

International Trade & Regulatory ADVISORY

December 28, 2012

Office of Foreign Assets Control Amends Its Iranian Transactions and Sanctions Regulations to Authorize Wind-Down Transactions and Extension of Section 218 Deadline Under Iran Threat Reduction and Syria Human Rights Act

On December 26, 2012, the Office of Foreign Assets Control (OFAC) issued its long-anticipated “guidance” on Section 218 of the Iran Threat Reduction and Syria Human Rights Act (ITRSHRA), which applies OFAC sanctions for the first time to U.S.-owned or controlled foreign subsidiaries (see Alston & Bird LLP client advisories of [October 10, 2012](#), and [August 1, 2012](#)). The guidance comes in the form of amendments to OFAC’s Iranian Transactions and Sanctions Regulations, 31 CFR Part 560 (ITSR). Of particular relevance, the amendments contain a new Section 560.555 which authorizes, from October 9, 2012 through March 8, 2013, all transactions “ordinarily incident and necessary” to the “winding-down of transactions” prohibited by new Section 560.215, provided that the authorized transactions do not involve a U.S. person or occur in the United States. Paragraph (b) of Section 560.555 specifies that this new general license does not authorize any transactions prohibited by Section 560.205 (the latter provision governs reexports of U.S.-origin products by non-U.S. persons and thus those types of transactions would not be authorized). Paragraph (c) of Section 560.555 provides that transactions involving Iranian financial institutions are authorized pursuant to this new general license, but only if the property and interests in property of the Iranian financial institution are blocked solely pursuant to Part 560 (that is, the authorization is limited to non-Government of Iran-owned banks, which are designated on the SDN List with the [IRAN] tag only).

The net effect of the amendments is to authorize “ordinarily incident and necessary” transactions related to the “wind-down” of transactions that are now prohibited as to U.S.-owned or controlled subsidiaries. Neither of these terms is defined in the ITSR, but OFAC has traditionally construed them flexibly, provided the end goal of compliance is being pursued. The March 8 deadline differs from the February 6 deadline stated in the ITRSHRA. OFAC’s rulemaking does not explain why the deadline was extended an additional 30 days, but no doubt those affected will welcome the additional grace period.

New Section 560.215 also provides guidance on the meaning of “owned or controlled,” “knowingly,” and “subject to the jurisdiction of the Government of Iran” in relation to the transactions that are now prohibited as to foreign subsidiaries of U.S. companies. There are no particular surprises in these clarifications. Moreover, the note to Paragraph (a) of Section 560.215 makes clear that a foreign subsidiary, which is now subject to the OFAC prohibitions, can take advantage of general licenses available to a U.S. person under the ITSR and also can apply for specific licenses, including, specifically, Trade Sanctions Reform and Export Enhancement Act (TSRA) licenses, on the same basis as a U.S. person.

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Please direct any questions concerning the above rulemaking to Thomas E. Crocker of Alston & Bird LLP at 202-239-3318 or thomas.crocker@alston.com.

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