



May 2018

To the Members

Dear Sirs,

Iran – Re-imposition of US Sanctions – May 2018

The decision by President Trump announced by Presidential Memorandum on 8 May 2018 to cease the US participation in the JCPOA and to begin re-imposing US nuclear-related sanctions which were lifted to implement the JCPOA, is likely to have significant ramifications for maritime trade with Iran and the insurance of such trade.

At the present time, it appears that activities undertaken pursuant to US waivers under the JCPOA continue to remain lawful to perform, subject to falling within the scope of so-called “wind-down” provisions as described in the US Department of the Treasury FAQs issued on 8 May which can be accessed via the web link below.

https://www.treasury.gov/resource-center/sanctions/Programs/Documents/jcpoa_winddown_faqs.pdf

Such wind-down activities (insofar as they relate to Iranian transactions entered into before 8 May 2018), may be conducted up to 6 August, or 4 November, respectively.

The US position has reverted to that prior to the relaxation of US nuclear related sanctions on Implementation Day on 16 January 2016 when the JCPOA took effect. Members who are considering trading to Iran are recommended to take specialist legal advice, as well as to consult with the Club, particularly as P&I cover is unlikely to be available where providing insurance risks the imposition of sanctions by the US

The International Group is engaged with OFAC directly seeking clarification on a number of aspects of the decision of the 8 May including in relation to:

- the continuation of pre-8 May contractual obligations during the “wind-down” period(s);
- permitted trade with Iran after the “wind-down” periods cease on 6 August and 4 November respectively;
- whether P&I insurance cover may respond after 4 November 2018, in relation to permitted voyages (completed prior to 4 November 2018), which do not involve an SDN; and
- the wind down of the General Licence H arrangements applying to non-US domiciled affiliates and subsidiaries of US domiciled insurers and reinsurers.

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As the remaining JCPOA partners have re-affirmed their support for the JCPOA, the Group is also engaging with the UK Treasury and with the EU External Action Service in relation to the impact of the US decision on the Clubs and their reinsurers, and possible EU measures in response.

The position may become more complex in the short-term by virtue of the continued support for the JCPOA by its other signatories (United Kingdom, Germany, France, China, and Russia), uncertainty over how Iran will react, and by the recent threat of further sanctions being imposed by the US

Activities related to the 90 days' wind-down period

From 6 August 2018, the sale, supply or transfer, (including re-sale, or re-transfer or supply otherwise) directly or indirectly, to or from Iran of the following materials: graphite, raw, or semi-finished metals such as aluminum and steel, coal, and software for integrating industrial processes, will be sanctionable where the material is:

- to be used in connection with the energy, shipping or shipbuilding sectors of Iran or any sector of the economy of Iran controlled directly or indirectly by Iran's Revolutionary Guard Corps;
- sold, supplied or transferred to or from an Iranian person on the SDN List (other than Iranian financial institutions that have not been designated for the imposition of sanctions);
- to be used in connection with the nuclear, military or ballistic missile programs of Iran.

In addition, from 6 August 2018, the following activities will become subject to US secondary sanctions:

- Iran's trade in gold or precious metals;
- Significant transactions related to the purchase or sale of Iranian currency, or the maintenance of significant funds or accounts outside the territory of Iran that occurs in Iranian currency;
- The purchase, subscription to, or facilitation of the issuance of Iran sovereign debt;
- Iran's automotive sector.

Activities related to the 180 days' wind-down

From 4 November 2018, US sanctions will be re-imposed on:

- Iran's energy sector;
- Iran's port operators;
- Iran's shipping and shipbuilding sectors, including the Islamic Republic of Iran Shipping Lines (IRISL), South Shipping Line, or their affiliates;
- Petroleum related transactions, with, among others, the National Iranian Oil Company ("NIOC"), Naftiran Intertrade Company ("NICO"), and National Iranian Tanker Company ("NITC") including the purchase of petroleum, petroleum products, or petrochemical products from Iran;
- The provision of underwriting services, insurance, or reinsurance;

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- Transactions by foreign financial institutions with the Central Bank of Iran and other foreign financial institutions that have been designated under NDAA Section 1245; and
- The provision of specialised financial messaging services to the Central Bank of Iran and other Iranian financial institutions.

The US Treasury FAQs has stated that any persons engaged in these activities should take steps necessary to reduce those activities by the end of the wind down periods to avoid exposure to sanctions or enforcement actions.

The wind-down provisions permit the wind-down of Iranian transactions which had been commenced before 8 May 2018. At the present time there is no clarity over what constitutes a “wind-down” of Iran activities.

OFAC FAQ 2.2 addresses the issue of whether, after 8 May 2018, parties can engage in new Iran-related transactions if they will be concluded within the applicable wind-down periods. FAQ 2.2 is less than clear but in informal discussions OFAC has indicated that penalties could be imposed on sanctionable activities entered into after 8 May even if they are concluded within the applicable wind-down period.

In addition, the US plans to revoke specific and general licenses issued in connection with sanctions relief provided under the JCPOA, again subject to wind down periods, including General License H, which authorised US-owned or controlled foreign entities to engage in certain activities (such as insurance/reinsurance) involving Iran.

Calls at Iranian ports

There is at this point no clear guidance from the US authorities on the question of conducting routine transactions with Iranian port operators in relation to calls at Iranian ports under pre-8 May contracts during the wind down periods up to 6 August / 4 November 2018. The IG is awaiting clarification and/or guidance from OFAC.

One potential ramification could be in relation to the provision of security if this is required for a claim involving an Iranian port, since the US is seeking to re-impose sanctions against Iran’s port operators, which sanctions provide for penalties against any person who provides *“significant financial, material, technological, or other support to, or goods or services in support of any activity or transaction on behalf of or for the benefit of...a person determined to operate a port in Iran.”*

Party related sanctions

On JCPOA Implementation Day (16 January 2016), hundreds of individuals and entities were removed from the OFAC List of Specially Designated Nationals. These parties will now be re-listed no later than 5 November 2018. After their re-listing, most of these parties will be subject to secondary sanctions.

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Further Steps

The Group will continue to engage with the relevant US and EU regulatory bodies on these issues with a view to obtaining further clarity especially with regard to implementation of the reinstatement of sanctions in the US and the impact this will have in relation to shipowners' liability and Club cover. In the meantime, Members should contact the Club directly for guidance in relation to the impact of Iran-related activities on P&I cover, and are encouraged take legal advice from specialist lawyers.

Further information on the issues raised in this circular can be obtained by clicking the links to US based law firms Freehill, Hogan & Mahar [click here](#) and Gibson Dunn [click here](#) .

All Clubs in the International Group have issued a Circular along similar lines.

Yours faithfully,

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