E-ALERT | International Trade Controls

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SANCTIONS UPDATE: U.S. AND EU EXTEND LIMITED SANCTIONS RELIEF RELATED TO IRAN; EU AGREES TO NEW SANCTIONS AGAINST RUSSIA

On July 19, 2014, the United States, the United Kingdom, Germany, France, Russia, and China (the "P5+1") and Iran mutually consented to extend the Joint Plan of Action ("JPOA"), reached by the parties on November 24, 2013, for an additional four-month period, to November 24, 2014. As described in our alerts of November 25 and November 27, 2013, the JPOA provides for limited, temporary, and reversible relief from certain U.S. and EU sanctions targeting Iran in exchange for Iran taking specified steps as the parties continue negotiating a long-term agreement to ensure that Iran's nuclear program is used exclusively for peaceful purposes.

Our alert of January 22, 2014 explains the sanctions relief provided by the U.S. and the EU, effective initially for a six-month period from January 20 - July 20, 2014. With the renewal of JPOA for an additional four months, the United States and EU have extended — without substantive changes — the sanctions relief from July 21, 2014 until November 24, 2014. The P5+1 also agreed to allow for the additional repatriation to Iran of $2.8 billion in Iranian funds held in accounts outside of Iran.

Separately, the EU Council agreed on July 22 to impose further sanctions against Russia, in connection with the crisis in Ukraine, before the end of July 2014.

Extension of U.S. Sanctions Relief

As explained in our alert of January 22, 2014, the U.S. temporarily suspended or otherwise eased as part of the JPOA certain sanctions measures in five areas: the export of petrochemical products from Iran; transactions involving Iran's automotive industry; Iran's purchase and sale of gold and other precious metals; exports of safety-related U.S.-origin parts and services for Iran's civil aviation industry; and exports of Iranian crude oil and petroleum products to six countries that were importing oil from Iran at the time of the JPOA: China, India, Japan, the Republic of Korea, Taiwan, and Turkey (limited to maintaining "their current average level of imports from Iran during the [the initial six-month period and the additional four-month period]").

With the exception of a more favorable licensing policy for exports of U.S.-origin parts and services for the safety of civilian aircraft, the easing generally affected only non-U.S. individuals and entities that are not owned or controlled by a U.S. person. U.S. persons, including non-U.S. companies owned or controlled by U.S. persons, continue to be broadly prohibited from nearly all trade with Iran, except for certain humanitarian trade. The U.S. government has taken steps during the JPOA's initial period to establish financial channels to facilitate that humanitarian trade with Iran.

The U.S. government stressed that the sanctions relief continues to be limited, and that it will continue during this extended JPOA period to "vigorously enforce" the sanctions that remain in place. Officials also stressed that the slight easing is "not a new status quo" and that there were no guarantees the sanctions relief would be further extended beyond late November. With a limited exception for certain insurance claims, described below, activity that can be conducted during the sanctions relief period must be fully completed (and payment for goods/services received) by November 24, 2014.

The U.S. Department of the Treasury and U.S. Department of State explained the scope of the sanctions relief in three documents: Guidance Relating to the Provision of Certain Temporary Sanctions Relief in Order to Implement the Joint Plan of Action ("Guidance"); Frequently Asked Questions ("FAQs"); and a Statement of Licensing Policy on Activities Related to the Safety of Iran's Civil Aviation Industry ("Statement of Licensing Policy"). As a companion to the announcement of the extension of the JPOA, the U.S. government issued updated versions of the Guidance, FAQs, and Statement of Licensing Policy.

The updates largely relate to the extension of the sanctions relief to November 24, 2014, and do not otherwise alter the scope of the sanctions relief as summarized in our January 22, 2014 e-alert. However, the documents do include a few noteworthy comments, as follows:

- *Insurance Payments for Incidents During the JPOA Period (As Extended).* In general, the sanctions relief requires all activities excluded from sanctions as a result of the JPOA to be concluded by November 24, 2014. However, the Guidance and FAQs include new language explaining that insurance payments for claims arising from incidents that occur between January 20, 2014 and November 24, 2014 may be paid after November 24, 2014, so long as the underlying transactions and activities conform to all other aspects of U.S. sanctions (both the sanctions relief under the JPOA and the sanctions that have remained in place). U.S. persons and entities they own or control remain prohibited from providing insurance/reinsurance to or for the benefit of Iran or sanctioned parties, unless authorized by the Treasury Department's Office of Foreign Assets Control.
- *Scope of Relief for Transactions Related to Iran's Auto Industry*. In its discussion of relief from "menu-based" sanctions related to Iran's auto industry, the Guidance now states that the U.S. government will not impose sanctions described in "sections 6 and 7" of E.O. 13645, whereas the Guidance previously referred only to section 6. As the addition of the reference to section 7 (covering a menu of additional financial and other sanctions) is not otherwise mentioned in the new guidance documents, it appears that Treasury and State see the addition as a correction, rather than a substantive expansion in sanctions relief. This is supported by the fact that the menu of sanctions for Iranian auto industry-related activity in section 5 of E.O. 13645 authorizes sanctions as described in either section 6 or section 7 of E.O. 13645.
- *Mechanisms to Facilitate Humanitarian and Certain Other Transactions*. According to the Guidance and FAQs, the P5+1 established a mechanism to further facilitate the purchase of, and payment for, the export of food, agricultural commodities, medicine, and medical devices to Iran, as well as medical expenses incurred abroad by Iranians. Foreign financial institutions ("FFIs") which Iran sought to be involved in hosting this new mechanism were contacted by the Treasury Department and provided with specific guidance. These mechanisms will remain in place at least for the four-month extension period. The Guidance emphasizes, however, that this mechanism is not "the exclusive way to finance or facilitate the sale of food, agricultural commodities, medicine, and medical devices to Iran by non-U.S. persons not otherwise subject to the [Iranian Transactions and Sanctions Regulations], which is not generally sanctionable so long as the transaction does not involve persons designated in connection with Iran's support for international terrorism or Iran's proliferation of weapons of mass destruction (WMD) or WMD delivery systems."

- *Repatriation of Iranian "Restricted Funds."* The JPOA provided that the P5+1 would enable the repatriation of $4.2 billion of Iranian "Restricted Funds"[1] held abroad. According to the FAQs, the P5+1 fulfilled their commitment to facilitate the release of $4.2 billion of Iran's Restricted Funds during the initial 6-month period. The P5+1 and Iran have agreed on a process to authorize or facilitate the release in installments of an additional $2.8 billion of Iran's Restricted Funds (an amount that represents the four-month prorated amount of the original JPOA commitment). The U.S. government will notify FFIs in writing if they may release funds consistent with the JPOA's sanctions relief.

Extension of EU Sanctions Relief

We reported in our January 22, 2014 e-alert that the Council of the European Union had adopted an amending regulation (Regulation 2014/42/EU) to suspend or amend certain measures imposed previously against Iran.

The Council stated in January that it would re-evaluate those suspended sanctions in July 2014 based on progress in the ongoing negotiations with Iran. The European Council has now agreed to extend those suspended sanctions for a further four months, until November 24, 2014, pursuant to Council Decision 2014/480/CFSP of July 21, 2014.

Accordingly, the various suspended sanctions described in our January 2014 alert — including those relating to certain dealings in Iranian-origin petroleum, petrochemicals, and precious metals, and the easing of certain license requirements and reporting obligations relating to payments to and from Iran — remain suspended until November 24, 2014. However, no additional sanctions have been suspended and all other EU sanctions and restrictions against Iran remain in force.

EU Agrees to New Sanctions Against Russia

On July 22, 2014, the EU Council agreed to impose further sanctions in connection with the crisis in Ukraine before the end of July 2014. In particular, the EU Council agreed to target individuals and entities supporting or benefitting from the Russian annexation of Crimea or destabilization of Eastern Ukraine and to adopt additional measures to restrict the EU's trade with and investment in Crimea and Sevastopol.

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We are closely following the developments in the implementation of the JPOA as well as the evolving sanctions against Russia and will provide additional updates as new information becomes available. We are well-positioned to assist clients in understanding how the changes in the Iran sanctions may affect their operations and business opportunities.

[1] For purposes of the U.S. sanctions relief, the term "Restricted Funds" refers to: (i) any existing and future revenues from the sale of Iranian petroleum or petroleum products, wherever they may be held, and (ii) any Central Bank of Iran ("CBI") funds, with certain exceptions for non-petroleum CBI funds held at a foreign country's central bank.

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