

Sanctions Update: Rewind Your Iran Compliance Policy to January 2016

The United States will reimpose sanctions against Iran to implement President Donald Trump's decision to withdraw from the Joint Comprehensive Plan of Action (JCPOA), a multilateral agreement under which Iran agreed to curb development of certain nuclear capabilities in exchange for the United States lifting specified sanctions. The Trump administration's actions amount to a reversion to the Iran sanctions that existed on January 15, 2016, with limited exceptions. Accordingly, companies may need to revise their activities and their Iran compliance policies to reflect this change.

Reimposition of Iran Sanctions

Among the U.S. sanctions to be imposed again are those that apply to foreign entities that are owned or controlled by U.S. companies. After the JCPOA, the Office of Foreign Assets Control (OFAC) authorized transactions with Iran under General License H for foreign entities that are owned or controlled by U.S. companies, so long as U.S. persons were not involved, U.S.-origin goods were not sent to Iran, and other conditions were satisfied. Similarly, following the JCPOA, OFAC authorized foreign entities to engage in transactions with sanctioned Iranian persons and entities, such as certain parts of the Government of Iran. These authorizations for foreign entities now will be rescinded as a result of President Trump's decision to withdraw from the JCPOA, exposing U.S. companies to potential liability for the actions of their owned/controlled foreign subsidiaries.

In addition, many industry-specific sanctions will now snap back into effect, such as those that apply to aerospace, banking, insurance, energy and petrochemicals, Iranian shipping and shipbuilding, precious metals, raw or semi-finished metals, the automotive sector and services associated with these industries. Transactions with Iran in these sectors can result in penalties applicable to U.S. and non-U.S. persons.

The JCPOA did not result in significant lifting of sanctions that apply directly to U.S. persons. One area where U.S. companies did benefit under the JCPOA was the Statement of Licensing Policy that established a favorable licensing regime permitting U.S. companies to obtain licenses to provide commercial passenger aircraft and related parts and services to Iran. Effective immediately, OFAC will no longer consider further licenses under the SLP. OFAC also will terminate existing licenses granted under the SLP, but will provide authorization for a wind-down of the activity, as discussed below.

Wind-down Periods

OFAC will allow 90-day and 180-day periods for businesses and persons to wind down commercial relationships that are now prohibited as a result of the reimposition of sanctions. The applicable wind-down period depends on the type of transaction and authorization under which the transactions were permitted.

Conclusion

Due to the snap back of U.S. sanctions, U.S. companies should review and adjust their Iran compliance policies, and ensure that their foreign subsidiaries are aware of these changes and implement safeguards to avoid transactions that violate U.S. sanctions against Iran.

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