

## Re-imposing sanctions on Iran, Trump discards nuclear deal

6 November 2018

On 5 November 2018 the United States re-imposed the remaining nuclear-related secondary sanctions administered by the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) against Iran that previously had been lifted pursuant to the United States' commitment to the Joint Comprehensive Plan of Action (JCPOA).

The White House issued a [fact sheet](#) stating that OFAC's actions represent the "largest ever single-day action targeting the Iranian regime," with sanctions targeting the most important sectors of Iran's economy, including the energy, shipping, shipbuilding, and financial sectors. In aggregate, this would be the "toughest sanctions regime ever imposed on Iran."

According to the White House, this action "includes the designation of 50 Iranian banks and their foreign and domestic subsidiaries; the identification of more than 400 targets, including over 200 persons and vessels in Iran's shipping and energy sectors, and an Iranian airline and more than 65 of its aircraft; and the placement on the list of Specially Designated Nationals and Blocked Persons (SDN List) of nearly 250 persons and associated blocked property that appeared until today on the List of Persons Identified as Blocked Solely Pursuant to Executive Order (E.O.) 13599 (E.O. 13599 List)."

As part of this action, OFAC amended the Iranian Transactions and Sanctions Regulations (ITSR), issued [new](#) frequently asked questions (FAQs), including insurance-specific FAQs, amended [FAQ 256](#) and [FAQ 417](#), and [designated](#) over 700 persons on the SDN List.

The fact sheet also notes that "[s]ales of food, agricultural commodities, medicine, and medical devices to Iran have long been – and remain – exempt from our sanctions." We note that such exemption refers to secondary U.S. sanctions, while under primary U.S. sanctions OFAC has issued a general license that provides the authority, subject to certain conditions, to sell eligible agricultural commodities, medicine, and medical devices to Iran.

### **Today's sanctions were previewed in the 7 August 2018 executive order**

Effective 5 November 2018 OFAC amended the ITSR to re-impose sanctions pursuant to E.O. 13846.

E.O. 13846 made sanctionable activities that take place on or after 5 November 2018 and target activities related to

- sanctions on Iran's port operators, 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 Co. 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 (NDAA) for fiscal year 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.

#### **5 November OFAC amendment**

The 5 November 2018 amendment amends 31 C.F.R. § 560.211(c) to block all property and interests in property that are in the United States, come within the United States, or come within the possession or control of any U.S. person, including any foreign branch of a person determined to

- have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, the purchase or acquisition of U.S. bank notes or precious metals by the government of Iran on or after 7 August 2018; or
- have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, the NIOC, NICO, or the CBI (including entities owned or controlled by, or operating for or on behalf of, respectively the NIOC or NICO) on or after 5 November 2018.

OFAC is also amending an existing ITSR general license to authorize U.S. persons to sell certain personal property in Iran and transfer the proceeds to the United States provided that such personal property was either acquired before the individual became a U.S. person or inherited from persons in Iran. 31 C.F.R. § 560.543.

#### **Designation of 700 persons on the SDN list**

On 5 November 2018 OFAC [announced](#) the re-imposition of U.S. sanctions on over 700 persons that had been designated or identified to the SDN List, including persons who had previously been removed from the SDN List pursuant to the United States' commitment to the JCPOA. The OFAC amendment noted that, "by separate action, effective November 5, 2018, OFAC is removing the E.O. 13599 List from its website and relisting on the SDN List, as appropriate, individuals and entities that were previously listed on the E.O. 13599 List." This includes persons identified as meeting the definition of the terms "Government of Iran" or "Iranian financial institution" previously listed on the E.O. 13599 List.

In a 2 November 2018 [teleconference](#) with Secretary of State Pompeo and Secretary of the Treasury Mnuchin, Secretary Mnuchin stated that these designations "include hundreds of targets previously granted sanctions relief under the JCPOA, as well as more than 300 new designations. This is substantially more than we ever have previously done." According to OFAC's FAQ 638, "significant transactions with persons moved from the E.O. 13599 List to the SDN List, other than non-designated Iranian financial institutions, could be subject to secondary sanctions."

### **Impact for financial institutions**

As noted in the White House fact sheet referenced above, financial institutions are targeted in this re-imposition of sanctions, including the CBI and designated Iranian financial institutions. On the 2 November teleconference, Secretary Mnuchin noted that the Society for Worldwide Interbank Financial Telecommunication (SWIFT) could also be subject to sanctions. He stated that the U.S. government has "advised SWIFT the Treasury will aggressively use its authorities as necessary to continue intense economic pressure on the Iranian regime, and that SWIFT would be subject to U.S. sanctions if it provides financial messaging services to certain designated Iranian financial institutions."

### **Temporary waivers to eight jurisdictions related to Iranian crude oil**

The United States is also working closely with countries around the world to cut off Iranian oil exports while permitting certain jurisdictions to import petroleum-based products from Iran. The administration has granted so-called significant reduction exception waivers under section 1245(d)(4)(D) of the NDAA 2012 to eight countries. We note that this is a waiver of secondary U.S. sanctions for activities with no U.S. nexus.

On the 2 November teleconference, Secretary Pompeo stated that the United States expects to "issue temporary allotments to eight jurisdictions, but only because they have demonstrated significant reductions in their crude oil and cooperation on many other fronts and have made important moves towards getting to zero crude oil importation." He noted that two of those jurisdictions will completely end imports and the other six will import at greatly reduced levels.

To offset the anticipated reduction in oil supplies in the market, the United States will, according to the White House, increase production by one million barrels per day or more. The United States has asked foreign partners, particularly Saudi Arabia, to increase production as well.

### **This action ends a months-long process to withdraw the United States from the JCPOA**

The re-imposition of these sanctions was previewed in OFAC's 8 May 2018 public guidance following President Trump's National Security Presidential Memorandum announcing the United States' withdrawal from the JCPOA. For more information on that announcement, see our publication available [here](#).

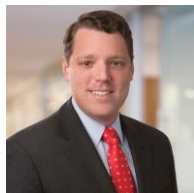
On 27 June 2018 OFAC amended the ITSR and revoked General License H (which previously permitted foreign subsidiaries of U.S. companies to engage in transactions with Iran) and General License I (which previously permitted certain activities involving the civil aviation sector). The ITSR amendment narrowed the scope of the general licenses related to certain Iranian-origin foodstuffs, carpets, and related letters of credit and brokering services. For more information, please refer to our publication available [here](#).

As noted in our previous publication on E.O. 13846 available [here](#), this E.O. made the following activities sanctionable after the 90-day wind-down period of 7 August 2018:

- the purchase or acquisition of U.S. bank notes by the government of Iran

- 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
- significant transactions involving Iran's "automotive sector," as that term is defined in E.O. 13846

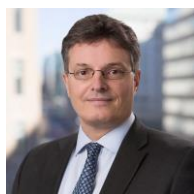
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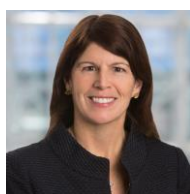
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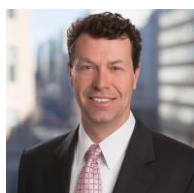
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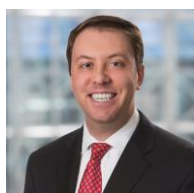
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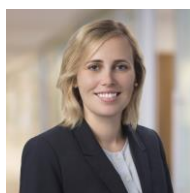
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