

Iran Sanctions

Recent developments in the UN, USA and EU

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1. UN

Overview of UNSCR 1929

On June 9, 2010, the United Nations Security Council passed Resolution 1929 (UNSCR 1929), available at <http://www.un.org/News/Press/docs/2010/sc9948.doc.htm>

The Resolution expands existing sanctions on Iran by:

- identifying additional persons (individuals and entities) subject to an asset freeze;
- identifying additional persons subject to a travel ban;
- banning the provision of financial services (including insurance and reinsurance) to Iran in certain cases;
- banning the sale or transfer of specified equipment and related services and technical data;
- calling for inspections of cargo to and from Iran where there is a reason to believe the cargo contains prohibited material;
- banning bunkering services to vessels owned by or contracted to, Iranian persons, where the vessels are transporting prohibited cargo; and
- prohibiting Iran from acquiring any commercial interest in uranium “mining, production or use of nuclear materials” and specified technology.

To monitor UN members’ compliance with this Resolution, the Security Council has also established a panel of up to eight experts. The panel will collect and review reports, due by August 8, from members detailing how they have implemented their obligations under UNSCR 1929.

Detailed Summary of UNSCR 1929

Asset Freeze

UNSCR 1929 calls on States to freeze the funds, financial assets and economic resources of:

- Persons designated in Annex I (see below) to the Resolution because of their involvement in Iran’s nuclear or ballistic missile activities;
- The Islamic Revolutionary Guard Corps;
- Persons acting for, or at the direction of, persons identified in Annex I (see below) to the Resolution or the Islamic Revolutionary Guard Corps;





- Any persons the Council identifies as having assisted designated persons in evading or violating Resolutions 1737 (2006), 1747 (2007), 1803 (2008) or 1929 (2010); and
- *First East Export Bank, P.L.C.*, (designated a subsidiary of Bank Mellat) *Irano Hind Shipping Company*, *IRISL Benelux NV* and *South Shipping Line Iran (SSL)* (designated subsidiaries of IRISL).

Travel Ban

UNSCR 1929 also imposes a travel ban on persons identified in Annexes I and II (see below) of the Resolution and in Resolutions 1737 (2006), 1747 (2007) and 1803 (2008), given concern over participation by these persons in Iran's nuclear or ballistic missile programs.

Financial Services Ban

UNSCR 1929 restricts Iran's use of the international financial system to fund proliferation and nuclear activities. Specifically, it calls upon States to:

- Prevent the provision of financial services (including insurance or re-insurance) or the transfer to, through, or from their territory, or to or by their nationals or entities organized under their laws (including branches abroad) of any financial or other assets or resources, including by freezing any financial or other assets or resources in their territories or that come within their territories;
- Prohibit Iranian banks from establishing new joint ventures, taking an ownership interest in or establishing or maintaining correspondent relationships with banks in their jurisdiction; and
- Prohibit financial institutions within their territories from opening representative offices or subsidiaries or banking accounts in Iran.

All these prohibitions, however, are conditioned upon reasonable grounds for believing that the targeted activity could contribute to Iran's proliferation-sensitive nuclear activities.

Export Ban: Equipment and Related Services and Technical Data

As an expansion of the export ban established in Resolution 1737 (2006) (which called on States to prevent the supply, sale or transfer to Iran of goods and technology that would contribute to enrichment-related, reprocessing or heavy water-related activities and the development of nuclear weapon delivery systems) the new Resolution calls on Member States to prevent:

- The sale or transfer to Iran of battle tanks, armored combat vehicles, large caliber artillery systems, combat aircraft, attack helicopters, warships, missiles or missile systems;
- The sale or transfer to Iran of material related to the above, including spare parts;
- The transfer to Iran of technical training, financial resources or services, advice, other services or assistance related to the supply, sale, transfer, provision, manufacture, maintenance or use of such arms or related materiel; and
- The transfer to Iran of technology or technical assistance related to ballistic missiles capable of delivering nuclear weapons.

Inspections of Cargo



To enforce the export restrictions listed above, UNSCR 1929 calls for the inspection of cargo to and from Iran where States have information that provides reasonable grounds to believe the cargo contains items prohibited by Resolutions 1737, 1747 or 1803. Such items include those which relate to Iran's enrichment-related reprocessing or heavy water-related activities, and the development of nuclear weapon delivery systems, arms and related material, or nuclear related dual-use material.

The Resolution also authorizes States to seize and dispose of prohibited cargo identified during authorized inspections.

Bunkering

To further enforce the export ban, UNSCR 1929 calls on States to prohibit the provision of bunkering services by their nationals or from their territory, including the provision of fuel or supplies, or other servicing of vessels, to Iranian-owned or Iranian-contracted vessels, including chartered vessels, where there is reason to believe that the cargo is prohibited by specified sections of Resolutions 1737, 1747 or 1803.

Interests in Uranium Mining or Production or Use of Nuclear Materials

UNSCR 1929 also calls on States to prohibit any Iranian investment (Iranian investment includes investment by Iran, Iranian nationals, entities incorporated in Iran or subject to its jurisdiction, persons or entities acting on their behalf or at their direction, or entities owned or controlled by any of the above) within their jurisdictions relating to uranium mining, production or use of nuclear materials and technology, including uranium-enrichment and reprocessing activities, all heavy-water activities or technology related to ballistic missiles capable of delivering nuclear weapons.

Annex I to UNSCR 1929 - Individuals and entities involved in nuclear or ballistic missile activities

Amin Industrial Complex
Armament Industries Group
Defense Technology and Science Research Center
Doostan International Company
Farasakht Industries
First East Export Bank, P.L.C
Kaveh Cutting Tools Company
M. Babaie Industries
Malek Ashtar University
Ministry of Defense Logistics Export
Mizan Machinery Manufacturing
Modern Industries Technique Company
Nuclear Research Center for Agriculture and Medicine
Pejman Industrial Services Corporation
Sabalan Company
Sahand Aluminum Parts Industrial Company (SAPICO)
Shahid Karrazi Industries
Shahid Satarri Industries
Shahid Sayyade Shirazi Industries
Special Industries Group
Tiz Pars



Yazd Metallurgy Industries
Javad Rahiqi

Annex II to UNSCR 1929 - Entities owned, controlled, or acting on behalf of the Islamic Revolutionary Guard Corps

Fater (or Faater) Institute
Gharagahe Sazandegi Ghaem
Ghorb Karbala
Ghorb Nooh
Hara Company
Imensazan Consultant Engineers Institute
Khatam al-Anbiya Construction Headquarters
Makin
Omran Sahel
Oriental Oil Kish
Rah Sahel
Rahab Engineering Institute
Sahel Consultant Engineers
Sepanir
Sepasad Engineering Company

2. USA

OFAC's Final Rule – Amending the Iranian Transactions regulations (16th June, 2010)

On June 16, 2010, the Office of Foreign Assets Control ("OFAC") issued a final rule amending the Iranian Transactions Regulations (the "ITR"), to expand the scope of Appendix A to Part 560 to encompass any person determined by OFAC to be the "Government of Iran," as the term is defined in the ITR. The final rule also adds to the appendix 22 persons OFAC has determined to be the "Government of Iran" and reformats and republishes in alphabetical order the entire list of persons in the expanded appendix. The following entities have been added:

Bimeh Iran Insurance Company (U.K.) Limited
Iran Insurance Company
Intra Chem Trading GmbH
Iran Petrochemical Commercial Company
Iranian Oil Company (U.K.) Limited
Kala Limited
Kala Pension Trust Limited
MSP Kala Naft Co. Tehran
Naftiran Trading Services Co. (NTS) Limited
National Iranian Oil Company Pte Ltd
National Petrochemical Company
NICO Engineering Limited
NIOC International Affairs (London) Limited
NPC International Limited



P.C.C. (Singapore) Private Limited
Petrochemical Commercial Company International Limited
Petrochemical Commercial Company FZE
Petrochemical Commercial Company (U.K.) Limited
Petroiran Development Company (PEDCO) Limited
Petropars International FZE
Petropars Ltd
Petropars UK Limited.

The Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (“CISADA”).

CISADA amends the Iran sanctions Act (“ISA”) to create additional categories of activities that could subject non U.S. firms to sanctions, and it creates new types of sanctions that can be imposed on such firms. The new activities subject to sanctions include those that support the production of refined petroleum products in Iran and the importation of refined petroleum products into Iran. Also targeted are foreign financial institutions that facilitate Iran's nuclear program, its support for terrorism, or the activities of Iran's Islamic Revolutionary Guard Corps.

The Implications

While U.S. companies have long been significantly restricted as to activities in Iran; the new restrictions could affect their operations through non-U.S. subsidiaries or affiliates and non-U.S. business partners and competitors. The legislation categorizes additional activities as sanctionable, adds new types of sanctions, mandates investigations into credible reports of sanctionable activity, and constrains the President's authority to waive sanctions.

Further information concerning the new legislation

The ISA applies to any person, including non-U.S. persons, but primarily targets non-U.S. persons because U.S. persons are already prohibited from investing or trading with Iran under other U.S. economic sanctions programs. Under the ISA, sanctions are imposed if an investigation concludes that prohibited activity occurred. The President, however, can waive the sanctions and in fact has done so in the past.

The Comprehensive Iran Sanctions, Accountability, and Divestment Act (the "Amendments") creates additional categories of sanctionable activity and new types of sanctions.

Activity subject to sanctions

Prior to the Amendments, the ISA targeted investments of US\$20 million or more "that directly and significantly contributed to the enhancement of Iran's ability to develop petroleum resources of Iran." Now, the ISA potentially sanctions persons that "knowingly" engage in activities that could "directly and significantly" facilitate



or contribute to Iran's domestic production of refined petroleum products or ability to import such products, if such activities exceed US\$1 million or more or an aggregate fair market value of US\$5 million or more in a 12-month period. Specifically, the Amendments potentially sanction the sale, lease, or provision to Iran of:

"goods, services, technology, information, or support that could directly and significantly facilitate the maintenance or expansion of Iran's domestic production of refined petroleum products, including any direct and significant assistance with respect to the construction, modernization, or repair of petroleum refineries"; and

refined petroleum products or "goods, services, technology, information, or support that could directly and significantly contribute to the enhancement of Iran's ability to import refined petroleum products," including activities such as underwriting, insuring, reinsuring, financing, brokering, or providing ships or shipping services.

There is an exception for underwriters and insurance providers who exercise due diligence to ensure that they do not underwrite or contract to insure or reinsure prohibited activities.

Investigations

Until now, the ISA has directed that the President "should initiate" an investigation upon receiving credible information about violations and "should determine" if a person has engaged in the prohibited investment activity within 180 days of the initiation of the investigation. Going forward, the ISA requires that the President "shall initiate" an investigation and then "shall" make a determination.

Menu of sanctions

If the President determines that a person engaged in specified activities is subject to sanctions, the President must select from a menu of sanctions, absent a Presidential waiver. The ISA previously required the President to impose at least two of the following six sanctions:

- Denial of Export-Import Bank loans, credits or guarantees;
- Denial of licenses to export military or militarily useful technology;
- Prohibition on U.S. financial institutions making loans or providing credit of more than US\$10 million in any twelve-month period (with minor exceptions);
- Prohibition on obtaining U.S. Government procurement contracts;
- Restrictions on imports into the United States; and
- If the violator is a financial institution, prohibition on being designated as a primary dealer in U.S. Government debt and/or prohibition on acting as an agent for U.S. Government funds.



The Amendments add three new sanctions to this menu and require the President to select at least three of the nine sanctions now available. The new sanctions options would prohibit:

- Foreign exchange transactions in the United States;
- Transfer of credits or payments by financial institutions in the United States; and
- Dealings in property in the United States.

Waiver authority

The Amendments both narrow and broaden the President's waiver authority. Since the ISA was enacted, no President has imposed sanctions and President Clinton exercised his discretion to waive such sanctions in one instance. The law required the President to certify that a waiver was "important to the national interest of the United States." Going forward, the standard for waiver is higher: the President must certify that a waiver is "necessary to the national interest."

The Amendments provide an additional avenue for waiver in certain circumstance, however. The President may waive sanctions with respect to persons from countries that cooperate in multilateral efforts concerning Iran. For up to 12 months (renewable under certain circumstances), the President may waive the imposition of sanctions if the government with primary jurisdiction over the person subject to sanctions "is closely cooperating with the United States in multilateral efforts to prevent Iran" from acquiring or developing chemical, biological, nuclear, or certain advanced conventional weapons and if doing so is "vital to the national security interests." It is contemplated that this waiver authority permits the President to waive sanctions against EU firms, and firms from other countries that have cooperated with U.S. efforts vis-a-vis Iran.

Expanded definitions of person and petroleum resources

The Amendments expand the definition of "person" to include financial institutions, insurers, underwriters, guarantors, and other business organizations. "Petroleum resources" is now defined to include "petroleum, refined petroleum products, oil or liquefied natural gas, natural gas resources, oil or liquefied natural gas tankers, and products used to construct or maintain pipelines used to transport oil or liquefied natural gas."

Potential restrictions on government Procurement

The Amendments require prospective government contractors to certify that they do not engage in any of the above-described energy sector activities subject to sanctions. Contractors that submit false certifications are subject to debarment. Effectively, this requires foreign companies to cease such sanctionable activities in order to remain eligible for government contracts. The Amendments also prohibit federal procurement contracts with persons that export technology to Iran that is intended to restrict free speech in Iran.



Effective date

The Amendments take effect immediately. The Amendments provide a one-year grace period for the launching of investigations of persons engaging in activities related to the production or importation of refined petroleum products, however. Such persons are subject to investigation only for sanctionable activities that commence on the one-year anniversary date of the Amendment's enactment, or thereafter.

Financial institutions

The foreign subsidiaries of domestic financial institutions are barred from knowingly engaging in transactions that benefit Iran's Revolutionary Guard Corps or its agents or affiliates whose property is blocked pursuant to the International Emergency Economic Powers Act. If a foreign subsidiary engages in such prohibited activities, and the domestic parent has knowledge of such infractions, the parent company itself may be subject to civil and criminal penalties.

Foreign financial institutions may not maintain correspondent and payable-through accounts in the United States if such institutions:

- Have engaged in activities that facilitate the Government of Iran (including Iran's Revolutionary Guard Corps and its agents), the Central Bank of Iran, other Iranian financial institutions, or UN-sanctioned persons in developing weapons of mass destruction or supporting foreign terrorist organization; or
- Have facilitated significant transactions or provided significant financial services for Iran's Revolutionary Guard Corps or Iranian financial institutions sanctioned under the International Emergency Economic Powers Act in connection with weapons of mass destruction or support for international terrorism.
- In turn, domestic financial institutions that maintain correspondent and payable-through accounts for foreign financial institutions must:
- Perform an audit of prohibited activities (as identified in the two preceding paragraphs) that may be carried out by the foreign financial institution;
- Report to the Department of the Treasury regarding financial services provided with respect to prohibited activities;
- Certify that the foreign financial institution is not knowingly engaging in prohibited activities; and/or
- Establish due diligence policies, procedures, and controls to detect whether the Treasury Secretary has found the foreign financial institution to knowingly engage in prohibited activities.

With these provisions, the Amendments delegate a significant responsibility to domestic financial institutions in the implementation of the sanctions on foreign financial institutions.



3. EU

EU Council Decision of 26 July 2010

Overview

Following on from our Iran Sanctions Bulletin No. 2 of 6th July 2010 which examined recent US sanctions, we summarise new EU sanctions against Iran adopted on 26 July 2010. They severely impact those in the EU who are involved in trade, financial services, energy and transport.

What 26th July 2010 EU sanctions are binding today?

In short, Regulation (EU) No. 668/2010 of 26th July 2010, which adds various Iranian persons and entities to the list of parties whose funds and economic resources are required to be frozen, is binding today. Please see our Iran Sanctions Bulletin No. 4 which provides a detailed analysis.

What 26th July 2010 EU sanctions are not binding on UK persons and entities today?

The EU Council Decision of 26 July 2010 ("EU Council Decision") requires implementing legislation and is therefore only immediately effective against those to whom it is addressed - the Governments of the Member States. We understand the UK Treasury has confirmed that the EU Council Decision is not currently binding on individuals or companies in the UK and that implementation will likely take place in September 2010 at the earliest. In anticipation of implementation you are well advised to take steps now to reduce your risks and exposures. A summary is below:

1. Oil & Gas in Iran

What are the Prohibited Items?

Key equipment and technology for the oil and natural gas industry in Iran linked to

- refining;
- liquefied natural gas;
- exploration; and
- production.

What is Prohibited?

- to sell, supply, transfer, finance, provide technical assistance or training;
- to grant any financial loan or credit;
- to acquire or extend a participation in, including the acquisition in full of such enterprises and the acquisition of shares and securities of a participating nature; and
- to create any joint venture with enterprises in Iran and with any subsidiary or affiliate under their control.



The prohibition applies to the above sectors in Iran and also to Iranian or Iranian-owned enterprises engaged in such sectors outside Iran. In most cases these provisions are not retrospective and will not prevent the performance of pre existing contracts.

2. Iranian Investment in Member States

Investment in Member States by Iran, its nationals, or entities incorporated in Iran or subject to its jurisdiction, or by persons or entities acting on their behalf or at their direction, or by entities owned or controlled by them in any commercial activity involving uranium mining, production or use of nuclear materials and technology is prohibited.

3. Restrictions on Financial Support For Trade

Member States shall exercise restraint in entering into new short term commitments for the provision of public and private financial support for trade with Iran, including the granting of export credits, guarantees or insurance, to their nationals or entities involved in such trade. In addition, Member States shall not enter into new medium and long-term commitments for the provision of public and private financial support for trade with Iran. This shall not affect pre existing commitments.

4. Financial Assistance to the Iranian Government

Member States shall not enter into new commitments for grants, financial assistance and concessional loans to the Government of Iran, including through their participation in international financial institutions.

5. Enhanced Monitoring of Iranian Banks

Member States shall exercise enhanced monitoring over all the activities of financial institutions within their jurisdiction with banks domiciled in Iran, their branches and subsidiaries within and outside the jurisdiction of the Member States of banks domiciled in Iran and financial entities that are not domiciled in Iran, but are controlled by persons and entities domiciled in Iran.

Financial institutions shall be required, in their activities with such banks and financial institutions to:

- (a) exercise continuous vigilance over account activity including through their programmes on customer due diligence and under their obligations relating to money-laundering and financing of terrorism;
- (b) require that all information fields of payment instructions which relate to the originator and beneficiary of the transaction in question be completed; and if that information is not supplied, refuse the transaction;
- (c) maintain all records of transactions for a period of five years and make them available to national authorities on request;



(d) if they suspect or have reasonable grounds to suspect that funds are related to proliferation financing, promptly report their suspicions to the Financial Intelligence Unit (FIU) or another competent authority.

6. Authorisation prior to Transfer of Funds

Transfers of funds to and from Iran shall be processed as follows:

- any transfer above 40,000 Euros shall require the prior authorisation from the competent authority of the Member State concerned. The authorisation shall be deemed granted within four weeks unless the competent authority of the Member State concerned has objected within this time-limit; and
- any transfer above 10,000 Euros shall be notified to the competent authority of the Member State concerned.

7. Notification Requirements – Iranian Banks

Branches and subsidiaries of banks domiciled in Iran within the jurisdiction of the Member States shall also be required to notify the competent authority of the Member State where they are established, of all transfers of funds carried out or received by them, within five working days after carrying out or receiving the respective transfer of funds. Subject to information-sharing arrangements, notified competent authorities shall without delay transmit this data, as appropriate, to the competent authorities of other Member States, where the counterparts to such transactions are established.

8. New Bank Branches

The opening of new branches, subsidiaries, or representative offices of Iranian banks in the territories of Member States, and the establishment of new joint ventures, or the taking of an ownership interest, or the establishment of new correspondent banking relationships by Iranian banks, including the Central Bank of Iran, its branches and subsidiaries and other named financial entities, with banks in the jurisdiction of Member States, shall be prohibited. Financial institutions within the territories of Member States or under their jurisdiction shall be prohibited from opening representative offices, subsidiaries or banking accounts in Iran.

9. Insurance and Reinsurance

The provision of insurance and re-insurance to the Government of Iran, or to entities incorporated in Iran or subject to Iran's jurisdiction, or to any individuals or entities acting on their behalf or at their direction, or to entities owned or controlled by them, including through illicit means, is prohibited.



10. Public Bonds

The direct or indirect sale or purchase of, or brokering or assistance in the issuance of public or public-guaranteed bonds issued to and from the Government of Iran, the Central Bank of Iran, or other Iranian banks shall be prohibited.

11. Cargo and Vessel Inspection

Member States shall inspect, all cargo to and from Iran in their territories, including seaports and airports, or, may request inspections of vessels on the high seas with the consent of the flag State, if they have information that provides reasonable grounds to believe that the cargo or vessel contains items the supply, sale, transfer or export of which is prohibited. Member States shall seize and dispose of items at the expense of the importer or, if it is not possible to recover these expenses from the importer from any other person or entity responsible for the attempted illicit supply, sale, transfer or export.

12. Pre-Arrival and Pre-Departure Information for Aircraft And Vessels

Aircraft and vessels transporting cargo to and from Iran shall be subject to the requirement of additional pre-arrival or pre-departure information for all goods brought into or out of a Member State.

13. Bunkering and Ship Supply Services

The provision of bunkering or ship supply services, or other servicing of vessels, to Iranian- owned or -contracted vessels, including chartered vessels, shall be prohibited if information provides reasonable grounds to believe that the vessels carry items the supply, sale, transfer or export of which is prohibited.

14. Access to Airports for Cargo Flights

Member States, in accordance with their national legal authorities and legislation and consistent with international law, in particular relevant international civil aviation agreements, shall take the necessary measures to prevent access to the airports under their jurisdiction of all cargo flights operated by Iranian carriers or those originating from Iran with the exception of mixed passenger and cargo flights.

15. Engineering and Maintenance Services to Cargo Aircraft

The provision by nationals of Member States or from the territories of Member States, of engineering and maintenance services to Iranian cargo aircraft shall be prohibited if they have information that provides reasonable grounds to believe that the cargo aircraft carry items the supply, sale, transfer or export which is prohibited



16. Training

Member States shall prevent specialised teaching or training of Iranian nationals, within their territories or by their nationals, of disciplines which would contribute to Iran's proliferation-sensitive nuclear activities and development of nuclear weapon delivery systems.

17. Export and import restrictions of Prohibited Items

With certain exceptions, the Prohibited Items are:

- items, materials, equipment, goods and technology contained in the Nuclear Suppliers Group and Missile Technology Control Regime lists;
- named additional items, materials, equipment, goods and technology, which could contribute to enrichment-related, reprocessing or heavy water-related activities, or to the development of nuclear weapon delivery systems;
- arms and related material of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment and spare parts for such arms and related material, as well as equipment which might be used for internal repression;
- other dual-use goods and technology listed in Annex I to Council Regulation (EC) No 428/2009 of 5 May 2009 (except for category 5 - Part 1 and category 5 - Part 2).

What can Nationals of Member States not do in relation to Prohibited Items?

- supply, sell or transfer Prohibited Items to, or for the use in, or benefit of, Iran, or through the territories of Member States, or using their flag vessels or aircraft;
- provide technical assistance, training, investment, or brokering services;
- provide financing or financial assistance including in particular, grants, loans and export credit insurance; and
- participate knowingly or intentionally in activities the object or effect of which is to circumvent the prohibited activities set out above.

Important provisos:

For all Prohibited Items there may be an exception if the EU (or in the case of dual use goods which are Prohibited Items, the Member State) determines in advance and on a case by case basis that the items will “clearly not contribute” to the development of Iran’s technologies in support of its proliferation-sensitive nuclear activities and of development of nuclear weapon delivery systems and provided that:



- contracts for delivery of such items or assistance include appropriate end user guarantees; and
- Iran has committed not to use such items for nuclear related activities

Items subject to authorisation on case by case basis

In addition, items which are not Prohibited Items but which could nevertheless contribute to enrichment related, reprocessing or heavy water-related activities, to the development of nuclear weapon delivery systems or to the pursuit of activities related to other topics about which the IAEA has expressed concerns or identified as outstanding, shall be subject to authorisation on a case-by-case basis by the competent authorities of the exporting Member State. The EU shall take the necessary measures in order to determine the relevant items to be covered by this provision. Such items will for all intents and purposes be treated as if they are Prohibited Items but without benefitting from the provisos listed above.

REGULATION (EU) No 668/2010 of 26th July, 2010 (“Regulation”)

The Regulation adds various Iranian persons and entities to the list of parties whose funds and economic resources are required to be frozen. This Bulletin summarises the impact of the Regulation within the United Kingdom and is designed to provide guidance to those who have dealings with Bank Saderat PLC and Persia International Bank PLC.

WHO MUST COMPLY WITH THE REGULATION?

Any person in the United Kingdom or any person elsewhere who is:

- a British citizen, a British overseas territories citizen, a British Overseas citizen, a British subject, a British National (Overseas) or a British protected person; or
- a body incorporated or constituted under the law of any part of the United Kingdom.

Other EU citizens and entities will likely have to comply under regulations set out by their own Members State.

WHAT CAN YOU NOT DO?

Under the Iran (European Communities Financial Sanctions) Regulations 2007 (“the UK Iran Regulations”) it is a criminal offence for any person to:

- deal with funds and economic resources owned, held or controlled by a designated person; or
- make funds or economic resources available, directly or indirectly, to or for the benefit of a designated person.

WHO IS A DESIGNATED PERSON?

There are many individuals and entities named as designated persons. We detail below only those added on 26th July, 2010. Please contact us should you require a full list.



Individuals

1. DAVANDARI, Ali
2. FADAVI, Ali
3. FATAH, Parviz
4. MAHMOUDIAN, Fereydoun
5. MOKHBER, Mohammad
6. MOVASAGHNIA, Mohammad, Reza
7. NAQDI, Mohammad, Reza
8. PAKPUR, Mohammad
9. QASEMI, Rostam
10. SALAMI, Hossein

Entities

1. ARFA PAINT COMPANY
2. ARFEH COMPANY
3. ARIAN BANK
4. ARYA NIROO NIK
5. ASSA CORPORATION
6. ASSA CORPORATION LTD
7. AZARAB INDUSTRIES
8. BANCO INTERNACIONAL DE DESARROLLO CA
9. BANK KARGOSHAEE
10. BANK MELLAT
11. BANK MELLI IRAN INVESTMENT COMPANY (BMIIC)
12. BANK MELLI PRINTING AND PUBLISHING COMPANY (BMPPC)
13. BANK REFAH
14. BANK SADERAT IRAN
15. BANK SADERAT PLC
16. BANQUE SINA
17. BUSHEHR SHIPPING COMPANY LIMITED (TEHRAN)
18. CEMENT INVESTMENT AND DEVELOPMENT COMPANY (CIDCO)
19. CISCO SHIPPING COMPANY LTD
20. EDBI EXCHANGE COMPANY
21. EDBI STOCK BROKERAGE COMPANY
22. ESNICO (EQUIPMENT SUPPLIER FOR NUCLEAR INDUSTRIES CORPORATION)
23. ETEMAD AMIN INVEST CO MOBIN
24. EXPORT DEVELOPMENT BANK OF IRAN (EDBI)
25. FAJR AVIATION COMPOSITE INDUSTRIES
26. FARASEPEHR ENGINEERING COMPANY
27. FIRST PERSIAN EQUITY FUND
28. FULMEN
29. FUTURE BANK BSC
30. HAFIZE DARYA SHIPPING LINES (HDSL)
31. HANSEATIC TRADE TRUST & SHIPPING (HTTS) GMBH
32. HOSSEINI NEJAD TRADING CO.
33. INDUSTRIAL DEVELOPMENT & RENOVATION ORGANIZATION (IDRO)
34. IRAN AIRCRAFT INDUSTRIES (IACI)



35. IRAN AIRCRAFT MANUFACTURING COMPANY (IAMCO)
36. IRAN CENTRIFUGE TECHNOLOGY COMPANY (TSA OR TESA)
37. IRAN COMMUNICATIONS INDUSTRIES (ICI)
38. IRAN INSURANCE COMPANY
39. IRAN SAFFRON COMPANY
40. IRANIAN AVIATION INDUSTRIES ORGANIZATION (IAIO)
41. IRANO MISR SHIPPING COMPANY
42. IRGC QODS FORCE
43. IRGC-AIR FORCE AL GHADIR MISSILE COMMAND
44. IRINVESTSHIP LTD
45. IRISL (MALTA) LTD
46. IRISL (UK) LTD
47. IRISL CLUB
48. IRISL EUROPE GMBH
49. IRISL MARINE SERVICES AND ENGINEERING COMPANY
50. IRISL MULTIMODAL TRANSPORT COMPANY
51. IRITAL SHIPPING SRL
52. ISFAHAN OPTICS
53. ISI MARITIME LIMITED
54. ISLAMIC REPUBLIC OF IRAN SHIPPING LINES (IRISL)
55. ISLAMIC REVOLUTIONARY GUARD CORPS (IRGC)
56. JAVEDAN MEHR TOOS
57. KALA NAFT
58. KHAZER SHIPPING LINES
59. LEADMARINE
60. MACHINE SAZI ARAK
61. MARBLE SHIPPING LIMITED
62. MASNA (MOIERAT SAAKHT NIROOGAHYE ATOMI IRAN) MANAGING COMPANY FOR THE CONSTRUCTION OF NUCLEAR POWER PLANTS
63. MAZANDARAN CEMENT COMPANY
64. MAZANDARAN TEXTILE COMPANY
65. MEHR CAYMAN LTD
66. MELLAT BANK SB CJSC
67. MELLI AGROCHEMICAL COMPANY PJS
68. MELLI INVESTMENT HOLDING INTERNATIONAL
69. NASERIN VAHID
70. OASIS FREIGHT AGENCIES
71. PARTO SANAT CO
72. PASSIVE DEFENSE ORGANIZATION
73. PERSIA INTERNATIONAL BANK PLC
74. POST BANK
75. RAKA
76. RESEARCH INSTITUTE OF NUCLEAR SCIENCE & TECHNOLOGY
77. SAFIRAN PAYAM DARYA SHIPPING LINES (SAPID)
78. SANTEXLINES
79. SCHILLER NOVIN
80. SEPANIR OIL AND GAS ENERGY ENGINEERING COMPANY
81. SHAHID AHMAD KAZEMI INDUSTRIAL GROUP (SAKIG)



- 82. SHAKHESE BEHBUD SANAT
- 83. SHETAB G.
- 84. SHETAB GAMAN
- 85. SHETAB TRADING
- 86. SHIPPING COMPUTER SERVICES COMPANY (SCSCOL)
- 87. SHOMAL CEMENT COMPANY
- 88. SOROUGH SARAMIN ASATIR (SSA)
- 89. SOUTH WAY SHIPPING AGENCY CO LTD
- 90. TECHNOLOGY COOPERATION OFFICE (TCO) OF THE IRANIAN PRESIDENT'S OFFICE
- 91. VALFAJR 8TH SHIPPING LINE CO.
- 92. Y.A.S. CO. LTD
- 93. YASA PART

WHAT DOES “DEAL WITH” MEAN?

We cannot “deal with” funds and economic resources owned, held or controlled by a designated person. In this context, “deal with” means:

in respect of funds-

- use, alter, move, allow access to or transfer;
- deal with in any other way that would result in any change in volume, amount, location, ownership, possession, character or destination; or
- make any other change that would enable use, including portfolio management; and

in respect of economic resources-

- use to obtain funds, goods or services in any way, including (but not limited to) by selling, hiring or mortgaging the resources.

A person is guilty of an offence if he participates, knowingly and intentionally, in activities the object or effect of which is, directly or indirectly, to circumvent, alternatively enable or facilitate the commission of an offence of the above prohibitions.

INTERNATIONAL TRADE

Importantly for those involved in international trade, "funds" and "economic resources" are broadly defined and include bills of lading and rights of set off.

There is a risk that if a shipper or subsequent consignee receives or transfers to its buyer a bill of lading issued by a vessel that is owned or controlled by a designated person then this may be considered as breaching the requirement to freeze funds and could expose the shipper or consignee to penalties.

You will note that IRISL, its subsidiaries and a number of entities related to IRISL have been added to the list of designated persons although certain subsidiaries of IRISL were already on the list. However, the freezing of economic resources of designated IRISL entities does not require the impounding or detention of vessels owned by such entities or the cargoes carried by them insofar as such cargoes belong to third parties.



REPORTING

Additionally, all financial institutions and other bodies and persons in the UK must check whether they maintain any accounts or otherwise hold any funds for Bank Saderat Iran, Bank Saderat PLC or Persia International Bank Plc and, if so, they should report to the Treasury details of all funds or economic resources that they have frozen.

BANK SADERAT PLC AND PERSIA INTERNATIONAL BANK / EXEMPTIONS TO THE ASSET FREEZE

Payments from a person to Bank Saderat PLC or Persia International Bank Plc under contracts concluded before 27 July 2010

- The asset freeze does not apply to payments due under a contract, agreement or obligation which was concluded or arose before the date of designation if payment is made into a frozen account.
- Payment must be made into a frozen account with a relevant institution which is held or controlled by a designated person. A relevant institution is defined in regulation 2 of the UK Iran Regulations.
- If your payment fits into this category you do not need to apply to the Treasury for a licence.

Financial institutions crediting frozen accounts

Article 11 of Regulation 423/2007 states that the prohibition on making funds or economic resources available directly or indirectly to or for the benefit of designated persons:

- shall not prevent financial or credit institutions in the Community from crediting frozen accounts where they receive funds transferred by third parties to the account of a designated person provided that any such additions to those accounts are also frozen; and
- does not apply to interest or other earnings on frozen accounts provided that such interest or other earnings are also frozen.

LICENCES – BANK SADERAT PLC AND PERSIA INTERNATIONAL BANK PLC

- HM Treasury are able to grant licences to exempt payments from the asset freeze, allowing payments to and from Bank Saderat PLC and Persia International Bank Plc in certain circumstances, as follows:



Payments due from Bank Saderat PLC and Persia International Bank Plc under contracts concluded before 27 July 2010

- Payments from Bank Saderat PLC or Persia International Bank Plc under a contract, agreement or obligation concluded before 27 July 2010 (a prior contract) may be made if licensed by HM Treasury. HM Treasury may grant a licence as set out in Article 9 of Regulation 423/2007 once they have determined that:
 - i. the funds or economic resources shall be used for a payment by a designated person;
 - ii. the contract, agreement or obligation will not contribute to the manufacture, sale, purchase, transfer export, import, transport or use of goods and technology listed in Annexes I and II of Regulation 423/2007 (proliferation-sensitive nuclear activities); and
 - iii. the payment is not made available, directly or indirectly, to or for the benefit of a designated person.

Payments are therefore subject to a vetting procedure before a licence can be granted.

The main categories of payments that fall within the prior contracts exemption are set out below.

Payments due to depositors with Bank Saderat PLC or Persia International Bank Plc

HM Treasury are notifying the European Commission that they intend to issue Bank Saderat PLC and Persia International Bank Plc with a licence to make payments to depositors. HM Treasury will be liaising with Bank Saderat PLC and Persia International Bank Plc as to the procedure to be put in place for those depositors who may wish to make withdrawals from their accounts. A further notice will likely be issued by HM Treasury in the next few days.

Payments due from Bank Saderat PLC or Persia International Bank Plc under letters of credit or other trade finance transactions

HM Treasury are notifying the European Commission that they intend to allow payments under prior contracts, including letters of credit, where HM Treasury are satisfied that certain conditions are met.

- Applications for payment from persons holding a letter of credit with Bank Saderat PLC, should be made to HM Treasury using the their pro forma application form.



- Applications for payment from persons holding a letter of credit with Persia International Bank Plc, including its Dubai branch, should be made to HM Treasury using their pro forma application form.

Should you require copies of the form, please contact us.

HM Treasury intend to prioritise letters of credit under which payment has become, or is shortly to become, due. You may wish to alert the Asset Freezing Unit if your payment is urgent. Once an application form and supporting documents have been reviewed, further information may be required on a case-by-case basis from the relevant parties.

It is not an offence to present Bank Saderat PLC or Persia International Bank Plc with a letter of credit, bill of lading, bill of sale, document providing evidence of an interest in funds or financial resources or any other instrument of export financing relating to a contract entered into before 27 July 2010. It is the payment out under the letter of credit that requires the licence.

LICENCES – BANK SADERAT IRAN

HM Treasury are able to grant licences to exempt payments from the asset freeze, allowing payments to and from Bank Saderat Iran in certain circumstances, as follows:

Payments due from Bank Saderat Iran under letters of credit

Applications for payment from persons holding a letter of credit issued by Bank Saderat Iran before 27 July 2010 should be made to HM Treasury using their pro forma application form. This is to ensure that there is no issue as to an unwitting circumvention of the prohibitions by a UK person where such person receives monies from Bank Saderat Iran.

LICENCES ISSUED BY COMPETENT AUTHORITIES FROM ANOTHER EUROPEAN ECONOMIC AREA

There may be circumstances where UK companies or individuals receive a licence from another European Economic Area (“EEA”) competent authority to deal with funds or economic resources of Bank Saderat Iran, Bank Saderat PLC or Persia International Bank Plc. Should this occur the UK company or individual should contact the Treasury to establish whether a further licence under the UK Iran Regulations is required.

Should you require guidance on any applications for payment, alternatively, to check whether particular entities are subject to sanctions please get in touch with us.

For further information please contact nigel.kushner@whalerocklegal.com

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