

Iran and Syria: Recent Sanctions Update

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Iran

Background and Regulation Last week the European Union (“EU”) introduced further restrictive measures against Iran in light of Iran’s failure to engage in negotiations to address deepening international concerns over the nature of its nuclear programme.

These sanctions add to and amend Council Regulation No 267/2012, published on 23 March 2012 (“**Regulation 267/2012**”). As you will recall, Regulation 267/2012 prohibits:

- (i) the import into the EU or the purchase or transport (worldwide) of crude oil, petroleum products or petrochemical products originating from or located in Iran;
- (ii) the financing, financial assistance (including financial derivatives and insurance and reinsurance) relating to the import into the EU or the purchase or transport of crude oil, petroleum products or petrochemical products originating from or located in Iran; and
- (iii) the making of funds and/or economic resources available to the specific persons/entities listed in Annex IX to Regulation 267/2012.

Annex IV lists the crude oil and petroleum products and Annex V lists the petrochemical products referred to in Regulation 267/2012. These lists are wide-ranging and designed to capture any and all transactions in relation to these products.

The New Measures With the publication on 16 October 2012 of Council Implementing Regulation No 945/2012 (“*Regulation 945/2012*”) and Council Decision 2012/635/CFSP (“**Decision 2012/635**”), the European Council has made it clear that it considers it necessary to adopt more extensive restrictive measures against Iran. The European Council’s Decisions and Regulations can be found [here](#).

Regulation 945/2012 has immediate effect. However, because Council Decisions do not come into force until an implementing Regulation is passed, the measures introduced in Decision 2012/635

and not implemented by Regulation 945/2012 are not yet in force. Although this implementing Regulation is expected imminently, we cannot yet confirm the precise date on which it will be published. We will circulate a follow-up alert as soon as we have further information.

In the meantime we set out the key provisions which affect the shipping, energy/commodities and financial sectors below:

a) Asset freezes in effect as of 16 October 2012

Regulation 945/2012 was agreed in conjunction with Decision 2012/635 and directly implements the asset freezes detailed in that Decision, amending the list set out in Annex IX to Regulation 267/2012.

In summary, one individual and 34 entities, including Iranian state-owned entities operating within the oil and gas sector, have been added to the list of those subject to an asset freeze and travel ban, and seven individuals and three entities have been removed. We attach a link to the updated list of Financial Sanction Targets available on the [HM Treasury website](#).

b) Key measures affecting the energy/commodities sectors

Decision 2012/635 prohibits:

- (i) the purchase, import or transport of natural gas from Iran;
- (ii) the sale, supply, or transfer to Iran of graphite, and raw or semi-finished metals, such as aluminium and steel;
- (iii) the provision to Iran of technical assistance or training and other services related to graphite and raw or semi-finished metals; and
- (iv) the sale, supply or transfer of software for integrating industrial processes. As above, the prohibition extends to any related technical assistance or training.

In relation to the above listed prohibitions, the provision, directly or indirectly, of financing or financial assistance (including financial derivatives, insurance, reinsurance and brokering services where relevant), in relation to the newly prohibited activities will also amount to sanctionable conduct.

Any exemptions? In relation to (ii) and (iv) above, it is worth noting that these prohibitions will not apply to contracts (or ancillary contracts necessary for the execution of such contracts) concluded prior to 16 October 2012 and performed before 15 April 2013.

c) Key measures affecting the shipping sector

Decision 2012/635 prohibits:

- (i) the supply of vessels belonging to EU entities designed for the transport or storage of oil and petrochemical products to Iranian persons or entities, or to any person or entity for the transport or storage of Iranian oil and petrochemical products. The latter provision means that the supply of such vessel to a non-Iranian company will amount to sanctionable conduct if that company intends to use that vessel to transport Iranian oil and petrochemical products;
- (ii) the sale, supply or transfer to Iran, Iranian or Iranian-owned enterprises, of key naval equipment and technology for construction, maintenance or refit. The exact items to which this prohibition will apply are yet to be determined by the EU and will most likely be set out in the implementing Regulation. The provision of technical assistance or training in relation to these items is also prohibited;
- (iii) the construction of or participation in the construction of oil tankers for Iran or for Iranian persons and entities. This prohibition includes the provision of related technical assistance or training; and
- (iv) the provision of flagging and classification services, to include registration and identification numbers of any kind, to Iranian oil tankers and cargo vessels, to be implemented as of 15 January 2013.

Again, in relation to (i), (ii) and (iii) above, the provision, directly or indirectly, of financing or financial assistance (including financial derivatives, insurance, reinsurance and brokering services where relevant), in relation to the prohibited activity will also amount to sanctionable conduct.

Any exemptions? In relation to (ii) and (iii) above, this prohibition will not apply to contracts (or ancillary contracts necessary for the execution of such contracts) concluded prior to 16 October 2012 and performed before 15 February 2013.

In relation to (ii), the prohibition does not apply to the supply of key naval equipment and technology to a non-Iranian-owned or controlled vessel which has been forced into an Iranian port or Iranian territorial waters as a result of force majeure. This recognises that vessels may be obliged to enter Iranian territory through no fault of their own, and that the necessary assistance must be available to such vessels. For example, repairs may need to be carried out before a vessel can leave Iranian

territory, and parts will need to be provided for those repairs. It must be remembered, however, that force majeure is a very fact-specific concept which can be difficult to prove. There should be no assumption that this exception can be relied upon, as this will depend very much on the circumstances of any given situation.

d) Financial transactions

In addition to the amendments to the list of designated persons and entities subject to asset freezes, Decision 2012/635 includes a ban on financial transactions between the EU financial sector and Iranian banks. This ban will apply to:

- (v) banks domiciled in Iran (the Central Bank of Iran is specifically named);
- (vi) the branches and subsidiaries of Iranian banks domiciled within and outside the jurisdiction of the Member States; and
- (vii) financial entities domiciled outside Iran, but controlled by persons and entities domiciled in Iran.

Clearly, these new sanctions are aimed at restricting trade with Iran, with Decision 2012/635 also targeting short-term investment by prohibiting Member States from granting export credits, guarantees and insurance to nationals or entities involved in trade with Iran.

Any exemptions? Decision 2012/635 has provided for a number of exceptions to this prohibition which will be set out in detail in the Regulation. For example, the competent authority of the Member State will be able to authorise certain transactions between the EU financial sector and Iranian banks. Further, no authorisation or notification is required where such transactions amount to below EUR 10,000 (with limited exceptions).

Decision 2012/635 sets out the appropriate processes for the transfers of funds to and from Iran using Iranian banks and/or financial institutions for authorised transactions, and these processes will be set out in more detail once the Regulation implementing Decision 2012/635 has come into force.

Syria

On 16 October 2012, the EU published Council Decision 2012/634/CFSP (“**Decision 2012/634**”), aimed at increasing pressure on the Syrian Government in view of its continuing violation of human rights.

Amendments to the asset freeze list, included in Council Regulation No 944/2012, are in force as of 16 October 2012. In summary, a total of 28 individuals and two entities (namely Megatrade and Expert Partners) have been added to this list which can be accessed [here](#).

Decision 2012/634 (i) introduces measures restricting access to airports for all exclusively cargo flights operated by Syrian carriers, and all flights operated by Syrian Arab Airlines; and (ii) prohibits the import or transport of arms from or originating in Syria. This prohibition extends to the supply of financial services, including the insurance and reinsurance of Syrian arms exports. Again, these measures are not yet in force, but will be once the related Regulation is issued.

Conclusion

Those involved in the shipping, trading or financing of energy/commodities impacted by these new Regulations and Decisions will need to adapt their vessel-vetting procedures and review all their contractual arrangements to ensure compliance.

If you require specific advice regarding sanctions affecting Iran, Syria or any other jurisdiction, please do not hesitate to contact us.

This client alert follows on from our previous updates on sanctions which can be found at [Reed Smith Client Alerts](#).

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