



Iran Sanctions – United States

21 September 2015

WHO DO THE US SANCTIONS APPLY TO?

A. US Persons

United States sanctions legislation generally applies to “US Persons,” which includes US citizens and permanent resident aliens, persons physically in the United States (regardless of citizenship), US-organized entities, and any foreign entity owned or controlled by a US person.

These parties are prohibited from engaging in transactions with companies and persons designated by the sanctions legislation. With regard to Iran, US persons are essentially prohibited from engaging in any transaction involving Iran or an Iranian national. They are also prohibited (without a license) from approving, guaranteeing, financing or facilitating transactions by foreign parties with sanctioned countries or parties, if those transactions would be prohibited if engaged in directly by a US person or entity. Facilitation can include referring to a foreign party, business opportunities involving prohibited countries or persons, and financing, insuring or transporting a shipment of goods sold by a foreign person to a sanctioned country or party.

B. Foreign Persons

The US sanctions against Iran have extraterritorial effect in numerous circumstances, meaning that they can apply to non-US parties. The following non-exhaustive list describes some of the principal circumstances in which non-US persons are directly impacted:

Foreign entities that are owned or controlled by US entities are subject to US sanctions against Iran as if they were US persons. Accordingly, they are prohibited from knowingly engaging in any prohibited transaction, directly or indirectly, with the government of Iran or any person subject to the jurisdiction of the government of Iran. Such foreign entities (including any partnership, association, trust, joint venture, corporation, or other organization), are prohibited from engaging in unlicensed transactions with Iran, even if no US parties are involved in the transaction. US parent companies are subject to sanctions for their subsidiary’s conduct. A foreign entity is “owned or controlled” by a US party when the US party either (1) holds more than 50 percent of the equity interest by vote or value in the entity; (2) holds a majority of seats on the board of directors of the entity; or (3) otherwise controls the actions, policies, or personnel decisions of the entity.

- Foreign persons can be subjected to civil and criminal penalties if they (1) are subject to US jurisdiction (e.g., foreign companies that do substantial US-related business) and (2) “cause” a US person to violate US sanctions. For example, a shipowner or Club that conducts business in the US could be penalized if it makes or receives payment in US dollars for a transaction involving an Iranian national while concealing the involvement of the Iranian national in the payment instructions. Such concealment unlawfully “causes” a US bank to violate US sanctions when it processes the payment.
- Since July 2013, the extraterritorial application of US sanctions has broadened significantly. A non-US company is subject to sanctions if it sells, supplies or transfers to or from Iran significant goods or services used in connection with the energy, shipping or shipbuilding sectors of Iran. They will also be at risk if they knowingly provide significant financial, material, technological or other services in support of these sectors, or to any party designated by the regime. Please note that the US, under a joint plan of action discussed below, has temporarily suspended certain sanctions that may cover these activities. *See Section: **TEMPORARY SUSPENSION OF SOME US SANCTIONS.*** To the extent that the suspension of sanctions covers these activities, engaging in such activities likely does not give rise to liability.
- Sanctions may apply to foreign persons engaged in the transportation of crude oil and petroleum products from Iran. Specifically, if the beneficial shipowner of a vessel has “actual knowledge” that the vessel is being used to transport crude oil from Iran to another country (except destination countries with special waivers) the beneficial shipowner is subject to sanctions. For other parties that own, operate, control, or insure such a vessel, they are subject to sanctions if they “knew or should have known” the vessel was used in this manner. Similar sanctions apply where a vessel is used in a manner that conceals the Iranian origin of crude oil or refined petroleum products. In such instances, the vessel involved may be barred from landing in any US port for two years.
- A broad prohibition against knowingly engaging in a “significant transaction for the purchase or acquisition” from Iran of petroleum and petrochemical products can be applied to the transportation and storage of petroleum and petrochemical products that originate in Iran. US authorities have indicated that this prohibition is even broad enough to cover the purchase, knowingly, of Iranian-origin bunkers anywhere in the world.
- Non-US financial institutions are targeted by US sanction regulations. Where they engage in prohibited activities, the opening or maintenance in the US of a correspondent or payable-through account will be strictly limited or altogether prohibited. This could result in foreign banks effectively being cut off from the US banking system.
- US law does not have a blanket prohibition against transactions between foreign persons and parties on the Specially Designated National (“SDN”) list; however, a foreign person’s property and interests in the US can be blocked if it knowingly provides “significant” financial, material, technological, or other support to any *Iranian* person on the SDN list. Moreover, the US Departments of State and Treasury have said that foreign persons transacting with SDNs generally could sustain “reputational damage.”

Foreign persons are subject to sanctions if they knowingly sell, supply or transfer, directly or indirectly, to Iran: precious metals (e.g., gold), graphite, raw or semi-finished metals (e.g., aluminum

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and steel), coal, and software for integrating industrial processes, if those materials are (1) to be used in connection with the energy, shipping or shipbuilding sectors in Iran; (2) sold, supplied or transferred to an Iranian person on the SDN list; or (3) to be used in connection with the nuclear, military or ballistic missile programs in Iran.

PROHIBITIONS : GENERAL

As Described in greater detail herein, the following general prohibitions apply under US law:

- Goods, technology, and services generally may not be imported, exported, re-exported, sold or supplied, directly or indirectly, from the United States or by a US person, wherever located, to Iran or the Government of Iran. The ban on providing services includes any brokering function from the US or by US persons, wherever located (e.g., US persons and persons acting within the US may not broker offshore transactions that benefit Iranian nationals, including sales of foreign goods or arranging for third-country financing or guarantees).
- The property and interests in property of all parties on OFAC's list of Specially Designated Nationals (SDN List) are blocked where that property is in the US, comes within the US or comes within the possession or control of US persons.
- Investments by US persons, including commitments of funds or other assets, loans or any other extensions of credit, in Iran or in property (including entities) owned or controlled by the Government of Iran are prohibited.
- All transactions ordinarily incident to travel to or from Iran, including the importation of accompanied baggage for personal use, payment of maintenance and living expenses and acquisition of goods or services for personal use are permitted.
- No US person may approve or facilitate the entry into or performance of transactions or contracts with Iran by a foreign subsidiary of a US firm that the US person is precluded from performing directly. Similarly, no US person may facilitate such transactions by unaffiliated foreign persons.
- US persons may not trade in Iranian oil or petroleum products refined in Iran, nor may they finance such trading. Similarly, US persons may not perform services, including financing services, or supply goods or technology that would benefit the Iranian oil industry.
- US depository institutions, including foreign branches, are prohibited from servicing accounts of the Government of Iran, including banks owned or controlled by the Government of Iran or persons in Iran.
- Certain sanctions are temporarily suspended through Implementation Day (in line with similar suspension under EU law). *See Section: **TEMPORARY SUSPENSION OF SOME US SANCTIONS.***

DEALING WITH DESIGNATED PARTIES : ASSET FREEZES

What is prohibited?

The property and interests in property of all parties on OFAC's list of Specially Designated Nationals (SDN List) are blocked where that property is in the US, comes within the US or comes within the possession or control of US persons.

This extends to blocking the property of an entity in which a designated party (or one or more designated parties) owns a 50% or greater interest (either directly or indirectly), even if that entity is not itself designated.

It is prohibited to enter into a property transaction with a designated party, unless exempt or otherwise authorised.

→ What does this mean?

Blocking property imposes an across-the-board prohibition against transfers or dealings of any kind with that property.

"Property" includes funds and other financial assets.

If a party is on the SDN List, any commercial dealings with that party, or with any entity in which the designated party owns a 50% or greater interest, are effectively prohibited.

How is the shipping industry affected by the asset freeze provisions?

The US government has targeted Iran's shipping industry. In particular, on or after 1 July 2013 (some sanctions are temporarily suspended as discussed below), the President must block and prohibit all transactions in property and property interests for persons that:

- (a) are a part of Iran's energy, shipping and shipbuilding sectors;
- (b) operate a port in Iran; and
- (c) knowingly provide significant financial, material, technological or other support, or goods or services in support of any activity or transaction on behalf of or for the benefit of a party which falls within (a) or (b) above, or any other party on the SDN List.

The term "shipping" in this context refers to both the transportation of goods by vessel and related activities.

Persons determined by OFAC to be part of Iran's energy, shipping or shipbuilding sectors, or a port operator in Iran, will be identified as such on the SDN List. Knowingly providing certain significant support to persons determined to be part of Iran's energy, shipping or shipbuilding sectors, or a port operator in Iran, will result in exposure to sanctions.

→ What does “energy sector of Iran” mean?

OFAC has indicated that the term “energy sector of Iran” includes “activities involving the exploration, extraction, production, refinement or liquefaction of petroleum, natural gas, or petroleum products in Iran”.

→ What does “shipping sector of Iran” mean?

OFAC has indicated that the term “shipping sector of Iran” includes “activities involving the transportation of goods by seagoing vessels, including oil tankers and cargo vessels, flying the flag of the Islamic Republic of Iran, or owned, controlled, chartered or operated directly or indirectly by the Government of Iran.

Two entities previously identified or designated under Treasury authorities as being part of the shipping sector of Iran are the National Iranian Tanker Company and the Islamic Republic of Iran Shipping Lines.

→ What does “shipbuilding sector of Iran” mean?

OFAC has indicated that the term “shipbuilding sector of Iran” includes “activities involving the construction of seagoing vessels, including oil tankers and cargo vessels, in Iran.

→ Dealing with the Islamic Republic of Iran Shipping Lines (IRISL)

IRISL has been increasingly the target of US sanctions since 2008, when the US Treasury Department focused on its involvement in Iran’s efforts to develop ballistic missiles. IRISL, its fleet and its affiliates are included on the SDN List.

IRISL has responded to US sanctions, as well as other international measures, by renaming, reflagging and repainting the vessels in its fleet. It has repeatedly shifted the nominal owners of ships, and modified shipping documents to conceal its activities. These efforts to evade sanctions have led to increased vigilance by the maritime industry. A number of flag states have revoked or refuse to flag IRISL vessels. As a result, however, IRISL has been operating vessels with fabricated vessel registration and flag credentials at ports of call and canal entrances.

This highlights the importance of conducting thorough investigations, including into the vessel’s registration and flag where appropriate, in order to avoid transacting with a designated party.

How can I find out which parties are designated?

The full SDN List can be found on the OFAC website: <http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>

It is also possible to search the list via the website: http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/fuzzy_logic.aspx

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CARGO: IMPORT, EXPORT AND RELATED RESTRICTIONS

Carrying cargo to Iran – what cargos are prohibited?

1. General prohibition on all goods, technology or services

In general, unless authorized by a general license or a specific OFAC license is granted, it is prohibited to export, re-export, sell or supply, directly or indirectly, any goods, technology or services from the US or by a US person, wherever located, to Iran or the Government of Iran. It is prohibited to export from the US any goods, technology or services if the party exporting them knows, or has reason to know, that the items are intended for supply, transshipment or re-exportation to Iran.

Exportation is also prohibited if the exporter knows or has reason to know that the US items are intended for use in the production of, for commingling with, or for incorporation into goods, technology or services to be directly or indirectly supplied, transhipped or re-exported exclusively or predominately to Iran or the Government of Iran.

This prohibition extends to providing services, including any brokering function from the US or by a US person, wherever located. For example, a US person (wherever located) or any person acting within the US, may not broker off-shore transactions which benefit Iran or the Government of Iran. This includes the sale of foreign goods and arranging for third-country financing or guarantees.

→ Extraterritorial effect

Foreign parties who are not US persons are prohibited from re-exporting sensitive US-origin goods, technology or services to Iran or the Government of Iran.

Foreign parties involved in such reports may be placed on the US Commerce Department's "Export Denial Orders" list.

→ Are there any exceptions?

There are certain limited exceptions to this prohibition, in particular:

- agricultural commodities;
- food;
- medicine;
- medical devices;
- humanitarian assistance exports;
- certain information and informational materials;
- exports related to the exchange of personal communications over the internet;

- exports or reexports related to fee-based services incident to the exchange of personal communications over the Internet, such as instant messaging, chat and email, social networking, sharing of photos and movies, web browsing, and blogging;
- exports or reexports related to fee-based software subject to the Export Administration Regulations, 15 C.F.R. parts 730 through 774 (the “EAR”), that is necessary to enable services incident to the exchange of personal communications over the Internet, such as instant messaging, chat and email, social networking, sharing of photos and movies, web browsing, and blogging, provided that such software is designated EAR99 or classified by the US Department of Commerce on the Commerce Control List, 15 C.F.R. part 774, supplement No. 1 (“CCL”), under export control classification number (“ECCN”) 5D992.C; exports or reexports related to fee-based software that is not subject to the EAR because it is of foreign origin and is located outside the United States that is necessary to enable services incident to the exchange of personal communications over the Internet, such as instant messaging, chat and email, social networking, sharing of photos and movies, web browsing, and blogging, provided that such software would be designated EAR99 if it were located in the United States or would meet the criteria for classification under ECCN 5D992.C if it were subject to the EAR;
- exports or reexports related to certain software and hardware incident to personal communications listed in the Annex to General License D-1;
- importation into the United States of hardware and software previously exported to Iran under General License D-1;
- exports of reexports related to consumer-grade Internet connectivity services and the provision, sale, or leasing of capacity on telecommunications transmission facilities (such as satellite or terrestrial network connectivity) incident to personal communications;
- export or reexport of certain publicly available no cost services and software
- exports related to safe operation of aircraft;
- exports to the International Atomic Energy Agency;
- exports to support activities of non-governmental organisations promoting democracy in Iran; and
- exports which the President determines are in the US national interest.

2. Goods and services which enhance Iran’s ability to develop petroleum resources

It is prohibited to sell, lease or provide goods, services, technology or support to Iran which could directly and significantly contribute to the enhancement of Iran’s ability to develop petroleum resources located in Iran.

This prohibition only applies to single transactions with a fair market value of US\$1m or more, or a series of transactions with the same entity having a fair market value of US\$5m or more in a 12 month period.

→ Are there any exceptions?

Waivers can be applied on a case by case basis, depending on the facts and US interests in each case. The President may waive the application of sanctions where it is necessary to the national interest.

3. Refined petroleum products

It is prohibited to provide Iran with refined petroleum products valued at US\$1m or more, or having an aggregate fair market value of US\$5m or more during any 12 month period

→ Are there any exceptions?

Waivers can be applied on a case by case basis, depending on the facts and US interests in each case. The President may waive the application of sanctions where it is necessary to the national interest.

4. Goods and services which enhance Iran's ability to import refined petroleum products

It is prohibited to sell, lease or provide to Iran any goods, services, technology, information or support which could directly or significantly contribute to the enhancement of Iran's ability to import refined petroleum products.

This prohibition only applies to single transactions with a fair market value of US\$1m or more, or a series of transactions with the same entity having a fair market value of US\$5m or more in a 12 month period.

"Services" covers underwriting, providing insurance/reinsurance, financing and brokering. It also covers providing ships and shipping services to deliver refined petroleum products to Iran.

→ Extraterritorial effect

These prohibitions directly affect non-US insurers, banks, shipping lines and leasing companies which service Iranian imports of refined petroleum products.

→ Are there any exceptions?

Waivers can be applied on a case by case basis, depending on the facts and US interests in each case. The President may waive the application of sanctions where it is necessary to the national interest.

5. Goods and services which facilitate Iran's domestic production of refined petroleum products (RPP)

It is prohibited to sell, lease or provide to Iran any goods, services, technology, information or support which could directly and significantly facilitate the maintenance or expansion of Iran's domestic production of refined petroleum products.

This prohibition only applies to single transactions with a fair market value of US\$1m or more, or a series of transactions with the same entity having a fair market value of US\$5m or more in a 12 month period.

→ Are there any exceptions?

Waivers can be applied on a case by case basis, depending on the facts and US interests in each case. The President may waive the application of sanctions where it is necessary to the national interest.

6. Goods and services which facilitate Iran's domestic production of petrochemical products

It is prohibited to sale, lease or provide goods, services, technology or support to Iran which could directly and significantly facilitate the maintenance or expansion of its domestic production of petrochemical products.

This prohibition only applies to single transactions with a fair market value of US\$250,000 or more, or a series of transactions with the same entity with a fair market value of US\$1m or more in a 12 month period.

→ Are there any exceptions?

Waivers can be applied on a case by case basis, depending on the facts and US interests in each case. The President may waive the application of sanctions where it is necessary to the national interest.

7. Goods or services used in connection with Iran's energy, shipping or shipbuilding sectors

On or after 1 July 2013, it shall be prohibited to knowingly sell, supply or transfer significant goods or services used in connection with Iran's energy, shipping or shipbuilding sectors.

This prohibition applies to the petroleum and petroleum products, but generally does not apply to natural gas (although there are some exceptions).

→ What constitutes "goods and services used in connection with Iran's energy sector"?

OFAC intends to publish additional regulations clarifying this point. This will include goods and services that contribute to:

1. Iran's ability to develop its domestic petroleum resources;
2. the maintenance or expansion of Iran's domestic production of petroleum products; or
3. Iran's ability to import or export petroleum or petroleum products.

→ What constitutes "goods and services used in connection with Iran's shipping sector"?

OFAC intends to publish additional regulations clarifying this point. This will include goods and services that contribute to:

1. the provision of crude and product tankers to Iran;
2. the provision of registry, flagging or classification services of any kind;
3. the supervision of and participation in the repair of ships and their parts;
4. the inspection, testing and certification of marine equipment materials and components;
5. the carrying out of surveys, inspections, audits and visits, and the issuance, renewal or endorsement of the relevant certificates and documents of compliance, as they relate to ships and shipping; or
6. any other goods or services relating to the maintenance, supply, bunkering and docking of vessels flying the flag of the Islamic Republic of Iran, or owned, controlled, chartered or operated directly or indirectly by, or for or on behalf of, the Government of Iran or an Iranian person.

→ What constitutes “goods and services used in connection with Iran’s shipbuilding sector”?

OFAC intends to publish additional regulations clarifying this point. This will include goods and services that contribute to:

1. the building and refit of vessels;
2. the provision or refit of items such as (i) steam turbines and their parts for marine propulsion, (ii) marine propulsion engines and parts used solely or principally with them, (iii) other gas turbines for marine propulsion, (iv) ship or boat propellers and blades, and (v) direction finding compasses and other navigational instruments and appliances solely for the maritime industry;
3. other goods used in connection with building and propulsion of vessels; and
4. technical assistance and training relating to, and financing of, the building maintenance or re-fitting of vessels.

→ Are there any exceptions?

Transactions for the sale of agricultural commodities, food, medicine or medical devices to Iran or for the provision of humanitarian services to the people of Iran are exempt.

Waivers can be applied on a case by case basis, depending on the facts and US interests in each case. The President may waive the application of sanctions where it is necessary to the national interest.

Application of energy-related sanctions provisions may be waived in respect of a particular party for 6 months if “vital to the national security interests” and the government with primary jurisdiction over the person in question is closely cooperating with the US in multilateral efforts to prevent Iran from acquiring weapons of mass destruction or advanced conventional weapons.

8. Precious metals, minerals, metals and related materials

On or after 1 July 2013, it shall be prohibited to sell, supply or transfer the following goods to Iran:

- precious metals
- graphite
- coal
- raw or semi-finished metals

These goods will be subject to sanctions where:

- Iran is using the materials for barter or listing them as assets;
- the materials are to be used in connection with Iran's energy, shipping and shipbuilding sectors, or a sector of the economy controlled by the IRGC;
- the materials are to be used in connection with Iran's nuclear, military or ballistic missile programs; or
- the materials are being sold, supplied or transferred to a designated party.

→ Are there any exceptions?

An exception will apply where a party has exercised due diligence in establishing and enforcing official policies, procedures and controls to ensure that the party does not sell, supply or transfer to Iran materials the sale, supply or transfer of which would subject a party to sanctions, or conduct or facilitate a financial transaction for such a sale, supply or transfer.

6. Software for integrating industrial processes

On or after 1 July 2013, it shall be prohibited to sell, supply or transfer software for integrating industrial processes to Iran.

These goods will generally be subject to sanctions where:

- Iran is using the materials for barter or listing them as assets;
- the materials are to be used in connection with Iran's energy, shipping and shipbuilding sectors, or a sector of the economy controlled by the IRGC;
- the materials are to be used in connection with Iran's nuclear, military or ballistic missile programs; or
- the materials are being sold, supplied or transferred to a designated party.

→ Are there any exceptions?

An exception will apply where a party has exercised due diligence in establishing and enforcing official policies, procedures and controls to ensure that the party does not sell, supply or transfer to Iran materials the sale, supply or transfer of which would subject a party to sanctions, or conduct or facilitate a financial transaction for such a sale, supply or transfer.

Carrying cargo from Iran – what cargos are prohibited?

1. General Prohibition on all goods and services of Iranian origin

It is prohibited to import any goods or services of Iranian origin into the US, either directly or through third countries.

US persons are also prohibited from providing financing for prohibited import transactions.

→ Are there any exceptions?

There are certain very limited exceptions to this prohibition, including:

- gifts valued at \$100 or less;
- information and informational materials;
- household and personal effects, of persons arriving in the US, that were used abroad by the importer or by other family members, which are not intended for any other person or for sale, and that are not otherwise prohibited from importation;
- baggage for personal use normally incident to travel.

2. Precious metals, minerals, metals and related materials

On or after 1 July 2013, it shall be prohibited to transfer the following goods from Iran:

- precious metals
- graphite
- coal
- raw or semi-finished metals

To this end, US authorities have defined graphite and raw- and semi-finished metals to include:

steels; aluminum metal and its alloys; base metals of single or complex borides of titanium; beryllium metal and its alloys; boron metal and its alloys; cobalt metal and its alloys; copper infiltrated tungsten metal; copper-beryllium metal; germanium metal and its alloys; graphites; hastelloy; inconel; magnesium metal and its alloys; molybdenum metal and its alloys; neptunium-237 metal and its alloys; nickel metal and its alloys; nickel aluminide metals; niobium metal and its alloys; niobium-titanium filaments; plutonium metal and its alloys; porous nickel metal; silver infiltrated tungsten metal; tantalum metal and its alloys; tellurium metal and its alloys; titanium aluminide metals; titanium metal and its alloys; tungsten metal, tungsten carbide metal, and their alloys; uranium titanium alloy metals; and zirconium metal and its alloys and compounds.

These goods will generally be subject to sanctions where:

- (a) Iran is using the materials for barter or listing them as assets;
- (b) the materials are to be used in connection with Iran's energy, shipping and shipbuilding sectors, or a sector of the economy controlled by the IRGC;
- (c) the materials are to be used in connection with Iran's nuclear, military or ballistic missile programs; or
- (d) the materials are being sold, supplied or transferred to a designated party.

→ Are there any exceptions?

An exception will apply where a party has exercised due diligence in establishing and enforcing official policies, procedures and controls to ensure that the party does not transfer from Iran materials the sale, supply or transfer of which would subject a party to sanctions, or conduct or facilitate a financial transaction for such a sale, supply or transfer.

3. Software for integrating industrial processes

On or after 1 July 2013, it shall be prohibited to transfer software for integrating industrial processes from Iran.

These goods will generally be subject to sanctions where:

- Iran is using the materials for barter or listing them as assets;
- the materials are to be used in connection with Iran's energy, shipping and shipbuilding sectors, or a sector of the economy controlled by the IRGC;
- the materials are to be used in connection with Iran's nuclear, military or ballistic missile programs; or
- the materials are being sold, supplied or transferred to a designated party.

→ Are there any exceptions?

An exception will apply where a party has exercised due diligence in establishing and enforcing official policies, procedures and controls to ensure that the party does not transfer from Iran materials the sale, supply or transfer of which would subject a party to sanctions, or conduct or facilitate a financial transaction for such a sale, supply or transfer.

Dealing in Iranian goods or services – what is prohibited?

1. General Prohibition on all goods and services of Iranian origin or goods and services owned or controlled by the Government of Iran

It is prohibited to knowingly engage in any transactions, including the purchase, sale, transportation, swap, financing or brokering transactions related to goods or services of Iranian origin or goods or services owned or controlled by the Government of Iran.

This prohibition applies to transactions by US persons in locations outside the US with respect to goods or services which are of Iranian origin or are owned or controlled by the Government of Iran. US persons may not import such goods or services into or export them from foreign locations.

→ Extraterritorial effect

This prohibition applies to non-US entities owned or controlled by US entities (i.e. non-US subsidiaries of US parent companies), where they engage in a transaction which would be prohibited if performed by a US person or in the US.

The US parent company may face sanctions in respect of the actions of its subsidiary.

→ Are there any exceptions?

A US party may engage in transactions in third countries necessary to sell, dispose of, store or maintain goods located in a third country which were legally acquired by the US party prior to 7 May 1995, on the condition that the transactions do not result in an importation into the US of goods of Iranian origin.

BANKING, FINANCIAL SERVICES AND RELATED SANCTIONS

1. General sanctions targeted at foreign banks

Mandatory sanctions are targeted at foreign banks which knowingly facilitate:

- Iranian WMD transactions;
- Transactions related to Iran's support for terrorism;
- The activities of parties on the SDN List;
- Significant transactions with the IRGC or its affiliates;
- Significant transactions with Iranian-linked banks designated by the US.

2. Significant transactions with designated Iranian financial institutions

The US Treasury must either prohibit or impose strict conditions on US banks' maintenance of correspondent accounts for foreign financial institutions which knowingly conduct or facilitate any significant transaction with the Central Bank of Iran or any another designated Iranian financial institution.

→ Applicability to state owned financial institutions

This provision applies to foreign financial institutions owned or controlled by the government of a foreign country, including a central bank of a foreign country, only insofar as it engages in a financial transaction for the sale/purchase of petroleum or petroleum products to or from Iran.

→ Applicability to transactions relating to petroleum or petroleum products

This provision applies to transactions for the purchase of petroleum or petroleum products from Iran if the President determines that there is a sufficient supply of petroleum and petroleum products from countries other than Iran to permit a significant reduction in the volume of those products purchased from Iran.

→ Are there any exceptions?

This provision does not apply to transactions for the sale of food, medicine or medical devices.

An exception applies if the President determines that the country with primary jurisdiction over the foreign financial institution has significantly reduced its volume of crude oil purchases from Iran. This is renewable on a 180 day basis.

3. Significant transactions or financial services for designated parties

The US Treasury must either prohibit or impose strict conditions on US banks' maintenance of correspondent accounts for foreign financial institutions which knowingly facilitate a significant transaction or provide significant financial services for:

- the IRGC or any of its designated agents and affiliates; or
- any designated party.

→ Applicability to transactions relating to petroleum or petroleum products

This provision applies to transactions related to the purchase of petroleum and petroleum products from Iran, if at the time of the transaction a determination is in effect that the price and supply of petroleum and petrochemical products produced in countries other than Iran is sufficient to permit purchasers of petroleum and petroleum products from Iran to reduce significantly their purchase from Iran.

→ Applicability to transactions relating to natural gas

This provision applies to the sale, supply and transfer of natural gas unless (a) the transaction is only for trade in goods and services not otherwise subject to US sanctions, and between the country with primary jurisdiction over the foreign financial institution and Iran; and (b) any funds owed to Iran as a result of the trade are credited to an account located in the country with primary jurisdiction over the foreign financial institution.

→ Are there any exceptions?

There are exceptions for:

(a) transactions with Iranian financial institutions that are not designated for weapons proliferation, terrorism or human rights reasons;

(b) sales of agricultural commodities, food, medicine or medical devices to Iran or the provision of humanitarian assistance.

4. Facilitating the activities of designated parties

The US Treasury must either prohibit or impose strict conditions on US banks' maintenance of correspondent accounts for foreign financial institutions which knowingly facilitate the activities of designated parties.

5. Facilitating Iran's pursuit of Weapons of Mass Destruction or support of terrorism

The US Treasury must either prohibit or impose strict conditions on US banks' maintenance of correspondent accounts for foreign financial institutions which knowingly facilitate Iran's pursuit of Weapons of Mass Destruction or support of terrorism.

6. Facilitating any Iranian bank to carry out any of the above

The US Treasury must either prohibit or impose strict conditions on US banks' maintenance of correspondent accounts for foreign financial institutions which knowingly facilitate the efforts of the Central Bank of Iran or any other Iranian bank to carry out the activities listed at 1-5 above.

7. Underwriting, insurance and reinsurance services

On or after 1 July 2013, sanctions will be imposed on any party which knowingly provides underwriting, insurance and reinsurance services:

(a) for any activity subject to the Iran sanctions regime;

(b) to any person connected with Iran's energy, shipping and shipbuilding sectors;

(c) to any person selling, supplying or transferring graphite, coal, raw or semi-finished metals and certain software;

(d) to any person designated for sanctions in connection with Iran's proliferation of weapons of mass destruction or Iran's support for international terrorism; or

(e) to any designated party.

→ Are there any exceptions?

Exceptions are provided for sales of agricultural commodities, food, medicine and medical devices to Iran, and for the provision of other humanitarian assistance.

An exception will apply where a person providing underwriting services, insurance or reinsurance has exercised due diligence in establishing and enforcing official policies, procedures and controls to ensure that the person does not underwrite or enter into a contract to provide insurance or reinsurance for a prohibited activity.

The President can waive the imposition of these sanctions for renewable periods of 180 days if such waiver is vital to the national security of the US.

PROPOSED LEGISLATION

The US Congress is currently considering proposed legislation entitled the Nuclear Iran Prevention Act of 2013. It passed the House of Representatives in July 2013 and was referred to the Senate Committee on Banking, Housing, and Urban Affairs in August of 2013. The Senate has yet to take further action. It includes several provisions, which will be of special interest to the shipping industry if they are passed. Principal among these are provisions that:

- Prohibit any foreign vessel from entering or operating in US navigable waters or transferring cargo in any port or place under US jurisdiction if such vessel is a foreign vessel (1) on a specified list of vessels owned or operated by or on behalf of IRISL, the National Iran Tanker Company (or any successor entity), or otherwise owned or operated on behalf of Iran; and (2) registered by a government that maintains a registration of a listed vessel.
- Deny access to the US of all ships of a country that allows Iranian-owned or operated vessels to be registered under such country's registry if more than 180 days after such list's publication the government continues to maintain a registration for a listed vessel.
- Direct the President to block the property of entities that operate special economic zones or free economic zones and entities in "strategic sectors." Shipping and shipbuilding are within the definition of "strategic sector."

TEMPORARY SUSPENSION OF SOME U.S. SANCTIONS

On July 14, 2015, the United States and its partners in the P5+1 (China, France, Germany, Russia, and the United Kingdom, coordinated by the European Union's High Representative) reached a Joint Comprehensive Plan of Action ("JCPOA"). The JCPOA builds on the Joint Plan of Action ("JPOA") with Iran reached in November 2013, under which Iran received limited relief from international trade sanctions for a period of 6+6 months in return for compliance with restrictions on its nuclear programme.

Under the JCPOA, Iran will receive phased sanctions relief once the International Atomic Energy Agency ("IAEA") verifies that Iran has implemented key nuclear-related commitments described in the JCPOA. The date on which sanctions relief under the JCPOA will commence is referred to as "Implementation Day." There is no set date for Implementation Day, as the date will be dependent upon Iran's actions. Prior to Implementation Day, the US will issue guidance related to the implementation of the sanctions relief provided for under the JCPOA.

The relief provided under the JPOA will continue through Implementation Day. Accordingly, during the period from January 20, 2014 through Implementation Day (the "JPOA Relief Period"), the US will continue to implement the limited JPOA relief as set out below. This JPOA sanctions relief is the only Iran-related sanctions relief that will be in effect until Implementation Day.

The Department of Treasury clarified that the suspension of sanctions pursuant to the JPOA applies only to activities that are initiated and completed entirely within the JPOA Relief Period, but that as a general matter, the sanctions relief that will be provided following Implementation Day is of a broader scope than that provided during the JPOA Relief Period. Thus, to the extent activities initiated during the JPOA Relief Period extend beyond Implementation Day (with the exception of activities under specific licenses of limited duration), such activities will likely not give rise to sanctions exposure.

The United States and the European Union implemented the JPOA Relief Period with regulations and guidance that define the scope of sanctions relief. The provisions for US sanctions relief are not identical to those implemented by the EU, so caution must be exercised. Transactions that are authorized from an EU perspective still may be subject to US sanctions. Further, with the exception of civil aviation activities and humanitarian channel, none the sanctions relief may involve a US person, or as applicable, a foreign entity owned or controlled by a US person.

For what period are certain sanctions suspended?

All commercial activities permitted under the temporary sanction relief must be initiated and fully completed by Implementation Day (the "JPOA Relief Period"). This includes all payments, delivery, or associated services provided in connection with the transaction. Though activities that extend beyond Implementation Day are likely to be authorized since the sanctions-relief post-Implementation Day are expected to be broader.

What sanctions are temporarily suspended?

As further discussed below, the temporary sanctions relief focuses on a limited number of commercial activities and associated services related to

- (1) Iran's exports of petrochemical products;
- (2) certain Iranian crude exports;
- (3) Iran's purchase and sale of gold and precious metals;
- (4) the provision of goods and services to Iran's automotive sector;
- (5) the licensing of safety-of-flight inspections and repairs for Iranian civil aviation; and
- (6) new channels for humanitarian aid.

All US sanctions not explicitly waived or suspended during the JPOA Relief Period remain fully in force, including sanctions on transactions with individuals on the SDN List unless otherwise specified. Furthermore, US persons and foreign entities owned or controlled by US persons continue to be generally prohibited from conducting transactions with Iran, including any transactions of the types permitted pursuant to the JPOA.

Petrochemical Products

During the JPOA Relief Period, non-US persons who are not otherwise subject to the Iranian Transactions and Sanctions Regulations ("ITSR") are not subject to sanctions for the purchase of petrochemical products from Iran. This includes the provision of associated services, including insurance, transportation, and financial services, by non-US persons.

However, such transactions may not involve persons on the SDN List with two exceptions:

(1) Iranian depository institutions identified solely with the "[IRAN]" tag on the SDN List ("non-designated Iranian banks"); and

(2) the following 14 entities:

- Bandar Imam Petrochemical Company
- Bou Ali Sina Petrochemical Company
- Ghaed Bassir Petrochemical Products Company
- Iran Petrochemical Commercial Company
- Jam Petrochemical Company
- Marjan Petrochemical Company
- Mobin Petrochemical Company
- National Petrochemical Company
- Nouri Petrochemical Company
- Pars Petrochemical Company
- Sadaf Petrochemical Assaluyeh Company
- Shahid Tondgooyan Petrochemical Company
- Shazand Petrochemical Company
- Tabriz Petrochemical Company

Apart from the two categories of SDNs noted above, it is still sanctionable to engage in transactions for the purchase of Iranian petrochemical products and associated services with persons on the SDN List. For example, transactions for the purchase of Iranian petrochemical products that involve designated Iranian banks remain sanctionable under US law, as do petrochemical product transactions involving the Islamic Republic of Iran Shipping Lines (IRISL) or the National Iranian Tanker Company (NITC).

While non-US persons may engage in the purchase of petrochemical products and associated services during the JPOA Relief Period, other activities, such as the making of investments or the sale, lease, or provision of support, goods, technology, or services that significantly contribute to the production of petrochemical products, remain sanctionable.

Iranian Crude Exports

Under the JPOA, the United States will “pause efforts to further reduce Iran’s crude oil sales, enabling Iran’s current customers to purchase their current average amounts of crude oil.” It will also enable the repatriation of an agreed amount of revenue held abroad. For such oil sales, the United States will “suspend US sanctions on associated insurance and transportation services.” To implement this provision of the JPOA, the US government has taken steps to allow for China, India, Japan, the Republic of Korea, Taiwan, and Turkey to maintain their current average level of imports from Iran during the JPOA Relief Period and to render non-sanctionable a limited number of transactions for the release in instalments of an agreed amount of revenue to Iran for receipt at participating foreign financial institutions in selected jurisdictions.

Accordingly, US sanctions are temporarily suspended for the provision of associated insurance and transportation services by non-US persons to the extent necessary to facilitate the purchase of crude oil at current levels to the above jurisdictions. However, any transactions related to these services must

- (1) be initiated and completed entirely within the JPOA Relief Period;
- (2) not involve SDNS, other than the National Iranian Oil Company (NIOC) or the National Iranian Tanker Company (NITC); and
- (3) not involve US persons or entities owned or controlled by US persons; and
- (4) not involve export to any jurisdiction other than China, India, Japan, Republic of Korea, Turkey, and Taiwan.

Note that US sanctions also remain in place for:

- Investing in the development of Iran’s petroleum resources;
- Providing significant goods or services used in connection with the energy sector of Iran;
- Providing refined petroleum to Iran; and
- Engaging in a significant transaction for the purchase, acquisition, sale, transport, or marketing of petroleum products from Iran.

Other Categories of Sanction Relief

The JPOA also provides for the temporary suspension of US sanctions with regard to the following:

- **Gold and Other Precious Metals:**

During the JPOA Relief Period, the United States is suspending sanctions with respect to transactions by non-US persons for the sale, supply, or transfer to or from Iran of gold and other precious metals. US sanctions are also suspended on the provision of associated services, including insurance, transportation, and financial services, by non-US persons in connection with such transactions provided that any transactions related to these services are initiated and completed entirely within the JPOA period. Note that the sanctions relief does not permit transactions for the sale of precious metals to Iran involving Iranian funds held in restricted overseas accounts (“Restricted Funds”). Furthermore, transactions with entities on the SDN List remain sanctionable, with the exception of non-designated Iranian banks and Government of Iran entities not designated under any other US sanctions program (i.e., identified solely with the “[IRAN]” tag on the SDN List).

- **Auto Industry:**

During the JPOA Relief Period, the United States is suspending sanctions on transactions by non-US persons for the sale, supply, or transfer to Iran of significant goods or services used in connection with the Iranian automotive sector, including the sale of complete knock-down kits (CKDs), provided that the transactions are initiated and completed entirely within the JPOA period. US sanctions are also suspended for the provision of associated services, including insurance, transportation, and financial services, and warranty and maintenance services by non-US persons in connection with such transactions. US sanctions relief with respect to Iran’s automotive sector does not extend to any transactions with persons on the SDN List, except non-designated Iranian banks. As under the other elements of the sanctions relief, transactions related to Iran’s automotive sector that involve designated Iranian banks remain sanctionable under US law.

- **Civil Aviation:**

During the JPOA Relief Period, the United States is adopting a licensing policy to permit the supply and installation of spare parts necessary for the safety of flight of Iranian civil aviation, for safety-related inspections and repairs in Iran, and for associated services, provided that OFAC has issued any required licenses and the transactions are initiated and completed entirely within the JPOA period. Interested parties should reference OFAC’s new Statement of Licensing Policy on Activities Related to the Safety of Iran’s Civil Aviation Industry.

- **Facilitation of Humanitarian and Certain Other Transactions:**

The JPOA provides for the establishment of “a financial channel to facilitate humanitarian trade for Iran’s domestic needs using Iranian oil revenues held abroad. Humanitarian trade [is] defined as transactions involving food and agricultural products, medicine, medical devices, and medical expenses incurred abroad. This channel could also enable transactions required to pay Iran’s UN obligations...and direct tuition payments to universities and colleges for Iranian students studying abroad.” Note that transactions for the export of food, agricultural commodities, medicine, and medical devices to Iran are not required to be processed through this new mechanism.

RECOMMENDED CHARTERPARTY CLAUSE

For owner members, in order to safeguard their interests vis a vis their Charterers and minimise the risk they will become exposed to sanctions, The Club recommends, if possible, agreeing a wide-ranging warranty by which Charterers agree that their orders will not breach any applicable sanctions. The following clause, for example, is very wide-ranging:

Quote

Charterers warrant that no voyage, shipment, carriage, sub-charter and/or operation, including the provision, stem and use of bunkers to and by the Vessel, will expose (i) the Vessel and/or (ii) Owners and/or (iii) Owners' affiliates, subsidiaries, servants, agents, employees, managers, crew and/or Master and/or (iv) the Vessel's insurers or their reinsurers and/or (v) vessels (and/or their owners) under the same management as the Vessel and/or (vi) third party contractors and/or (vii) any entity directly or indirectly related to Owners to any sanction or prohibition imposed by any State, Supranational or International Governmental Organisation (including but not limited to the United States of America, the European Union and the United Nations).

Charterers warrant that no voyage, shipment, carriage, sub-charter and/or operation, including the provision, stem and use of bunkers to and by the Vessel, will be unlawful under and/or in breach of any law or regulation of any applicable State, Supranational or International Governmental Organisation (including but not limited to the United States of America, the European Union and the United Nations).

Should the vessel become arrested or detained in Iran for whatever reason charterers warrant to provide security to release the vessel and all time losses shall be for charterer account. Charterers shall indemnify owners and hold owners harmless for any losses, claims and liabilities of whatsoever nature that owners will suffer as a direct or indirect result of any sanction or prohibition imposed by any State, Supranational or International Governmental Organisation (including but not limited to the United States of America, the European Union and the United Nations).

Unquote

Legal advice should be obtained to ensure that any proposed clause is appropriate for the particular circumstances and in line with all other contract terms.