

# CLIENT ALERT

## The Noose Tightens; The U.S., UK, and Canada Announce Coordinated Sanctions on Iran

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The United States, the United Kingdom and Canada announced coordinated financial sanctions on Monday in reaction to an International Atomic Energy Agency ("IAEA") report offering new evidence related to Iran's nuclear weapons program. The new sanctions not only reflect an increasingly Trans-Atlantic response to Iran, but significantly expand the reach of existing sanctions and their potential impact on companies worldwide that interact with Iran's financial and petroleum sectors.

### United States

On Monday, November 21, the United States announced three separate sets of expanded sanctions on Iran.

#### 1. Executive Order 13590

President Obama signed Executive Order 13590, which expanded U.S. sanctions on persons who either

- (a) knowingly sell, lease or provide goods, services, technology or support over \$1,000,000 that directly and significantly contribute to the maintenance or enhancement of Iran's development of petroleum resources in Iran;
- or
- (b) knowingly sell, lease, or provide goods, services, technology or support worth more than \$250,000 over a 12-month period to Iran that could directly and significantly contribute to the maintenance or expansion of Iran's domestic production of petrochemical products.

Both of these provisions expand the reach of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 ("CISADA"). First, section (a) expands CISADA's limitation on "refined petroleum products" to now cover the much broader "petroleum resources." Petroleum resources include "includes petroleum, oil, natural gas, liquefied natural gas, and refined petroleum products." Second, section (b) imposes a new restriction on upstream "petrochemical products," broadly defined to include "any aromatic, olefin, and synthesis gas, and any of their derivatives, includes ethylene, propylene, butadiene, benzene, toluene, xylene, ammonia, methanol, and urea."

The Executive Order authorizes the Secretaries of State and Treasury to impose any of a number of sanctions against entities that violate these provisions including (1) prohibiting U.S. financial institutions from making loans to the entity, (2) prohibiting transactions in foreign exchange in which the entity has an interest, (3) prohibiting transfers of credit or payment to the entity, (4) blocking all property of the entity subject to U.S. jurisdiction, (5) restricting or prohibiting imports from the entity, (6) restricting the entity from obtaining (or being authorized under) a U.S. export or re-export license, and (7) barring U.S. federal agencies from procuring goods or services from any such entity.

#### 2. Invoking the Money Laundering Designation Tool

Also, on Monday, the Secretary of the Treasury identified "the entire Iranian banking sector - including the Central Bank of Iran," private Iranian banks, and subsidiaries of Iranian banks operating outside of Iran - as being of "primary money laundering concern[]" under the USA PATRIOT Act. This declaration gives the Treasury Department new authority to require U.S. financial institutions to undertake certain "special measures" when interacting with the designated entities.

The Treasury Department's Financial Crimes Enforcement Network ("FinCEN") immediately used this new authority to issue a Notice of Proposed Rulemaking ("NPRM") which prohibits U.S. financial institutions or agencies from opening or maintaining correspondent accounts by any domestic financial institution or agency for or on behalf of a foreign banking institution, if the account "involves" Iran. While U.S. institutions were already restricted from most direct and indirect interactions with Iran, this measure imposes certain additional due diligence requirements on financial institutions to ensure their transactions are not on behalf of an Iranian entity.

Secretary Geithner warned that this may just be the beginning, saying that "no option is off the table - including the possibility of imposing additional sanctions on the Central Bank of Iran... Financial institutions around the world should think hard about the risks of doing business with Iran."

### **3. Additional OFAC Designations**

Finally, on Monday Treasury's Office of Foreign Assets Control ("OFAC") announced a new round of proliferation-related sanctions against one Iranian individual and ten entities linked with the Atomic Energy Organization of Iran including the Modern Industries Technique Company, the Nuclear Reactors Fuel Company the Iran Centrifuge Technology Company and others. These sanctions block all assets of these parties subject to U.S. jurisdiction as well as prohibit U.S. persons from transacting with them.

### **United Kingdom**

The UK also announced expanded financial sanctions against Iran on Monday, including newly imposed restrictions on interactions with the Central Bank of Iran. The new UK measure, known as the Financial Restrictions (Iran) Order 2011, came into force on Monday, November 21, and directs that UK financial institutions cease business relationships and transactions with all Iranian banks, including the Central Bank of Iran, and their subsidiaries and branches wherever located. The direction given by the HM Treasury applies to UK financial and credit institutions, including branches wherever located.

Numerous restrictive measures already apply at the EU level to trade with and payments to and from Iranian persons, including a ban on certain investments, measures to freeze funds and economic resources, restrictions on financial assistance, restrictions on oil and gas activities, and an arms embargo. The new UK measure does not restrict trade directly, as it does not apply to companies outside the financial sector or their overseas subsidiaries, or to UK nationals abroad. At the same time, it will make to trade with Iran ever more difficult, as UK financial and credit institutions will no longer, without a license from HM Treasury, be legally able to handle any payments from or to banks in Iran. HM Treasury is ready to consider license applications for payments due under existing contracts, but it is unlikely that the Treasury will issue licenses for business with Iranian banks under new contracts. Accordingly, even where export of goods or services is authorized under the current EU (and UK) sanctions against Iran, no payment involving an Iranian bank is permitted without a license from HM Treasury.

The measure is imposed in the UK for a period of one year. It is the UK's hope, and it appears likely, that other EU governments will soon follow its lead.

## **Canada**

Canada also announced new sanctions against the Iranian financial sector on Monday. Acting under the Special Economic Measures (Iran) Regulations, Canada announced prohibitions on Canadian persons who:

- (a) Provide or acquire any financial services to or for the benefit of, or under the direction or order of, Iran or any person in Iran; or
- (b) Supply any goods used in the petrochemical, oil or natural gas industry

These regulations exempt transactions undertaken pursuant to contracts entered into before November 22, 2011. Canada also added an additional person and 65 additional entities to its designated persons list.

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

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