



January 2016

To the Members

Dear Sirs,

Lifting of EU and US sanctions in respect of Iran following Implementation Day – 16 January 2016

Implementation Day under the Joint Comprehensive Plan of Action (“JCPOA”) occurred on 16 January 2016, resulting in the general lifting of most (but not all) EU sanctions, which have hitherto targeted, amongst other things, maritime trade with Iran together with the insurance of vessels engaged in such trade and the provision of insurance and reinsurance cover to Iranian vessels and entities. This has also triggered a lifting of most US secondary sanctions, which are those applicable to non-U.S persons and entities. Primary sanctions, which are those applicable to US persons, remain largely intact. Below is a summary of the position in respect of EU and US sanctions measures post-Implementation Day.

EU

Whilst sanctions relief has been provided in respect of a large number of trades previously targeted by sanctions, including Iran’s oil, gas, petrochemical, shipping, insurance and financial sectors, there remain restrictions relating to activities, goods and equipment connected with Iran’s nuclear industry, and many dual-use goods. There is also no change to sanctions relating to anti-terrorism, alleged human rights abuses, and related designations for asset freezes, and restrictions on providing equipment for internal repression, military goods, and associated services.

In addition to the lifting of a number of trade restrictions, asset freeze measures imposed by the EU on a large number of entities are also lifted with effect from 16 January 2016, the effect of which is that it will no longer be prohibited to engage in otherwise lawful transactions with those entities. However, there remain over 300 individuals and entities subject to designation under EU Human Rights and Nuclear Proliferation sanctions measures, including Tidewater Middle East, which may operate some port facilities in Iran, and a number of Iranian banks.

In order to give legal effect to the terms of the JCPOA following Implementation Day, the EU has published Council Decision 37/2016 and Notice 2016/C 15 I/01, which (subject to compliance with asset freeze measures) authorise companies subject to EU jurisdiction to engage in transactions that were previously prohibited in connection with:

- purchase, import or transport of crude oil, petroleum products, petrochemical products and natural gas of Iranian origin;
- supply of key equipment and technologies for the Iranian oil and gas industries;

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- supply to Iran of key naval equipment or technology;
 - provision of insurance and reinsurance to Iran, its government and public bodies, and Iranian companies;
 - provision of services to Iranian flagged vessels;
 - provision of vessels for the transportation and storage of Iranian oil and petrochemical products;
 - supply to Iran or purchase from Iran of gold, precious metals and diamonds;
 - supply to Iran of Iranian banknotes and minted coinage;
 - financing, investing in, or entering into joint ventures with Iranian persons in relation to, Iranian oil, gas and petrochemical industries;
 - transfers of funds to and from Iranian persons, entities or bodies (without the need for prior notification or authorisation);
 - transactions with Iranian banks (unless designated);
 - purchase or sale of Iranian public or public-guaranteed bonds.
- the EU prohibitions on dealings with Iran in respect of certain specified dual-use goods, graphite and raw and semi-finished metals are also lifted, but in relation to EU persons, subject to prior authorisation by the relevant competent authority of the EU Member State.

US

The US measures largely involve the lifting of secondary sanctions applicable to non-US companies and persons, restricting dealings with various sectors of the Iranian Government and economy. Secondary sanctions imposed on Iran in relation to the alleged support of international terrorist activities or human rights abuses remain in place. Secondary sanctions also continue to apply to non-US persons where, for example, they knowingly facilitate significant financial transactions with or provide material or certain other support to those Iranian or Iran-related persons that remain or are placed on the SDN List.

The US has also lifted asset freeze measures against a large number of individuals and entities, although over 300 remain subject to US asset freeze measures in respect of Iran, including some banks and Tidewater. The continued designation of Tidewater means that in practice, ship owners and operators will face risks in relation to dealings with Tidewater.

In order to give legal effect to the JCPOA, the US has brought into effect a number of waivers, the effect of which is to authorise transactions by non-US persons in respect of:

- dealings with Iran's energy, shipping, and shipbuilding sectors, including with National Iranian Oil Company, National Iranian Tanker Company, and Islamic Republic of Iran Shipping Lines;
- direct or indirect sale, supply or transfer to or from Iran of precious metals, graphite, raw or semi-finished metals, save to the extent that such products are for use in connection with Iran's military or ballistic missile programmes or which have a potential nuclear end-use, and subject to approval by the Procurement Working Group consisting of representatives of the P5+1 countries and Iran;
- provision of underwriting services, insurance and re-insurance (save where such transactions involves persons subject to US asset freeze);
- facilitating financial transactions on behalf of the Government of Iran, certain Iranian financial institutions and any entity owned or controlled by them;
- purchase of Iranian sovereign debt or the debt of any Iranian state controlled entity.

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US primary sanctions, which continue to prohibit US persons from engaging in business with Iran, remain in place, save for a limited number of areas for which exemptions apply (mainly concerning provision of foodstuffs, medical items and Iran's aviation sector). There remain prohibitions against export of goods, services, or technology directly or indirectly to Iran, including insurance cover to, or paying claims involving, Iran, with the exception of transactions that are exempt or authorised by the Office of Foreign Assets Control (OFAC). Importantly, US dollar transactions in connection with Iranian business remain prohibited, the effect of which may be to continue to stifle lawful business conducted by non-US companies.

Under the terms of the JCPOA the EU and US reserve the right to "snap back" sanctions on Iran, if Iran is found to have violated its obligations, and Members will need to take care in their contractual arrangements to protect against that possibility.

The Club's Managers recommend that all the usual due diligence be carried out in relation to cargoes carried to/from Iran and their end-use, and all parties to Iranian trade/transactions. Reliance on statements made by trading partners as to their due diligence will not necessarily provide a defence should trade or transactions result in a breach of sanctions.

If trade involving Iran results in a breach of sanctions applicable to the Club and/or Member, the Club's sanctions and reinsurance rules would apply in the usual way. The reinsurance rule would operate so as to preclude a Member's recovery from the Club in respect of liabilities which are reinsured but not recovered by the Club by reason of sanctions under its reinsurance contracts and arrangements, including but not limited to the Pooling Agreement and the Group Excess Loss Reinsurance Contract. Reinsurance shortfall issues continue to remain problematic in that, notwithstanding the relaxation of US secondary sanctions, US-domiciled reinsurers remain prohibited from paying claims relating to Iran trade or involving Iranian persons. OFAC has issued a general licence (General License H) which permits non-US entities owned or controlled by US persons to engage in Iran-related transactions that would otherwise be prohibited. The licence appears also to allow a US person to alter policies and procedures between it and a US owned or controlled foreign entity to allow that foreign entity to benefit from the licence. The Club and International Group are looking carefully at this issue to assess the extent to which it might be possible to lessen the impact of reinsurance shortfalls.

The Managers will publish further updates to assist Members to understand this complex and fast-moving subject. In the meantime Members are recommended to refer any enquiries regarding Iran sanctions to their usual Club contacts.

Yours faithfully,

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