

OFAC Implements Sanctions on Nicaragua

Article By:

International Trade Practice at Squire Patton Boggs

On September 4, 2019, the US Department of the Treasury's Office of Foreign Assets Control (OFAC) published in the Federal Register a new final rule on the Nicaragua Sanctions Regulations, 31 C.F.R. Part 582 (Nicaragua Regulations), which implement Executive Order (EO) 13851 of November 27, 2018, "Blocking Property of Certain Persons Contributing to the Situation in Nicaragua". The Nicaragua Regulations mirror the substance of the EO.

Executive Order

Section 1 of the EO directs the Secretaries of State and of the Treasury to block the property or interests in property and impose sanctions on any person determined:

- To be responsible for or complicit in, or to have directly or indirectly engaged or attempted to engage in, any of the following:
 - Serious human rights abuse in Nicaragua
 - Actions or policies that undermine democratic processes or institutions in Nicaragua
 - Actions or policies that threaten the peace, security or stability of Nicaragua
 - Any transaction or series of transactions involving deceptive practices or corruption by, on behalf of, or otherwise related to the government of Nicaragua or a current or former official of the government of Nicaragua, such as the misappropriation of public assets or expropriation of private assets for personal gain or political purposes, corruption related to government contracts or bribery
- To be a leader or official of an entity that has, or whose members have, engaged in any activity described in (1) or of an entity whose property and interests in property are blocked pursuant to the EO.
- To be an official of the government of Nicaragua or to have served as an official of the government of Nicaragua at any time on or after January 10, 2007.

-
- To have materially assisted, sponsored or provided financial, material or technological support for, or goods or services in support of:
 - Any activities described in (1)
 - Any person whose property and interests in property are blocked pursuant to the EO
 - To be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to the EO.

Once a determination has been made that a person (individual or entity) satisfies the criteria established by Section 1, the Secretary of the Treasury is required to add that person to OFAC's Specially Designated Nationals List (SDN List).

The effect of designation as an SDN is threefold.

- All property of an SDN that comes within the possession or control of a US Person is "blocked"; the US Person must freeze the assets and report them to OFAC. Blocked assets cannot be unblocked without a license from OFAC unless the SDN is removed from the SDN List or the entire sanctions program is revoked.
- Because almost all US dollar-denominated interbank funds transfers clear through banks in the US, an SDN is denied the ability to make or receive US dollar-denominated funds transfers.
- No US Person can engage in any transaction or dealing with an SDN.

OFAC Designations

Since EO 13851 was enacted, one entity and seven individuals have been added to OFAC's SDN List pursuant to the Nicaragua sanctions, all with ties to Nicaraguan President Daniel Ortega. OFAC has sanctioned the following individuals:

- Vice President and First Lady of Nicaragua, Rosario Maria Murillo De Ortega
- Nestor Moncada Lau, who has acted as a national security advisor to President Ortega and Vice President Murillo
- Laureano Facundo Ortega Murillo, the son of President Ortega and Vice President Murillo, who is the Investment Promotion Advisor of the Nicaraguan government agency, ProNicaragua
- Gustavo Eduardo Porras Cortes, an official of the Nicaraguan government, the senior-most political operator of President Ortega, and President of the Nicaraguan National Assembly
- Orlando Jose Castillo, an official of the Nicaraguan government and General Director of the Institute of Telecommunications and Postal Service (TELCOR)

-
- Sonia Castro Gonzalez, the Minister of Health for the Nicaraguan government
 - Oscar Salvador Mojica Obregon, a retired Major General of the Nicaraguan Army and the current Minister of Transportation and Infrastructure

The designated entity is Banco Corporativo SA (BanCorp), which was designated for allegedly having materially assisted, sponsored or provided financial, material or technological support for, or goods or services in support of Vice President Murillo.

In addition to these sanctioned persons, in late 2017 and 2018, prior to the issuance of EO 13851 and the Nicaragua Regulations, three other Nicaraguan governmental officials were designated as SDNs under the Global Magnitsky Human Rights Accountability Act for alleged human rights abuse and corruption. Those sanctioned individuals are as follows:

- Roberto Jose Rivas Reyes, President of Nicaragua's Supreme Electoral Council
- Francisco Javier Diaz Madriz, Commissioner of Nicaragua's National Police
- Fidel Antonio Moreno Briones, a leader of the Sandinista Youth and the main link between municipal governments and the Sandinista National Liberation Front

While these individuals were not sanctioned as part of the Nicaragua sanctions program, their designation as SDNs nevertheless evidences a trend by the US government toward sanctioning corruption within and human rights abuses by the Nicaraguan government and by those with connections to the Nicaraguan government.

The above-mentioned entity and individuals are all SDNs, and as such, no US person can engage in any transaction or dealing with them.

EU

On October 14, 2019, The Council of the European Union (the Council) issued Council Decision (CFSP) 2019/1720 "concerning restrictive measures in view of the situation in Nicaragua."

The decision allows the Council to add to its annex any natural or legal persons (i) who it deems responsible for violations or abuses of human rights or repression of civil society and the democratic opposition in Nicaragua, (ii) whose actions or activities otherwise undermine democracy and the rule of law in Nicaragua, or (iii) who are associated with the above. No persons have been added to the Annex so far.

Any person added to the annex will have all its funds and economic resources within the EU frozen and will be unable to secure financing from EU individuals or entities. There are a number of limited exceptions to the asset freeze aimed at allowing EU persons to collect amounts owed to them by persons added to the Annex. Member states may grant specific exemptions to the asset freeze for humanitarian reasons.

If a natural person is listed, the sanctions will include a prohibition of entry into or transit through EU member states, with the customary exceptions for citizens of a member state and for obligations to

allow passage under international law or through member state-granted exemptions.

Any person added to the annex shall be entitled to appeal the decision through (i) an administrative procedure whereby the Council reconsiders inclusion of persons in the annex, and/or (ii) an appeal for annulment before the EU General Court.

© Copyright 2025 Squire Patton Boggs (US) LLP

National Law Review, Volume IX, Number 305

Source URL: <https://natlawreview.com/article/ofac-implements-sanctions-nicaragua>