

# **IRAN SANCTIONS UPDATE**

## **AFTER IMPLEMENTATION DAY**

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# JCPOA IMPLEMENTATION DAY – January 16, 2016

- The Joint Comprehensive Plan of Action (JCPOA) was implemented on January 16, 2016, the date the International Atomic Energy Agency (IAEA) submitted an inspection report that Iran has reduced specified nuclear-related measures.
- This triggered immediate suspension of certain sanctions. The goal of JCPOA is to eventually terminate major sanctions in exchange for IAEA verified implementation by Iran of its key nuclear commitments.
- Until then, export controls by Treasury's Office of Foreign Assets Control (OFAC) and by the Department of Commerce's Bureau of Industry and Security (BIS) will continue to be enforced.

# JCPOA BACKGROUND



# INCENTIVES FOR “THE NUCLEAR DEAL”



- UNITED STATES

U.S. has obtained a slower, smaller, more easily monitored, time-limited Iran nuclear program, preempting an Israeli military strike and making a U.S. strike unnecessary.

# INCENTIVES FOR “THE NUCLEAR DEAL”

- IRAN

In return for an end to nuclear-related sanctions that have choked the nation’s economy, Iran agreed to strict constraints on its atomic program.



# NUCLEAR DEAL “PARTNERS”

China, France, Germany, Russia, the United Kingdom, and the United States, the European Union and Iran.



# NUCLEAR DEAL “PARTNERS”

- UN Security Council adopted JCPOA resolution and previous UN Security Council resolutions on the Iranian nuclear program were terminated.



# EXPECTATIONS OF THE NUCLEAR DEAL

- IAEA reports continue to show that all nuclear material in Iran remains in peaceful activities.
- Major sanctions are terminated or modified upon receipt of those reports.
- Success, a major milestone, could happen within the next 8 years or less.
- Avoidance of a sanctions “snapback”, a consequence for non-compliance by Iran.



# KEY CHANGES ON IMPLEMENTATION DAY

1. Many EU and U.N. sanctions to be terminated.
2. U.S. removed more than 400 individuals/entities from OFAC's List of Specially Designated Nationals and Blocked Persons (SDN List).
3. Foreign subsidiaries of US companies can do business with Iran under strict conditions.
4. Three New Licenses for U.S. companies

# MAJOR CHANGES FOR NON-US COMPANIES

The U.S. lifted nuclear-related “secondary sanctions” aimed at non-US persons for activities that do not involve U.S. persons and occur entirely outside of U.S. jurisdiction:

1. Financial and banking;
2. Energy and petrochemicals;
3. Shipping, shipbuilding, automotive sector;
4. Iran’s port operators;
5. Insurance, re-insurance and underwriting services;
6. Iran’s trade in gold and other precious metals; and trade in
7. Graphite, raw or semi-finished metals such as aluminum, steel, coal, and certain software.

# MINOR CHANGES FOR U.S. COMPANIES

## Three New Licenses

1. Specific License for commercial commuter aircraft, related parts and services
2. General License H improves transacting business in Iran by foreign subsidiaries.
3. A General License to import Iranian carpets and certain foods.

# PREVIOUS US LICENSES UNAFFECTED

The General Licenses (GL) stays in place to export  
Agricultural Commodities  
Medicine and Medical Devices.



General License D-1 stays in place to export  
Certain hardware, software, and services incident to personal  
communications.

# COMPREHENSIVE US SANCTIONS REMAIN

- Iran's support of WMD, terrorism and human rights abuses keep comprehensive sanctions in place.
- Just nuclear-related secondary sanctions were lifted on Implementation Day.
- U.S. **Primary Sanctions**, aimed at **US persons** (companies and banks), continue to prohibit for US persons to:
  1. Export, import or facilitate same, or interact with the Government of Iran.
  2. Financial dealings that involve transactions with Iranian banks.
  3. Clearing of transactions involving Iran through the U.S. financial system.
  4. Clearing of transactions through foreign branches of U.S. financial institutions.

# BRIEF ANNOUNCEMENT

**BY**

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# AVIATION SECTOR

- The STATEMENT OF LICENSING POLICY (SLP) establishes a favorable licensing policy and consideration of applications to export exclusively commercial passenger aircraft.
- SLP includes reexport, sale, lease, or transfer of aircraft, related parts and services; transportation, legal, insurance, warranty, maintenance, repair services and related training.
- Eligible aircraft: wide-body, narrow-body, regional, and commuter aircraft.
- Excluded: Cargo aircraft, state aircraft, unmanned aerial vehicles, military aircraft, and aircraft used for general aviation or aerial work.

# AVIATION SECTOR(cont'd)

## Specific License to provide services to exported Passenger Aircraft

- Requests to provide associated services must relate to a specific export, reexport, sale, lease, or transfer of a commercial passenger aircraft or related parts and services.
- OFAC will consider applications under the SLP for a U.S. financial institution to finance the sale of a particular commercial passenger aircraft.



# FOREIGN SUBSIDIARIES

## 2. General License H (GL H)

- This GL takes the place of a Specific License and authorizes U.S. subsidiaries - owned or - controlled foreign entities to engage in activities with Iran that are consistent with the JCPOA .
- U.S.- owned or - controlled foreign entities are permitted to engage in transactions with the Government of Iran or any person subject to the jurisdiction of the Government of Iran that would otherwise be prohibited by a U.S. person or in the United States.
- The U.S. parent company is held liable if the foreign- owned or controlled entity violates the terms of GL H or other export regulation.

# FOREIGN SUBSIDIARIES (cont'd)

## GL H DOES NOT ALLOW

- Exports or re-export from the United States;
- Transfers of funds to, from, or through the U.S. financial system;
- Dealings with an individual or entity identified on the SDN or other Denial Lists;
- Transactions subject to the Export Administration Regulations (EAR) that require a license under, part 744 of the EAR;
- Dealings with any military, paramilitary, intelligence, or law enforcement entity of the Government of Iran, or any official, agent, or affiliate thereof.

# US COMPANY FACILITATION

- U.S. Parent Companies may be involved in strategic decisions on engaging in activities with Iran authorized by [GL H](#).
- They may establish or alter operating policies and procedures to the extent necessary for subsidiary to launch transactions with Iran.
- The U.S. company's board members, senior management, employees, as well as U.S. persons hired as outside legal counsel or consultants may initially draft, revise, advise, or consult on such operating policies and procedures.

# US COMPANY FACILITATION (cont'd)

- U.S. persons, including employees and outside legal counsel and consultants, may provide training, advice, and counseling on the new or revised operating policies and procedures, provided that these services do not facilitate transactions with Iran.
- Business Support Systems (ERP) owned by or operated for the U.S. parent company on a contract basis by one or more third-party service providers is allowed.
- Upon completion of these initial steps, subsidiaries must act autonomously and without any U.S. person involvement and manage ongoing Iran-related operations, decision making, including logistics, shipping, personnel and other matters.

# US COMPANY FACILITATION (cont'd)

## “Authorized Business Support Systems”

- GL H authorizes U.S. persons to “make available” any automated and globally integrated computer, accounting, email, telecommunications, or other business support system, platform, database, application, or server necessary to store, collect, transmit, generate, or otherwise process documents or information related transactions by foreign subsidiaries that are authorized by GL H.

# US COMPANY FACILITATION (cont'd)

## U.S. Parent Company Involvement NOT Permitted

- Approving a transaction or participation in contract negotiations or execution;
- Offering any type of transactional or operational support;
- Advising on how to structure a transaction;
- Day-to-day operations;
- Financing, facilitating, or guaranteeing Iran-related transactions by the foreign entity.

# GENERAL LICENSES TO IMPORT

## 3. General Licenses to Import

- a. Iranian-origin carpets and
- b. Foodstuffs

- The Iran Transaction Sanctions Regulations (ITSR) specify HTS categories for carpets (Chapter 57 / heading 9706.00.0060) and foodstuffs (Chapters 2-23) as eligible under the GL.
- Compliance with import laws by three other agencies also apply. (CBP, FDA and Agriculture)
- US persons are authorized to engage in brokering activities for the purchase and sale of these items.

# GENERAL LICENSES TO IMPORT (cont'd)

- Payments for these Import: U.S. depository institutions and registered brokers or dealers in securities are authorized to process transfers of funds to or from Iran, if the transfer arises from, and is ordinarily incident and necessary to the import that has been authorized by a general or Specific License.
- An “Authorized Business Support System” cannot be used to transfer funds to, from or through a US depository institution.



# KEY TAKEAWAYS



1. Iran Transaction Sanctions Regulations are inherently complex.
2. Understand which parts of the ITSR apply to your business.
3. Assess risk exposure to your company.

# CONTACT INFORMATION

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