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For more information,  
contact:

Christine E. Savage  
+1 202 626 5541  
[csavage@kslaw.com](mailto:csavage@kslaw.com)

Jamieson L. Greer  
+1 202 626 5509  
[jgreer@kslaw.com](mailto:jgreer@kslaw.com)

Danielle Pressler  
+1 202 626 9122  
[dpressler@kslaw.com](mailto:dpressler@kslaw.com)

Shaswat K. Das  
+1 202 626 9258  
[sdas@kslaw.com](mailto:sdas@kslaw.com)

Mark Wasden  
+1 202 626 5529  
[mwasden@kslaw.com](mailto:mwasden@kslaw.com)

King & Spalding

Washington, D.C.  
1700 Pennsylvania Avenue,  
NW  
Suite 900  
Washington, D.C. 20006  
Tel. +1 202 737 0500

## Ten-Year Statute of Limitations for Sanctions Violations Update

### Updates Related to the Doubling of the Statute of Limitations for Civil and Criminal Violations of Primary Sanctions Authorities

#### SUMMARY

As discussed in our May 7, 2024 [alert](#), on April 24, 2024, President Biden signed into law a foreign military support package (*i.e.*, H.R. 815), which included a provision doubling the statute of limitations (“SOL”) from five to ten years for civil and criminal violations of the U.S. Treasury Department’s Office of Foreign Assets Control (“OFAC”) sanctions programs authorized under the International Emergency Economic Powers Act (“IEEPA”) and the Trading with the Enemy Act (“TWEA”). This means that the time for which companies may be held liable for a violation of most OFAC sanctions is now ten years instead of five years. The new 10-year SOL applies to any violation that occurred after April 24, 2019. The extended SOL can have significant consequences for compliance programs, mergers and acquisitions, and enforcement actions. As described more fully below, OFAC recently issued written guidance and proposed regulations regarding the effects the new SOL will have on existing and future enforcement cases and regulatory requirements, including recordkeeping.

#### BACKGROUND

The *21st Century Peace Through Strength Act* (the “Act”) extended the SOL from five to ten years for civil and criminal violations of IEEPA and TWEA, which are the primary statutes underlying economic and trade sanctions programs administered by OFAC. As a result of the Act, civil and criminal violations of IEEPA- and TWEA-based sanctions programs are now subject to a ten-year SOL. OFAC and the U.S. Department of Justice now have considerably more time to investigate and bring



enforcement actions or charges for sanctions violations of affected sanctions programs, increasing the likelihood that they will identify potential violations.

The doubled SOL also is likely to have a significant impact on how companies approach sanctions risk and compliance, which we highlighted in our May alert.

### WHAT IS NEW?

On July 22, 2024, OFAC published [written guidance](#) about the effects the expanded SOL will have on existing and future enforcement cases, which also is likely to affect company decisions related to internal investigations and voluntary self-disclosures. As explained in the guidance, the new 10-year SOL applies to any violation that was not time-barred at the time of the Act's enactment. For such non-time barred violations, OFAC may now commence an enforcement action for civil violations of IEEPA- or TWEA-based sanctions laws within 10 years of the latest date of the violation if such date was after April 24, 2019. The commencement of a civil enforcement action includes the issuance of a pre-penalty notice or a finding of violation by OFAC.

In addition, OFAC recently published an [interim final rule](#), which is effective March 12, 2025, that proposes to amend certain regulatory provisions to account for the extended 10-year SOL. OFAC requests comments to the interim file rule on or before October 15, 2024.

The proposed amendments generally will require the following:

1. Persons engaging in any transaction subject to OFAC sanctions regulations keep full and accurate records of the transactions, regardless of whether the transactions are effected pursuant to licenses or otherwise, for at least 10 years after the date of the transactions;
2. Except as otherwise provided, persons holding property blocked pursuant to OFAC sanctions regulations keep a full and accurate record of the property, and such record be available for examination for the period of time that the property is blocked and for at least 10 years after the date the property is unblocked; and
3. Persons subject to U.S. jurisdiction under the Cuban Assets Control Regulations ("CACR"), 31 C.F.R. Part 515, and providing certain travel or remittance services pursuant to Section 515.572 of the CACR must retain for at least 10 years from the date of the transactions certifications from each customer indicating the CACR general or specific license that authorizes the person to travel or send remittances to Cuba.

Furthermore, OFAC proposes to update its Economic Sanctions Enforcement Guidelines at Appendix A of 31 C.F.R. Part 501 related to late filings of required reports. According to the proposed changes, late filings of required reports, whether set forth in regulations or in a specific license, may result in a civil monetary penalty in an amount up to \$3,550, if filed within the first 30 days after the report is due, and a penalty in an amount up to \$7,104 if filed more than 30 days after the report is due. If the report relates to blocked assets, the penalty may include an additional \$1,422 for every 30 days that the report is overdue, up to 10 years.

Companies should begin planning for the recordkeeping changes, including reviewing and updating their recordkeeping policies and procedures, such as IT retention and deletion processes, to ensure that relevant records are kept for at least 10 years. Importantly, the recordkeeping requirements apply to persons engaged in transactions subject to OFAC jurisdiction. U.S. and non-U.S. persons, including financial institutions and companies that provide goods, technology or services, that engage in such transactions will be affected by the 10-year recordkeeping requirements.



Persons that would be impacted by OFAC’s interim final rule are encouraged to submit comments no later than October 15, 2024. Experienced counsel can be helpful in drafting and filing comments on behalf of clients.

King & Spalding has a global footprint, substantial industry experience, and a deep bench of former trade and national security government officials, including attorneys who previously served in roles at OFAC. The firm is uniquely positioned to advocate on behalf of clients before OFAC and help guide companies in complying with U.S. sanctions and designing and enhancing sanctions compliance programs.

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