

CLIENT ADVISER

IRAN SANCTIONS RELIEF: INFORMATION FOR MARINE CLIENTS

On 16 January-2016, so-called “implementation day”, economic and financial sanctions relief under the Joint Comprehensive Plan of Action (JCPOA) between China, France, Germany, Russia, the United Kingdom, the United States (US), the European Union (EU), and Iran came into effect.

The US has lifted most of its secondary extra-territorial sanctions against non-US persons and issued a licence to allow foreign subsidiaries of US companies to conduct certain activities with Iran. The EU has simultaneously lifted most of its sanctions against Iran. This sanctions relief will:

- Open up the financial services sector in Iran.
- Permit the import, transport, and storage of Iranian oil, gas, and petrochemicals.
- Allow for investment in and technical support for the oil, gas, and petrochemical sector.
- Lift restrictions in other sectors such as automotive, shipping, and cargo.

IMPORTANT RESTRICTIONS REMAIN

Certain important restrictions remain, most notably the prohibition on US nationals and US companies doing business in Iran, as well as continuing restrictions on US and non-US persons alike on processing funds related to Iranian trade through the US financial system, (and therefore significant restrictions on the use of US dollars in transactions related to Iran) and the export and re-export to Iran of US origin goods, technology, and services. The US, EU, and other banks face restrictions on processing US dollar transactions connected to Iran even if the transactions concern permissible trade for non-US persons. Some of the large European and US banks may not be willing to process Iranian payments or funds related to Iranian transactions regardless of currency at this time.

In addition, sanctions related to dual use goods, nuclear technologies and weapons remain in place.

Although both the EU and US delisted many Iranian individual and organisation sanction targets, a significant number remain. Among them is the Iranian Revolutionary Guard Corp (IRGC) and companies owned or controlled by the IRGC, including companies in the Iranian energy, construction, and infrastructure sectors.

Importantly, the JCPOA allows the US and EU to re-introduce sanctions in the event that Iran fails to meet its commitments. If sanctions “snap back” it would mean transactions entered into following “implementation day” would become unlawful and subject once again to enforcement. This should be factored into any decision to re-engage in Iran trade.

INSURANCE AND REINSURANCE FOR IRAN-RELATED TRADE

The US has lifted sanctions prohibiting non-US persons as well as foreign subsidiaries of US companies from providing insurance, reinsurance, and insurance broking services for permitted trade with Iran and in Iranian-origin goods, services, and technology. Insurance cover will be available for all permitted activity including for the import, transport, and storage of Iranian oil, gas, and petrochemicals.

THE P&I CLUBS

The International Group clubs have issued a circular to their members which states that the sanctions sub-committee has been considering the ramifications of the continuation of US primary sanctions, and their impact on the International Group’s pooling and reinsurance arrangements.

Club rules provide that the risk of shortfalls in recoveries within the pool, or under the collective International Group reinsurances, remain with the member. The circular indicates the sub-committee is actively looking at possible options to remedy this issue.

INSURER POSITION

Each insurer will determine its own ability to provide insurance cover for Iran trade. You are reminded that an insurer may not be able to settle a claim in the event that it determines doing so would expose it or its affiliates to penalty under the remaining sanctions.

DUE DILIGENCE CONSIDERATIONS

Not all sanctions against Iran have been suspended. Restrictions will continue to apply to certain individuals and entities, as well goods, activities, and services including those that knowingly facilitate significant financial transactions with, or provide material or certain other support, to those Iranian or Iran-related persons that remain on the Specially Designated National (SDN) or EU consolidated lists. Due diligence will continue to be necessary to avoid a potential breach of the remaining restrictive measures.

The following are some of the key points that need to be considered:

- Are any US persons involved?
- Are any payments made in US dollars?
- Does the transaction involve the supply of any US origin goods or goods with US content?

- Is your Iranian counterparty, or any other party involved in the transaction (for example a port operator or agent) still listed as a designated sanctions (or owned or controlled or acting on behalf of such an individual or entity)?
- Have you checked that the cargo is no longer subject to any restrictions?
- Can you document and evidence the checks which you have carried out?
- Do you have any pre-existing banking covenants or other contractual warranties or restrictions (for example, trading limits or policy restrictions) which limit your ability to trade with Iran?
- Have you spoken to your bank and insurers and confirmed that they are prepared to support the transaction?
- Have you considered how you would deal with any claims from third parties in Iran if those third parties are still included on an applicable sanctions list?
- Do you need Iranian law advice, e.g. on the local requirements to sell your goods in Iran?
- Will Iranian parties accept club or other guarantees in the event of a marine accident or occurrence requiring guarantees?

The risk of trading with Iran remains high and you are advised to obtain legal advice to understand whether you could be exposed to sanctions risk. You should seek independent legal advice and perform full due diligence before entering into contracts or fixtures involving entities previously listed as sanctions targets, or involving trade that was subject to sanctions.

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