

Alert | Export Controls & Economic Sanctions



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U.S. Congress Extends Statute of Limitations for Economic Sanctions Violations, Implements Additional Sanctions Measures

On April 24, 2024, President Biden signed into law emergency supplemental appropriations legislation ([Pub. L. 118-50](#)) that includes several national security and foreign aid provisions, including the 21st Century Peace Through Strength Act (the “Act”), which became effective immediately upon signing. The Act’s passage has doubled the statute of limitations for economic sanctions violations and implemented additional sanctions measures.

10-Year Statute of Limitations for Economic Sanctions Violations

Signed into law, Pub. L. 118-50 has officially doubled the statute of limitations (from five years to 10 years) for both civil and criminal economic sanctions violations. The extended statute of limitations applies primarily to two U.S. economic sanctions laws: the International Emergency Economic Powers Act (IEEPA), [50 U.S.C. § 1705](#), and the Trading with the Enemy Act (TWEA), [50 U.S.C. § 4315](#). IEEPA is the foundational authority for most economic sanctions programs administered by the U.S. Department of the Treasury’s Office of Foreign Assets Control (OFAC), as well as some sanctions programs administered by the U.S. Department of Commerce’s Bureau of Industry and Security (BIS). IEEPA also covers existing and forthcoming national security programs administered by the U.S. Department of Justice’s National Security Division (NSD) and the U.S. Department of the Treasury’s Outbound Investment Security

Program (OIS). TWEA is more targeted in scope, covering specifically OFAC's economic sanctions measures against Cuba.

Notably, the implementation of Pub. L. 118-50 does not impact the statute of limitations for violations of export control regulations, including the International Traffic in Arms Regulations (ITAR) and the Export Administration Regulations (EAR); both remain limited to five years.

Additional Sanctions Measures

In addition to extending the statute of limitations for economic sanctions violations, Pub. L. 118-50 also introduced several other sanctions measures.

Iran-China Energy Sanctions Act of 2023

The Iran-China Energy Sanctions Act of 2023 expands the definition of “significant financial transaction” when imposing sanctions on foreign financial institutions transacting with the Central Bank of Iran or with another sanctioned Iranian financial institution. The new definition includes transactions committed by:

- a. a Chinese financial institution (without regard to the size, number, frequency, or nature of the transaction) involving the purchase of petroleum or petroleum products from Iran; or
- b. a foreign financial institution (without regard to the size, number, frequency, or nature of the transaction) involving the purchase of Iranian unmanned aerial vehicles (UAVs), UAV parts, or related systems.

Rebuilding Economic Prosperity and Opportunity for Ukrainians Act (REPO Act)

The REPO Act authorizes the President to seize certain Russian state assets to help Ukraine. Some such assets include funds of property of the Central Bank of Russia, the Russian National Wealth Fund, and the Russian Ministry of Finance, as well as any other funds or property owned by the Russian government.

Stop Harboring Iranian Petroleum Act (SHIP Act)

The SHIP Act mandates that the President impose blocking sanctions within 180 days of the bill's enactment on foreign persons that (a) own or operate a foreign port, a vessel, or a refinery, and (b) transact in Iranian crude oil or petroleum products, or Iranian-origin petroleum or petrochemical products. There are certain exceptions to this mandate.

Fight and Combat Iranian Missile Exports Act (Fight CRIME Act)

The Fight CRIME Act imposes blocking and visa sanctions on any foreign person that knowingly takes actions to support Iran's missile and drone development programs, as determined by the President. The Fight CRIME Act also imposes similar sanctions on any adult family members of foreign persons supporting these endeavors.

Mahsa Amini Human Rights and Security Accountability Act (MAHSA Act)

The MAHSA Act requires the President to impose blocking and visa sanctions against a list of enumerated Iranian Government officials.

Hamas and Other Palestinian Terrorist Groups International Financing Prevention Act (Hamas Act)

The Hamas Act mandates the President to impose blocking sanctions on foreign persons who have helped sponsor or provide significant support for acts of terrorism, as well as on foreign persons who engage directly or indirectly with enumerated terrorist groups or are senior members of the designated terrorist groups. The Hamas Act lists applicable terrorist groups, including Hamas, the Palestine Islamic Jihad, Al-Aqsa Martyrs Brigade, and the Lion's Den.

Strengthening Tools to Counter the Use of Human Shields Act (Shields Act)

The Shields Act modifies the existing Sanctioning the Use of Civilians as Defenseless Shields Act to include a requirement that the President annually submit a list of each foreign person who (a) is a member of Palestine Islamic Jihad, and (b) knowingly directs the use of civilians to protect military objectives. After submitting the list to the appropriate congressional committees, the President must impose blocking and visa sanctions on the identified individuals. The Shields Act also requires the President to impose blocking and visa sanctions on foreign persons (or people acting on behalf of sanctioned foreign persons) who have engaged in cyber activities that threaten U.S. national security and foreign persons who have taken steps to threaten violence against any current or former U.S. government official.

FEND Off Fentanyl Act (Fentanyl Act)

Pursuant to the bill's inception as a fentanyl-specific legislation, the Fentanyl Act identifies the distribution of fentanyl in the United States as a national security threat. In response, the Fentanyl Act includes a section requiring the President to impose sanctions on foreign persons knowingly involved in the significant trafficking of fentanyl.

Illicit Captagon Trafficking Suppression Act (Captagon Trafficking Act)

The Captagon Trafficking Act mandates that the President impose blocking and visa sanctions against any foreign person engaged in the illicit trafficking of captagon, a synthetic stimulant.

Reporting Requirements

Finally, the Act also adds further oversight measures on the President, requiring the President to report to Congress on many of the implemented provisions, as well as any additional sanctions-related priorities. One such sanctions-related topic of interest for Congress includes the implementation of sanctions on persons subject to EU and UK sanctions who are not currently subject to U.S. sanctions.

Key Takeaways

This extended statute of limitations period may have significant implications for U.S. economic sanctions internal compliance, corporate transactions, and civil and criminal investigations.

Reduced Tolling Agreements

The flexibility offered by the extended statute of limitations may reduce OFAC's need to track and administer tolling agreements, where OFAC now has a default 10 years to investigate possible sanctions violations.

Impact on Corporate Records Retention

The legislation may allow OFAC to amend its own recordkeeping regulations to align with the new 10-year statute of limitations. As a result, companies may have to consider increasing record-retention periods to maintain evidence for a 10-year period.

Corporate Transactions

In the context of due diligence for investments and merger and acquisition transactions, a longer statute of limitations period may increase successor liability risks, resulting in a need for more thorough due diligence. Additionally, a 10-year statute of limitations period may impact provisions of representations and warranties such that a selling company may need to agree to longer lookback periods to account for extended risks and, conversely, acquirers may need to take this heightened risk into account in negotiations.

Civil and Criminal Investigations

The longer statute of limitations period will allow investigators to explore potential violations more deeply, increasing the difficulty and cost of responding to government inquiries for companies under investigation.

Overall, the passage of Pub. L. 118-50 made significant changes to the compliance and enforcement landscape for programs under the authority of the IEEPA and the TWEA and may continue to evolve with further guidance by OFAC, BIS, and other agencies.

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