

Iran Sanctions Back in Force November 5

NOVEMBER 6, 2018

On November 5, 2018, the Trump Administration re-imposed the remaining sanctions against Iran that were previously lifted as part of the Joint Comprehensive Plan of Action (“JCPOA”), more commonly referred to as the Iran nuclear deal.

As previously briefed [here](#), on May 8, 2018, the Trump Administration announced the withdrawal of the United States from the Iran nuclear deal and the concomitant re-imposition of sanctions against Iran. The Office of Foreign Assets Control (“OFAC”) then promulgated wind-down regulations to allow U.S. persons and U.S.-owned or – controlled foreign companies to withdraw from Iran-related transactions. The first 90-day wind-down period elapsed on August 6; for more information, please see our [previous briefing](#). The second 180-day wind-down period ended November 4.

As of November 5, all sanctions against Iran that were previously lifted as part of the Iran nuclear deal are re-imposed.

Revocation of General License H and its Wind-down

The previously issued General License H and the wind-down provisions that replaced it have now been terminated. Outside of specific exceptions, U.S.-owned or -controlled foreign companies are no longer permitted to engage in Iran-related transactions, including the wind-down operations that were permitted between May 8 and November 5.

Sanctions Against Non-US Persons and Companies Re-Imposed as of November 5

Non-U.S. persons and entities that engage in certain transactions with Iranian persons or entities that OFAC has placed on either its Specially Designated Nationals (“SDN”) list or other lists could be subjected to secondary sanctions. Accordingly, non-U.S. persons and entities should be mindful of these sanctions and whether any counterparties appear on OFAC’s SDN or other applicable lists. Non-U.S. persons and entities subject to secondary

sanctions might find themselves placed on an SDN list or, for foreign financial institutions, denied access to correspondent or payable-through account services in the U.S. financial system.

Specifically, the following secondary sanctions are re-authorized as of November 5, as discussed in our [original briefing](#):

- Prohibitions 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;
- Prohibitions on petroleum-related transactions with, among others, the National Iranian Oil Company (NIOC), Naftiran Intertrade Company (NICO), and National Iranian Tanker Company (NITC), including the purchase of petroleum, petroleum products, or petrochemical products from Iran;
- Prohibitions on transactions by foreign financial institutions with the Central Bank of Iran and designated Iranian financial institutions under Section 1245 of the National Defense Authorization Act for Fiscal Year 2012 (NDAA);
- Prohibitions on the provision of specialized financial messaging services to the Central Bank of Iran and Iranian financial institutions described in Section 104(c)(2)(E)(ii) of the Comprehensive Iran Sanctions and Divestment Act of 2010 (CISADA);
- Prohibitions on the provision of underwriting services, insurance, or reinsurance; and
- Prohibitions on Iran’s energy sector.

OFAC also added more than 700 individuals, banks, and companies to the SDN List of Specially Designated Nationals. Because most of these additions are “subject to Secondary Sanctions,” non-U.S. businesses can be sanctioned by the U.S. for continuing to trade with these parties.

Payment for Goods or Services Provided by November 4

OFAC has clarified in its FAQ guidance that **non-U.S., non-Iranian** persons who are owed payment after November 4 may still receive payment without being exposed to secondary sanctions risk so long as 1) the goods or services at issue were fully provided or delivered prior to end of the applicable wind-down period, 2) are pursuant to a written contract that was entered into prior to May 8, and 3) were consistent with U.S. sanctions in effect at the time the agreement was made.

OFAC has stated in its FAQ guidance that a U.S.-owned or -controlled foreign company that is owed payment from an Iranian counterpart pursuant to a contract entered into **prior** to May 8 must obtain a license from OFAC in order to receive payment after November 4. OFAC notes that it will evaluate such requests on a case-by-case basis, analyzing among other things 1) whether the contracts complied with existing U.S. sanctions when they were made, 2) whether the contracts were made before May 8, and 3) why the applicant could not receive the payment during the wind-down period.

Recommendations

If you have questions as you address these complex matters, or if you wish to submit a request for a specific license to receive payments that were not resolved during the wind-down period, we recommend seeking the guidance of counsel. Please contact any of the attorneys listed below or your usual Winston & Strawn LLP contact for assistance.

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