

OFAC Adds Hong Kong Designations

On 7 August 2020, the Treasury Department's Office of Foreign Assets Control (OFAC) [designated](#) 11 top Chinese officials and their allies in Hong Kong, including Chief Executive Carrie Lam, pursuant to Executive Order 13936 over their role in undermining the autonomy of the former UK colony. We anticipate that Bernard Charnwut Chan—Convenor of the Executive Council of Hong Kong—and Asia Financial Holdings, of which he is the president and executive director, will most likely be next on OFAC's sanctions radar. Chan's US bank accounts have already been [closed](#).

- Although United States probably would not sanction China's leading global investment banks, their Hong Kong branches are likely to be designated, along with any non-US financial institutions that have ties with those banks. Subsequent designations will probably include the Hong Kong Branch of the Bank of China, the Industrial and Commercial Bank of China, China Construction Bank's Hong Kong branches, and the Hong Kong branch of the Agricultural Bank of China.
- Although the Trump administration has reportedly backed off from plans to unpeg the Hong Kong dollar from the US greenback, HSBC would have seen the biggest impact had the plan been implemented because it is the largest bank in Hong Kong and has a global presence.

President Trump signed [the Hong Kong Autonomy Act](#) into law on July 14, 2020, authorizing sanctions to be imposed on foreign persons and financial institutions for involvement in what Congress deems to be Beijing's failure to meet its obligations under the 1984 Sino-British Joint Declaration and Hong Kong's Basic Law. The Basic Law is widely considered to be the de facto Constitution, which upholds the principle of "one country, two systems."

- The Hong Kong Autonomy Act aims to penalize financial institutions that attempt to undermine Hong Kong's democratic processes or are involved with Chinese officials who threaten Hong Kong's autonomy and limit them from receiving loans from the US financial sector, as well as shine a spotlight on Chinese officials involved in Beijing's policies toward Hong Kong.
- The law requires the Secretary of State to provide to Congress a list of foreign entities that are in scope for sanctions within 90 days of enactment and obligates the President to impose sanctions on the individuals and entities named in the report no later than a year after the report is issued.
- Hong Kong authorities in July [banned](#) school students from singing the unofficial anthem of the pro-democracy movement, and the new security law imposed by Beijing requires Hong Kong to "promote national security education in schools." In addition, an [office that recently opened](#) in Hong Kong has the authority to oversee education about national security in Hong Kong schools. Slogans about the liberation of Hong Kong were [banned](#), and numerous protesters have been [arrested](#).

Beijing has [threatened](#) to retaliate against United States institutions and individuals and has recently [sanctioned](#) several US lawmakers, including Senators Ted Cruz and Marco Rubio, as well as Congressman Chris Smith and Ambassador for Religious Freedom Sam Brownback.

International banks with clients in Hong Kong, such as Credit Suisse, HSBC, Julius Baer, and the Union Bank of Switzerland are [conducting](#) client reviews to ensure they are not involved in political or government issues and subjecting their clients to additional due diligence scrutiny.

The Trump administration was contemplating [restrictions](#) which would limit Hong Kong banks' access to the US dollar, and the [Executive Order on Hong Kong Normalization](#) imposes asset freezes on foreign individuals involved in undermining the autonomy of Hong Kong, while officially revoking Hong Kong's "special status," determining that the region is no longer sufficiently autonomous to justify preferential treatment and threatening Hong Kong's position as a global business and financial hub. Given the flexibility the Hong Kong Executive Order provides to the administration when implementing sanctions, it is unclear how the sanctions under the Hong Kong Autonomy Act will be implemented, although they—along with other measures—will almost certainly necessitate extra due diligence on the part of US firms.

- The Executive Order freezes all property and interests in property in the United States of any foreign person determined by the Secretary of State and the Treasury Secretary to have been involved, directly or indirectly, in the coercing, arresting, detaining, or imprisoning of individuals under the national security law, to damage Hong Kong's democratic processes or institutions, or threaten the peace, security, stability, or autonomy of the region.
- The order also targets individuals involved in censorship or other activities that limit the freedoms of the people of Hong Kong, including kidnapping, arbitrary detention, torture, or other human rights abuses.

