



## International Trade & Regulatory ADVISORY ■

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### U.S. Sanctions Relief for Iran: Scope, Timelines and Politics

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On July 14, 2015, the P5+1 (the United States, UK, France, China, Russia and Germany, facilitated by the European Union) and the Islamic Republic of Iran reached a Joint Comprehensive Plan of Action (JCPOA) to limit Iran's nuclear program. As part of the JCPOA, the U.S., UN and EU have committed to a program of phased sanctions relief dependent on Iran's adherence to key nuclear commitments. While the immediate impact of this proposed sanctions relief will be limited, the successful implementation of the JCPOA nuclear roadmap by Iran will result in significant changes in the sanctions imposed against the country, particularly with regard to secondary sanctions imposed by the U.S. (i.e., sanctions against non-U.S. persons).

#### **No Change to Current U.S. Sanctions; Extension of the Joint Plan of Action of November 24, 2013**

In conjunction with the JCPOA, the P5+1 further extended the [Joint Plan of Action of November 24, 2013](#), (JPOA), which provides temporary sanctions relief to specified sectors of the Iranian economy. The JPOA will remain in effect until the date that the International Atomic Energy Agency verifies that Iran has implemented key nuclear measures set forth in Annex I of the JCPOA ("Implementation Day"). Per [statements](#) from the U.S. Department of Treasury, Office of Foreign Assets Control (OFAC), the extended current JPOA sanctions relief will be the only Iran-related sanctions relief until further notice.

#### **An Uncertain Timeline for Sanctions Relief**

##### ***Adoption Day***

The UN Security Council is expected to adopt a required resolution endorsing the JCPOA before the end of July. The P5+1 have signaled their intent to present a draft resolution to the Security Council shortly. The JCPOA will be effective 90 days after the adoption of the UN resolution or earlier based on mutual consent by the participants ("Adoption Day"). Separately, the legislatures of both the U.S. and Iran (at a minimum) must approve the JCPOA. In the U.S., pursuant to the Nuclear Agreement Review Act of 2015, Congress will have 60 days from the date that all documents associated with the JCPOA are submitted to Congress to review and approve the terms of the JCPOA. While it is expected that Congress may adopt a resolution of

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disapproval for the JCPOA, today it appears unlikely that congressional opponents of the deal will be able to obtain the required two-thirds' vote to override President Obama's promised veto of any such resolution.

Beginning on Adoption Day, the U.S., acting pursuant to presidential authority, is required to put into place the framework for the eventual easing of sanctions on Implementation Day, including the issuance of waivers to take effect on Implementation Day ceasing the application of nuclear-related sanctions.

### ***Implementation Day***

The key date for Iranian sanctions relief is Implementation Day. Importantly, there is not a date certain for Implementation Day. Rather, it is dependent upon the verification by the International Atomic Energy Agency (IAEA) that Iran has successfully implemented its many nuclear-related obligations under the JCPOA. Iran is to begin its implementation of these measures after the Iranian parliament approves the accord, and Iran will notify the IAEA of its anticipated date for the full implementation of these measures. The IAEA will then inspect Iranian nuclear sites, and the IAEA will issue a formal notification that will constitute Implementation Day. To be clear, there is not yet a date certain for IAEA inspections to commence. It is only after IAEA verification that the U.S., utilizing the post-Adoption Day framework developed by the President, will cease the application of the sanctions specified in Annex II of the JCPOA. This cessation will take the form of (1) statutory waivers issued by the President, (2) the termination of specified Executive Orders, (3) the issuance of licenses permitting covered activities, and (4) the removal of certain, named Iranian Specially Designated Nationals (SDNs), Foreign Sanctions Evaders (FSEs) and Iran Sanctions Act designees from the sanctions listings maintained by the U.S.

### **U.S. Sanctions Relief Specified in Annex II Limited to Non-U.S. Persons**

Even when the JCPOA is implemented, U.S. persons and U.S.-owned or -controlled foreign entities will continue to be prohibited from conducting transactions permitted under the JCPOA unless authorized by OFAC. The U.S. sanctions relief specified in Annex II of the JCPOA is limited to nuclear-related sanctions applicable to non-U.S. persons. Annex II of the JCPOA requires the U.S. to cease the application of or terminate **nuclear-related sanctions** applicable to non-U.S. persons engaged in specified activities, including:

- Financial and banking transactions, including transactions in the Iranian rial, with the government of Iran, the Central Bank of Iran, Iranian financial institutions and other Iranian individuals or entities specified in Annex II.
- The provision of underwriting services, insurance or reinsurance in connection with activities permitted under the JCPOA, including activities in the energy, shipping and shipbuilding sectors of Iran.
- Engagement in the energy sector of Iran, including the purchase, acquisition, sale, transportation or marketing of petroleum products, petrochemical products or natural gas to or from Iran, and the investment in or the development of Iran's energy resources.
- Engagement in the shipping or shipbuilding sector of Iran, including the ownership, operation, control or insurance of a vessel used to transport crude oil, petroleum products, petrochemical products or natural gas from Iran, and the operation of, and the provision of goods and services to, ports in Iran.

- Transactions involving the sale, supply, export or transfer, directly or indirectly, to or from Iran of gold or other precious metals.
- Transactions involving the sale, supply, export or transfer, directly or indirectly, to or from Iran of graphite, raw or semifinished metals such as aluminum and steel, coal and software for integrating industrial processes in connection with permissible JCPOA activities.
- The conduct or facilitation of financial or other transactions for the sale, supply or transfer to Iran of goods and services for use in Iran's automotive sector.

This U.S. sanctions relief is only for nuclear-related sanctions. The U.S. has announced that it will maintain sanctions (including secondary sanctions) on Iran related to terrorism and human rights violations. This could result in the continuation of significant U.S. sanctions on Iran, at least as to U.S. persons and perhaps more broadly.

The EU and UN have committed to a similar easing, and eventual termination, of their sanctions against Iran. EU sanctions, however, apply only to EU persons worldwide and thus have a different scope than secondary sanctions maintained by the U.S. The specific commitments made by the EU and UN are also set forth in Annex II, and subject to the timeline set forth in Annex V, of the JCPOA.

Importantly, U.S. persons and U.S.-owned or -controlled foreign entities will continue to be prohibited from conducting transactions permitted under the JCPOA unless authorized by OFAC. Therefore, unless OFAC provides licenses for specific forms of business with Iran, U.S. persons and U.S.-owned or -controlled foreign entities would still be prohibited from any transactions with Iran. The JCPOA seems to contemplate licenses being issued for foreign subsidiaries that are majority owned or controlled by U.S. persons.

## **Conclusion**

The initial sanctions relief that will be provided on Implementation Day will likely be limited to executive actions concerning Executive Orders, statutory waivers, the issuance of licenses and sanctions list removals. New congressional legislation would be required for a full removal of all U.S. sanctions on Iran, including some sanctions which are nuclear-related but fall outside the President's executive authority. This means that even certain provisions of the statutory framework for nuclear-related sanctions against Iran will likely remain in place post-Implementation Day. As a result, non-U.S. companies will still have to take precautions to ensure that their post-Implementation Day activities in Iran fall within the scope of the relief provided by the U.S. or other JCPOA participants.

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