

ADVISER

IRAN SANCTIONS RELIEF: INFORMATION FOR 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 changes in EU and US sanctions against Iran are significant and are summarised below.

There remain significant risks related to trading with Iran. You should seek independent legal advice and perform due diligence before engaging in Iran-related trade.

UN, EU, AND US SANCTIONS RELIEF

The United Nations has terminated the prohibitions implemented in a number of Security Council Resolutions, but will maintain specific restrictions regarding the transfer of nuclear-proliferation-sensitive goods. The US has lifted most of the secondary, or extra-territorial, sanctions against non-US persons. This has removed the threat of penalty by the US Government for non-US individuals and entities engaging in certain trade related to Iran. The US has also issued General License H to allow foreign subsidiaries of US companies to conduct certain activities with Iran. The EU has simultaneously lifted most of its sanctions against Iran. For non-US persons, the sanctions relief will:

- Permit transactions with the financial services sector in Iran.
- Permit the transfer of funds to and from Iranian individuals and entities.
- Permit the import, transport, and storage of Iranian oil, gas, and petrochemicals.
- Allow for investment and technical support for the oil, gas, and petrochemical sector.
- Permit trade in other sectors, such as automotive, shipping, and cargo.

IMPORTANT RESTRICTIONS REMAIN

Certain important restrictions regarding Iran remain. The EU continues to prohibit the sale or supply to Iran of items which could contribute to the development of nuclear weapon delivery systems and items on the Common Military List, as well as certain listed software and the sale or supply of graphite and certain raw or semi-finished metals.

US nationals and US companies remain prohibited from doing business in or relating to Iran. There are 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), as well as the export and re-export to Iran of US origin goods, technology, and services.

US, EU, and other banks face continued 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.

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

Importantly, the JCPOA allows the EU and US 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-related trade.

In addition to these restrictions, companies should be mindful of other concerns related to trade with Iran. Conducting diligence on Iranian trading partners may be challenging but very important given continued restrictions on business with the IRGC and certain other designated sanctions targets. There are safety concerns for foreigners entering Iran, as well as corruption concerns that have not been abated by the nuclear deal and sanctions relief.

INSURANCE AND REINSURANCE FOR IRAN-RELATED TRADE

The EU has lifted the prohibition on the provision of insurance to Iranian individuals and entities, as well as for any activity permitted under the JCPOA. The US has lifted sanctions which previously prohibited non-US persons, and 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.

INSURER POSITION

Each insurer will determine its own ability to provide insurance cover for Iran-related 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 as 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 EU Consolidated or OFAC Specially Designated National lists. Due diligence will continue to be necessary to avoid a potential breach of the remaining restrictive measures.

The information contained herein is based on sources we believe reliable and should be understood to be general risk management and insurance information only. The information is not intended to be taken as advice with respect to any individual situation and cannot be relied upon as such.

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The list below includes some of the key points to be considered:

- Is your Iranian counterparty or any other party involved in the transaction listed as a designated sanctions target (or owned, or controlled, or acting on behalf of such an individual or entity)?
- Can you document and evidence the checks 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?
- Are any US persons involved?
- Are any payments made in US dollars?
- Does the transaction involve the supply of any US-origin goods, services, or technology?
- Do you need Iranian law advice, for example, on the local requirements to sell your goods in Iran?

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