EVOLUTION OF ECONOMIC SANCTIONS: WHERE DO WE STAND WITH FINANCIAL SANCTIONS?

This panel was convened at 2:15 pm, Friday, April 5, by its moderator, Barry Carter of the Center on Transnational Business and the Law, Georgetown University Law Center, who introduced the panelists: Maya Lester of Brick Court Chambers; Serena Moe of Wiley Rein; and Adam Szubin of the Office of Foreign Assets Control, U.S. Department of the Treasury.*

Overview and Operation of the Evolving U.S. Financial Sanctions, Including the Example of Iran

By Barry E. Carter and Ryan M. Farha†

Economic sanctions have had a long history dating back to the Greek city-states.[1] Their use has become more common since World War II, often being employed by the United Nations, regional entities, and individual countries, including the United States. Although a range of sanctions continues to be used, financial sanctions have grown in importance. This stems in part from the burgeoning increase in international financial transactions. Also, the terrorist attacks of September 11, 2001, provided great impetus to the United States to improve significantly the tools and techniques for tracing and identifying financial transactions by terrorists or others.[2]

Activities that usually are possible subjects of economic sanctions[3] include: (a) bilateral government programs, such as foreign assistance and aircraft landing rights; (b) exports of goods or services from the sending country; (c) imports from the target[4] country; (d) financial transactions, including bank deposits and loans; and (e) the economic activities of international financial institutions, such as the Inter-American Development Bank.[5]

Financial sanctions focus on the flow of funds and other forms of value to and from a target country, corporation, individual, or other entity. These sanctions can have wide impact

* Ms. Lester, Ms. Moe, and Mr. Szubin did not contribute remarks to the *Proceedings*.

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[1] Gary Clyde Hufbauer et al., Economic Sanctions Reconsidered 9 (3d ed. 2007).

[2] *See, e.g.*, Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001, Pub. L. 107-56, 115 Stat. 272 (2001).

[3] A generally accepted working definition is ''the deliberate, government-inspired withdrawal, or threat of withdrawal, of customary trade or financial relations'' for foreign policy or national security goals. Hufbauer et al., *supra* note 1, at 3.

Economic sanctions have been used and are used to stop a country's military adventure, to destabilize its government, or to influence or express disapproval about a range of other foreign policy considerations involving weapons proliferation, human rights, terrorism, drug trafficking, or the environment. *See id.* at 9–17.

Although the dividing lines are not always clear and motives can be mixed, economic sanctions are generally viewed as measures that are not taken for commercial gain and often come at economic cost to the country imposing the sanctions. Hence, countries might use, or threaten to use, economic measures against another country to obtain normal economic objectives in trade, financial, or other negotiations. This is generally viewed as part of bargaining and is not categorized as an economic sanction. *See* Barry E. Carter, International Economic Sanctions: Improving the Haphazard Legal Regime 5 (1988).

[4] The state or organization (e.g., the United Nations) that imposes the sanction is sometimes called the sender, and the object of the sanction is sometimes called the target. Hufbauer et al., *supra* note 1, at 2.

[5] *See* Carter, *supra* note 3, at 2.

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because they can not only freeze financial assets and prohibit or limit financial transactions, but they also impede trade by making it difficult to pay for the export or import of goods and services. Financial sanctions are often used in tandem with trade and other sanctions to maximize their impact.[6]

Using U.S. financial sanctions as an example, this paper tries to highlight the mechanics and operation of financial sanctions. This includes their enforcement, which occurs through a unique combination of (a) actions and self-reporting by U.S. and other international financial institutions and (b) supervision by U.S. regulatory authorities.

U.S. financial sanctions are imposed by U.S. statutes[7] and executive orders,[8] and generally implemented through regulations.[9] The Office of Foreign Assets Control (OFAC) within the U.S. Department of the Treasury (Treasury), in consultation with the U.S. Department of State and sometimes other federal agencies, generally has primary responsibility for implementing these financial sanctions.[10]

As a key part of its efforts, OFAC maintains the Specially Designated Nationals and Blocked Persons list (SDN List).[11] The SDN List contains individuals, companies, and other entities whose assets are blocked, generally because they are owned or controlled by, or acting for or on behalf of, sanctioned countries, or are designated under non-country-specific programs, such as those targeting terrorists and foreign narcotics traffickers.[12] Collectively, these individuals, companies, and other entities are ''Specially Designated Nationals'' (SDNs).[13] With certain exceptions, U.S. persons are generally prohibited from transacting with SDNs.[14] In addition, U.S. persons are generally prohibited from engaging, without OFAC's authorization, in most transactions in or with certain countries or geographic areas targeted by economic sanctions.[15]

Transferring Value and the Payment Systems

To understand the mechanics and operation of financial sanctions, it is very helpful to have some familiarity with how value is transferred and how the key payment systems operate.

Transferring Value. In modern economies, value is transferred between parties via cash or claims on banks. These claims in turn may be transferred using checks, credit cards, or electronic funds transfers (wire transfers).[16] Wire transfers are the most important kinds of

[6] *See, e.g.*, Syria Accountability and Lebanese Sovereignty Restoration Act of 2003, Pub. L. 108-175, 117 Stat. 2482, § 5 (2003) (prohibiting the export of certain U.S. goods to Syria); Exec. Order No. 13,572, § 1 (Apr. 29, 2011) (blocking property and interests in property that come within the United States of certain Syrian persons).

[7] *See, e.g.*, International Emergency Economic Powers Act (IEEPA), Pub. L. No. 95-223, Tit. II, 91 Stat. 1626 (codified at 50 U.S.C. §§ 1701 *et seq.*; U.N. Participation Act, 22 U.S.C. § 287 c–d (2010)).

[8] *See, e.g.*, Exec. Order No. 13,622, 77 Fed. Reg. 149 (July 30, 2012) (authorizing Iran sanctions based on IEEPA authority).

[9] *See* 31 C.F.R. Ch. V (2012).

[10] *See, e.g.*, Exec. Order No. 13,619, 77 Fed. Reg. 135 (July 11, 2012) (authorizing sanctions against ''any person determined by the Secretary of the Treasury, in consultation with or at the recommendation of the Secretary of State'' to have threatened the peace in Burma).

[11] Office of Foreign Assets Control, *Specially Designated Nationals and Blocked Persons List* (Feb. 14, 2013), http://www.treasury.gov/sdn [hereinafter SDN List].

[12] *See* 31 C.F.R. Ch. V, App. A.

[13] SDN List, *supra* note 11.

[14] *Id.*

[15] *Id.*

[16] Hal S. Scott & Anna Gelpern, International Finance: Transactions, Policy, and Regulation 590 (18th ed. 2011).

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payments in the international financial system; large financial institutions and corporations mainly use wire transfers to send large volumes of funds at a high frequency.[17]

Essentially, a wire transfer is a transaction in which the transferor or ''originator,'' which may be an individual, a corporation, or a bank, instructs its bank to transfer funds from its account to the account of the recipient or ''beneficiary.''[18] If the originator and beneficiary have accounts at the same bank, that bank simply makes a ''book transfer'' by debiting (and thus reducing the funds in) the originator's account and crediting (and thus increasing the funds in) the beneficiary's account.[19]

If the originator and beneficiary do not have accounts at the same bank, but the originator's bank and the beneficiary's bank maintain ''correspondent accounts''[20] with each other, the transfer may be completed through one of those correspondent accounts.[21]

Alternatively, the originator's bank and the beneficiary's bank may both maintain correspondent accounts at a third ''intermediary bank,'' where the transfer will occur.[22] This approach essentially requires that the banks retain sufficient balances in their correspondent accounts and establish chains of intermediaries by which to effect funds transfers.[23]

Key Payment Systems

Fedwire. These requirements are ameliorated within the United States by Fedwire, a communication and settlement system owned by the twelve Federal Reserve Banks, where a large number of U.S. banks maintain correspondent accounts and where liquidity is plentiful.[24] The Federal Reserve Banks, taken together, serve the role of an intermediary bank in funds transfers and actually settle payments.[25] Among the Federal Reserve Banks, the Federal Reserve Bank of New York (FRBNY) plays an especially important role because the majority of U.S. Fedwire transactions originate from financial institutions under FRBNY's jurisdiction.

[17] *See* U.S. Dep't of the Treasury Financial Crimes Enforcement Network, Feasibility of a Cross-Border Electronic Funds Transfer Reporting System Under the Bank Secrecy Act app. D, 55 (2007) [hereinafter FinCEN Report].

[18] *See id.* at 55–56.

[19] Scott & Gelpern, *supra* note 16, at 591.

[20] Under U.S. law, a ''correspondent account'' is an account established at a U.S. bank by a foreign financial institution ''to receive deposits from, make payments on behalf of [the] foreign financial institution, or handle other financial transactions related to such institution.'' *See* 31 U.S.C. § 5318A(e)(1)(B). More basically, a correspondent relationship is ''the provision of banking services by one financial institution to another financial institution.'' FinCEN Report, *supra* note 17, at 56. Related to correspondent accounts are ''payable-through accounts,'' which are accounts established at U.S. banks by foreign financial institutions to enable foreign customers to access the U.S. banking system. *See* 31 U.S.C. § 5318A(e)(1)(C). U.S. sanctions regulations generally apply equally to both correspondent accounts and payable-through accounts. *See, e.g.*, Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, Pub. L. 111-195, 124 Stat. 1312, § 104(c) (2010) (directing Treasury to prohibit or restrict the opening of correspondent or payable-through accounts by foreign financial institutions that have engaged in prohibited activities).

[21] *See* FinCEN Report, *supra* note 17, at 56–57. In this case, upon the originator's instruction, the originator's bank debits the originator's account and credits the correspondent account of the beneficiary's bank. The beneficiary's bank then credits the beneficiary's account. *See also* Scott & Gelpern, *supra* note 16, at 592.

[22] *See* Scott & Gelpern, *supra* note 16, at 593. Here, upon receiving the payment instruction, the intermediary bank debits the correspondent account of the originator's bank and credits the correspondent account of the beneficiary's bank to undertake the transaction. *See id.*

[23] *See id.* at 593–95.

[24] *See id.* at 595–97.

[25] Federal Reserve Bank of New York, *Fedwire® and National Settlement Services,* http://www.newyorkfed.org/aboutthefed/fedpoint/fed43.html (last visited Feb. 15, 2013).

CHIPS and SWIFT. Two other important payment systems are the Clearing House Interbank Payments System (CHIPS) and the Society for Worldwide Interbank Financial Telecommunications (SWIFT). CHIPS, like Fedwire, performs both communication and settlement functions.[26] CHIPS is the main domestic electronic funds transfer system in the United States for processing U.S. dollar wire transfers between international banks and other financial institutions.[27]

SWIFT, unlike Fedwire and CHIPS, is just a communication system.[28] SWIFT, which is based in Belgium, provides a common language—its payment instructions—for financial institutions around the world and is thus vital to the settlement of international payments.[29] However, SWIFT does not actually provide settlement services; that is, SWIFT-directed funds transfers are actually settled through correspondent banking relationships, Fedwire, CHIPS, or other national payment systems.[30]

Compliance and Enforcement

Enforcement of financial sanctions begins in the payment systems. It is worth noting, though, that the FRBNY, despite its role as intermediary to a high volume of financial transactions, does not actually screen electronic Fedwire transactions for OFAC compliance as the transactions are processed in real time.[31]

Rather than real-time monitoring of transactions by the U.S. government, the underlying mechanism of OFAC compliance is private-sector monitoring of transactions and self-reporting of actual or potential sanctions violations by U.S. and foreign financial institutions participating in the payment systems. If a financial institution subject to U.S. jurisdiction receives property in which an SDN has an interest (such as a payment instruction in which either the originator or beneficiary is a prohibited SDN), the institution must block (or ''freeze'') whatever property is the subject of the payment instruction or, in some circumstances, the institution can reject the transaction.[32] The institution must then file within ten

[26] FinCEN Report, *supra* note 17, at 61–62.

[27] *See id.*

[28] *See id.* at 62–63.

[29] *See id.*

[30] *See id.* at 63–64.

[31] From 2004 to 2006, FRBNY did implement the Fedwire Integrity Pilot Program, in which FRBNY compared a sample list of SDNs against a four-year moving history of transactions in the Fedwire database. Of 305 transactions identified as containing potential matches to the SDN List, OFAC concluded that only one transaction constituted a violation and issued a cautionary letter to the financial institution in question. OFAC officials treated the program as sensitive because its public disclosure would lead to its termination and would damage OFAC's relationship with the Federal Reserve. *See* U.S. Dep't of the Treasury Office of Inspector General, Foreign Assets Control: OFAC Should Have Better and More Timely Documented Its Review of Potential Sanctions Violations, OIG-10-045, at 10 (Sept. 1, 2010), *available at* http://www.treasury.gov/about/organizational-structure/ig/Documents/OIG10045%20%28Fedwire%29-Not%20SBU%20%282%29.pdf.

OFAC's concern with public disclosure of the program was likely informed by the public outcry that arose in Europe upon the revelation of the Terrorist Finance Tracking Program (TFTP) by the *New York Times* in June 2006. *See* Eric Lichtblau & James Risen, *Bank Data Is Sifted by U.S. in Secret to Block Terror*, N.Y. Times, June 22, 2006; Constant Brand, *Belgian PM: Data Transfer Broke Rules*, Wash. Post, Sept. 28, 2006. Treasury initiated the TFTP after the attacks of September 11, 2001, in order to identify and track the financing of terrorism. Under the program, which remains in place, Treasury issues subpoenas to SWIFT or other designated providers seeking information on financial transactions by suspected terrorists. Some in Europe forcefully condemned the program as a breach of EU privacy laws. Nevertheless, the EU approved a 2010 agreement that essentially codifies the practices involved in the TFTP. *See* Agreement Between the European Union and the United States of America on the Processing and Transfer of Financial Messaging Data from the European Union to the United States for the Purposes of the Terrorist Finance Tracking Programme, E.U.-U.S., L 195/5 (July 27, 2010), *available at* eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:195:0005:0014:EN:PDF.

[32] *See, e.g.*, 31 C.F.R. Subt. B, Ch. V, Pt. 535, Subp. B.

business days a report with OFAC identifying the owner or account party; the property, its location, and value; the date it was blocked or rejected; an image of the payment instruction; and a confirmation that the payment has been deposited into a blocked account.[33] Since the mid-1990s, many financial institutions have employed as ''best practice'' sophisticated OFAC screening software to strengthen their monitoring and reporting systems.[34]

In addition to self-reporting, illegal transactions come to light in the course of testing of compliance procedures, internal audits, regular onsite bank examinations, OFAC investigations, and whistle-blowing by confidential sources.

When OFAC learns that an illegal transaction has been processed through a U.S. financial institution without being blocked or rejected, OFAC may send an administrative subpoena to the institution requesting an explanation of how the transaction was processed.[35] If OFAC determines that a violation has occurred, it may issue a cautionary letter, impose civil penalties, or refer the matter to law enforcement agencies for criminal prosecution.[36] OFAC has imposed hundreds of millions of dollars in civil penalties on U.S. and foreign financial institutions and companies for failing to appropriately block or reject, or for defrauding U.S. financial institutions into processing, illegal transfers involving a targeted country or SDN.[37]

SDNs and other persons in a sanctioned country should find it extremely difficult to engage in dollar transactions, and this inability to transact in the world's most important currency can be crippling. The vast majority of cross-border dollar transactions—95%, according to FRBNY—are settled through CHIPS,[38] where such transactions will of course be monitored by financial institutions, and held, rejected, or blocked, and reported to OFAC where necessary. Although there are a number of payment systems outside the United States that can settle dollar transactions (for example, HSBC's Clearing House Automated Transfer System), financial institutions using these systems likely employ OFAC's SDN List in part due to fear of an additional tool in the U.S. arsenal—Section 311 of the USA PATRIOT Act.[39]

Section 311 of the USA PATRIOT Act

Section 311 directs Treasury to designate a financial institution or jurisdiction as being of ''primary money laundering concern'' based on numerous jurisdictional and institutional factors, including the extent to which the institution is ''used to facilitate or promote money laundering.''[40] The result of this designation is severe: the institution may be prohibited from maintaining correspondent accounts with U.S. financial institutions,[41] thereby cutting off access to U.S. dollar payment systems and business in the United States generally.

[33] *See* 31 C.F.R. §§ 501.602–603.

[34] The market for such software is robust. *See* Office of Foreign Assets Control, *Frequently Asked Questions and Answers*, http://www.treasury.gov/resource-center/faqs/Sanctions/Pages/answer.aspx#29 (Sept. 10, 2002) (''31. What are the features and benefits that banks should be looking for when selecting an OFAC compliance software package?'' ''There are a wide variety of software packages available to the financial community. The size and needs of each institutions help to determine what to look for in a package . . . .'').

[35] *See* 31 C.F.R. Pt. 501, App. A—Economic Sanctions Enforcement Guidelines.

[36] *See id.*

[37] *See, e.g.*, Settlement Agreement Between the U.S. Department of the Treasury's Office of Foreign Assets Control and HSBC Holdings PLC, http://www.treasury.gov/resource-center/sanctions/CivPen/Documents/121211_HSBC_Settlement.pdf (Dec. 11, 2012).

[38] *See* Federal Reserve Bank of New York, *CHIPS,* http://www.newyorkfed.org/aboutthefed/fedpoint/fed36.html (last visited Feb. 13, 2013).

[39] USA PATRIOT Act of 2001, *supra* note 2, at §311 (codified at 31 U.S.C. § 5318A).

[40] *See* 31 U.S.C. § 5318A(a), (c).

[41] *See id.* § 5318A(b).

The exercise of Section 311 can have additional indirect consequences, as demonstrated by the 2005 designation of Banco Delta Asia, a bank in Macau, China.[42] The bank allegedly conducted business with North Korea despite U.S. sanctions against North Korea.[43] Even before Treasury had instituted a formal rule designating Banco Delta Asia as a primary money laundering concern, the threat of designation alone triggered a run on the bank, which depleted 34% of deposits within days. The bank went into receivership, and the Macau government froze accounts that Treasury had identified as suspect.[44] Thus, Treasury was able to punish the alleged circumvention of sanctions, albeit in a blunt manner.

Iran Sanctions as a Specific Example

Today, Iran is the primary target of U.S. financial sanctions. A variety of strong overlapping U.S. sanctions have been imposed against Iran. The key recent components of the financial sanctions regime in place against Iran include: (1) the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (CISADA);[45] (2) the USA PATRIOT Act money laundering designation of 2011;[46] (3) the National Defense Authorization Act of 2012 (NDAA);[47] (4) the Iran Threat Reduction and Syria Human Rights Act of 2012 (ITRA);[48] and (5) the National Defense Authorization Act of 2013, which included the Iran Freedom and Counter-Proliferation Act (IFCPA).[49]

In contrast, the Trade Sanctions Reform and Export Enhancement Act of 2000 (TSRA) provides an exception from these sanctions for certain licensed U.S. sales of food, medicine, and medical supplies to Iran (among other target countries).[50] In the spring and summer 2013, OFAC took several steps to further limit the impact of the U.S. sanctions on the Iranian people, in contrast to Iranian government entities and officials. OFAC issued a new general license authorizing the exportation, directly or indirectly, of mobile cellphones, laptops, personal computing equipment, and anti-virus and anti-censorship tools, from the United States or by U.S. citizens to persons in Iran. OFAC also added to the list of permissible medical supplies, and later issued a new general license for nongovernmental organizations to export services to Iran in support of humanitarian activities designed to directly benefit

[42] U.S. Dep't of the Treasury, *Treasury Designates Banco Delta Asia as Primary Money Laundering Concern Under USA PATRIOT Act*, http://www.treasury.gov/press-center/press-releases/Pages/js2720.aspx (Sept. 19, 2005); 31 C.F.R. § 1010.655 (Mar. 1, 2011).

[43] Mark S. Gaylord, *The Banco Delta Asia Affair: The USA PATRIOT Act and Allegations of Money Laundering in Macau*, 50 Crime, L. & Soc. Change 293, 297–98 (2008).

[44] *Id.* at 298.

[45] Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, Pub. L. 111-195, 124 Stat. 1312 (2010).

[46] Press Release, U.S. Dep't of the Treasury, Finding that the Islamic Republic of Iran is a Jurisdiction of Primary Money Laundering Concern (Nov. 21, 2011), http://www.treasury.gov/press-center/press-releases/Documents/Iran3-11Finding.pdf.

[47] National Defense Authorization Act (NDAA) for Fiscal Year 2012, Pub. L. 112-81, 125 Stat. 1298, § 1245 (2011).

[48] Iran Threat Reduction and Syria Human Rights Act of 2012, Pub. L. 112-158, 126 Stat. 1214 (2012). ITRA included a provision that, while not usually considered a financial sanction, imposed an important and relevant new reporting requirement on U.S. domestic and foreign companies that are required to file reports with the Securities and Exchange Commission (SEC) under Section 13(a) of the Securities and Exchange Act of 1934, as amended. Specifically, ITRA's Section 219 added a new Section 13(r) to the Exchange Act. It requires that Form 10-K and Form 20-FAnnual Reports, and Form 10-Q Quarterly Reports filed under Section 13(a) of the Exchange Act include the disclosure of contracts, transactions, and ''dealings'' with Iranian and certain other entities. This requirement became effective with respect to reports due after February 6, 2013.

[49] National Defense Authorization Act (NDAA) for Fiscal Year 2013, Pub. L. 112-239, 126 Stat. 1632, §§ 1241–55 (2012).

[50] Trade Sanctions Reform and Export Enhancement Act, Pub. L. 106-387, 114 Stat. 1549 (2000).

the Iranian people. OFAC also issued a general license to authorize the import and export of services in support of professional and amateur sporting activities.[51]

As a result of the laws and regulations in place even before the 2013 IFCPA, the very broad sanctions against Iran meant that it was practically impossible for U.S. financial institutions or other U.S. persons to engage in transactions with almost any Iranian bank (or non-bank SDN in Iran).[52]

At the end of 2012, many U.S. sanctions against Iran, including financial ones, were extended significantly by amending a regulation pursuant to the 2012 ITRA statute. That regulation prohibits entities ''owned or controlled by a United States person and established or maintained outside the United States'' from knowingly engaging in any transaction, directly or indirectly, with the government of Iran or any person subject to the jurisdiction of the government of Iran, if that transaction would be prohibited if done by a U.S. person or in the United States.[53] In short, subject to some exceptions, the activities of a foreign subsidiary or other entity controlled by a U.S. person were covered the same way as if the U.S. person were doing them. This extension of jurisdiction is similar to a U.S. law and regulations that extend the reach of U.S. sanctions against Cuba to foreign subsidiaries of U.S. corporations.

The new IFCPA of 2013 continues to expand the scope of U.S. sanctions to prescribe even more rules regarding financial transactions by financial institutions and other persons and entities within the United States and elsewhere. The Act imposes penalties on the violator by limiting its ability to do business in the United States, restricting U.S. persons' interactions with the violator, or directly targeting the violator or its assets when under U.S. jurisdiction.[54]

For example, IFCPA Section 1244 requires, with some exceptions, that ''the President shall prohibit the opening, and prohibit or impose strict conditions on the maintaining of a correspondent account or a payable-through account by a foreign financial institution that the President determines knowingly . . . conducts or facilitates a significant financial transaction for the sale, supply, or transfer to and from Iran of goods or services'' that are ''used in connection with the energy, shipping, or shipbuilding sectors of Iran.''[55] Similar language to cover other activities that a foreign financial institution might knowingly conduct or facilitate is used in Sections 1245 (sale or supply of certain materials to or from Iran),[56] 1246 (provision of insurance or underwriting for sanctioned activities or persons),[57] and 1247 (facilitating financial transactions by SDNs).[58]

[51] A ''general license'' authorizes the performance of certain categories of transactions that would otherwise be prohibited. It obviates the need to apply for and obtain a specific license. *See* U.S. DEP'T OF THE TREASURY, *Frequently Asked Questions and Answers*, http://www.treasury.gov/resource-center/faqs/Sanctions/Pages/answer.aspx#top (Sept. 30, 2013). *E.g.,* 31 C.F.R. Part 560 (May 20, 2013) (General License D regarding the exportation or re-exportation of certain services, software, and hardware related to personal communications); 31 C.F.R. 560(a)(3) (July 25, 2013) (General License updating the list of basic medical supplies authorized for exportation or re-exportation to Iran); 31 C.F.R. Part 560 (Sept. 10, 2013) (General License E regarding certain services supporting the activities of nongovernmental organizations in Iran and General License F regarding athletic exchanges with Iran).

[52] *See* Clif Burns, *Bye Bye, TSRA?*, EXPORTLAWBLOG (Jan. 24, 2012, 6:34 PM), http://www.exportlawblog.com/archives/3793.

[53] *See* 31 C.F.R. § 560.215 (2013); 77 Fed. Reg. 75845 (Dec. 26, 2012). An in-depth discussion of the various U.S. sanctions laws and regulations against Iran is beyond the scope of this paper. For such a discussion, see, for example, Meredith Rathbone, Peter Jeydel & Amy Lentz, *Sanctions, Sanctions Everywhere: Forging a Path Through Complex Transnational Sanctions Laws*, 44 GEO. J. INT'L L. 1055 (2013).

[54] *See* NDAA for Fiscal Year 2013, Pub. L. 112-239, §§ 1245–49.

[55] *Id.* § 1244(d)(2)–(3).

[56] *See id.* § 1245(c)–(d).

[57] *See id.* § 1246(a).

[58] *See id.* § 1247(a)–(b).

In Sections 1244–46, besides prohibiting or limiting strictly a foreign bank's access to a correspondent account or a payable-through account in the United States, the law also provides that, for certain activities, the President is required to impose five or more of the penalties outlined by the Iran Sanctions Act of 1996, as amended.[59] The list of 12 possible penalties includes, among others: a prohibition on U.S. persons investing in or purchasing significant quantities of equity or debt; a prohibition on the U.S. government contracting with a sanctioned person; a prohibition of any transfers of credit or payments between financial institutions to the extent that the transfers or payments are both subject to U.S. jurisdiction and involved any interest of the sanctioned person; and a prohibition on most transactions with respect to any property (within U.S. jurisdiction) in which the sanctioned person has an interest.[60]

On June 3, 2013, President Obama issued Executive Order 13645, which further expanded the scope of U.S. sanctions against Iran. It implemented certain authorities established under IFCPA as well as other measures. Beyond adding detail to the financial measures already discussed above, E.O. 13645 focused on limiting transactions involving the Iranian currency, the rial. For example, it authorized the Secretary of the Treasury to impose sanctions on foreign financial institutions that knowingly conduct or facilitate any significant transaction related to the purchase or sale of the Iranian rial.[61]

In addition to providing for further sanctions against Iran's petrochemical sector (targeted in IFCPA and other laws), E.O. 13645 authorized the Secretary of State, in consultation with several other officials, to impose a range of penalties on any person, including a foreign financial institution, that knowingly engages in the sale, supply, or transfer to Iran of significant goods or services used in connection with Iran's automotive sector. This sector is broadly defined to include the manufacturing and assembling of a wide range of cars, trucks, motorcycles, and other vehicles.[62]

As illustrated by the present U.S. sanctions against Iran, financial sanctions can prescribe rules for a wide range of activities by financial institutions and other persons and entities around the world. Enforcement can be by a variety of measures where the United States has jurisdiction—for example, where the sanctioned entity might seek to undertake activities within the United States, because the sanctioned entity or its assets are within the United States, or because U.S. persons are involved in the activities.

Although this enforcement is regularly limited to the huge U.S. financial market and the wide range of activities of U.S. banks or other U.S. persons, this has not hampered the pervasive scope and demonstrated effectiveness of U.S. financial sanctions, especially when employed along with trade and other sanctions and when done in coordination with the U.N., European Union, and other countries. Financial sanctions have become the primary international economic tool of choice in situations where sanctions are appropriate.

[59] *See* Iran and Libya Sanctions Act of 1996, Pub. L. 104-172, § 6, 110 Stat. 1541 (codified at 50 U.S.C. 1701 note).

[60] *See id.; see also* SNR Denton, Iran Freedom and Counter-Proliferation Act Signed into Law (Jan. 15, 2013).

[61] Exec. Order No. 13, 645, 78 Fed. Reg. 108, § 1 (June 5, 2013).

[62] *Id.* at §§ 3(b), 5, & 14(a).