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# CLIENT ALERT

## Modification of Iran Reexport Licensing Requirements Hits Global Companies

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New restrictions aimed at ceasing trade with Iran target buyers of U.S.-origin technology and components classified in ten categories. The restrictions cover many products, including portable electric generators, certain electronic testing equipment, some commercial communication devices (such as cell phones and navigation devices), and parts and components of civil aircraft. These items were previously eligible for reexport to Iran from third countries, but are now subject to a license requirement, and applications of this type are generally denied. The rule revision also affects those who incorporate these items into foreign-made products for sale to Iran.

The Department of Commerce's Bureau of Industry and Security's (BIS) interim final rule, effective January 15, tightened the Export Administration Regulations' (EAR) licensing requirements. A license is now required to reexport commodities classified under certain of the lowest, catch-all Export Control Classification Numbers (ECCNs). The change affects ECCNs 2A994, 3A992.a, 5A991.g, 5A992, 6A991, 6A998, 7A994, 8A992.d, e, f, and g, 9A990.a and b, and 9A991.d and e. These items will also now be treated as "controlled U.S. content," meaning that even when the commodities are incorporated into foreign-made items they cannot be reexported to Iran if the de minimis limit of 10 percent is exceeded.

The new rule primarily affects non-U.S. companies, and should trigger a review of global supply chain and sourcing functions. This expansion of reexport controls could affect a wide range of commercial businesses in Asia, Europe, and Latin America.

These new restrictions reflect the ongoing U.S. effort to isolate Iran. They come amid reports that despite the long-standing U.S. trade embargo on Iran, U.S. goods continue to make their way to the Iranian market. Hewlett Packard recently announced that it will clarify contracts with distributors "to explicitly prohibit the sale of HP products in Iran." Although the announcement came before the rule change, it reflects the proactive approach that U.S. companies are increasingly taking with respect to the Iran embargo, even where licensing obligations may fall to the reexporter.

Lessons learned: (1) U.S. companies seeking to avoid public scrutiny for otherwise lawful transactions may need to better police the actions of their foreign distributors. Even if the U.S. products can lawfully be reexported to Iran once they are outside the United States, the sting of bad publicity may warrant limits on distributors. (2) Non-U.S. companies doing business with both the U.S. and Iran must evaluate supply and manufacturing relationships to ensure ongoing compliance.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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