

Tougher Iran Sanctions Approved by Congress May Affect U.S. Parent Companies — More Disclosure in '34 Act Reports

Last week, Congress passed the “Iran Threat Reduction and Syria Human Rights Act” (H.R. 1905). The bill, expected to be signed by the President, will significantly strengthen existing Iran sanctions and will add to disclosure of any dealings with Iran in public company annual and quarterly '34 Act filings.

Most notably, the bill prohibits transactions by foreign businesses that are owned or controlled by a U.S. parent company, making the Iranian sanctions more like those currently in place with respect to Cuba, where foreign entities are included in the definition of parties “subject to U.S. jurisdiction.” An important provision in the bill requires the imposition of civil penalties of up to twice the amount of the transaction on U.S. parent companies for the activities of their owned or controlled foreign entities which, if undertaken in the U.S. or by a U.S. person, would violate U.S. sanctions law. That is, if a foreign entity owned or controlled by a U.S. parent enters into an unauthorized transaction with an Iranian party, the penalty will be assessed against the U.S. parent company, not the foreign entity.

This expansion of U.S. sanctions must be implemented within 60 days of the enactment of the bill. Other than ensuring that owned/controlled foreign entities cease all transactions with Iran within 60 days (or obtain OFAC licenses for such activities, a result that is sure to take longer than 60 days), civil penalties can also be avoided if the U.S. parent divests itself of the foreign entity, or its interest therein, no later than 180 days after enactment of the bill.

The bill also requires '34 Act reporting companies (within 180 days from enactment of the bill) to disclose information about their Iran related activities in their annual and quarterly '34 Act reports. This required disclosure will force companies to determine whether they or any of their owned/controlled entities have:

- > engaged in any sanctionable activity under the Iranian Transaction Regulations;
- > engaged in any activities prohibited by the Iranian Financial Sanctions Regulations;

- > transferred goods, technologies or services to Iranian parties to commit human rights abuses against the people of Iran; or
- > engaged in transactions with Specifically Designated Nationals, designated for involvement in terrorist activities, the proliferation of weapons of mass destruction, or being part of the Government of Iran (including owned/controlled entities), unless authorized by the Office of Foreign Assets Control of the U.S. Treasury.

The disclosure will require a detailed description of the type and extent of the activity, the gross revenues and net profits from the activity, and whether the company or any of its affiliates intends to continue the activity. In addition to the disclosure required in the company's annual and quarterly '34 Act reports, the same information must be submitted to the Securities and Exchange Commission in a separate report which the SEC is required to forward to the President and Congress and to post on its website.

Other aspects of the bill include enhanced sanctions with respect to joint ventures in which the Iranian government is a party, energy sector activity, the trafficking of terror materials (WMDs) and expanded efforts to target Iran's Revolutionary Guard Corps.

We will continue to monitor this bill and inform you once the President has signed the bill into law.

For information on how these new sanctions could affect your business, please contact Joan Koenig at Joan.Koenig@dbr.com or at (312) 569-1163 or any member of Drinker Biddle & Reath LLP's Customs and International Trade team. For public companies, contact George McKann at George.McKann@dbr.com or at (312) 569-1127 or any member of Drinker Biddle's Corporate Securities Group.

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