Global Trade
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Iran Sanctions 2018

Sanctions Waived For Perhaps Final Time

Sharelines

- Iran sanctions: Companies' compliance and due diligence obligations are mounting.
- US is employing sanctions against Iran to achieve multiple economic and national security objectives.
- If Trump's modifications to JCPOA do not come about by May it is probable he will terminate US participation in JCPOA.
- New sanctions on Iran may require exporters to do greater diligence on its customers and its customers' customers.

On January 12, President Donald Trump announced that he would waive the economic sanctions against Iran pursuant to the 2015 multilateral nuclear deal between Iran and several major world powers, known formally as the Joint Comprehensive Plan of Action (JCPOA). The JCPOA provides Iran relief from US and UN sanctions programs on its civilian economic sectors, such as the US secondary sanctions against foreign companies that do business with Iran. In January 2016, the US first issued such a waiver in response to Iran's compliance with its agreed-upon nuclear disarmament obligations.

While the waiver keeps the US compliant with its own obligations under the JCPOA for now, the president noted that the coming months will be “a last chance” to make substantive amendments to the nuclear agreement before he will withdraw the US from the deal. The president laid out four substantive conditions for an amended nuclear agreement and potential new legislation, including the introduction of sanctions related to Iran’s development of long-range ballistic missiles, increased inspection rights for international inspectors of Iranian military sites and the elimination of the JCPOA’s sunset provisions, which stipulate when Iran’s nuclear-related restrictions expire.

Although nuclear-related economic sanctions were waived, Trump did authorize the Treasury Department to issue specific non-nuclear sanctions. In conjunction with this announcement, the Treasury’s Office of Foreign Assets Control (OFAC) announced sanctions targeting 14 Iranian individuals and businesses, including the head of the Iranian judiciary Ayatollah Sadeq Larijani, for human rights abuses.

Key Takeaways for US Businesses

For US businesses, this most recent sanctions waiver means that not much has changed, including the primary sanctions regime that already prohibits US businesses from participation in most activities and transactions involving Iran or Iranian entities. Under the Iranian Transactions and Sanctions Regulations (ITSR), which remain in full force with respect to US businesses, US companies and individuals are prohibited from doing business in or with Iran, Iranian entities, or entities listed on OFAC’s Specially Designated Nationals and Blocked Persons (SDN) List. However, under the JCPOA, the US has relaxed certain restrictions, such as for sales of parts for commercial aircraft and licensing of sales of civilian commercial aircraft, including to the previously sanctioned Iran Air.

Although a March 2016 general license allowed for US aircraft and parts suppliers to negotiate sales with airlines that are not sanctioned, it remains to be seen whether the prior specific licenses granted by OFAC to Boeing and Airbus in 2016 for sales of commercial aircraft to Iran Air will continue to receive US support. And although the US relaxed a ban on some imports of Iranian luxury goods under the JCPOA, such as carpets and caviar, most US restrictions on trade with and investment in Iran ultimately remain in place (although OFAC has issued certain humanitarian exceptions, such as for exports of agricultural and medical products). So while carpets and caviar can be imported, US businesses cannot sell or export benign products like paper or paperclips to Iran or any third-country buyer knowing they will go to Iran.

The natural consequences of an increasingly swelling “blacklist” of sanctioned Iranian entities are that your company’s compliance and due diligence obligations are mounting. It is more important than ever for businesses to screen all parties and even related parties involved in a transaction, and at a minimum to utilize the updated SDN List and OFAC Sanctions List Search tools. As Congress works to implement the president’s policy goals, the relevant sanctions regulations and trade restrictions for Iran should be considered a fluid situation. The increasingly unstable geopolitical landscape in Tehran has prompted the US to employ sanctions programs to achieve multiple economic and national security objectives, from protecting the Iranian citizenry from human rights abuses to general Iranian nuclear non-proliferation. If the president's requested modifications to the JCPOA do not come to fruition by the next deadline in May, it is more than possible he will terminate US participation in the deal and impose expansive secondary sanctions that will deter international companies and financial institutions, particularly in Europe, from doing business in and with Iran.

Looking to the Future

On January 18, conservatives in the House of Representatives introduced a bill designed to address the president's concerns by significantly toughening the nuclear accord, including firm trigger points related to Iran's ballistic missile program and the introduction of "anywhere, anytime" inspections of Iranian military sites. The Iran Freedom Policy and Sanctions Act, drafted by Representatives Peter Roskam (R-Illinois) and Liz Cheney (R-Wyoming), would also expand sanctions on Iran's IRGC by imposing sanctions on entities in which they own a 20 percent or greater interest, lowering the threshold from the current 50 percent.

However, international support for the US and its desire to overhaul the nuclear accord has been limited. The foreign ministers of Britain, France, and Germany, as well as the EU's foreign policy chief, have recently commended the effectiveness of the JCPOA and reaffirmed Iran's compliance with its terms. Russian officials have also made clear Moscow will not support revisions to the deal. But it is increasingly obvious that without imminent Congressional action, the President will not hesitate to act to terminate the Iran nuclear deal in May.

Stay tuned for legislative and executive action in the coming months that could potentially have drastic results for global trade relations and the Middle East. Bottom line – new sanctions may require exporters to do greater diligence on its customers and its customers' customers. If so, OFAC sanction compliance programs will be a must to protect US and third-country companies.

Doreen M. Edelman is a shareholder and co-leader of the Global Business Team at Baker Donelson (Washington, D.C.). With more than 25 years of experience in import and export compliance, foreign investment and global expansion, she advises both US and foreign-based companies on international business matters. Julius Bodie also contributed to this article. A law clerk with Baker Donelson, he recently graduated from Loyola Law School.