Iran sanctions: Snapback becomes reality

10 August 2018

The United States has begun re-imposing nuclear-related sanctions with respect to Iran in connection with the expiration of the 90-day wind-down period announced alongside the United States' 8 May 2018 withdrawal from the Iran nuclear deal (see our prior alerts for more details about that announcement). On 6 August the president issued a new Iran-related executive order (the New Iran EO), which re-imposes relevant provisions of four previous executive orders (EOs) and revokes two EOs, but the same restrictions set forth in those revoked EOs have been incorporated into the New Iran EO so there has been no easing of sanctions as a result of such revocation.[1] In connection with the New Iran EO, the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) issued new Frequently Asked Questions (FAQs), amended FAQs related to the Iran Freedom and Counter-Proliferation Act of 2012, and revised FAQs released on 8 May 2018 in connection with the United States' withdrawal from the Iran nuclear deal.

General impact of the New Iran EO as of 7 August 2018

After completion of the 90-day wind-down period, as of 7 August 2018, the New Iran EO makes sanctionable

- the purchase or acquisition of U.S. bank notes by the Government of Iran (GOI);
- Iran's trade in gold and other precious metals;
- direct or indirect sale, supply, or transfer to or from Iran of graphite; raw or semi-finished metals, such as aluminum and steel; coal; and software used for integrating industrial processes;
- significant transactions related to the purchase or sale of Iranian currency, the rial, or the maintenance of significant funds or accounts outside the territory of Iran denominated in rials;
- activities relating to Iran's issuance of sovereign debt; and
- significant transactions involving Iran's "automotive sector" as that term is defined in the New Iran EO.

Additionally, 7 August 2018 marked the expiration of certain wind-down General Licenses (GLs) issued by OFAC. These GLs permitted wind-down activities related to the importation into the United States of Iranian-origin carpets and foodstuffs, activities undertaken pursuant to specific

1 Specifically, the New Iran EO re-imposed relevant provisions of EOs 13574, 13590, 13622, and 13645. For the sake of clarity and consolidation, the New Iran EO also revoked EOs 13716 and 13628, although it continued the sanctions provided for in those EOs.

licenses issued in connection with the *Statement of Licensing Policy for Activities Related to the Export or Re-export to Iran of Commercial Passenger Aircraft and Related Parts and Services* (JCPOA SLP), and activities undertaken pursuant to GL I related to contingent contracts for activities authorized under the JCPOA SLP. The wind-down activities permitted in relation to activities previously undertaken pursuant to authorizations in GL H will expire on 5 November 2018.

General impact on 5 November 2018

Certain sanctions set out in the New Iran EO apply only to activities that take place on or after 5 November 2018. These sanctions will be re-imposed after the expiration of the 180-day wind-down period announced on 8 May 2018 and will target activities related to

- sanctions on Iran's port operators, and shipping and shipbuilding sectors, including on the Islamic Republic of Iran Shipping Lines (IRISL), South Shipping Line Iran, or their affiliates;
- sanctions on petroleum-related transactions with, among others, National Iranian Oil Company (NIOC), Naftiran Intertrade Company Ltd. (NICO), and the National Iranian Tanker Company (NITC), including the purchase of petroleum, petroleum products, or petrochemical products from Iran;
- sanctions on transactions by foreign financial institutions with the Central Bank of Iran (CBI) and designated Iranian financial institutions under section 1245 of the National Defense Authorization Act for FY 2012 (NDAA 2012);
- sanctions on the provision of specialized financial messaging services to the CBI and Iranian financial institutions described in subsection 104(c)(2)(E)(ii) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act (CISADA);
- sanctions on the provision of underwriting services, insurance, or reinsurance; and
- sanctions on Iran's energy sector.

Notable New Iran FAQs Issued by OFAC

OFAC issued a number of FAQs in connection with the issuance of the New Iran EO. FAQ 615 reminds non-U.S. parties who purchase Iranian crude oil that, on or after 5 November 2018, the New Iran EO provides authority to sanction the purchase of petroleum or petroleum products, and significant dealings with NIOC and NICO by persons in jurisdictions that do not have a significant reduction exception under relevant provisions of the National Defense Authorization Act for Fiscal Year 2012. As a result, if a particular country does not receive such exemptions, purchases of Iranian crude oil will create exposure under secondary U.S. sanctions.

Additionally, FAQ 624 indicates that the New Iran EO provides authority to block the property and interests in property of persons determined, on or after 5 November 2018, to have materially assisted, sponsored, or provided financial, material, or technological support for, goods or services to, or in support of any Iranian persons on the Specially Designated Nationals and Blocked Persons List (SDN List) or any other persons included on the SDN List whose property and interests in property are blocked pursuant to EO 13599 or subsection 1(a) of the New Iran EO (in both cases excluding Iranian depository institutions whose property and interests in property are blocked solely pursuant to EO 13599).

Lastly, in a revision to the FAQs released on May 8, 2018, OFAC affirmed the GL permitting the exportation or reexportation of agricultural commodities, food, medicine, and medical products to Iran unless they involve certain sanctioned persons or conduct (see FAQ 2.7).

These actions were previewed in OFAC's 8 May 2018 public guidance, in which OFAC announced the re-imposition of primary and secondary sanctions, which took effect on 7 August 2018 and will take effect on 5 November 2018. For more information, please refer to our publications on OFAC's 8 May 2018 guidance and OFAC's amendment to the Iranian Transactions and Sanctions Regulations (ITSR) and revocation of GLs H and I on 27 June 2018.

We will continue to closely monitor this space for new developments.

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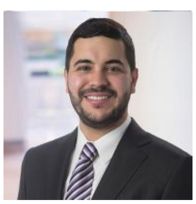

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