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Global Trade Advisory Alert

U.S. Reimposes Sanctions on Iran as First Wind-down Period Ends

On 6 August 2018, President Trump issued Executive Order 13846, which reimposed certain sanctions with respect to Iran in the first round of the Iran Deal sanctions "snap back." President Trump had previously announced on 8 May 2018 the U.S.' intention to withdraw from the Iran Nuclear Deal (the Joint Comprehensive Plan of Action, or "JCPOA"). The U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC") published guidance detailing two wind-down periods for businesses to conclude certain activities that were allowed under JCPOA relief but would be restricted once JCPOA-related sanctions were reimposed (or "snapped back") in August and November 2018.

Executive Order 13846 reimposed certain sanctions previously revoked or amended. General licenses relating to commercial aircraft, Iranian-origin carpets, and foodstuffs that were established to facilitate wind-down activities for the August deadline have also now expired. Executive Order 13846 also expanded the scope of sanctions against Iran in effect prior to 16 January 2016 (Implementation Day under the JCPOA).

JCPOA-related sanctions that have been reimposed include 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.

The second and last wind-down period will expire at 11:59 p.m. Eastern Standard Time (EST) on 4 November 2018, and the remaining sanctions lifted or waived as part of the JCPOA relief will re-enter into full effect on 5 November 2018. Sanctions that will be snapped back into place in November include those relating to:

- 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.

By the end of the wind-down periods, OFAC will announce additional persons and entities that will be added to its Specially Designated Nationals (SDN) list, requiring blocking actions and other restrictions relating to these individuals and entities.

OFAC had previously clarified in its FAQS issued 8 May 2018 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 that the goods or services were provided before the end of the applicable wind-down period, or loans and credits extended before the end of the wind-down period, and as agreed to prior to 8 May 2018, following U.S. sanctions in effect at the time. All payments must be consistent with U.S. sanctions.

EU Response to U.S. Snap Back

In response to the White House's May announcement that the U.S. would withdraw from the JCPOA, the EU stated on 18 May 2018 that it would reactivate its Blocking Statute, EC No. 2271/96 from 22 November 1996, in order to counter the effects in the EU of U.S. withdrawal from the JCPOA. Fundamentally, the Blocking Statute seeks to protect EU operators from the extraterritorial application of particular U.S. sanctions programs and provides a mechanism for EU operators to recover damages due to the application of these specified laws.

The Blocking Statute's annex was updated to include the now reimposed U.S. sanctions on Iran. After a two-month period of scrutiny by the European Parliament and the European Council without objection by either, 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

U.S. businesses and their foreign branches and subsidiaries must evaluate their business operations and cease any activities that would be in violation of the sanctions reimposed on 6 August 2018. With the last wind-down period approaching, companies should also be working to conclude activities under those sanctions programs in anticipation of the 4 November 2018 deadline, including winding down activities formerly authorized under General Licenses H and preparing for additional updates to the SDN List.

This reimposition of secondary sanctions will have a significant impact on U.S. companies and foreign subsidiaries of U.S. companies that may have taken advantage of the opportunities to do business with Iran pursuant to the JCPOA-related sanctions relief, but now must take actions to wind-down activities in response to the fluid sanctions environment.

EU entities considering business in Iran or Cuba will need to consider the applicability of U.S. sanctions and the EU Blocking Statute to their operations when deciding whether and how to proceed.

Additional Information

For additional OFAC guidance and updated Frequently Asked Questions (FAQs), please refer to the following sources:

- OFAC FAQs Related to Executive Order 13846;
- OFAC FAQs issued 8 May 2018 and updated 6 August 2018;
- Additional resources and FAQs cited in OFAC's 6 August 2018 press release;

- Wind-down general license relating to commercial aircraft at 31 C.F.R. § 560.536; and
- Wind-down general license relating to Iranian-origin carpets and foodstuffs at 31 C.F.R. §§ 560.534 and 560.535).

Additional resources related to the EU Blocking Statute and updated annex are also provided in the European Commission's press release.

How We Can Help

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 continue planning for future 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 & acquisition due diligence and post-merger integration assistance.

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