Executive summary

On 8 May 2018, US President Trump announced unilateral withdrawal of the United States (US) from the Joint Comprehensive Plan of Action (JCPOA) Iran non-proliferation agreement. In turn, the Department of the Treasury, US Office of Foreign Assets Control (OFAC) announced reinstatement of certain Iran sanctions over short 90- and 180-day timeframes. These decisions will impact both US and non-US companies, and may require immediate action to meet OFAC deadlines.

Detailed discussion

JCPOA background

The JCPOA is a multilateral non-proliferation agreement between the US, the European Union, the United Kingdom, France, Germany, Russia, China, and Iran, primarily aimed at halting and dismantling Iran's nuclear arms program. The JCPOA, referred to as the Iran Nuclear Deal, was implemented on 16 January 2016. Pursuant to the JCPOA, the US relaxed economic sanctions against Iran in certain ways.
Post-JCPOA, primary economic sanctions continued to generally prevent US entities from transacting (or facilitating transactions) with Iran, its Government, and government-controlled entities. But OFAC issued General License H (GL-H), which authorized non-US subsidiaries of US entities to conduct business with Iran if conditions were met. OFAC also issued statements of licensing policy and general licenses fostering US-Iran aviation commerce.

Post-JCPOA, the US also relaxed extraterritorial secondary sanctions which would impose penalties on non-US companies transacting with Iran in certain industries.

Further, the US removed over 400 individuals and entities from the OFAC proscribed party lists, including the Specially Designated Nationals (SDN), Non-SDN Iranian Sanctions Act, and Foreign Sanctions Evaders lists. US secondary sanctions had remained and continue in place that target dealings by non-US persons with Iranian persons and entities remaining on the SDN list (e.g., The Iranian Revolutionary Guard Corps).

### Presidential Executive Action – Directive to wind-down JCPOA-authorized activities

The President’s National Security Presidential Memorandum (NSPM) effectively directs relevant US agencies including the US State Department (State) and OFAC to unwind the sanctions relief provided under JCPOA. Some forms of sanctions relief will be unwound over a 90-day period; others will be unwound over a 180-day period. The 90-day period ends on 6 August 2018 and the 180-day period ends on 4 November 2018. OFAC has published updated information both in a statement, FAQ, and archived JCPOA documentation and FAQ (Guidance) on its [Iran Sanctions program page](#). Relevant portions of the FAQ are indicated below.

### Sanctions to be re-imposed after the 90-day wind-down period: 8 May 2018 – 6 August 2018

OFAC has announced that effective 6 August 2018, the following sanctions will be re-imposed (these primarily impact secondary extraterritorial sanctions on non-US persons, as such activities would already be unlawful for US entities):

i. Sanctions on the purchase or acquisition of US dollar banknotes by the Government of Iran

ii. Sanctions on Iran’s trade in gold or precious metals

iii. Sanctions on the direct or indirect sale, supply, or transfer to or from Iran of graphite, raw, or semi-finished metals such as aluminum and steel, coal, and software for integrating industrial processes

iv. Sanctions on significant transactions related to the purchase or sale of Iranian rials, or the maintenance of significant funds or accounts outside the territory of Iran denominated in the Iranian rial

v. Sanctions on the purchase, subscription to, or facilitation of the issuance of Iranian sovereign debt

vi. Sanctions on Iran’s automotive sector

Further, by 6 August 2018 the following JCPOA-related authorizations will be revoked and all related activities or engagement concerning the following need to be wound down (these primarily impact US entities, or foreign subsidiaries of US entities, particularly in the aerospace sector):

i. The importation into the US of Iranian-origin carpets and foodstuffs and certain related financial transactions pursuant to general licenses

ii. Activities undertaken pursuant to specific licenses issued in connection with the Statement of Licensing Policy for Activities Related to the Export or Re-export to Iran of Commercial Passenger Aircraft and Related Parts and Services (JCPOA SLP) (no new licenses, and specific licenses issued prior to 8 May 2018 will be revoked; wind-down authorizations will be issued instead)

iii. Activities undertaken pursuant to General License I (GL-I) (which previously authorized certain transactions related to the export or re-export to Iran of commercial passenger aircraft and related parts and services)

OFAC intends to replace related general licenses and authorizations with more narrowly scoped provisions allowing wind-down of activity lawfully entered into during the period authorized by the JCPOA.

### Sanctions to be re-imposed after the 180-day wind-down period: 8 May 2018 – 4 November 2018

OFAC has announced that effective 4 November 2018, the following sanctions will be re-imposed:

i. Sanctions on Iran’s port operators, and shipping and shipbuilding sectors, including on the Islamic Republic of Iran Shipping Lines, South Shipping Line Iran, or their affiliates

ii. Sanctions on petroleum-related transactions with, among others, the National Iranian Oil Company, Naftiran Intertrade Company, and National Iranian Tanker Company, including the purchase of petroleum, petroleum products, or petrochemical products from Iran
iii. Sanctions on transactions by foreign financial institutions with the Central Bank of Iran and designated Iranian financial institutions under Section 1245 of the National Defense Authorization Act for Fiscal Year 2012

iv. Sanctions on the provision of specialized financial messaging services to the Central Bank of Iran and Iranian financial institutions described in Section 104(c)(2)(E)(ii) of the Comprehensive Iran Sanctions and Divestment Act of 2010 (CISADA)

v. Sanctions on the provision of underwriting services, insurance, or reinsurance

vi. Sanctions on Iran's energy sector

Most of the above primarily impact secondary extraterritorial sanctions on non-US persons, as such activities would already be unlawful for US entities.

The withdrawal of GL-H may have critical impact on US entities that have foreign subsidiaries. Under US law, US companies as well as US-owned or controlled foreign entities are prohibited from engaging in transactions with Iran. However, pursuant to JCPOA, OFAC issued GL-H, which authorized a foreign entity that is owned by a US parent to engage in transactions with Iran, subject to the restrictions within the text of the license. To the extent that a foreign subsidiary of a US company has been using GL-H to transact with Iran, such conduct immediately becomes unlawful on 4 November 2018. OFAC will revoke GL-H and replace it with more narrowly scoped authorizations to allow US persons and, as appropriate, US-owned or -controlled foreign entities, to engage in wind-down transactions.

Sanctions involving denied or blocked persons or entities

Entities that were delisted from OFAC proscribed party lists, including the SDN, Non-SDN Iranian Sanctions Act, and Foreign Sanctions Evaders lists, pursuant to the JCPOA will be re-listed. Persons engaging in the activity with these entities should take the steps necessary to wind down activity either by 6 August 2018 or 4 November 2018, in accordance with the period for which the related activity applies, to avoid exposure to sanctions or an enforcement action under US law.

Exceptions for outstanding consideration owed non-US, non-Iranian persons after the close of an applicable wind-down period

OFAC has indicated that the general US government policy will be to allow non-US, non-Iranian persons to receive payment for those goods or services, or repayment for loans or credits according to the terms of a written contract or written agreement entered into prior to 8 May 2018, provided that such activities were consistent with US sanctions in effect at the time the delivery of goods/services occurred or loans or credits were extended.

Implications

Companies must revise policies, procedures and systems allowing activities under GL-H.

Successful response means the ability to quickly evaluate operations, risks and controls to create actionable, documented workplans for related business, procedural and systems changes necessary for the orderly, documented withdrawal of activity from Iran.
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EYG no. 02862-181Gbl
1508-1600216 NY
ED None

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