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US WITHDRAWS FROM IRAN DEAL

Introduction

On 8 May 2018, the President of the United States of America announced his decision to cease the United States' participation in the Joint Comprehensive Plan of Action and to begin re-imposing the U.S. nuclear-related sanctions that were lifted as part of the JCPOA.

Background

On 14 July 2015, Iran and the E3/EU+3 (China, France, Germany, the Russian Federation, the United Kingdom and the United States, with the High Representative of the European Union for Foreign Affairs and Security Policy) reached agreement on the Joint Comprehensive Plan of Action (JCPOA). In exchange for commitments by Iran relating to its nuclear programme, the negotiating parties agreed to lift multilateral and national sanctions imposed on Iran.

On 20 July 2015, the United Nations Security Council unanimously adopted resolution 2231 (2015), endorsing the JCPOA. In October 2015, the Iranian parliament passed a bill approving the JCPOA. On 18 October 2015, formal adoption of the JCPOA by Iran and the E3/EU+3 took place.

For further information, see our previous mailings [here](#) and [here](#).

Withdrawal of the United States and implications

Timelines

The announcement on the US withdrawal was made on 8 May 2018.

There will be a 90/180 day wind down period, following which the sanctions will come back into effect. This means that persons engaging in activity undertaken pursuant to the US sanctions relief provided for in the JCPOA should take the steps necessary to wind down those activities by either 6 August 2018 or 4 November 2018,

As soon as is administratively feasible, the Office of Foreign Assets Control (OFAC) will revoke (or amend, as appropriate) general and specific licenses issued in connection with the JCPOA, and issue new authorizations to allow the wind down of transactions and activities that were authorized pursuant to the revoked or amended general and specific licenses.

The Department of Treasury has issued guidance and Frequently Asked Questions which can be found [here](#).

What sanctions will be reimposed

Following the 90 day wind down period, the following sanctions will be reimposed:

- i. Sanctions on the purchase or acquisition of U.S. dollar banknotes by the Government of Iran;*
- ii. Sanctions on Iran's trade in gold or precious metals;*
- iii. Sanctions on the direct or indirect sale, supply, or transfer to or from Iran of graphite, raw, or semi-finished metals such as aluminum and steel, coal, and software for integrating industrial processes;*
- iv. Sanctions on significant transactions related to the purchase or sale of Iranian rials, or the maintenance of significant funds or accounts outside the territory of Iran denominated in the Iranian rial;*
- v. Sanctions on the purchase, subscription to, or facilitation of the issuance of Iranian sovereign debt; and*
- vi. Sanctions on Iran's automotive sector.*

In addition, the US government will revoke the following JCPOA-related authorizations under U.S. primary sanctions regarding Iran:

- i. The importation into the United States of Iranian-origin carpets and foodstuffs and certain related financial transactions pursuant to general licenses under the Iranian Transactions and Sanctions Regulations, 31 C.F.R. part 560 (ITSR);*
- ii. Activities undertaken pursuant to specific licenses issued in connection with the Statement of Licensing Policy for Activities Related to the Export or Re-export to Iran of Commercial Passenger Aircraft and Related Parts and Services (JCPOA SLP); and*
- iii. Activities undertaken pursuant to General License I relating to contingent contracts for activities eligible for authorization under the JCPOA SLP.*

Following the 180 day wind down period, the following sanctions will be reimposed:

- i. Sanctions on Iran's port operators, and shipping and shipbuilding sectors, including on the Islamic Republic of Iran Shipping Lines (IRISL), South Shipping Line Iran, or their affiliates;*
- ii. Sanctions on petroleum-related transactions with, among others, the National Iranian Oil Company (NIOC), Naftiran Intertrade Company (NICO), and National*

Iranian Tanker Company (NITC), including the purchase of petroleum, petroleum products, or petrochemical products from Iran;

iii. Sanctions on transactions by foreign financial institutions with the Central Bank of Iran and designated Iranian financial institutions under Section 1245 of the National Defense Authorization Act for Fiscal Year 2012 (NDAA);

iv. Sanctions on the provision of specialized financial messaging services to the Central Bank of Iran and Iranian financial institutions described in Section 104(c)(2)(E)(ii) of the Comprehensive Iran Sanctions and Divestment Act of 2010 (CISADA);

v. Sanctions on the provision of underwriting services, insurance, or reinsurance; and

vi. Sanctions on Iran's energy sector.

In addition, following the 180 day wind down period, the U.S. government will revoke the authorization for U.S.-owned or -controlled foreign entities to wind down certain activities with the Government of Iran or persons subject to the jurisdiction of the Government of Iran that were previously authorized pursuant to General License H. The U.S. government will also re-impose, as appropriate, the sanctions that applied to persons removed from the List of Specially Designated Nationals and Blocked Persons (SDN List) and/or other lists maintained by the U.S. government on 16 January 2016.

Concluding observations

The other parties to the JCPOA have so far stated that they remain committed to the deal. Accordingly, it is important to note that the position in relation to the EU and UN sanctions remains the same, and there is at present no re-imposition of these sanctions. Indeed, the EU has responded to the US withdrawal by activating a “blocking statute” (last used in the context of US sanctions against Cuba) aimed at protecting EU companies from the impact of the reimposition of sanctions. The “blocking statute” would ban European companies from complying with U.S. sanctions against Iran and does not recognise any court rulings that enforce American penalties.

Nevertheless, the withdrawal of the US from the JCPOA may have significant impact on persons doing business with Iran. In such a complicated area, those engaged in business with Iran must seek legal advice to ensure that they are not falling foul of the new position.