

CLIENT ALERT

Biden Signs Sanctions Order Responding to Violence in the West Bank

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On February 1, 2024, President Biden signed Executive Order (“**E.O.**”) 14115 (the “**Order**”) in response to the rise in tensions in the West Bank, establishing the first ever OFAC-administered sanctions program to specifically target activities occurring in Israel and the Palestinian territories.¹ The Order declares a national emergency in response to extremist violence, finding that such activities undermine the security of Israel and have the potential to lead to broader regional destabilization across the Middle East, thereby threatening United States personnel and interests.² Concurrently with the Order, the U.S. Treasury Department’s Financial Crimes Enforcement Network (“**FinCEN**”) issued an alert to financial institutions advising of red flags related to financial support of extremist settlers. These actions follow the Biden administration’s December 2023 visa ban on extremist settlers, which similarly targets individuals who “undermine peace, security, or stability in the West Bank, including through committing acts of violence.”³

The Biden administration has used terrorism-related sanctions authorities and similar tools extensively in response to Hamas’s terror attacks against Israel on October 7, 2023. On October 18, 2023, the Office of Foreign Assets Control (“**OFAC**”) designated seven individuals and entities responsible for financing Hamas and two senior Hamas officials

¹ *Executive Order on Imposing Certain Sanctions on Persons Undermining Peace, Security, and Stability in the West Bank*, OFAC (Feb. 1, 2024), <https://ofac.treasury.gov/media/932576/download?inline>.

² *Id.* ¶ 2.

³ *Announcement of Visa Restriction Policy to Promote Peace, Security, and Stability in the West Bank*, DEPT. STATE (Dec. 5, 2023), <https://www.state.gov/announcement-of-visa-restriction-policy-to-promote-peace-security-and-stability-in-the-west-bank/>.

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pursuant E.O. 13224, as amended, which targets terrorist groups and their supporters.⁴ OFAC would go on to make additional designations under E.O. 13224 in December 2023 and January 2024 targeting Hamas's financial networks and facilitators.⁵ Hamas itself has been a U.S. Foreign Terrorist Organization since October 1997 and a Specially Designated Global Terrorist entity since October 2001.⁶

I. NEW SANCTIONS AUTHORIZATIONS

The Order authorizes blocking sanctions against any foreign person:

- Determined to be responsible for or complicit in, or to have directly or indirectly engaged or attempted to engage in, any of the following:
 - actions—including directing, enacting, implementing, enforcing, or failing to enforce policies—that threaten the peace, security, or stability of the West Bank; or
 - planning, ordering, otherwise directing, or participating in any of the following actions affecting the West Bank:
 - an act or threat of violence targeting civilians;
 - efforts to place civilians in reasonable fear of violence with the purpose or effect of necessitating a change of residence to avoid such violence;
 - property destruction;
 - seizure or dispossession of property by private actors;⁷
- Determined to have committed or have attempted to commit, to pose a significant risk of committing, or to have participated in training to commit, acts of terrorism affecting the West Bank;⁸ or

⁴ *Following Terrorist Attack on Israel, Treasury Sanctions Hamas Operatives and Financial Facilitators*, OFAC (Oct. 7, 2023), <https://home.treasury.gov/news/press-releases/jy1816>.

⁵ *U.S. and UK Target Additional Hamas Finance Officials and Representatives*, OFAC (Dec. 13, 2023), <https://home.treasury.gov/news/press-releases/jy1981>; *U.S., UK, and Australia Target Additional Hamas Financial Networks and Facilitators of Virtual Currency Transfers* (Jan. 22, 2024), <https://home.treasury.gov/news/press-releases/jy2036>.

⁶ *See Rewards for Justice: Reward Offer for Information on Hamas Financial Networks*, DEPT. STATE (Jan. 5, 2024), <https://www.state.gov/rewards-for-justice-reward-offer-for-information-on-hamas-financial-networks/>.

⁷ *Order* at § 1(a)(i).

⁸ *Id.* § 1(b)(i).

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- Determined to be or have been a leader or official of an entity—including any government entities—that has engaged in, or whose members have engaged in, the above acts of violence.⁹

The Order includes standard additional authorizations related to persons that materially assist designated persons or entities owned or controlled by designated persons.¹⁰ While the Order initially makes reference to violence, the Order authorizes sanctions against any foreign person who engages in the described acts.

The Department of State designated four individuals concurrently with the Order. One of the four individuals was designated for being responsible for actions threatening the peace, security, and stability of the West Bank by initiating and leading a riot against Palestinians that resulted in the death of a civilian.¹¹ Two individuals were each designated for being responsible for acts of violence targeting civilians in the West Bank, including attacks on both Palestinians and Israeli activists.¹² The final designated individual led a group of settlers to drive Palestinian and Bedouin civilians from their homes through attacks, burning their fields, and destroying their property.¹³ In a statement issued with the Order, National Security Advisor Jake Sullivan described the designations as “an initial set,” presaging future designations if settler violence continues.¹⁴

II. FINCEN ALERT

Alongside the Order, FinCEN issued an alert to financial institutions advising of suspicious activity related to the financing of Israeli extremist settler violence against Palestinians in the West Bank.¹⁵ The alert provides several red flags indicating risks that transactions may support the financing of such violence:

- Payments to any organizations or groups, including nonprofit organizations (“**NPOs**”) that are now or have been previously linked to violent extremist groups in the West Bank or lists an officer, founder, or director that is currently or has been previously linked to Israeli violent extremist groups in the West Bank.
- Information included in a transaction between customers, such as references in the memo field that indicate support for Israeli violent extremist groups or campaigns.

⁹ *Id.* § 1(a)(ii)(A).

¹⁰ *Id.* § 1(a)(iii)-(iv).

¹¹ *Announcement of Further Measures to Promote Peace, Security, and Stability in the West Bank*, DEPT. STATE (Feb. 1, 2024), <https://www.state.gov/announcement-of-further-measures-to-promote-peace-security-and-stability-in-the-west-bank/>.

¹² *Id.*

¹³ *Id.*

¹⁴ *Statement from National Security Advisor Jake Sullivan on Action to Promote Peace, Security, and Stability in the West Bank*, WHITE HOUSE (Feb. 1, 2024), <https://www.whitehouse.gov/briefing-room/statements-releases/2024/02/01/statement-from-national-security-advisor-jake-sullivan-on-action-to-promote-peace-security-and-stability-in-the-west-bank/>.

¹⁵ *FinCEN Alert on Israeli Extremist Settler Violence Against Palestinians in the West Bank*, FINCEN (Feb. 1, 2024), https://www.fincen.gov/sites/default/files/shared/FinCEN_Alert_Extremist_Violence_FINAL_2.1.24.pdf.

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- Transactions with no apparent economic, business, or lawful purpose associated with a rapid movement of funds and linked to NPOs active in supporting violent extremist Israeli settlers in the West Bank, particularly if the NPO has advocated for, or solicited donations on social media in support of, Israeli violent extremist groups or campaigns.
- Purchases of tactical military gear for resale overseas and destined for non-government Israeli end users in the West Bank, particularly if the end users are currently or have been previously linked to Israeli violent extremist groups in the West Bank.¹⁶

FinCEN has encouraged financial institutions to submit suspicious activity reports (“**SARs**”) for transactions related to these flags. These SARs will enable the United States to “impose tangible and significant consequences on those engaged in” extremism and “protect the U.S. financial system from abuse.”¹⁷ However, FinCEN also emphasized that legitimate charities should be able to access the U.S. financial system and that charities and NPOs do not present an inherent risk.¹⁸ These SARs may be used to provide OFAC and the Department of State information on future designations under the Order.

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¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *FinCEN Issues Alert on Israeli Extremist Settler Violence Against Palestinians in the West Bank*, FINCEN (Feb. 1, 2024), <https://www.fincen.gov/news/news-releases/fincen-issues-alert-israeli-extremist-settler-violence-against-palestinians-west>.

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