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Congress Raises Statute of Limitations for U.S. Sanctions Violations to 10 Years

Following Congress' passage of H.R. 815,¹ on Monday, April 22, 2024, President Biden signed the bill into law. H.R. 815 (the "Act"), among other things, provides military funding to Ukraine, Israel, and Taiwan and contains provisions concerning the divestment of TikTok. Although less noticed, the Act also makes a significant change to U.S. sanctions laws by extending the statute of limitations for civil and criminal sanctions violations from five to 10 years. This change will have meaningful consequences for sanctions investigations and penalties and for conducting due diligence in the M&A and other contexts.

Statute of Limitations

Prior to H.R. 815, the statute of limitations for violations of the two primary U.S. sanctions laws, the International Emergency Economic Powers Act ("IEEPA")² and the Trading with the Enemy Act ("TWEA"),³ was five years. H.R. 815 doubles that period by raising the statute of limitations for both civil⁴ and criminal sanctions violations to 10 years.⁵

The 10-year statute of limitations would apply to all violations (criminal and civil) going forward, as well as to any violations that had not been time-barred by the date of H.R. 815's enactment (April 22, 2024). Under well-settled principles, the new statute of limitations would not apply to revive sanctions violations that were already time-barred.⁶

Implications

Depending on the facts of a particular matter, doubling the statute of limitations could increase the scope of liability and therefore the extent of penalties for companies that face criminal or civil sanctions enforcement. This could potentially make sanctions investigations more lengthy and costly. This expanded statute of limitations coincides with DOJ and OFAC's efforts to further increase their sanctions enforcement activity. DOJ has publicly labeled expanding the statute of limitations for violations of sanctions as a top priority in connection with the Russian invasion of Ukraine.⁷

¹ H.R. 815, 118th Cong. (2d Sess. 2024), available [here](#).

² International Emergency Economic Powers Act, 50 U.S.C. § 1705.

³ Trading with the Enemy Act, 50 U.S.C. § 4315.

⁴ "An action, suit, or proceeding for the enforcement of any civil fine, penalty, or forfeiture, pecuniary or otherwise, under this section shall not be entertained unless commenced within 10 years after the latest date of the violation upon which the civil fine, penalty or forfeiture is based." H.R. 815 at 98-100.

⁵ "No person shall be prosecuted, tried, or punished for any offense [] unless the indictment is found or the information is instituted within 10 years after the latest date of the violation upon the indictment or information is based." H.R. 815 at 98-100.

⁶ *See, generally Stogner v. California*, 539 U.S. 607 (2003) ; *see also Landgraf v. USI Film Products*, 511 U.S. 244 (1994).

⁷ *See e.g., Dept' of Justice, Statement of Andrew Adams Director Task Force KleptoCapture Before the Committee on Judiciary, United States Senate* (July 19, 2022), available [here](#).

Over time, companies engaging in M&A activity or in other types of transactions may want to expand the scope of their due diligence to account for the longer limitations period. These companies may also consider whether to extend the lookback period for sanctions representations and warranties. Banks and other lenders may also consider taking a similar approach.

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This memorandum is not intended to provide legal advice, and no legal or business decision should be based on its content. Questions concerning issues addressed in this memorandum should be directed to:

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