

## E-ALERT | International Trade Controls

January 9, 2013

### EU IMPLEMENTS NEW IRAN SANCTIONS

On December 21, 2012, the EU implemented a series of amendments to [Council Regulation \(EU\) No 267/2012](#) (the “Iran Regulation”), the EU’s principal sanctions regime against Iran. The new rules, which are set out in [Council Regulation \(EU\) No 1263/2012](#) (the “amending Regulation”), implement the Council’s [Decision 2012/635/CFSP](#), adopted in October 2012 (the “Decision”). (We discuss the Decision in a prior [e-alert](#).)

The amending Regulation details and expands the measures outlined in the Decision, and imposes a number of significant expansions to the EU sanctions regime against Iran, including by:

- Tightening restrictions associated with the transfers of funds to or from Iran;
- Placing an embargo on natural gas;
- Banning the supply of graphite, certain raw and semi-finished metals on graphite, aluminium and steel;
- Banning the supply of certain equipment, technology and services;
- Detailing additional equipment and technology in the oil, natural gas, petrochemical and ship-building industries that must not be traded with Iran.

The EU Council has also adopted a separate regulation, [Council Implementing Regulation \(EU\) No 1264/2012](#), which designates one additional individual and 18 entities for asset freezing measures under the Iran Regulation.

Key provisions of the new EU sanctions measures are summarized herein.

#### PAYMENT RESTRICTIONS

The amending Regulation expands the restrictions on the flow of money into and out of Iran. Under the prior rules in the Iran Regulation, most transfers of funds *to or from Iranian parties* that exceeded EUR 10,000 were required to be notified to EU Member State authorities. Where those transfers equaled or exceeded EUR 40,000 (except for transfers relating to foodstuffs, healthcare, medical equipment, or agricultural or humanitarian purposes), prior authorization was required.

The new restrictions, set forth in Article 30 of the Iran Regulation, maintain the above restrictions, but also apply additional notification and licensing requirements to transfers of funds above EUR 10,000 *between any EU financial or credit institution and any Iranian financial or credit institution*,<sup>1</sup> even if the transfers are not made to or from Iranian parties. Such transfers are prohibited unless they are made in connection with:

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<sup>1</sup> The amending Regulation defines Iranian financial or credit institutions as (i) any credit or financial institution, or bureaux de change, domiciled in Iran; (ii) any of their branches or subsidiaries; and (iii) any credit or financial institution, or bureaux de change, not domiciled in Iran but controlled by any person or entity who is domiciled in Iran.

1. Foodstuffs, healthcare, medical equipment, agricultural work or other humanitarian uses;
2. Personal remittances;
3. Trade contracts where such are still permitted under the Iran sanctions regime;
4. Diplomatic missions or the work of other international organizations;
5. The payment of claims by or against Iranian persons, provided a notice has been provided to the Commission; and
6. Certain other transfers necessary under permitted contractual obligations.

Transfers falling under categories 1-6 require prior notification or authorization, depending on the underlying transaction and the transferred amount. These can be summarized as follows:

Transferred amount	Transactions Requiring Prior Authorization
<b>Less than EUR 10,000</b>	None.
<b>More than EUR 10,000 but less than EUR 40,000</b>	Transactions related to: <ul style="list-style-type: none"> <li>• foodstuffs, healthcare, medical equipment, agricultural or humanitarian purposes; and</li> <li>• personal remittances</li> </ul> must be notified. All other transactions falling under the listed categories must be authorized.
<b>More than EUR 40,000 but less than EUR 100,000</b>	All transactions falling under the listed categories, although only a notification obligation applies to transactions related to: <ul style="list-style-type: none"> <li>• foodstuffs, healthcare, medical equipment, agricultural or humanitarian purposes.</li> </ul>
<b>More than EUR 100,000</b>	All transactions falling under the listed categories must be authorized.

These new restrictions now apply *in addition* to the pre-existing restrictions on payments to and from Iranian parties. Transfers which involve Iranian parties but do not involve Iranian financial or credit institutions must be notified if they are in excess of EUR 10,000, and must be authorized (with the exception of transfers relating to foodstuffs, healthcare, medical equipment, or transfers for agricultural or humanitarian purposes) if they are equal to or in excess of EUR 40,000.

As with the pre-existing set of restrictions, if the payment service provider (PSP) of the payee or payer is established or undertaking relevant business within the EU, then the primary responsibility to make the notification and/or obtain the authorization lies with the PSP. If the PSP is not established or engaged in relevant business in the EU, then the payee or payer is responsible for ensuring that transfers are properly notified and/or authorized.

## **EMBARGO ON NATURAL GAS AND ADDITIONAL PROVISIONS RELATED TO THE OIL AND GAS EXPLORATION AND TRADING ACTIVITIES**

The amending Regulation also introduces a new prohibition against (i) the purchase, transport or import into the EU of natural gas originating in Iran or exported from Iran; (ii) swaps of natural gas originating in or exported from Iran; and (iii) the provision of associated brokering, financing and financial assistance, and insurance and re-insurance.

The amending Regulation exempts from this prohibition:

- Natural gas that has been exported from a State other than Iran when the exported gas has been combined with gas originating from Iran within the infrastructure of a State other than Iran;
- The purchase of natural gas within Iran by nationals of EU Member States for civilian purposes, including residential heating or power, or for the maintenance of diplomatic missions; or
- The execution of contracts for the delivery of natural gas originating in a State other than Iran into the Union.

“Natural gas” is defined as including natural gas condensates, natural gas in liquefied and gaseous state, propane and butane and other gaseous hydrocarbons listed in Annex IVA to the Iran Regulation.

The amending Regulation also exempts from the pre-existing [oil and petroleum products embargo](#):

- The purchase of bunker oil produced and supplied by a third country other than Iran, intended for the propulsion of the engines of vessels;
- The purchase of bunker oil for the propulsion of the engines of a vessel which has been forced into a port in Iran, or into Iranian territorial waters, under force majeure.

Finally, Article 43a of the Iran Regulation now permits Member States to issue licenses to cover a limited range of transactions involving hydrocarbon exploration activity in the EU, in connection with exploration licenses issued by EU Member States to Iranian parties that are subject to asset freezing measures under the Iran Regulation.

## **BAN ON THE SUPPLY OF GRAPHITE AND CERTAIN RAW AND SEMI-FINISHED METALS**

The Iran Regulation now broadly prohibits the supply of graphite and raw or semi-finished metals to Iranian parties or for use in Iran. The specific prohibited items are listed in Annex VIIB to the Iran Regulation and include: graphite, iron and steel, copper and articles thereof, nickel and articles thereof, aluminium, lead, zinc, tin, and certain other base metals, cements and articles thereof.

The Iran Regulation also prohibits the supply of technical assistance, brokering services, and financing or financial assistance related to the listed equipment and technology. There are limited grandfathering provisions with respect to the prohibited activities.

## **BAN ON THE SUPPLY OF CERTAIN EQUIPMENT, TECHNOLOGY AND SERVICES**

### **Equipment and Technology for the Oil, Gas and Petrochemical Industry**

The pre-existing rules under Iran Regulation prohibited the sale, supply, transfer or export to Iranian parties or for use in Iran of additional key equipment and technology for “key sectors” of the oil, gas

and petrochemical industry in Iran. (The key sectors include the exploration and production of crude oil and natural gas, refining; and liquefaction of natural gas.)

The amending Regulation expands the list of items prohibited under the pre-existing rules. The new list of prohibited equipment and technology is set forth in Annex VIA of the Iran Regulation. (The new Annex supplements the items already listed in Annex VI to the Iran Regulation, which continues to be in effect.) The newly-designated products include casing, tubing and drill pipes, of a kind used in drilling for oil or gas; line pipe of a kind used in drilling for oil and gas; and containers for compressed or liquefied gas, of iron and steel. The supply of technical assistance, brokering services, and financing or financial assistance related to the listed equipment and technology are also prohibited.

Consistent with the earlier version of the Iran Regulation, the revisions include a grandfathering provision (set forth in Article 10) allowing the completion of work under certain pre-existing contracts (subject to notification requirements to the competent EU Member State authorities). That provision has been narrowed, however, and now terminates - for both Annex VI and VIA items - on April 15, 2013.

Finally, the Iran Regulation now authorizes Member States to issue licenses to cover certain transactions otherwise restricted under Articles 8 and 9, to the extent necessary to effectuate a limited category of transactions concerning Iranian-origin petroleum or petrochemical products, which are separately exempted under Articles 12 and 14 of the Iran Regulation.

### **Ship-building Equipment and Technology**

The amending Regulation prohibits the sale, supply, transfer or export to Iranian parties or for use in Iran of key naval equipment and technology for ship-building, maintenance or refit, including equipment and technology used in the construction of oil tankers. The restricted equipment and technology are listed in Annex VIB of the Iran Regulation.

The amending Regulation also prohibits the supply of technical assistance, brokering services, and financing or financial assistance related to the listed equipment and technology. In addition, it provides limited exceptions and grandfathering provisions with respect to the prohibited activities.

### **Software for Industrial Processes**

The amending Regulation also introduces a new prohibition concerning the sale, supply, transfer or export to Iranian parties or for use in Iran of Enterprise Resource Planning Software (as well as related technical assistance, brokering services, or financial assistance), which is designed specifically for use in the nuclear, military, gas, oil, navy, aviation, financial and/or construction industries (set forth in Article 10d of the Iran Regulation). The amending Regulation defines "Enterprise Resource Planning Software" as software "used for financial accounting, management accounting, human resources, manufacturing, supply chain management, project management, customer relations management, data services, or access control." Finally, the amending Regulation includes a narrow grandfathering provision allowing pre-existing transactions in relation to Enterprise Resource Planning Software (set forth in Article 10f of the Iran Regulation) until January 15, 2013.

### **Provision of Services to Iranian Oil Tankers and Cargo Vessels; Provision of Vessels**

The amending Regulation also prohibits, starting January 15, 2013, the provision of certain services in respect of oil tankers and cargo vessels flying the Iranian flag or owned, chartered, or operated, directly or indirectly, by Iranian parties. The prohibited services include: classification services; supervision of and participation in the design, construction and repair of ships and their parts, as

well as related technical assistance, financing or financial assistance; the inspection, testing and certification of marine equipment, materials and components as well as the supervision of the installation on board and the supervision of system integration; and the carrying out of surveys, inspections, audits and visits and the issuance, renewal or endorsement of the relevant certificates and documents of compliance, on behalf of the flag State administration.

Finally, the Iran Regulation now prohibits the making available of vessels designed for the transport or storage of oil and petrochemical products (i) to Iranian parties; or (ii) to other parties, unless the providers of vessels have taken appropriate action to prevent vessels from being used to carry or store oil or petrochemical products that originate in Iran or have been exported from Iran.

## DESIGNATED ENTITIES

The amending Regulation limits situations in which competent authorities may authorize the release of certain frozen fund or economic resources of or held by the Central Bank of Iran. The release can be authorized only where the competent authorities determine that the funds or economic resources are:

1. Necessary for the purpose of providing credit or financial institutions with liquidity for the financing of trade, or the servicing of trade loans; or
2. Necessary for the reimbursement of a claim due under a contract or agreement concluded by an Iranian person, entity or body before October 16, 2012 where such a contract or agreement provides for the reimbursement of outstanding amounts to persons, entities or bodies under the jurisdiction of EU Member States.

The amendments also include a new provision, in Article 26 of the Iran Regulation, authorizing Member States to release frozen funds in connection with the payment of fees owed in relation to the de-flagging of vessels.

Finally, as noted above, [Council Implementing Regulation \(EU\) No 1264/2012](#) designated new individuals and entities, including:

- Three subsidiaries of the National Iranian Oil Refining and Distribution Company (NIORDC): (i) the National Iranian Oil Products Distribution Company (NIOPDC), (ii) the Iranian Oil Pipelines and Telecommunications Company (IOPTC), and (iii) the National Iranian Oil Engineering and Construction Company (NIOEC);
- A number of entities linked directly to Iran's nuclear programme, including dealers in aluminium such as Aluminat and the Iran Aluminium Company;
- Several new banks, financial and commercial entities, such as the First Islamic Investment Bank, the Hong Kong Intertrade Company Ltd, the Sorinet Commercial Trust, and CF Sharp and Company Private Limited; and
- Entities linked to the oil trade, such as International Safe Oil, a Swiss company named Petro Suisse, and the Oil Industry Pension Fund Investment Company.

A small number of entries for pre-designated parties were also modified or deleted.

If you have any questions concerning the material discussed in this client alert, please contact the following members of our international trade controls group:

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