



## **Strategic Trade Management – Iran Sanctions Update: What's Changed and What Hasn't Changed**

*Presented by:*

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# U.S. Export Controls vs. Sanctions

## What's the Difference?

### Export Controls

Controls on the international movement of goods, software, and technology (“items”) and sometimes services

- Laws apply to the nationality of the item
- Typically focus on strategic items, but some controls on embargoed countries can apply to **any** item
- More than one set of rules may apply to a single transaction (e.g., U.S., EU and Singapore controls)

### Sanctions

Restrictions on dealings (not necessarily involving items) with other countries, persons or entities based on security or policy concerns.

- Laws apply to U.S. persons wherever located, **and sometimes directly to non-U.S persons**
- Not limited to goods, software, or technology
- Covers financial transactions, commercial agreements, or services more broadly

# Extraterritoriality of U.S. Sanctions Laws

## ■ Global Reach:

- Apply both inside and outside of the United States.
- Economic Sanctions “**follow the person**”

## ■ Primary sanctions:

- Apply to “U.S. persons”
  - For Iran, includes non-U.S. entities owned or controlled by a U.S. person
- Broad prohibition on activities of U.S. persons
- Prohibits “facilitation”

## ■ Jurisdiction can extend to non-U.S. companies/individuals when:

- Activities have a U.S. nexus
- Non-U.S. persons conspire with, aid or abet, or “cause” the violation by a U.S. person
- Engage in sanctionable activities -> **Secondary Sanctions**
  - Prior to the Iran nuclear deal, secondary sanctions targeted activities of non-U.S. persons in particular sectors of Iran (e.g., petrochemical, automotive, gold and precious metals)



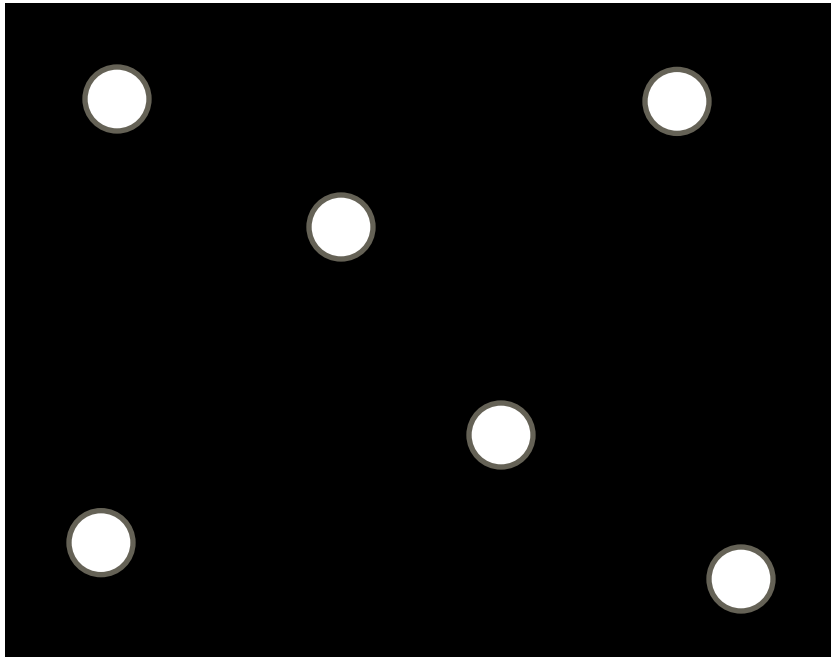
## Overview of the Iran Nuclear Deal

- Landmark deal reached between the EU/E3+3 (aka P5+1) and Iran
  - European Union, UK, France, Germany, China, Russia, and the United States
- Iran gets sanctions relief in exchange for halting its nuclear program
- Deal finalized in July 2015, **but was not implemented until 16 January 2016**
- On-going monitoring: Relief is subject to a “**snap-back**” of sanctions if Iran fails to continue to meet its obligations under the deal

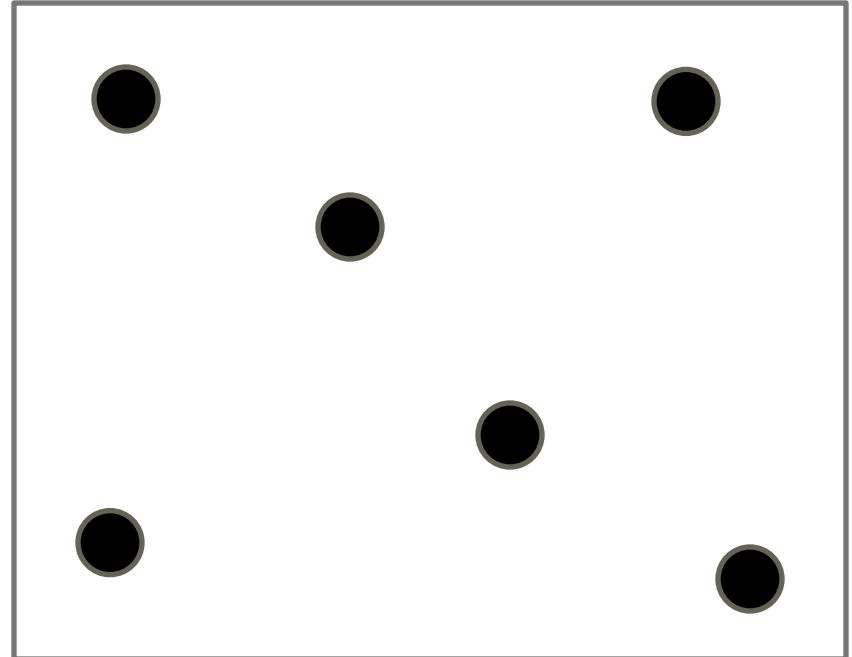


## Iran Sanctions *for Non-U.S. Persons* on One Slide

Before



After



# UN & EU Sanctions Relief Under the JCPOA

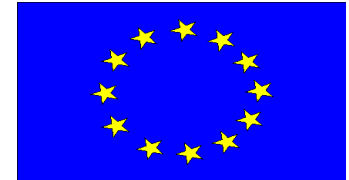
## ■ Most UN Security Council sanctions resolutions on Iran have been terminated, including:

- Asset freezes and travel bans on individuals/entities linked to Iran's nuclear program;
- Prohibition on financial services used for sensitive nuclear activities;
- Prohibition on the opening of Iranian banks in UN Member State territory.



## ■ EU has terminated nuclear-related sanctions relating to Iran, including:

- Financial, banking and insurance measures
- Oil, gas and petrochemical sectors
- Shipping, shipbuilding and transport sectors
- Gold, other precious metals, banknotes and coinage
- Metals and software
- Asset freeze and visa ban measures applicable to certain listed individuals and entities.



## ■ However, still in place:

- Robust export control regime on commercial/dual-use and military goods, software & technology
- Targeted asset freezes on blacklisted persons and entities and travel bans
- Prohibitions on proliferation-related end-uses and equipment that could be used for internal repression

## U.S. Sanctions Relief Under the JCPOA – What has Changed

- Secondary sanctions relief for non-U.S. persons
- GL H for non-U.S. entities owned or controlled by U.S. persons
  - Allows participation in certain activities with Iran subject to certain limitations (e.g., no U.S. origin goods, no prohibited persons involved, etc.)
  - Allows for limited activities by U.S. persons that would otherwise constitute prohibited facilitation
- Limited sanctions relief for U.S. persons (including foreign branch offices)
  - New GL for the import of certain Iranian-origin carpets and “foodstuffs,” subject to limitations.
  - Favorable licensing policy for export to Iran of commercial aircraft and related parts and services for civil end-use and related GL for negotiation and entry into contingent contracts.
- 400 persons were removed from the SDN list.
- GL J for non-U.S. entities to fly certain aircraft temporarily to Iran, and related transactions involving the export of spare parts and components.



## The Iran Deal – What Has Changed in the U.S. Regime?

	Pre-Iran Deal	TODAY
<b>Primary Sanctions:</b> <b>U.S. Persons</b> (e.g., U.S. Companies)	<u><b>No dealings without a license</b></u>	<u><b>No dealings without a license</b></u> Licensing will also be available for <b>carpets</b> and <b>foodstuffs</b> , and expanded <b>civil aviation</b> licensing
<b>Primary Sanctions:</b> <b>Non-U.S. Persons Owned/ Controlled by U.S. Persons</b> (e.g., non-U.S. subsidiaries of U.S. companies)	Very limited and narrow licenses available (e.g., food & medicine, personal communications)	General License H authorizes activities in which <b>non-U.S.</b> persons may engage, subject to certain important limitations
<b>Secondary Sanctions:</b> <b>Non-U.S. Persons</b> (e.g., Singaporean Companies)	<b>Sanctioned for dealings involving several Iranian industries or parties</b>	<b>Authorizes dealings with several additional Iranian industries and previously designated parties, but important limitations remain</b>

# The Iran Deal – What Has Changed in the U.S. Regime?

## Industries Directly Affected

Automotive	Commercial Aerospace	Energy (Oil & Gas) & Petrochemicals	Financial, Banking & Insurance
Gold, Other Precious Metals, Banknotes & Coinage	Graphite & Raw or Semi-Finished Metals (e.g., Aluminum, Steel)	Shipping, Shipbuilding, Ports & Transportation	Technology & Software
<b>Previously Authorized:</b>	Food, Medicine, and Medical Products	Agricultural Commodities	Internet and Personal Communications

## The Iran Deal – What Has NOT Changed in the U.S. regime?

### ■ U.S. embargo remains in force

- No U.S.-origin goods
- Prohibition on certain goods made outside U.S. but:
  - Incorporating >10% U.S. content or any % of certain sensitive U.S. content; or
  - Based on certain sensitive U.S. technology

### ■ No U.S. persons can be involved in Iran-related transactions

- Employees who are U.S. citizens or green-card holders (even dual-nationals)

### ■ Certain SEC disclosure requirements

### ■ No U.S. dollar transactions

- Even if the rest of the transaction is non-U.S.
- Nearly all U.S. dollar transactions clear the U.S. financial system

### ■ Terrorism, military and human rights-related primary and **secondary sanctions** remain in force – this means that both U.S. and non-U.S. companies can be sanctioned for dealings in Iran involving:

- Restricted parties (e.g., IRGC)
- Restricted activities (e.g., missile)

## A Note on Travel – U.S. Visa Waiver Program

- 18 December 2015 – U.S. enacts the Visa Waiver Improvements and Terrorist Travel Prevention Act
- Disqualifies citizens of the 38 participating countries (including Singaporean, Korean, and Taiwanese citizens) from eligibility for visa waivers if the citizen:
  - Is a dual-national of **Iran**, Iraq, Sudan or Syria;
  - Has traveled to any of these countries (or Yemen, Libya, and Somalia) in the past 5 years
- Such individuals need a to apply for, and receive a visa from a U.S. embassy or consulate before U.S. travel
- Significant adverse impact on nationals of visa waiver countries who will travel to both Iran and the U.S.



Source: Rana Rahimpour

# Managing Compliance

1. Conduct thorough **KYC diligence** and **screening** on all parties to each transaction
2. Have a clear understanding of the anticipated **end-uses** of the items provided to ensure no prohibited uses (e.g., nuclear, military, etc.)
3. Understand whether any items (goods, software, or technology) to be sent to Iran are subject to **U.S. export control laws**
4. Ensure **U.S. persons and U.S. dollars are not involved** in any Iran-related transaction, including U.S. national employees or U.S. intermediaries (e.g., U.S. financial institutions), unless otherwise authorized
5. Implement **exit mechanism** in any permissible Iran-related contracts to unwind transactions in the event of sanctions **“snap-back”**
6. Review **existing contracts & policies** to ensure consistency with contemplated activities

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