

KIRKLAND ALERT

January 2014

Temporary Suspension of Iran Sanctions Is Limited and Leaves in Place Sanctions that Apply to U.S. Persons

Introduction

The January 20, 2014 temporary suspension announced by U.S. officials of some of the more recent sanctions targeting business by non-U.S. companies and persons with Iran leaves in place sanctions that apply to U.S. persons and their owned or controlled non-U.S. affiliates, as well as sanctions targeting many important sectors of Iran's economy. Accordingly, for U.S. companies and their owned or controlled non-U.S. affiliates, the Iran sanctions landscape has not changed. Non-U.S. affiliated companies that are now contemplating activities in Iran should first assess whether such activities could run afoul of the many remaining Iran sanctions, as well as the inherent risks in engaging in business pursuant to a change in sanctions that is "temporary" and may be revoked at any time.

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Temporary Suspension of U.S. Sanctions on Iran

In exchange for Iran's commitment to place meaningful limits on its nuclear program, on January 20, 2014, the U.S. government temporarily suspended certain sanctions targeting Iran for a six-month period ending July 20, 2014 (the "Suspension Period"). The temporary suspension, which was implemented pursuant to a November 24, 2013 Joint Plan of Action ("JPOA") between the United States, the United Kingdom, Germany, France, Russia, China and Iran, aims to halt and reverse Iran's progress on its nuclear program. The U.S. government indicated that the suspension of sanctions may be revoked at any time if Iran fails to satisfy its commitments under the JPOA.

During the Suspension Period, the U.S. government will not impose certain of its more recent sanctions on non-U.S. persons that engage in certain activities or provide associated services¹ relating generally to: (i) exports of petrochemical products from Iran; (ii) Iran's purchase or sale of gold or other precious metals (provided that the funds for such purchases are not drawn from certain restricted funds²); (iii) the sale, supply or transfer to Iran of goods or services used in connection with Iran's automotive sector; (iv) the supply and installation in Iran of spare parts for safety of flight for Iranian civil aviation;³ or (v) exports of petroleum and petroleum products from Iran to China, India, Japan, the Republic of Korea, Taiwan or Turkey. Sanctions also are temporarily lifted for non-U.S. financial institutions that conduct or facilitate transactions relating to the above-referenced activities and services.⁴ To be exempt from these more recent U.S. sanctions targeting non-U.S. persons, such ac-

tivities and services must be initiated *and completed* within the Suspension Period. With certain limited exceptions, sanctions are not suspended with respect to transactions involving parties designated on the List of Specially Designated Nationals and Blocked Persons maintained by the U.S. Department of the Treasury, Office of Foreign Assets Control (“OFAC”).

As part of the temporary suspension of sanctions, the U.S. government also announced that it is working to establish mechanisms to further facilitate, among other humanitarian activities, the purchase of, and payment for, the export of food, agricultural commodities, medicine and medical devices to Iran.

Remaining U.S. Sanctions on Iran

Despite the temporary suspension of U.S. sanctions on Iran, many U.S. sanctions targeting Iran, including sanctions relating to the purchase of Iranian crude oil and investment in Iran’s energy and petrochemical sectors, remain in place. In addition, U.S. persons and their owned or controlled non-U.S. affiliates remain subject to the same prohibitions as have previously existed on engaging in transactions with, in, involving or relating to Iran.

Further, the U.S. government emphasized that it will continue to enforce sanctions on Iran not subject to the above-described temporary suspension, including by taking action against those who seek to evade or circumvent such sanctions and activities that: (i) occurred prior to January 20, 2014; (ii) occur during the Suspension Period if such activities are materially inconsistent with the sanctions relief set forth in the JPOA; and (iii) occur before and during the Suspension Period under other sanctions authorities, such as those used to combat terrorism and the proliferation of weapons of mass destruction.

Companies should continue to remain diligent and well-informed about U.S. sanctions targeting Iran in view of the temporary, limited, and reversible nature of the recent suspension of U.S. sanctions, in order to adequately mitigate the significant risks that remain.

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- ¹ “Associated services” mean any necessary service, including any insurance, transportation, or financial service, ordinarily incident to the underlying activities directly covered by the JPOA.
 - ² Such funds include: (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.
 - ³ In addition, OFAC issued a new Statement of Licensing Policy (“SLP”) covering certain activities related to the safety of Iran’s civil aviation industry. The SLP establishes, during the Suspension Period, a favorable licensing policy regime under which U.S. persons, non-U.S. entities owned or controlled by U.S. persons, and non-U.S. persons involved in the export of U.S.-origin goods can request specific authorization from OFAC to engage in transactions initiated and completed within the Suspension Period to ensure the safe operation of Iranian commercial passenger aircraft, including transactions involving Iran Air. See http://www.treasury.gov/resource-center/sanctions/Programs/Documents/civil_aviation_slp_iran.pdf.

⁴ OFAC published guidance and a set of Frequently Asked Questions (“FAQs”) relating to the temporarily suspended sanctions on its website - http://www.treasury.gov/resource-center/sanctions/Programs/Documents/jpoa_guidance.pdf and http://www.treasury.gov/resource-center/sanctions/Programs/Documents/jpoa_faqs.pdf. Additional details relating to the specific persons/activities that will not be sanctioned are described in that guidance and the FAQs.

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