

## Trade Compliance Flash: Continuing Conflict in the Middle East as U.S. Redesignates the Houthis

International Alert

**01.19.2024**

On January 17, 2024, the U.S. Department of State (State) announced the designation of Ansarallah, also known as the "Houthis" in Yemen, as a Specially Designated Global Terrorist group (SDGT) pursuant to [Executive Order \(E.O.\) 13224](#), as amended. The Houthis, a military organization, currently control parts of Yemen and have recently engaged in several drone and missile attacks on commercial ships across Yemen's coast in response to the Israel-Gaza war. Notably, the designation of the Houthis and its addition to U.S. Department of the Treasury's (Treasury) List of Specially Designated Nationals and Blocked Persons (SDN List) will not go into effect until February 16, 2024. Along with the designation, Treasury's Office of Foreign Assets Control (OFAC) issued five general licenses (GLs), also with delayed effectiveness, authorizing certain transactions involving the Houthis, related to humanitarian activities, among others. In its [press release](#), State noted they would, in the interim, "conduct robust outreach to stakeholders, aid providers, and partners who are crucial to facilitating humanitarian assistance and the commercial import of critical commodities in Yemen."

### Background

In early January 2021, the Trump administration designated the Houthis as a Foreign Terrorist Organization (FTO) pursuant to the Immigration and Nationality Act (INA), as amended, and a SDGT pursuant to E.O. 13224, as amended. Three weeks after taking office, on February 12, 2021, the Biden administration [revoked the designations](#), citing a "dire humanitarian situation" in Yemen, where the Houthis maintain partial control. Nearly three years later, the Biden administration decided to reverse in part its decision, due to the aforementioned series of Houthi-led drone and missile attacks on commercial ships in the Red Sea, which were apparently orchestrated to show solidarity with Hamas, as the Israel-Gaza war continues.

The U.S. government re-designated as an SDGT the Houthis this month, but not as an FTO. This distinction may be important to persons who engage in commercial or humanitarian activity with Yemen, as an FTO designation may arguably carry increased risk of criminal penalty. An FTO designation, under the INA's [material support statute](#), can trigger criminal action by the U.S. Department of Justice (DOJ) for those who "knowingly" provide "material support or resources" to a designated FTO. SDGT designations under E.O. 13224, as amended, also prohibit persons from providing material support to SDGT targets; however, in order for the DOJ to bring a criminal prosecution against a person for providing material support to a SDGT, the DOJ has to prove that the person "willfully" provided such support, pursuant to the relevant [statute](#). Thus, the SDGT and FTO legal thresholds for intent are framed differently.

A SDGT designation may have been preferred by the White House, who appeared keen in its press release to avoid deterring humanitarian groups from supporting Yemen. The Biden administration provided further comfort to non-governmental organizations (NGOs) and other persons providing aid to Yemen, as concurrent with the designation, OFAC issued five GLs under its [Global Terrorism Sanctions Regulations](#) (GTSR). These GLs authorize, with exceptions, activities involving the Houthis pertaining to:

- [Counter Terrorism \(CT\) GL 22](#): The provision (including sale) of agricultural commodities, medicine, medical devices, replacement parts and components, or software updates
- [CT GL 23](#): The receipt or transmission of telecommunications to, from, or in Yemen
- [CT GL 24](#): The transfer of non-commercial, personal remittances to or from an individual in Yemen
- [CT GL 25](#): The provision (including sale) of refined petroleum products for personal, commercial, or humanitarian use

- [CT GL 26](#): The operation of, or import or export of goods or transit of passengers through, ports and airports in Yemen

All five of the GLs are effective as of February 16, 2024, the same day the Houthi designation takes effect. OFAC also issued a [Frequently Asked Question](#) (FAQ) concerning the designation, which reaffirms the Houthis' addition to the SDN List (under the term "Ansarallah") and also notes that in relation to authorizations under the GTSR, non-U.S. persons may engage in or facilitate transactions for which a U.S. person would be authorized, without further exposure to sanctions.

## Key Takeaways

- From now until February 16, 2024 (when the Houthi designation goes into effect), persons should be cautious in engaging in any transactions which they know may contain an interest of the Houthis or its members. While the Houthi designation has not yet gone into effect, any assets, including funds, involving a Houthi interest present sanctions risk, due to the looming designation effectiveness date.
- Given daily events in certain parts of the Middle East, and Houthi control in parts of Yemen, companies operating in the region should analyze transactions involving Yemen to determine permissibility under the new sanctions designation.
- Exporters to the region should carefully review trade documents to determine if any fees, taxes, or other funds must be paid, directly or indirectly, to the Houthi regime. Such fees or taxes may be authorized under a relevant GL, but caution is recommended. Exporters should also consider training personnel on the sanctions risk related to the region.
- Financial institutions, especially those that operate heavily in the arena of trade finance, should consider tuning their sanctions screening or transaction monitoring systems to take account the heightened risk of supporting business in or around Yemen. This may include adding additional terms to screening filters or monitoring continuing or prospective trade finance transactions in the region.
- Despite heightened sanctions risk in Yemen, the U.S. government has sent a clear message with the issuance of the above GLs and through press statements that the designation of the Houthis is meant to target the Houthis and not the people of Yemen. Transactions related to humanitarian support for the Yemenis are permissible, subject to some exceptions.

---

For more information, please contact:

[Timothy P. O'Toole](#), [totoole@milchev.com](mailto:totoole@milchev.com), 202-626-5552

[Caroline J. Watson](#), [cwatson@milchev.com](mailto:cwatson@milchev.com), 202-626-6083

[Annie Cho](#), [acho@milchev.com](mailto:acho@milchev.com), 202-626-1570

Anton Berezin\*

Laura Deegan\*

Manuel Levitt\*

*\*Former Miller & Chevalier attorney*

---

The information contained in this communication is not intended as legal advice or as an opinion on specific facts. This information is not intended to create, and receipt of it

does not constitute, a lawyer-client relationship. For more information, please contact one of the senders or your existing Miller & Chevalier lawyer contact. The invitation to contact the firm and its lawyers is not to be construed as a solicitation for legal work. Any new lawyer-client relationship will be confirmed in writing.

This, and related communications, are protected by copyright laws and treaties. You may make a single copy for personal use. You may make copies for others, but not for commercial purposes. If you give a copy to anyone else, it must be in its original, unmodified form, and must include all attributions of authorship, copyright notices, and republication notices. Except as described above, it is unlawful to copy, republish, redistribute, and/or alter this presentation without prior written consent of the copyright holder.