



Global Trade Advisory Alert

U.S. Reimposes Iran Nuclear-Related Sanctions as Final Wind-down Period Ends

On 5 November 2018, the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC") implemented the second and final snapback of U.S. sanctions waived as part of the Iran Nuclear Deal (Joint Comprehensive Plan of Action, or "JCPOA"), returning the U.S. Iran sanctions regime to a state similar to pre-JCPOA-related actions. As a result, the JCPOA wind-down period has ended, meaning that the provision of goods or services and/or the extension of additional loans or credits to an Iranian counterparty may result in enforceable violations of U.S. sanctions. This includes activities pursuant to written contracts or agreements in place prior to 8 May 2018 (when the U.S. withdrew from the JCPOA).

As part of the re-imposition of sanctions that existed prior to the JCPOA, OFAC added over 700 individuals, entities, aircrafts, and vessels, including more than 70 Iran-linked financial institutions and their foreign and domestic subsidiaries, to OFAC's Specially Designated Nationals ("SDN") List. These sanction targets also include approximately 250 persons blocked pursuant to Executive Order (E.O.) 13599. The E.O. 13599 List, blocking specific

persons and entities, has been deleted as part of the U.S.'s withdrawal from the JCPOA.

Significantly, the end of the wind-down periods includes the re-imposition of sanctions requirements under section 1245 of the National Defense Authorization Act for FY 2012 ("NDAA"). This section authorizes the President to impose sanctions on any foreign financial institutions, public or private, that knowingly conduct or facilitate certain significant financial transactions with the Central Bank of Iran or engage in oil-related financial transactions. Certain waivers may be granted under [section 1245\(d\)\(4\)\(D\)](#) for foreign financial institutions in countries that have significantly reduced crude oil purchases from Iran. While a select few countries have received temporary waivers that must be re-evaluated in 180 days, this exception is likely to be granted sparingly.

OFAC's actions also included re-imposing sanctions on:

- Iran's port operators and its shipping and shipbuilding sectors;
- Petroleum-related transactions, including the purchase of petroleum, petroleum products, or petrochemical products from Iran;
- Transactions by foreign financial institutions with the Central Bank of Iran and other designated Iranian financial institutions;
- Provision of specialized financial messaging services to the Iranian Central Bank and other financial institutions;
- Provision of underwriting services, insurance, or reinsurance; and
- Iran's energy sector.

On 6 August 2018, [E.O. 13846](#) began the process of re-imposing all sanctions waived or lifted in connection to the JCPOA and expanded the scope of sanctions against Iran that had been in effect prior to 16 January 2016 (Implementation Day under the JCPOA). As a result of this E.O., general licenses relating to commercial aircraft, Iranian-origin carpets, and foodstuffs that were established to facilitate wind-down activities for the August deadline expired.

JCPOA-related sanctions re-imposed in August included restrictions on:

- The purchase or acquisition of U.S. bank notes by the Government of Iran;
- Iran's trade in gold and other precious metals;
- Graphite, aluminum, steel, coal, and software used in industrial processes;
- Transactions related to the Iranian rial;
- Activities related to Iran's issuance of sovereign debt; and
- Iran's automotive sector.

OFAC has previously clarified that non-U.S., non-Iranian persons may receive payment for goods or services, or may receive repayment of loans or credits extended, under certain conditions. These conditions include:

- goods or services must have been provided before the end of the applicable wind-down period, or
- loans and credits must have been extended before the end of the wind-down period, and agreed prior to 8 May 2018, following U.S. sanctions in effect at the time.

All payments must be consistent with U.S. sanctions and may not involve U.S. persons or the U.S. financial system, unless exempt from regulation or authorized by OFAC.

EU Response to U.S. Snapback

In response to the U.S.'s withdrawal from the JCPOA and sanctions snapback, the [EU reaffirmed](#) its commitment establishing a Special Purpose Vehicle ("SPV") to enable sanctions relief under the JCPOA to reach Iran while allowing for European exporters to pursue legitimate trade. The SPV would act as a type of clearing house for Iranian oil transactions, offsetting Iranian proceeds from oil and gas sales against Iranian purchases, in order to keep the EU in compliance with U.S. sanctions and maintain Iranian compliance with the JCPOA. While the SPV has yet to be established, its establishment would not prevent the U.S. from sanctioning companies that use it.

Previously, the EU had updated its Blocking Statute's annex to include U.S. sanctions re-imposed on Iran. After a two-month period of scrutiny by the European Parliament and the European Council, and without objection by either body, the updated Blocking Statute and amended annex to the Statute entered into force on 7 August 2018. The EU also provided [published guidance](#) regarding this update.

Impact on Businesses

The conclusion of the wind-down period and snapback of JCPOA-related sanctions returns the U.S. Iran sanctions program to the greater levels of restrictions in place before January 2016. Coupled with the U.S.'s recent non-JCPOA-related Iran sanctions designations, the increased restrictions require U.S. businesses and their subsidiaries to carefully examine their activities and compliance programs to comply with the heightened restrictions. Businesses should review red flag indicators of diversion and sanctions evasion and implement strong "know your customer" practices.

The significant changes to SDN listed or otherwise blocked parties require vigilance by businesses in their screening procedures to prevent unauthorized transactions or to block assets where required. Sanctions on foreign financial institutions, both Iranian and non-Iranian,

private and public, also require businesses to be even more attentive to the specific financial channels used.

The U.S. does maintain humanitarian authorizations and exceptions to the Iranian sanctions program that allow for the sale of certain agricultural commodities, food, medicine, and medical devices to Iran. In the changing sanctions landscape, the applicability of these authorizations and exceptions and the specific persons and financial channels involved require careful review.

Policy divergences between the U.S. and the EU, Russia, and China and their respective regulations regarding sanctions on Iran may also present compliance challenges and conflicts for companies engaged in cross-border business. Companies must carefully examine the specific laws and regulations at issue and the facts of the scenario to evaluate the risks of a failure to comply across multiple jurisdictions in an environment where enforcement of these sanctions programs is prioritized.

Additional Information

Additional OFAC guidance and updated Frequently Asked Questions (FAQs) may be found via the following sources:

- [Frequently Asked Questions](#) (updated 5 November 2018)
- [Frequently Asked Questions](#) (8 May 2018, updated 6 August 2018)
- [NDAA 2012, Section 1245 Frequently Asked Questions](#)
- [Executive Order 13846](#)

Deloitte's Global Trade Advisory specialists are part of a global network of professionals who can provide specialized assistance to companies in global trade matters. As companies adjust to significant modifications to the U.S. sanctions regime against Iran, our professionals can help companies seeking to manage the impacts and potential impacts of the developments described above by:

- Evaluating your nexus to U.S. sanctions and your current compliance controls in place to prevent violating U.S. sanctions regulations;
- Conducting or augmenting your denied/restricted party screening capabilities;
- Guiding the design and transformation of your Global Trade Compliance function; and
- Conducting merger and acquisition due diligence, and post-merger integration assistance.

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