



POLICY ALERT // OCTOBER 11, 2018

Treasury Department Advises Financial Institutions of Nicaragua Risk

The Treasury Department's Financial Crimes Enforcement Network (FinCEN) on October 4 warned financial institutions that Nicaraguan officials may try to move the proceeds of corruption through the United States¹ following months of violence² and the threat of additional sanctions.³ The United States has imposed sanctions against four Nicaraguan officials, all under Executive Order 13818, which implements the Global Magnitsky Human Rights Accountability Act,⁴ and the U.S. Congress is considering a new Nicaragua country program.⁵

- ▶ FinCEN said it “expects that senior foreign political figures connected to the regime of Nicaraguan President Daniel Ortega could react to the perceived threat of further unrest, potential sanctions, or other factors by moving assets that are the proceeds of corruption out of their accounts in Nicaragua or elsewhere.”⁶ FinCEN issued a Spanish language version of the advisory October 5,⁷ the third time this year that it has sought to mobilize banks in the region with a Spanish version of an advisory.⁸
- ▶ In December 2017, the United States sanctioned the President of Nicaragua's supreme electoral council for corruption.⁹ In July 2018, the United States sanctioned two Nicaraguan officials for human rights abuses and a vice president of Nicaragua's state-owned oil company for corrupt dealings with Venezuela's state-owned oil company.¹⁰
- ▶ In August 2018, U.S. Rep. Ileana Ros-Lehtinen introduced a bill to establish a Nicaragua sanctions program.¹¹ A similar bill advanced in the U.S. Senate on October 3.¹² The House bill is more expansive than the Senate bill.¹³ The House bill includes provisions authorizing sanctions against Nicaraguan officials who are dealing with Venezuela.¹⁴

Ongoing human rights abuses and corruption in Nicaragua elevate real and reputational risks for financial institutions with business involving the country. Even without legislation granting it new authorities, the Treasury Department has a powerful tool to target corruption in Executive Order 13818.¹⁵ Ties between Nicaragua's state-owned oil company and Venezuela's state-owned oil company,¹⁶ as well as close relations between the Nicaraguan and Venezuelan governments, amplify the sanctions risks in light of U.S. efforts to use financial tools to isolate the Venezuelan regime.¹⁷

- ▶ Financial institutions can mitigate Nicaragua-related risk by conducting



enhanced due diligence (EDD) to determine the purpose of a transaction and the source of funds involved in the transaction. Financial institutions should consider requiring EDD for any transaction involving the Nicaraguan government, any Nicaraguan official, or any company owned or controlled by the government or a government official.

- ▶ Financial institutions face reputational risk when they process transactions related to goods, services, and technologies that the Nicaraguan government uses for internal repression. Transactions that are related to security services, weapons, telecommunications hardware and services, and those that involve Nicaragua or shell companies should be subject to EDD, including end-use verification.
- ▶ In June 2018, FinCEN issued an advisory on corruption that included 14 red flags.¹⁸ Financial institutions, especially those engaged in Nicaragua or neighboring countries, should review those red flags and include them in training for both compliance and the business. Regulatory expectations for customer due diligence and collection and verification of beneficial ownership information heighten regulatory risk for financial institutions.



Endnotes

- 1 FinCEN, "Advisory to Financial Institutions on the Risk of Proceeds of Corruption from Nicaragua," Oct. 4, 2018, available at https://www.fincen.gov/sites/default/files/advisory/2018-10-04/Nicaragua_Advisory_FINAL_508_0.pdf.
- 2 The Washington Post, "Our first concern was to avoid a civil war: Nicaragua's government on six months of protests," Sept. 26, 2018, available at https://www.washingtonpost.com/world/2018/09/26/our-first-concern-was-avoid-civil-war-nicaraguas-government-six-months-protests/?utm_term=.b4fb5e72710e.
- 3 McClatchy News Service, "Congress looks to give Nicaragua a taste of what it feels like to be Iran," Sept. 4, 2018, available at <https://www.mcclatchydc.com/news/politics-government/white-house/article217656260.html>.
- 4 White House, "Executive Order Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption," Dec. 21, 2017, available at <https://www.whitehouse.gov/presidential-actions/executive-order-blocking-property-persons-involved-serious-human-rights-abuse-corruption/>.
- 5 See H.R.6683, "Nicaragua Human Rights and Anticorruption Act of 2018," introduced Aug. 28, 2018, available at <https://www.congress.gov/bill/115th-congress/house-bill/6683/text>. See also S.3233, "Nicaragua Human Rights and Anticorruption Act of 2018," reported to Senate Oct. 3, 2018, available at <https://www.congress.gov/bill/115th-congress/senate-bill/3233/text>.
- 6 FinCEN, "Advisory to Financial Institutions on the Risk of Proceeds of Corruption from Nicaragua," Oct. 4, 2018, available at https://www.fincen.gov/sites/default/files/advisory/2018-10-04/Nicaragua_Advisory_FINAL_508_0.pdf.
- 7 FinCEN, "Aviso para las instituciones nancieras sobre el riesgo que plantean los fondos producto de la corrupción en Nicaragua," Oct. 5, 2018, available at https://www.fincen.gov/sites/default/files/advisory/2018-10-05/Nicaragua_Advisory_Spanish_FINAL_508.pdf.
- 8 See FinCEN, "Aviso sobre abusos contra los derechos humanos propiciados por altas personalidades políticas extranjeras corruptas y sus facilitadores nancieros," Sept. 21, 2018, https://www.fincen.gov/sites/default/files/advisory/2018-09-11/PEP%20Facilitator%20Advisory_Spanish%20508%20FINAL.pdf, and FinCEN, "Aviso sobre la corrupción pública generalizada que impera en Venezuela," April 19, 2018, <https://www.fincen.gov/sites/default/files/advisory/2018-04-19/Asesor%C3%ADa%20en%20Venezuela%20sobre%20corrupci3n%20%28FIN-2017-A006%29.pdf>.
- 9 Treasury Department, "United States Sanctions Human Rights Abusers and Corrupt Actors Across the Globe," Dec. 21, 2017, available at <https://home.treasury.gov/news/press-releases/sm0243>.
- 10 Treasury Department, "Treasury Sanctions Three Nicaraguan Individuals for Serious Human Rights Abuse and Corrupt Acts," July 5, 2018, available at <https://home.treasury.gov/news/press-releases/sm422>.
- 11 H.R.6683, "Nicaragua Human Rights and Anticorruption Act of 2018," introduced Aug. 28, 2018, available at <https://www.congress.gov/bill/115th-congress/house-bill/6683/text>.
- 12 S.3233, "Nicaragua Human Rights and Anticorruption Act of 2018," reported to Senate Oct. 3, 2018, available at <https://www.congress.gov/bill/115th-congress/senate-bill/3233/text>.
- 13 H.R.6683, "Nicaragua Human Rights and Anticorruption Act of 2018," introduced Aug. 28, 2018, available at <https://www.congress.gov/bill/115th-congress/house-bill/6683/text>.
- 14 H.R.6683, "Nicaragua Human Rights and Anticorruption Act of 2018," introduced Aug. 28, 2018, available at <https://www.congress.gov/bill/115th-congress/house-bill/6683/text>.
- 15 White House, "Executive Order Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption," Dec. 21, 2017, available at <https://www.whitehouse.gov/presidential-actions/executive-order-blocking-property-persons-involved-serious-human-rights-abuse-corruption/>.
- 16 Treasury Department, "Treasury Sanctions Three Nicaraguan Individuals for Serious Human Rights Abuse and Corrupt Acts," July 5, 2018, available at <https://home.treasury.gov/news/press-releases/sm422>.
- 17 State Department, "2017 Country Reports on Human Rights Practices," (Nicaragua), April 20, 2018, available at <https://www.state.gov/j/drl/rls/hrrpt/2017/wha/277347.htm>.



- 18 FinCEN, "Advisory on Human Rights Abuses Enabled by Corrupt Senior Foreign Political Figures and their Financial Facilitators," June 12, 2018, available at https://www.fincen.gov/sites/default/files/advisory/2018-07-03/PEP%20Facilitator%20Advisory_FINAL%20508%20updated.pdf.