

To: Our Clients and Friends

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## New Republic of the Congo Economic Sanctions Regulations

The U.S. Treasury Department's Office of Foreign Assets Control has issued regulations to implement an Executive Order issued approximately two and a half years ago to impose economic sanctions against those perpetuating armed conflict and committing human rights abuses in the Democratic Republic of the Congo. The new regulations add essentially nothing new to what the Executive Order already provides except for the deemed interest rule that OFAC has previously adopted with respect to property owned by entities that are 50 percent or more owned by those against whom sanctions are imposed.

As in the Executive Order, the regulations block all property and interests in property of those who the Treasury Secretary has determined to be leaders of or to have assisted various armed groups in the Congo or to have committed violations of international law involving children in armed conflict in the Congo if such property or interests in property are in the United States or in the possession or control of U.S. persons. Those so identified by Treasury are listed in OFAC's Specially Designated Nationals List.

Among the things the blocking order prohibits are the provision of funds, goods or services to "or for the benefit of," as well as the receipt of funds, goods or services from, any person whose property or interests in property are blocked if such activity is engaged in by a U.S. person or occurs within the United States.

The term "U.S. person" for these purposes is defined to mean any U.S. citizen, permanent U.S. resident alien or entity organized under the laws of the United States (including such entity's foreign branches) and any person in the United States.

The new regulations incorporate the unfortunate OFAC position that a person whose property or interests in property are blocked is deemed to have an interest in all property and interests in property of an entity in which it "owns, directly or indirectly, a 50 percent or greater interest." As a consequence, says OFAC, the property and interests in property of such an entity are also blocked even if that entity does not appear on the Specially Designated Nationals List. (See criticism of this position in IRBs No. 380 and 431.) Suppliers to and creditors of such entities beware; the Shadow SDN List continues to grow.

The new regulations are effective today.

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