

## OFAC Guidance on the Statute of Limitations Extension

By Kevin McCart, Adam Klauder and Mary Maloney on July 31, 2024

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- OFAC will only apply new 10-year statute of limitations for a violation that occurred after April 24, 2019; if the violation occurred on or before April 24, 2019, OFAC will only apply the previous 5-year statute of limitations
- OFAC's record keeping requirements and administrative subpoena authority to be extended to 10 years

The President's signing of the 21st Century Peace through Strength Act (the "Act")[1] on April 24, 2024 marked one of the most significant expansions of the sanctions enforcement authority of the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC"). For many decades OFAC's civil enforcement actions have been limited to five years pursuant to the statute of limitations found at 28 U.S.C. § 2462. Section 3111 of the Act ex-



tended "the amount of time that regulators and prosecutors have to investigate and prosecute civil and criminal sanctions violations from five to 10 years," as discussed in a previous blog post. This extension applies to sanctions enforcement actions pursuant to both the International Emergency Economic Powers Act ("IEEPA") and the Trading with the Enemy Act ("TWEA").

On July 22, 2024, OFAC issued public guidance on how it would implement this extension with respect to both its enforcement actions and its record keeping requirements. This guidance clarifies that the 10-year statute of limitations extension applies to violations "not time-barred" at the time of the Act's publication.

As a result, OFAC may bring enforcement actions for violations within the 10-year statute of limitations period if the violation occurred after April 24, 2019. For example, for a violation that occurred on April 25, 2019, the new statute of limitations would run until April 25, 2029. According to the guidance, the commencement of any civil enforcement action includes the issuance of a pre-penalty notice or a finding of violation.

OFAC's guidance also stated that it intends to extend the current record keeping requirement, found at 31 C.F.R. § 501.601, from five years to 10 years. Such a change would be effective six months after OFAC publishes an interim final rule amending the language of the regulations. While OFAC's guidance did not specifically address this, we assume that OFAC will take the position that its authority to demand the furnishing of information (a.k.a. its administrative subpoena authority) found at 31 C.F.R. § 501.602, will also cover this new ten-year time frame. Relatedly, once that change is implemented, OFAC's authority to impose civil penalties for failure to comply with a requirement to furnish information, pursuant to 31 C.F.R. § 501.602, or keep records in accordance with 31 C.F.R. § 501.601, will also extend to ten years.

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[1] H.R. 815, 118th Cong. (2024). Retrieved from <https://www.congress.gov/118/bills/hr815/BILLS-118hr815enr.pdf>