

Insights

WHAT'S LEFT TO TARGET FOR SANCTIONS IN IRAN? (IRB NO. 581)

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On January 10, 2020, the US Administration announced the imposition of new sanctions against Iran. The sanctions were initially announced in President Trump's public address on January 8, 2020, in the aftermath of Iran's missile strikes on US military bases in Iraq.

In addition to a number of new Specially Designated National and Blocked Person (SDN) designations, the new sanctions identify additional sectors of the Iranian economy – construction, manufacturing, textiles, and mining – that will be targeted by primary and secondary sanctions (*i.e.*, sanctions targeting behavior – including behavior by non-US persons – that is not prohibited but is contrary to US foreign policy). The sanctions include authorization for:

- The imposition of blocking sanctions against persons that (a) operate in the construction, manufacturing, textiles, or mining sectors or other sectors identified under this Executive Order ("EO"); (b) knowingly engage in significant transactions involving the sale, supply or transfer **to or from** Iran of goods or services used in connection with an identified sector in Iran; (c) materially assist, sponsor or provide financial, material or technological support for, or goods or services to or in support of parties sanctioned under this EO; or (d) are owned or controlled by, or act for or on behalf of, parties blocked pursuant to this EO.
- The US Treasury Department, in coordination with the US State Department, to identify other sectors of the Iranian economy for the imposition of sanctions.
- The imposition of correspondent or payable through account sanctions on foreign financial institutions that knowingly conduct or facilitate significant financial transactions for the supply of significant goods or services used in connection with one of the sanctioned sectors or for or on behalf of persons blocked pursuant to this EO.

Additional information regarding how the Administration will interpret the scope of these new sanctions has not yet been provided. However, in light of the breadth of the additional sectors targeted by these sanctions, it will be important for entities to evaluate their connections to any of the targeted sectors to identify and mitigate areas of increased risk as a result of these changes.

Given the very broad primary sanctions already in effect against Iran, the additional primary sanctions may have relatively little actual impact on US persons and their non-US subsidiaries to the extent the blocked parties are in Iran. However, designations pursuant to the broad secondary sanctions included in this EO (potentially reaching a broad range of parties that deal with parties in Iran in these specified sectors) warrant additional attention by US persons and their non-US subsidiaries. Moreover, non-US persons should be cognizant of the breadth of the secondary sanctions authorities, and the fact that the current lack of guidance, for instance, about what is included in the manufacturing sector, gives wide latitude to OFAC to interpret this authority as it deems appropriate on a case-by-case basis.

The one bright spot in the announcement of these new sanctions was reassurance by Treasury Secretary Mnuchin that humanitarian trade with Iran (involving medicine, medical devices and agricultural commodities) will continue to be authorized. In fact, he mentioned that the US Government is working on a "Swiss channel" to enable humanitarian trade to continue as part of the humanitarian mechanism that was announced in October 2019. Continued attention is warranted, though, to ensure none of the parties to the humanitarian trade transactions are caught up in these new sanctions.

All parties, regardless of whether they are US persons for sanctions purposes, should be cognizant of the secondary sanctions risks presented by this new EO. In order to assess the risks of secondary sanctions, non-US parties should review with whom they deal in these sectors in Iran, or whether they might deal with parties outside Iran who, in turn, deal with parties in these sectors in Iran. Such direct and indirect connections may create risk for becoming targets of US sanctions pursuant to the new designation authorities. In addition, US and non-US parties should conduct restricted party screening to ensure that any new designations are timely captured and ensure their screening process is adequately designed to also capture parties that are owned, directly or indirectly, 50% or more by one or more designated parties.

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