

OFAC Makes Technical Changes to North Korea Sanctions and Civil Monetary Penalty Regulations

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Recently, the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC") announced technical changes to the regulations implementing Treasury-administered economic sanctions on North Korea and new inflation-adjusted civil monetary penalties.

1. North Korea Economic Sanctions

On December 20, 2019, President Donald Trump signed into law the Otto Warmbier North Korea Sanctions and Enforcement Act of 2019, as part of the National Defense Authorization Act for Fiscal Year 2020 (the "NDAA"). This law added several North Korea-related provisions to the North Korea Sanctions and Policy Enhancement Act of 2016 ("[NKSPEA](#)").¹¹ The NDAA amendments to the NKSPEA built on prior amendments to that law under the Countering America's Adversaries Through Sanctions Act of 2017 ("CAATSA").

On April 10, 2020, OFAC published in the [Federal Register](#) technical changes to the North Korea Sanctions Regulations, 31 C.F.R. part 510, incorporating the new provisions added to the NKSPEA by the NDAA and CAATSA. Specifically, the new regulations:

- incorporate the blocking and correspondent or payable-through account sanctions pursuant to the NKSPEA, as amended, including expanding sanctions to apply to certain foreign financial institutions and entities owned or controlled by U.S. financial institutions that are established or maintained outside of the United States;
- add new statutory exemptions pursuant to the NKSPEA, as amended;

- create additional regulatory exceptions to the definition of luxury goods as approved by applicable United Nations Security Council resolutions;
- apply the factors that are currently used to interpret the meaning of “[significant transaction\(s\)](#)”¹² to also apply to the meaning of “significant activity or activities,” and “significant financial service(s)” as those terms are used in new provisions of the NKSPEA; and
- make several technical and conforming edits.

This regulation went into effect on April 10, 2020.

2. Inflation-Adjusted OFAC Administered Civil Monetary Penalties

The Federal Civil Penalties Inflation Adjustment Act,¹³ as amended, requires federal agencies to periodically adjust their civil monetary penalties (“CMPs”) commensurate with inflation. On April, 9, 2020, OFAC published in the [Federal Register](#) new inflation-adjusted maximum penalties pursuant to its statutory authority under the following five statutes:

Statute	Previous Maximum CMP	Adjusted Maximum CMP
The Trading With the Enemy Act (TWEA”)	\$89,170	\$90,743
The International Emergency Economics Powers Act (IEEPA) ¹⁴	\$302,584	\$307,922
The Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA)	\$79,874	\$81,283
The Foreign Narcotics Kingpin Designation Act (FNKDA)	\$1,503,470	\$1,529,991
The Clean Diamond Trade Act (CDTA)	\$13,669	\$13,910

The new maximum CMPs went into effect on April 9, 2020.

Law Clerk Charles Klug contributed to this blog post.

^[1] 22 U.S.C. §§ 9201-9255.

^[2] 31 CFR § 510.413.

^[3] 28 U.S.C. § 2461 note.

^[4] OFAC also updated two references to penalties of one-half of the IEEPA maximum CMP to \$153,961.