



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

Report Pursuant to Section 5(b) of the Hong Kong Autonomy Act

INTRODUCTION

The Hong Kong Autonomy Act (“HKAA” or “Act”) (Pub. L. 116-149) was enacted on July 14, 2020. Pursuant to Section 5(a) of the Act, not later than 90 days after the date of the enactment of the HKAA, if the Secretary of State, in consultation with the Secretary of the Treasury, determines that a foreign person is materially contributing to, has materially contributed to, or attempts to materially contribute to the failure of the Government of China to meet its obligations under the Sino-British Joint Declaration or Hong Kong’s Basic Law, the Secretary of State shall submit to the appropriate congressional committees and leadership a report (“Section 5(a) Report”) that includes (1) an identification of the foreign person; and (2) a clear explanation for why the foreign person was identified and a description of the activity that resulted in the identification.

On October 14, 2020, the Secretary of State submitted the first Section 5(a) Report, which identified 10 previously sanctioned foreign persons and explained the basis for their identification.

Pursuant to Section 5(b) of the Act, not earlier than 30 days and not later than 60 days following the submission of the Section 5(a) Report, the Secretary of the Treasury, in consultation with the Secretary of State, shall submit a report (“Section 5(b) Report”) to the appropriate congressional committees and leadership that identifies any foreign financial institution (FFI) that knowingly conducts a significant transaction with a foreign person identified by the Secretary of State in the Section 5(a) Report. In December 2020, the Secretary of the Treasury submitted the first Section 5(b) Report in which no FFIs were identified.

On March 16, 2021, the Secretary of State submitted an update to the Section 5(a) Report (the “Update”) identifying an additional 24 previously sanctioned foreign persons and explained the basis for their identification.¹ This is an update to the Section 5(b) Report submitted by the Secretary of the Treasury and fulfills reporting requirements under Section 5(b) of the HKAA.

STEPS TAKEN TO IDENTIFY APPLICABLE FOREIGN FINANCIAL INSTITUTIONS

Since the issuance of the Update, Treasury has investigated — using classified and unclassified sources of information — whether any FFI may have knowingly conducted a significant transaction with any of the foreign persons identified in either the Section 5(a) Report or the Update following the dates of the reports’ submissions (October 14, 2020 and March 16, 2021). Treasury has also conducted outreach to foreign governments to help ensure they understand the reporting requirements and sanctions risks under the HKAA.

¹ The Department of State previously designated each of the 24 foreign persons for asset-blocking sanctions pursuant to Executive Order (E.O.) 13936.

Research and Investigation

Treasury, in consultation with interagency partners, conducted regular searches of available sources of information, including classified and unclassified holdings, for any potential significant transactions by FFIs with the foreign persons identified in the Section 5(a) Report or the Update. As of May 1, 2021, Treasury has not found any information on significant transactions with the identified foreign persons. Treasury will continue to actively monitor for this type of activity.

Foreign Engagement

Treasury leadership held constructive conversations with foreign counterparts across the globe to communicate U.S. policy objectives with respect to Hong Kong, clarify HKAA reporting requirements and sanctions risks, and request that governments communicate these requirements and risks to financial institutions within their respective jurisdictions. As part of these engagements, Treasury conveyed its willingness to engage further with FFIs about their potential exposure to HKAA reporting and sanctions.

FOREIGN FINANCIAL INSTITUTIONS THAT KNOWINGLY CONDUCT A SIGNIFICANT TRANSACTION WITH FOREIGN PERSONS IDENTIFIED IN THE SECTION 5(A) REPORT

As of May 1, 2021, Treasury has not identified any FFI that has knowingly conducted a significant transaction with a foreign person identified in the Section 5(a) Report submitted on October 14, 2020 and the update thereto submitted on March 16, 2021 after their respective submission dates. Treasury will continue to monitor for any activity that meets these criteria. Treasury will also continue to engage foreign governments and FFIs to help ensure they understand the reporting requirements and sanctions risks under the HKAA and other authorities, as well as any relevant public guidance OFAC has issued. As required by the Act, Treasury will continue to update the Section 5(b) Report and intends to resubmit these updates as appropriate.