

ISSUE BRIEF

A Road Map of the Re-Imposed Sanctions for Iran

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Economic Sanctions Initiative

Economic sanctions have become a policy tool-of-choice for the US government. Yet sanctions and their potential pitfalls are often misunderstood. The Economic Sanctions Initiative (ESI) seeks to build a better understanding of the role sanctions can and cannot play in advancing policy objectives and of the impact of sanctions on the private sector, which bears many of the implementation costs.

The Atlantic Council's Global Business & Economics Program (GBE) promotes transatlantic leadership as defenders of open market democracies in a new era of great-power competition and works to find multilateral solutions to today's most pressing global economic opportunities and risks. Key challenges the program addresses include fostering broad-based economic growth, advancing understanding of the impact of economic sanctions, and defining the future shape of the rule-based trade order.

On November 5, 2018, the United States completed the re-imposition of nuclear related secondary sanctions on Iran, as instructed by the president in May. President Trump announced on May 8, 2018 that the United States would withdraw from the Joint Comprehensive Plan of Action (JCPOA) with Iran and the other P5+1 governments and re-impose nuclear-related sanctions on Iran. In order to re-impose the sanctions, the US Departments of State and Treasury have revoked licenses that authorized certain activity with Iran as well as the waivers that were issued to lift the threat of "secondary" sanctions against non-US persons engaged in certain transactions involving particular Iranian individuals or entities or certain sectors of the Iranian market. The first wind-down period for certain activity covered by secondary sanctions expired after 90 days, on August 6, 2018 and the wind-down for the remaining sanctionable activity expired 180 days after the president's announcement, on November 4, 2018. The following summarizes the key changes that have taken effect as a result of President Trump's decision as of November 5, 2018.

On August 7, 2018, the wind-down authorizations issued by the Department of the Treasury, Office of Foreign Assets Control (OFAC) expired and the following changes took effect:

- ◆ The revocation of specific licenses issued pursuant to the Statement of Licensing Policy for activities related to the export or reexport of commercial passenger aircraft and related parts and services
- ◆ The revocation of General License I which authorized activity ordinarily incident to entering into contracts authorized by the Statement of Licensing Policy for activity related to export of commercial passenger aircraft to Iran
- ◆ The revocation of the authorization for the importation into the United States of Iranian-origin carpets and foodstuffs
- ◆ The threat of secondary sanctions against non-US companies was reimposed for certain activity with Iran, outlined below.

On November 5, 2018, the remaining wind-down authorizations expired and the following changes took effect:

- ◆ The existing “primary” sanctions implemented primarily through the Iranian Transactions and Sanctions Regulations (ITSR), 31 C.F.R. Part 560, remain in effect. However, on November 5, the wind-down period for General License H expired and the ITSR once again prohibit foreign entities owned or controlled by a US person from engaging in business in Iran.
- ◆ The threat of secondary sanctions against non-US companies was reimposed for certain other activity with Iran, outlined below. The secondary sanctions will have the broadest impact on deterring foreign business in Iran, including any significant transactions with Iran’s energy sector. However, the Secretary of State has granted eight countries, China, Greece, India, Italy, Japan, South Korea, Taiwan, and Turkey, with exceptions to allow them to continue to import petroleum and petroleum products from Iran without the threat of secondary sanctions for the next 180 days for having significantly reduced their volume of crude oil purchases from Iran. The administration has made clear that they expect further reductions over the next 180 days in order to consider renewing the exceptions in six months. The administration also has signaled its determination to impose sanctions on the Society for Worldwide Interbank Financial Telecommunication

(SWIFT) if it continues to provide messaging services to US-designated banks in Iran.

- ◆ OFAC has placed hundreds of individuals and entities on the List of Specially Designated Nationals and Blocked Persons (the SDN list), rescinding the removal of those individuals and entities from the SDN list following the implementation of the JCPOA.

This paper provides an overview of the secondary sanctions on Iran as they will exist on November 5, 2018.

Transactions Involving Certain Counterparties

1. **Iranian and other SDNs.** E.O. 13846 § 1(a)(iii): The Secretary of the Treasury is authorized to impose sanctions on a person upon determining that the person has materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of:
 - a. any Iranian person included on the SDN list (other than an Iranian depository institution whose property and interests in property are blocked solely pursuant to E.O. 13599); or
 - b. any other person included on the SDN list whose property and interests in property are blocked pursuant to E.O. 13846 § 1(a) or E.O. 13599 (other than an Iranian depository institution whose property and interests in property are blocked solely pursuant to E.O. 13599).

Exceptions:

- i. Natural gas projects. E.O. 13846 § 10: Sanctions do not apply with respect to anyone conducting or facilitating a transactions involving certain natural gas projects.
2. **Iranian SDNs.** E.O. 13846 § 1(a)(iv): The Secretary of the Treasury is authorized to impose sanctions upon determining that the person knowingly provided significant financial, ma-

terial, technological, or other support to, or goods or services in support of any activity or transaction on behalf of an Iranian person included on the SDN list (other than Iranian financial institutions that have not been designated in connection with Iran's proliferation of weapons of mass destruction or delivery systems for weapons of mass destruction, Iran's support for international terrorism, or Iran's abuses of human rights).

Exceptions:

- i. Natural gas projects. E.O. 13846 § 10: Sanctions do not apply with respect to anyone conducting or facilitating a transactions involving certain natural gas projects.

3. Iranian SDNs, other SDNs, and persons determined to be part of certain sectors. IFCA § 1244(c)(1): The president shall block and prohibit all transactions in all property and interests in property of any person determined to knowingly provide 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. a person determined to be part of the energy, shipping, or shipbuilding sectors of Iran; or
- b. a person determined to operate a port in Iran; or
- c. an Iranian person included on the SDN list (other than Iranian financial institutions that have not been designated in connection with Iran's proliferation of weapons of mass destruction or delivery systems for weapons of mass destruction, Iran's support for international terrorism, or Iran's abuses of human rights).

Exceptions:

- i. Humanitarian. IFCA § 1244(e): The president may not impose sanctions under this section with re-

spect to any person for conducting or facilitating a transaction for the sale of agricultural commodities, food, medicine, or medical devices to Iran or for the provision of humanitarian assistance to the people of Iran.

- ii. Afghanistan reconstruction. IFCA § 1244(f): The president may provide for an exception from the imposition of sanctions for reconstruction assistance or economic development for Afghanistan.
- iii. Significant reduction in oil purchases. IFCA § 1244(g): Sanctions do not apply with respect to a petroleum or petroleum-related financial transaction conducted or facilitated by a foreign financial institution if the president determines that the country with primary jurisdiction over the foreign financial institution has significantly reduced its volume of crude oil purchases from Iran.
- iv. Natural gas. IFCA § 1244(h)(1): IFCA § 1244 shall not apply to the sale, supply, or transfer to or from Iran of natural gas.
- v. Financial transactions for natural gas. IFCA § 1244 § (h)(2): Sanctions do not apply to a foreign financial institution that conducts or facilitates a financial transaction for the sale, supply, or transfer to or from Iran of natural gas, under certain conditions.

4. Central Bank of Iran and other Iranian financial institutions. NDAA 2012 § 1245: The president shall sanction foreign financial institutions that are determined to have knowingly conducted or facilitated any significant financial transaction with the Central Bank of Iran or another Iranian financial institution designated by the Secretary of the Treasury for the imposition of sanctions pursuant to the International Emergency Economic Powers Act.

Exceptions:

- i. Humanitarian. NDAA 2012 § 1245(d)(2): The president may not impose sanctions with respect to any person for conducting or facilitating a transaction for the sale of agricultural commodities, food, medicine, or medical devices to Iran.
- ii. Significant reduction in oil purchases. NDAA 2012 § 1245(d)(4): Sanctions do not apply with respect to a petroleum or petroleum-related financial transaction conducted or facilitated by a foreign financial institution if the president determines that the country with primary jurisdiction over the foreign financial institution has significantly reduced its volume of crude oil purchases from Iran.

- 5. Financial transactions for Iranian and other SDNs.** E.O. 13846 § 2(a)(ii): Sanctions are authorized against foreign financial institutions for knowingly conducting or facilitating any significant financial transaction on behalf of any Iranian person included on the SDN list (other than an Iranian depository institution whose property and interests in property are blocked solely pursuant to Executive Order 13599) or any other person included on the SDN list whose property and interests in property are blocked pursuant to E.O. 13846 § 1(a) or E.O. 13599 (other than an Iranian depository institution blocked solely pursuant to E.O. 13599).

Exceptions:

- a. Significant reduction in oil purchases. E.O. 13846 § 2(c): Sanctions do not apply with respect to a petroleum or petroleum-related financial transaction conducted or facilitated by a foreign financial institution if the president determines that the country with primary jurisdiction over the foreign financial institution has significantly reduced its volume of crude oil purchases from Iran.
 - b. Natural gas. E.O. 13846 § 2(d): Sanctions do not apply to a foreign financial institution that conducts or facilitates a financial transaction for the sale, supply, or transfer to or from Iran of natural gas, under certain conditions.
 - c. Humanitarian. E.O. 13846 § 2(e): Sanctions do not apply with respect to any person for conducting or facilitating a transaction for the provision (including any sale) of agricultural commodities, food, medicine, or medical devices to Iran.
 - d. Natural gas projects. E.O. 13846 § 10: Sanctions do not apply with respect to anyone conducting or facilitating a transaction involving certain natural gas projects.
- 6. Financial transactions for Iranian and other SDNs.** IFCA § 1247(a): The president may sanction a foreign financial institution that the president determines has knowingly facilitated a significant financial transaction on behalf of any Iranian person included on the SDN list.

Exceptions:

- a. Iranian financial institutions. IFCA § 1247(b): Sanctions do not apply with respect to transactions with Iranian financial institutions that have not been designated in connection with Iran's proliferation of weapons of mass destruction or delivery systems for weapons of mass destruction, Iran's support for international terrorism; or Iran's abuses of human rights.
- b. Humanitarian. IFCA § 1247(c): The president may not impose sanctions with respect to any person for conducting or facilitating a transaction for the sale of agricultural commodities, food, medicine, or medical devices to Iran or for the provision of humanitarian assistance to the people of Iran.

- c. Significant reduction in oil purchases. IFCA § 1247(d): Sanctions do not apply with respect to a petroleum or petroleum-related financial transaction conducted or facilitated by a foreign financial institution if the president determines that the country with primary jurisdiction over the foreign financial institution has significantly reduced its volume of crude oil purchases from Iran.
- d. Natural gas. IFCA § 1247(e): Sanctions do not apply to a foreign financial institution that conducts or facilitates a financial transaction for the sale, supply, or transfer to or from Iran of natural gas, under certain conditions.

A. Transactions Involving Certain Iran-Related Activity

1. Specialized financial messaging services.

TRA § 220: Sanctions may be imposed against foreign financial institutions for enabling or facilitating direct or indirect access to specialized financial messaging services for the CBI or a designated Iranian financial institution, described in section 104(c) of the Comprehensive Iran Sanctions Accountability and Divestment Act of 2010, including for doing so by serving as an intermediary financial institution with access to such messaging services.

Exceptions:

- a. Sanctions under foreign law. TRA § 220(c)(2): The president may not impose sanctions with respect to a person for directly providing specialized financial messaging services to, or enabling or facilitating direct or indirect access to such messaging services for, the CBI or an Iranian financial institutions described if the person is subject to a similar sanctions regime under its governing foreign law and the person terminated such activity pursuant to its governing law.

- 2. **US dollar banknotes.** E.O. 13846 § 1(a)(i): The Secretary of the Treasury is authorized to impose sanctions on a person determined

to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, the purchase or acquisition of US bank notes by the government of Iran.

Exceptions:

- a. Natural gas projects. E.O. 13846 § 10: Sanctions do not apply with respect to anyone conducting or facilitating a transaction involving certain natural gas projects.

- 3. **Purchase of precious metals by the government of Iran.** E.O. 13846 § 1(a)(i): The Secretary of the Treasury is authorized to impose sanctions on a person determined to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, the purchase or acquisition of precious metals by the government of Iran.

Exceptions:

- a. Natural gas projects. E.O. 13846 § 10: Sanctions do not apply with respect to anyone conducting or facilitating a transaction involving certain natural gas projects.

- 4. **Sale of precious metals.** IFCA § 1245(a)(1) (A): The president shall impose sanctions on a person determined to knowingly sell, supply, or transfer, directly or indirectly, a precious metal to or from Iran.

Exceptions

- a. Due diligence. IFCA § 1245(f): Sanctions may not apply if the president determines that a person exercised due diligence in establishing and enforcing official policies, procedures, and controls to ensure that the person does not sell, supply, or transfer to or from Iran materials the sale, supply, or transfer of which would subject a person to the sanctions described above or conduct or facilitate a financial transaction for such a sale, supply, or transfer.

5. Financial transactions for the sale of precious metals. IFCA § 1245(c): The president shall impose sanctions against foreign financial institutions determined to have knowingly conducted or facilitated a significant financial transaction for the sale, supply, or transfer to or from Iran of precious metals to Iran.

Exceptions

a. Due diligence. IFCA § 1245(f): Sanctions may not apply if the president determines that a person exercised due diligence in establishing and enforcing official policies, procedures, and controls to ensure that the person does not sell, supply, or transfer to or from Iran materials the sale, supply, or transfer of which would subject a person to the sanctions described above or conduct or facilitate a financial transaction for such a sale, supply, or transfer.

6. Iranian rials. E.O. 13846 § 6: The Secretary of the Treasury is authorized to impose sanctions on a foreign financial institution upon determining that the foreign financial institution has:

- a. knowingly conducted or facilitated any significant transaction related to the purchase or sale of Iranian rials or a derivative, swap, future, forward, or other similar contract whose value is based on the exchange rate of the Iranian rial; or
- b. maintained significant funds or accounts outside the territory of Iran denominated in the Iranian rial.

7. Iranian sovereign debt. TRA § 213(a): The president shall impose sanctions on a person if the president determines that the person knowingly purchased, subscribed to, or facilitated the issuance of:

- a. sovereign debt of the government of Iran issued on or after such date of enactment, including governmental bonds; or

b. debt of any entity owned or controlled by the government of Iran issued on or after such date of enactment, including bonds.

c. Implementation of these sanctions is authorized by E.O. 13846 § 5.

8. Graphite, raw, or semi-finished metals such as aluminum and steel, coal, and software for integrating industrial processes. IFCA § 1245(a): The president shall impose sanctions with respect to a person if the president determines that the person knowingly sells, supplies, or transfers, directly or indirectly, to or from Iran— graphite, raw or semi-finished metals such as aluminum and steel, coal, and software for integrating industrial process which are:

- a. used in connection with the energy, shipping, or shipbuilding sectors of Iran or any sector of Iran determined to be controlled directly or indirectly by Iran's Revolutionary Guard Corps;
- b. sold, supplied, or transferred to or from an Iranian person included on the SDN list;
- c. determined to be used in connection with the nuclear, military, or ballistic missile programs of Iran;
- d. resold, retransferred, or otherwise supplied to any person or for any program connected with the above three clauses; or
- e. being used as a medium for barter, swap, any other exchange or transaction or used as an asset of the government of Iran for purposes of the national balance sheet of Iran.

9. Financial transactions for graphite, raw, or semi-finished metals such as aluminum and steel, coal, and software for integrating industrial processes. IFCA § 1245(c): The president shall impose sanctions against for-

foreign financial institutions determined to have knowingly conducted or facilitated a significant financial transaction for the sale, supply, or transfer to or from Iran of the materials described above. Implementation of these sanctions is authorized by E.O. 13846 § 5.

Exceptions:

- a. Due diligence. IFCA § 1245(f): Sanctions may not apply if the president determines that a person exercised due diligence in establishing and enforcing official policies, procedures, and controls to ensure that the person does not sell, supply, or transfer to or from Iran materials the sale, supply, or transfer of which would subject a person to the sanctions described above or conduct or facilitate a financial transaction for such a sale, supply, or transfer.

10. Automotive sector of Iran. E.O. 13846 § 3(a)(i): The Secretary of State is authorized to impose sanctions upon determining that the person knowingly engaged in a significant transaction for the sale, supply, or transfer to Iran of significant goods or services used in connection with the automotive sector of Iran.

- a. The term “automotive sector of Iran” means the manufacturing or assembling in Iran of light and heavy vehicles including passenger cars, trucks, buses, mini-buses, pick-up trucks, and motorcycles, as well as original equipment manufacturing and after-market parts manufacturing relating to such vehicles.

11. Financial transactions relating to the automotive sector of Iran. E.O. 13846 § 2(a)(i): The Secretary of the Treasury is authorized to impose on a foreign financial institution sanctions upon determining that the foreign financial institution has knowingly conducted or facilitated any significant financial transaction for the sale, supply, or transfer to Iran of significant goods or services used in connection with the automotive sector of Iran.

12. Energy, shipping, and shipbuilding sectors of Iran and port operators. E.O. 13846 § 1(a)(iv): The Secretary of the Treasury is authorized to impose sanctions pursuant to section 1244(c)(1)(A) of IFCA upon determining that the person:

- a. is part of the energy, shipping, or shipbuilding sectors of Iran;
- b. operates a port in Iran; or
- c. knowingly provides significant financial, material, technological, or other support to, or goods or services in support of any activity or transaction on behalf of a person determined under IFCA section 1244 to be a part of the energy, shipping, or shipbuilding sectors of Iran; or to operate a port in Iran.

Exception

- i. Natural gas projects. E.O. 13846 § 10: Sanctions do not apply with respect to anyone conducting or facilitating a transaction involving certain natural gas projects.

13. Energy, shipping, and shipbuilding sectors of Iran and port operators. IFCA § 1244(c)(1): The president shall block and prohibit all transactions in all property and interests in property of any person:

- a. that is part of the energy, shipping, or shipbuilding sectors of Iran;
- b. operates a port in Iran.

14. Energy, shipping, and shipbuilding sectors of Iran. IFCA § 1244 (d): The president shall impose sanctions on a person that knowingly sells, supplies, or transfers to or from Iran significant goods or services used in connection with the energy, shipping, or shipbuilding sectors of Iran, including the National Iranian Oil Company, National Iranian Tanker Company, and the Islamic Republic of Iran Shipping Lines.

15. Financial transactions for the energy, shipping, or shipbuilding sectors of Iran. IFCAS 1244 (d)(2): The president shall impose sanctions on a foreign financial institution that the president determines knowingly conducts or facilitates a significant financial transaction for the sale, supply, or transfer to or from Iran of goods or services, meaning significant goods or services used in connection with the energy, shipping, or shipbuilding sectors of Iran, including the National Iranian Oil Company, the National Iranian Tanker Company, and the Islamic Republic of Iran Shipping Lines.

Exceptions to IFCA § 1244:

- a. Humanitarian. IFCA § 1244(e): The president may not impose sanctions under this section with respect to any person for conducting or facilitating a transaction for the sale of agricultural commodities, food, medicine, or medical devices to Iran or for the provision of humanitarian assistance to the people of Iran.
- b. Afghanistan reconstruction. IFCA § 1244(f): The president may provide for an exception from the imposition of sanctions for reconstruction assistance or economic development for Afghanistan.
- c. Significant reduction in oil purchase. IFCA § 1244(g): Sanctions do not apply with respect to a petroleum or petroleum-related financial transaction conducted or facilitated by a foreign financial institution if the president determines that the country with primary jurisdiction over the foreign financial institution has significantly reduced its volume of crude oil purchases from Iran.
- d. Natural gas. IFCA § 1244(h)(1): IFCA § 1244 shall not apply to the sale, supply, or transfer to or from Iran of natural gas.
- e. Financial transactions for the sale of natural gas. IFCA § 1244 § (h)(2): Sanctions do not apply to a foreign financial institution that conducts or facilitates a

financial transaction for the sale, supply, or transfer to or from Iran of natural gas, under certain conditions.

16. NIOC, NICO, and the Central Bank of Iran.

E.O. 13846 § 1(a)(ii): The Secretary of the Treasury is authorized to impose sanctions on a person upon determining that the person has materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, the National Iranian Oil Company (NIOC), Naftiran Intertrade Company (NICO), or the Central Bank of Iran.

Exceptions:

- a. Natural gas projects. E.O. 13846 § 10: Sanctions do not apply with respect to anyone conducting or facilitating a transaction involving certain natural gas projects.

17. Iranian petroleum, petroleum products, and petrochemical products.

E.O. 13846 § 3(ii)-(vi): The Secretary of State is authorized to impose sanctions upon determining that the person:

- a. knowingly engaged in a significant transaction for the purchase, acquisition, sale, transport, or marketing of petroleum or petroleum products from Iran; or
- b. knowingly engaged in a significant transaction for the purchase, acquisition, sale, transport, or marketing of petrochemical products from Iran.

Exceptions:

- i. Significant reduction in oil purchases. E.O. 13846 § 3(b): Transactions described in section a(ii) may be subject to the significant reduction exception.
- ii. Natural gas projects. E.O. 13846 § 10: Sanctions do not apply with respect to anyone conducting or

facilitating a transaction involving certain natural gas projects.

18. Financial transactions for trade in Iranian petroleum, petroleum products, and petrochemical products. E.O. 13846 § 2(a)(iii)-(a)(v): The Secretary of the Treasury, in consultation with the Secretary of State, is authorized to impose sanctions on a foreign financial institution upon determining that the foreign financial institution has knowingly conducted or facilitated any significant financial transaction:

- a. with NIOC or NICO, except for a sale or provision to NIOC or NICO of refined petroleum products with a fair market value of less than \$1,000,000 or that, during a 12-month period, have an aggregate fair market value of \$5,000,000 or more;
- b. for the purchase, acquisition, sale, transport, or marketing of petroleum or petroleum products from Iran; or
- c. for the purchase, acquisition, sale, transport, or marketing of petrochemical products from Iran.

Exceptions:

- i. Significant reduction in oil purchases: E.O. 13846 § 2(c): Sanctions do not apply with respect to a petroleum or petroleum-related financial transaction conducted or facilitated by a foreign financial institution if the president determines that the country with primary jurisdiction over the foreign financial institution has significantly reduced its volume of crude oil purchases from Iran.
- ii. Financial transactions for the sale of natural gas. E.O. 13846 § 2(d): Sanctions do not apply to a foreign financial institution that conducts or facilitates a financial transaction for the sale, supply, or

transfer to or from Iran of natural gas, under certain conditions.

- iii. Humanitarian. E.O. 13846 § 2(e): Sanctions do not apply with respect to any person for conducting or facilitating a transaction for the provision (including any sale) of agricultural commodities, food, medicine, or medical devices to Iran.

19. Development of petroleum resources of Iran.

ISA § 5(1)(A): The president shall impose sanctions with respect to a person if the president determines that the person knowingly:

- a. makes an investment that directly and significantly contributes to the enhancement of Iran's ability to develop petroleum resources of \$20,000,000 or more; or
- b. makes a combination of investments in a 12-month period that directly and significantly contributes to the enhancement of Iran's ability to develop petroleum resources if each such investment is of at least \$5,000,000 and such investments equal or exceed \$20,000,000 in the aggregate.

20. Production of refined petroleum products.

ISA § 5(2)(A): The president shall impose sanctions if the president determines that the person knowingly sells, leases, or provides to Iran goods, services, technology, information, or support:

- a. any of which has a fair market value of \$1,000,000 or more; or
- b. that, during a 12-month period, have an aggregate fair market value of \$5,000,000 or more.
- c. Goods, services, technology, information, or support described are goods, services, technology, information, or support that could directly and significantly facilitate the maintenance or

expansion of Iran's domestic production of refined petroleum products, including any direct and significant assistance with respect to the construction, modernization, or repair of petroleum refineries.

21. Exportation of refined petroleum products

to Iran. ISA § 5(3)(A): The president shall impose sanctions with respect to a person if the president determines that the person knowingly:

- a. sells or provides to Iran refined petroleum products that have a fair market value of \$1,000,000 or more; or that, during a 12-month period, have an aggregate fair market value of \$5,000,000 or more; or
- b. sells, leases, or provides to Iran goods, services, technology, information, or support any of which has a fair market value of \$1,000,000 or more; or that, during a 12-month period, have an aggregate fair market value of \$5,000,000 or more.
 - i. Goods, services, technology, information, or support described in this subparagraph are goods, services, technology, information, or support that could directly and significantly contribute to the enhancement of Iran's ability to import refined petroleum products, including:
 - a) financing or brokering such sale, lease, or provision; or
 - b) providing ships or shipping services to deliver refined petroleum products to Iran.

Exceptions:

- i. Due diligence: The president may not impose sanctions under this provision with respect to a person that provides underwriting services or insurance or reinsur-

ance if the president determines that the person has exercised due diligence in establishing and enforcing official policies, procedures, and controls to ensure that the person does not underwrite or enter into a contract to provide insurance or reinsurance for the sale, lease, or provision of goods, services, technology, information, or support described.

22. Underwriting services, insurance, or reinsurance.

IFCA § 1246(a): The president shall impose sanctions with respect to a person if the president determines that the person knowingly provides underwriting services or insurance or reinsurance:

- a. for any activity with respect to Iran for which sanctions have been imposed with respect to Iran;
- b. to or for any person:
 - i. with respect to, or for the benefit of any activity in the energy, shipping, or shipbuilding sectors of Iran;
 - ii. for the sale, supply, or transfer to or from Iran of materials for which sanctions are imposed; or
- c. to or for an Iranian person included on the SDN list (other than Iranian financial institutions that have not been designated in connection with Iran's proliferation of weapons of mass destruction or delivery systems for weapons of mass destruction, Iran's support for international terrorism; or Iran's abuses of human rights).

Exceptions:

- i. Humanitarian. IFCA § 1246(c): The president may not impose sanctions for the provision of underwriting service, insurance, or reinsurance activity related to

agricultural commodities, food, medicine, or medical devices to Iran or for the provision of humanitarian assistance to the people of Iran.

- ii. Due diligence. IFCA § 1246(d): No imposition of sanctions where the person providing underwriting services or insurance or reinsurance has been determined by the president to have exercised due diligence in complying with the sanctions.

23. Exportation of refined petroleum products to Iran. ISA § 5(3)(A): The president shall impose sanctions with respect to a person if the president determines that the person knowingly provides underwriting or enters into a contract to provide insurance or reinsurance for the sale, lease, or provision of the goods, services, technology, information, or support described below.

- a. Goods, services, technology, information, or support described in this subparagraph are goods, services, technology, information, or support that could directly and significantly contribute to the enhancement of Iran's ability to import refined petroleum products, including:
 - i. financing or brokering such sale, lease, or provision; or
 - ii. providing ships or shipping services to deliver refined petroleum products to Iran.

Exceptions:

- a) Due diligence: The president may not impose sanctions under this paragraph with respect to a person that provides underwriting services or insurance or reinsurance if the president determines that the person has exercised

due diligence in establishing and enforcing official policies, procedures, and controls to ensure that the person does not underwrite or enter into a contract to provide insurance or reinsurance for the sale, lease, or provision of goods, services, technology, information, or support described.

24. Underwriting services or insurance or reinsurance for the National Iranian Oil Company or the National Iranian Tanker Company.

TRA § 212(a): The president shall sanction any person that the president determines knowingly provides underwriting services or insurance or reinsurance for the National Iranian Oil Company, the National Iranian Tanker Company, or a successor entity to either such company.

Exceptions:

- a. Due diligence. TRA § 212(b)(1): No imposition of sanctions where the person providing underwriting services or insurance or reinsurance has been determined by the president to have exercised due diligence in establishing and enforcing official policies, procedures, and controls to ensure that the person does not underwrite or enter into a contract to provide insurance or reinsurance for the sale, lease, or provision of goods, services, technology, information, or support described.
- b. Humanitarian. TRA § 212 (b)(2): The president may not impose sanctions for the provision of underwriting services or insurance or reinsurance for any activity relating solely to the provision of agricultural commodities, food, medicine, or medical devices to Iran; or the provision of humanitarian assistance to the people of Iran.

25. Vessel or shipping services. TRA § 211(a): If the president determines that a person knowingly sells, leases, or provides a vessel or provides

insurance or reinsurance or any other shipping service for the transportation to or from Iran of goods that could materially contribute to the activities of the government of Iran with respect to the proliferation of weapons of mass destruction or support for acts of international terrorism, or that the person is a successor entity to the person or owns or controls or is owned or controlled by such entity, the president shall block and prohibit all transactions in all property and interests in property of the persons specified if such property and interests in property are in the United States, come within the United States, or are or come within the possession or control of a United States person.

Exceptions

Several provisions described above includes exceptions, noted in each case. The contours of some of those exceptions are described in greater detail below.

1. **Significant reduction exception.** NDAA 2012 § 1245(4)(D): Sanctions shall not apply with respect to a financial transaction conducted or facilitated by a foreign financial institution if the president determines and reports to Congress, not later than 90 days after the date on which the president makes the determination, and every 180 days thereafter, that the country with primary jurisdiction over the foreign financial institution:
 - a. has significantly reduced its volume of crude oil purchases from Iran during the period beginning on the date on which the president submitted the last report with respect to the country under this subparagraph; or
 - b. in the case of a country that has previously received an exception, has, after receiving the exception, reduced its crude oil purchases from Iran to zero.
 - c. A financial transaction conducted or facilitated by a foreign financial institution is described in this clause if:
 - i. the financial transaction is only for trade in goods or services be-

tween the country with primary jurisdiction over the foreign financial institution and Iran; and

- ii. any funds owed to Iran as a result of such trade are credited to an account located in the country with primary jurisdiction over the foreign financial institution.

2. **Financial transactions for the sale of natural gas.** IFCA § 1244(h)(2): IFCA § 1244 does apply to a foreign financial institution that conducts or facilitates a financial transaction for the sale, supply, or transfer to or from Iran of natural gas. However, sanctions do not apply if:
 - a. the financial transaction is only for trade in goods or services:
 - i. not otherwise subject to sanctions under the law of the United States; and
 - ii. between the country with primary jurisdiction over the foreign financial institution and Iran; and
 - b. any funds owed to Iran as a result of such trade are credited to an account located in the country with primary jurisdiction over the foreign financial institution.

3. **Natural gas projects.** TRA § 603: This section contains an exception for any activity relating to a project for the development of natural gas and the construction and operation of a pipeline to transport natural gas from Azerbaijan to Turkey and Europe; that provides to Turkey and countries in Europe energy security and energy independence from the Government of the Russian Federation and other governments with jurisdiction over persons subject to sanctions imposed under this Act or amendments made by this Act; and that was initiated before the date of the enactment of the TRA.

Endnotes

- 1 Iranian Transactions and Sanctions Regulations, 31 C.F.R. part 560 (2012), https://www.treasury.gov/resource-center/sanctions/Programs/Documents/fr77_64664.pdf.
- 2 Exec. Order No. 13846, 3 C.F.R. 1 (2018), <https://www.gpo.gov/fdsys/pkg/FR-2018-08-07/pdf/2018-17068.pdf>.
- 3 Exec. Order No. 13599, 3 C.F.R. 1 (2012), https://www.treasury.gov/resource-center/sanctions/Programs/Documents/iran_eo_02062012.pdf.
- 4 Exec. Order No. 13846, 3 C.F.R. 8 (2018), <https://www.gpo.gov/fdsys/pkg/FR-2018-08-07/pdf/2018-17068.pdf>.
- 5 22 U.S.C. § 8801 (2012), <http://uscode.house.gov/view.xhtml?path=/prelim@title22/chapter95&edition=prelim>.
- 6 National Defense Authorization Act for Fiscal Year 2012, Public Law 112-81.125 STAT. 1298 (2011), <https://www.gpo.gov/fdsys/pkg/PLAW-112publ81/pdf/PLAW-112publ81.pdf>.
- 7 Iran Threat Reduction and Syria Human Rights Act of 2012, Pub. L. No. 112-158, 126 Stat. 1214 (2012), https://www.treasury.gov/resource-center/sanctions/Documents/hr_1905_pl_112_158.pdf.
- 8 Exec. Order No. 13846, 3 C.F.R. 5 (2018), <https://www.gpo.gov/fdsys/pkg/FR-2018-08-07/pdf/2018-17068.pdf>.
- 9 Exec. Order No. 13846, 3 C.F.R. 3 (2018), <https://www.gpo.gov/fdsys/pkg/FR-2018-08-07/pdf/2018-17068.pdf>.
- 10 Iran Sanctions Act of 1996, Pub. L. No. 104-172; 50 U.S.C. 170 (1996), as amended through P.L. 114-277, Enacted December 15, 2016, <https://legcounsel.house.gov/Comps/Iran%20Sanctions%20Act%20Of%201996.pdf>.

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