

CLIENT ALERT

President Trump Expands Sanctions Against North Korea, Authorizing Broad Secondary Sanctions Against Trade in Goods and Services

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On September 21, 2017, President Trump issued an Executive Order (“E.O.”) imposing new economic sanctions on North Korea. [E.O. 13810](#) includes new designation criteria that broadly authorize the Secretary of the Treasury to block the property of any person trading goods or services with North Korea and authorize sanctions on foreign financial institutions that knowingly conduct or facilitate certain transactions with North Korea. The E.O. also grants the Secretary of the Treasury a separate authority to block funds linked to bank accounts identified by the Secretary of the Treasury as being owned or controlled by a North Korean person.

The new E.O. builds on sanctions previously issued by the United States under Executive Orders 13466, 13551, 13570, 13687 and 13722 to address North Korea’s weapons of mass destruction and ballistic missile programs. These prior E.O.s block the property and interests in property of the government of North Korea, prohibit the export of any goods, services, or technology to North Korea, and provide the Secretary of the Treasury with broad authority to block individuals and entities meeting certain criteria.

Additionally, on September 26, 2017, the Department of the Treasury’s Office of Foreign Assets Control (“OFAC”) [designated](#) eight North Korean banks and 26 individuals linked to the ongoing financial aid for North Korea’s development of weapons of mass destruction.

I. Prohibitions on U.S. Persons

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A. Sanctions Broadly Authorized for Certain Activity Involving North Korea

E.O. 13810 provides the Secretary of the Treasury with the authority to designate any U.S. or non-U.S. person the Secretary determines to be engaged in certain activity involving North Korea, including certain commercial activity. Once designated, the property and interest in property of such persons subject to U.S. jurisdiction will be blocked and U.S. persons are prohibited from engaging in transactions in which such designated persons have an interest. Specifically, the Secretary of the Treasury is authorized to block anyone the Secretary determines to:

- i. Operate in the construction, energy, financial services, fishing, information technology, manufacturing, medical, mining, textiles, or transportation industries in North Korea;
- ii. Own, control, or operate any port of entry in North Korea;
- iii. Have engaged in at least one significant importation from or exportation to North Korea of any goods, services, or technology;
- iv. Be a North Korean person; and
- v. Have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, any person designated pursuant to the E.O., or to be owned or controlled, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to the E.O.

B. Funds Blocked for Foreign Accounts of North Korean Persons

E.O. 13810 also blocks funds that come within the United States, or that come within the possession or control of any U.S. person, that originate from, are destined for, or pass through a foreign bank account determined by the Secretary of the Treasury to be owned by a North Korean person or to have been used to transfer funds in which any North Korean person has an interest.

C. Aircraft and Vessel Restrictions

Pursuant to the new E.O., no aircraft or vessel in which a foreign person has an interest that has landed or called at a port in North Korea within the previous 180 days, may land or call at a port in the United States. Further, no vessel in which a foreign person has an interest that has engaged in a ship-to-ship transfer with another vessel that has called to port in North Korea within the previous 180 days may call at a port in the United States.

However, OFAC also issued a [general license](#) on September 21, 2017, “General License Number 10,” to authorize the admission of such vessels if the vessel is in distress and seeks refuge in the United States or if the vessel’s call to port in

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North Korea was due solely to its distress and the resulting need to seek refuge. Similarly, the license authorizes the landing in the United States of aircraft if the aircraft is engaging in a non-traffic stop or an emergency landing in the United States, or if the aircraft's landing in North Korea was due solely to an emergency.

II. Secondary Sanctions Authorized Against Non-U.S. Persons

The E.O. significantly expands the threat of secondary sanctions against non-U.S. persons for engaging in certain activities in North Korea or with North Korean persons, including commercial activity involving North Korea. Notably, the new designation criteria described above may result in sanctions on non-U.S. persons for engaging in exports or imports of goods, technology, or services to or from North Korea.

The E.O. also authorizes the Secretary of the Treasury to impose sanctions on any foreign financial institution that knowingly conducts or facilitates a significant transaction on behalf of any blocked person or in connection with trade with North Korea. The secretary may prohibit the opening and prohibit or impose strict conditions on the maintenance of correspondent accounts or payable-through accounts in the United States or block all property and interests in property of the foreign financial institution that are within the United States or the possession or control of any U.S. person.

III. Conclusion

Given the situation with North Korea, companies should closely follow the changes to the sanctions program against North Korea. Companies should ensure that their policies and procedures stay current and are appropriately designed to (1) screen for individuals and entities designated pursuant to this E.O. or other sanctions programs; and (2) prevent the indirect or inadvertent export of goods or services to North Korea that could result in a violation of sanctions or the imposition of sanctions.

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