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Iran Sanctions Relief – Update

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As of 16 January 2016, the United Nations Security Council and Iran reached an agreement on a Joint Comprehensive Plan of Action (JCPOA). The agreement aims to ensure the exclusively peaceful nature of Iran's nuclear program in return for comprehensive economic sanctions relief for Iran.

What the lifting of sanctions mean?

United Nations

In accordance with UN Security Council resolution 2231(2015) of 15 July 2015, all provisions of previous UN Security Council resolutions on the Iranian nuclear program are now removed¹.

European Union

The EU has removed all its economic and financial sanctions implemented in connection with the Iranian nuclear program. Individuals and corporations are now able to engage in activities and services in the following sectors in addition to sectors previously unaffected by said sanctions.

1. financial, banking and insurance;
2. oil, gas and petrochemicals;
3. shipping, shipbuilding and transport;
4. gold, other precious metals, banknotes and coinage;
5. metals (subject to an authorisation regime); and
6. software (subject to an authorisation regime).

In addition, most (but not all) of the Iranian or Iran-related persons and entities who were listed as being subject to an asset freeze have been delisted. This means that EU persons and entities can now trade normally with them again.

¹ Sanctions on military, nuclear and missile technology remain in place. New sanctions on the later were implemented by the United States on 18 January 2016.

The [Information Note](#) published by the EU on Implementation Day is drafted in a positive way, and appears to be designed to encourage EU businesses to re-engage with Iran.

In particular, the Information Note confirms that prohibitions on dealings with Iranian banks have been lifted, as have the prior authorisation and notification requirements for payments to and from Iranian persons and entities. It also states that the supply of specialised financial messaging services, including SWIFT, is now allowed for Iranian persons and entities, including the Central Bank of Iran and those financial institutions that are no longer subject to restrictive measures.

The same EU Information Note states that the import, purchase, swap and transport of crude oil and petroleum products, gas and petrochemical products from Iran is now allowed. As a result, EU persons and entities can now export equipment and technology and provide technical assistance, including training, for use in the oil, gas and petrochemical industries in Iran or to any Iranian person or entity, in or outside Iran. Similarly, the EU Information Note confirms that “investing in the Iranian oil, gas and petrochemical sectors, by the granting of any financial loan or credit to, the acquisition or extension of a participation in, and the creation of any joint venture with, any Iranian person that is engaged in the oil, gas and petrochemical sectors in Iran or outside Iran is now permitted.”

Accordingly, European companies and individuals, can in principle, be back to business as usual for those involved in the mainstream commercial and industrial sectors². Proper due diligence will still need to be undertaken before entering into Iran-related business, both as to the nature of the business and also as to the identity of partners in Iran.

Finally, even if there are no problems under the EU sanctions, there may nevertheless continue to be practical difficulties, particularly at the outset, because of the continuing effects of U.S. sanctions as outlined below.

United States

The United States has lifted nuclear-related “secondary sanctions”, i.e. sanctions that were applicable only to non-US persons and entities with activities in the following sectors in Iran:

1. financial and banking;
2. energy and petrochemicals;
3. shipping, shipbuilding, and automotive;
4. port operators;
5. insurance, re-insurance and underwriting;
6. gold and other precious metals; and
7. graphite, raw or semi-finished metals such as aluminium and steel, coal, and certain software.

The provision of associated services for each of these categories is now also permitted.

The United States has also removed numerous individuals and entities from its List of Specially Designated Nationals and Blocked Persons (SDN List), Foreign Sanctions Evaders (FSE List), and/or Non-SDN Iran Sanctions Act List (NS-ISA List).

Additionally, the United States has taken steps under its “primary” sanctions (i.e. those that are applicable to U.S. persons and entities) to: 1) allow for the export, re-export, sale, lease or transfer of commercial passenger aircraft and related parts and services to Iran for exclusively civil, commercial passenger aviation end-use; 2) license the importation into the United States of Iranian-origin carpets and food, including pistachios and caviar; and 3) license non-US entities that are owned or controlled by a US person to engage in activities that are consistent with the JCPOA and applicable US law and regulations (“General Licence H”).

² Subject to activities in more sensitive areas. Certain individuals and companies, including Iranian banks continue to be sanctioned.

For other countries such as Australia, New Zealand and Canada, the lifting of sanctions by the EU and US mean that they are no longer obligated to maintain their own sanctions on Iran. It is anticipated that these countries will follow suit shortly and lift all existing economic sanctions against Iran.

General Licence H

General Licence H relieves US parent companies from certain primary sanctions that were adopted to discourage them from allowing their foreign subsidiaries to engage in Iranian business. US-owned or controlled foreign entities may engage in certain transactions involving Iran that would otherwise be prohibited. This authorisation is not limited to specific economic sectors. However, it clearly circumscribes activities that remain outside of this exemption. In particular, it provides that US-owned or controlled foreign entities engaging in transactions may not export or re-export US-origin goods to Iran without separate authorisation from OFAC. Moreover, the language of the General Licence H implies that it is applicable only to subsidiaries that already exist, and that a U.S. person or entity cannot simply create a foreign subsidiary now in order to enter the Iranian market. As to foreign entities having operations in Iran and which become US-owned or controlled after Implementation Day, OFAC may need to clarify if these activities are covered by the General Licence H.

US primary sanctions continue to apply, meaning that US persons, including US companies and financial institutions, continue to be broadly prohibited from engaging in transactions or dealings with Iran and the Government of Iran unless such activities are exempt from regulation or authorised by OFAC. This implies for instance that foreign financial institutions need to continue to ensure that they do not clear US dollar-denominated transactions involving Iran through US financial institutions.

The Guidance Relating to the Lifting of Certain US Sanctions Pursuant to the JCPOA on Implementation Day issued by the US Department of the Treasury and the US Department of State can be found [here](#) and the Frequently Asked Questions Relating to the Lifting of Certain US Sanctions Under the JCPOA on Implementation Day are available [here](#).

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