

On the Subject

U.S. & International Tax

August 20, 2010

The final rule issued by the U.S. Treasury Department in August implements significant new sanctions requiring compliance by U.S. and foreign financial institutions.

Financial Institutions Beware: New Iranian Financial Sanction Regulations

On August 16, 2010, the U.S. Treasury Department Office of Foreign Assets Control published a final rule establishing the new Iranian Financial Sanctions Regulations, 31 CFR Part 561, to implement portions of the Comprehensive Iran Sanctions, Accountability, and Divestment Act (CISADA) that President Obama recently signed into law. (See *On The Subject* titled “New Sanctions Against Iran” at http://www.mwe.com/index.cfm/fuseaction/publications.nldetail/object_id/ceb52fdb-01b3-4c6a-a227-92013344d453.cfm for more information.) The regulations implement sections 104(c) and (d) of the CISADA, which impose significant new sanctions applicable to U.S. and foreign financial institutions.

Section 104(c) of the CISADA prohibits or substantially restricts the opening of or maintaining in the United States a correspondent account or a payable-through account for a foreign financial institution that is found to be involved in one or more of the following prohibited activities:

1. Facilitating the efforts of the Government of Iran, including the Islamic Revolutionary Guard Corps (IRGC) or any of its agents or affiliates, to acquire or develop weapons of mass destruction or delivery systems, or to provide support for terrorist organizations
2. Facilitating the activities of a person subject to financial sanctions under United Nations Security Council resolutions imposing sanction on Iran
3. Engaging in money laundering to carry out such prohibited activities

4. Facilitating efforts by the Central Bank of Iran or any other Iranian financial institution to engage in such prohibited activities
5. Facilitating a significant transaction or providing significant financial services for the IRGC or any of its agents or affiliates

Section 104(d) of the CISADA prohibits any person owned or controlled by a U.S. financial institution from knowingly engaging in transactions with or benefitting the IRGC or its agents or affiliates. It also applies civil penalties on a U.S. financial institution if a person owned or controlled by the institution violates the rules and the institution knew or should have known of the violation.

The regulations also define various terms subject to the CISADA. “U.S. financial institution” is defined broadly to include depository institutions, banks, savings banks, money service businesses, trust companies, insurance companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates or U.S. subsidiaries of any of the foregoing.

The effective date of the new rules generally is immediate, although a 10-day period is allowed for transactions to close accounts subject to the prohibitions. View the complete final rule at <http://edocket.access.gpo.gov/2010/pdf/2010-20238.pdf>.

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