different programs, and some general licenses exclude funds transfers made with knowledge or reason to know they are intended for blocked persons, unless certain criteria are met.”

In addition, and in parallel with the rule, OFAC published four new Frequently Asked Questions to provide further guidance on the new authorizations, including “guidance for financial institutions facilitating activity for NGOs and OFAC’s due diligence expectations.” OFAC expressly stated that U.S. financial institutions may operate accounts and process funds transfers for persons engaging in activities authorized by the GLs and may reasonably rely on information available to them in the ordinary course of business in assessing whether a transaction is within the scope of such GLs. Additionally, consistent with its prior guidance, OFAC confirmed that non-U.S. persons do not risk exposure to U.S. secondary or secondary-like sanctions for engaging in or facilitating transactions that are authorized for U.S. persons pursuant to these GLs. This guidance should provide comfort to U.S. and non-U.S. financial institutions and help to remove practical impediments to the delivery of humanitarian aid.

Our team has unparalleled experience and expertise representing a broad range of U.S. and multinational clients in complex sanctions and export control matters. Should you have any questions about this alert or any national security-related matters, please do not hesitate to contact one of the attorneys listed on this alert.

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