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Guidance on Extension of Statute of Limitations for Civil and Criminal Violations of Sanctions Authorities

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On July 22, 2024, the Office of Foreign Assets Control (“OFAC”) published guidance regarding recent legislation extending the statute of limitations for civil and criminal violations of the International Emergency Economic Powers Act (“IEEPA”) or the Trading with the Enemy Act (“TWEA”) from 5 years to 10 years. The guidance provides that “OFAC may now commence an enforcement action for civil violations of IEEPA- or TWEA-based sanctions prohibitions within 10 years of the latest date of the violation **if such date was after April 24, 2019.**” As a result, the statute of limitations will not apply to violations that occurred more than 5 years before the rule change.

Further, OFAC anticipates publishing an interim final rule to extend the current recordkeeping requirements to 10 years to match that of the new statute of limitations.

Background and Potential Implications

On April 24, 2024, President Biden signed into law H.R. 815, which included the *21st Century Peace through Strength Act* (the “Act”). Section 3111 of the Act extended the statute of limitations for civil and criminal violations of the IEEPA or the TWEA from 5 years to 10 years. In effect, this means companies may be held liable for most violations of OFAC sanctions for 10 years, prompting a need to reevaluate sanctions and compliance related risk. Companies should consider assessing policies and procedures addressing sanctions related investigations, recordkeeping, and disclosures, among others.

In addition, this action by OFAC may encourage other regulatory agencies, such as the Commerce Department, Bureau of Industry and Security, and the State Department, Directorate of Defense Trade Controls, to pursue expansion of their statutes of limitations on civil and criminal violations.

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