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New Sanctions Against North Korea Issued by the United States

In light of continuous and escalating tensions between North Korea and the United States, companies should be aware of new sanctions against North Korea issued by the United States.

On September 20, 2017, the White House issued Executive Order 13810, “Imposing Additional Sanctions With Respect to North Korea” in response to North Korea’s recent missile launching and nuclear testing. EO 13810 empowers the U.S. Department of Treasury and its Office of Foreign Assets Controls (OFAC) to significantly expand its existing sanctions against North Korea and, importantly, against certain persons that conduct or support business with North Korea. Companies must be mindful to perform sufficient due diligence to avoid prohibited trade activities.

Expanded sanctions include:

1. Asset Blocking

The mandatory freezing of assets belonging to:

- Those operating in the following industries in North Korea: construction, energy, financial services, fishing, information technology, manufacturing, medical, mining, textiles or transportation;
- Those who own, control or operate any port in North Korea, including any seaport, airport, or land port of entry;
- Those who have engaged in at least one significant importation from or exportation to North Korea of any goods, services, or technology;
- North Korean Persons, including North Korean persons that have engaged in commercial activity that generates revenue for the Government of North Korea or the Workers’ Party of Korea; and
- Those who have materially assisted or are under control of the above-referenced categories.

2. Commercial Transportation Restrictions

- Certain aircraft that have landed in North Korea cannot land in the United States within 180 days after departure from North Korea.
- Certain vessels that have been in a North Korean port within the previous 180 days (and certain vessels that have transferred content with such ships within the previous 180 days) may not call at a port in the United States.



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3. U.S. Financial System Restrictions

- Banks must block all funds that are in or hereafter come within the United States or under a U.S. Person and that are connected a foreign bank account owned or controlled by a North Korean Person, or to used to transfer funds to a North Korean Person.
- No U.S. Person, wherever located, may approve, finance, facilitate or guarantee a transaction by a foreign person where the transaction by that foreign person would be prohibited by the above bullet if performed by a U.S. Person or within the United States.

4. Foreign Financial Institution Restrictions

- Foreign Financial Institutions that, on or after September 21, 2017, knowingly conducted or facilitated any significant transaction: (i) on behalf of any person blocked by this and prior executive orders impacting North Korea; or (ii) in connection with trade with North Korea:
 - o May be prohibited from opening and/or maintaining correspondent accounts or payable-through accounts in the United States;
 - o May themselves be sanctioned by OFAC and have certain assets frozen.

5. Restricted Entry into the United States

The unrestricted entry into the United States of aliens meeting one or more of the criteria in Section 1 above is suspended.

6. Evasion and Conspiracy Restrictions

Not surprisingly, any transaction evading, avoiding or conspiring to commit any of the above-sanctioned activities is also prohibited.

Takeaways & Due Diligence Strategies

Although many U.S. companies have consciously avoided trade with North Korea due to existing sanctions, the recent expansion of sanctions adds risk for companies that may indirectly be trading with North Korea or servicing North Korean customers (particularly those in nations that have historically traded with North Korea, such as China, India and Russia). As summarized by Treasury Secretary Steven Mnuchin, “Foreign financial institutions are now on notice that, going forward, they can choose to do business with the United States or with North Korea, but not both.” U.S. companies should assess whether their current or future non-U.S. partners are at risk of becoming designated/sanctioned by OFAC per the above. This client alert is provided for informational purposes and does not capture every nuance of EO 13810, nor the prior longstanding sanctions against North Korea.

Questions or Assistance

Should you have any questions, please contact Ross H. Garber at (860) 251-5901 or rgarber@goodwin.com or Alfredo G. Fernandez at (860) 251-5353 or afernandez@goodwin.com.

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