Fact Sheet: Treasury Amends Iranian Financial Sanctions Regulations to Implement the National Defense Authorization Act

Press Center

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FACT SHEET: TREASURY AMENDS IRANIAN FINANCIAL SANCTIONS REGULATIONS TO IMPLEMENT THE NATIONAL DEFENSE AUTHORIZATION ACT

WASHINGTON – The U.S. Department of the Treasury today announced regulations to implement subsection 1245(d) of the National Defense Authorization Act for Fiscal Year 2012 (NDAA) that provide for sanctions on foreign financial institutions that knowingly conduct or facilitate certain significant financial transactions with the Central Bank of Iran (CBI) or a U.S.-designated Iranian financial institution. As explained below, the regulations contain various time-based triggers for the imposition of sanctions, beginning February 29, subject to certain exceptions authorized by the statute. The Department is implementing subsection 1245(d) of the NDAA through amendments to the Iranian Financial Sanctions Regulations, 31 C.F.R. part 561 (IFSR). The IFSR were initially published to implement subsections 104(c) and 104(d) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (CISADA).

With certain limitations, exceptions, and conditions, section 561.203 of the IFSR as amended prohibits U.S. financial institutions from opening, and prohibits or imposes strict conditions on their maintaining, a correspondent account or a payable-through account in the United States for a foreign financial institution that the Secretary of the Treasury determines has knowingly conducted or facilitated any significant financial transaction with the CBI or a U.S.-designated Iranian financial institution.

Irrespective of the timeframes and exceptions set forth in the NDAA (see discussion below), the financial sector provisions of CISADA, authorizing sanctions under subsection 104(c) of CISADA and section 561.201 of the IFSR on any foreign financial institution found to knowingly facilitate significant transactions or provide significant financial services for a U.S.-designated Iranian financial institution, remain in effect. CISADA IFSR LIST

Privately-owned foreign financial institutions dealing with the CBI

Beginning on February 29, 2012, privately-owned foreign financial institutions that knowingly conduct or facilitate any significant financial transaction with the CBI other than for the purchase of petroleum or petroleum products from Iran face U.S. sanctions, consistent with subsection 1245(d) of the NDAA. Sanctions will not be imposed under the NDAA on any foreign financial institution for conducting or facilitating a transaction for the sale of food, medicine, or medical devices to Iran.

The Secretary of the Treasury will, consistent with subsection 1245(d) of the NDAA, impose sanctions on privately-owned foreign financial institutions determined to have knowingly conducted or facilitated any significant financial transaction with the CBI on or after June 28, 2012, for the purchase of petroleum or petroleum products from Iran, if the President has determined that there is a sufficient supply of petroleum and petroleum products from countries other than Iran to permit a significant reduction in the volume of petroleum and petroleum products purchased from Iran by or through foreign financial institutions.

Government-owned or -controlled foreign financial institutions, including central banks, dealing with the CBI

The Secretary of the Treasury will, consistent with subsection 1245(d) of the NDAA, impose sanctions on a government-owned or -controlled foreign financial institution, including a foreign central bank, if he determines: (1) that foreign financial institution has knowingly conducted or facilitated a significant financial transaction with the CBI on or after June 28, 2012, for the sale of petroleum or petroleum products to Iran; or (2) that foreign financial institution has knowingly conducted or facilitated a significant financial transaction with the CBI on or after June 28, 2012, for the purchase of petroleum or petroleum products from Iran, if the President determines that there is a sufficient supply of petroleum and petroleum products from countries other than Iran to permit a significant reduction in the volume of petroleum and petroleum products purchased from Iran by or through foreign financial institutions.

NDAA Exception for Countries Significantly Reducing Their Volume of Crude Oil Purchases from Iran

NDAA sanctions will not be imposed, for a period of up to 180 days, on a privately owned or government-owned or -controlled foreign financial institution if the Secretary of State determines and reports to Congress that the country with primary jurisdiction over the foreign financial institution has significantly reduced its volume of crude oil purchases from Iran.

Key IFSR Terms and Phrases

The IFSR define the term “knowingly” to mean actual or constructive knowledge. Therefore, a determination can be made if a foreign financial institution knows, or should have known, that it conducted or facilitated any significant financial transaction with the CBI or a U.S.-designated Iranian financial institution.

The IFSR also interpret the phrase “conducting or facilitating a financial transaction with the Central Bank of Iran or a designated Iranian financial institution” to mean maintaining an account for such entities or engaging in a financial transaction directly or indirectly with such entities.

In determining whether a financial transaction is “significant” for purposes of the IFSR, the Secretary of the Treasury may consider a number of factors, including, but not limited to, its size; its type, complexity, or commercial purpose; whether it is performed with the involvement or approval of management; whether it is part of a pattern of conduct or business development strategy; its impact; whether it involves the use of deceptive practices; and whether it involves Central Bank reserves, settlement services, foreign currency exchanges, or official development assistance repayment.