

CLIENT ALERT

TALIBAN RESURGENCE IN AFGHANISTAN RAISES SANCTIONS ISSUES FOR FINANCIAL INSTITUTIONS AND MONEY TRANSMITTERS

With the Taliban seemingly in control of Afghanistan, financial institutions and money transmitting businesses will need to revisit their AML and anti-terrorist financing playbooks to avoid sanctions issues with regulators.

The new reality of Taliban control in Afghanistan requires financial institutions and money services businesses to revisit their AML policies to ensure that any transactions with entities in Afghanistan, whether state-owned or private, do not run afoul of U.S. sanctions and anti-terrorist financing laws. And with the structure of the new Afghan government unclear, and no clear advice yet from U.S. regulators, legal requirements are expected to evolve rapidly.

BACKGROUND

On August 15, 2021, the Afghan government collapsed, and Taliban fighters entered Kabul, seemingly cementing their control over much of the country. While negotiations are underway with the former Afghan government and the Taliban to form a new government in the country, foreign businesses subject to U.S. and EU sanctions laws must now determine whether they can continue to conduct business with public and private entities in Afghanistan.

Prior to the Taliban takeover of Afghanistan, the U.S. Office of Foreign Assets Control (“OFAC”) sanctions were limited to organizations designated as Foreign Terrorist Organizations (“FTOs”); Specifically Designated Nationals (“SDNs”); and other blocked persons within Afghanistan. That is, sanctions did not apply to the whole country as they do with countries such as Iran and North Korea. With the Taliban seemingly in control, questions arise whether Afghanistan will be added to the OFAC list of country-wide sanctions.¹

Thus far, U.S. authorities have not offered guidance to financial institutions on the new situation but have already taken steps to prevent the Taliban from accessing capital. On August 17, the Biden Administration froze Afghan Central Bank reserves held in U.S. bank accounts, and halted U.S. dollar

¹ The current list of countries with country-wide sanctions includes: Belarus, Burundi, Central African Republic, Cuba, Iran, Iraq, Libya, North Korea, Somalia, Sudan, Syria, and Zimbabwe. See U.S. Dep’t of Treasury “Sanctions Programs and Country Information” ([link](#)).

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shipments due to be delivered to the country.² Similarly, the IMF and World Bank have halted access to aid for Afghanistan.³

The uncertainty has caused financial institutions and money services businesses to rethink their approach to the country, with money services businesses Western Union and MoneyGram ceasing to do business with Afghanistan entirely.⁴




STEPS FOR BUSINESSES TO TAKE

Banks and financial institutions can be proactive by:

- Identifying whether the institution holds foreign assets on behalf of Afghanistan;
- Reviewing customer accounts to determine if customers have any exposure to Afghanistan;
- Adding the names of Afghan banks to the screening software used to monitor transactions;
- Timely reviewing and responding to transaction monitoring alerts, and filing suspicious activity alerts where appropriate
- Maintaining strong OFAC policies and procedures, and promptly completing OFAC-related reviews;
- Reviewing IP activity to identify whether accounts are currently being accessed from Afghanistan;
- Staying abreast of announcements from federal regulators and law enforcement authorities.

CONCLUSION

Financial institutions that are found to violate sanctions can face steep fines, and officials can face criminal charges. While Afghanistan currently is not subject to country-wide sanctions, financial institutions must approach business with individuals and entities located within Afghanistan with extreme caution, being careful to ensure they do not benefit the Taliban. Murphy & McGonigle's team of white collar and regulatory attorneys are available to assist financial services firms comply with applicable laws and address and resolve sanctions, AML, and anti-terrorism financing issues.

				
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² Mychael Schnell, *Biden Administration Freezes Afghan Government Reserves in US Banks: Report*, The Hill, Aug. 17, 2021 ([link](#)); Kate Davison and Ian Talley, *U.S. Halt Dollar Shipments to Afghanistan to Keep Cash Out of Taliban's Hand*, The Wall Street Journal, Aug. 17, 2021 ([link](#)).

³ Alan Rappeport, *The World Bank is freezing aid disbursements to Afghanistan.*, N.Y. Times, Aug. 24, 2021 ([link](#)).

⁴ Ian Talley and Oral McCaffrey, *U.S. Banks and Money-Transfer Firms Tread Carefully in Taliban-Controlled Afghanistan*, The Wall Street Journal, Aug. 21, 2021 ([link](#)).