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## U.S. Government Implements Temporary Iran Sanctions Relief Measures

**By: Daniel J. Gerkin, Jerome J. Zaucha and Holly E. Chapin**

As part of the recently negotiated interim agreement with the Islamic Republic of Iran (“Iran”) to temporarily suspend certain aspects of Iran’s nuclear program, the United States and other countries have agreed temporarily to suspend certain sanctions measures targeting Iran. Specifically, in accordance with the Joint Plan of Action (“JPOA”), dated November 24, 2013,<sup>1</sup> entered into by the United States, the United Kingdom, Germany, France, Russia, and the People’s Republic of China with Iran, on January 20, 2014, the U.S. Department of the Treasury and U.S. Department of State issued guidance<sup>2</sup> implementing sanctions relief relating to the following activities and associated services:<sup>3</sup> (i) Iranian exports of crude oil; (ii) Iranian exports of petrochemical products; (iii) transactions involving gold and other precious metals; (iv) transactions relating to the Iranian automotive industry; (v) transactions relating to civil aviation in Iran; and (vi) humanitarian and other assistance. See *also* 79 Fed. Reg. 4522 (Jan. 28, 2014); 79 Fed. Reg. 5025 (Jan. 30, 2014).<sup>4</sup>

The United States has implemented a complex web of U.S. trade restrictions relating to the activities of U.S. persons and sanctions relating principally to the activities of non-U.S. persons involving Iran. The trade restrictions, which are administered by OFAC, are embodied in the Iranian Transactions and Sanctions Regulations (“ITSR”) and other regulations administered by OFAC, while the sanctions, which are administered jointly by the U.S. Department of the Treasury and the U.S. Department of States, are embodied in a series of statutes and Executive Orders and are implemented, in part, with respect to non-U.S. financial institutions through the OFAC-administered Iranian Financial Sanctions Regulations. As detailed below, with limited exceptions, the U.S. sanctions relief measures primarily relate to the U.S. sanctions targeting non-U.S. persons, including, in particular, non-U.S. financial institutions, and only pertain to activities and associated services that are both initiated and concluded exclusively during the six-month period beginning on January 20, 2014 and ending July 20, 2014 (“JPOA Period”).

As noted above, the EU also is implementing temporary sanctions relaxation measures in connection with the JPOA that suspend: (i) the prohibition on the provision of insurance and reinsurance and transportation services for Iranian crude oil sold to non-EU countries; (ii) the prohibition on the import, purchase, or transport of Iranian petrochemical products and on the provision of related services; and (iii) the prohibition on trade in gold and precious metals with the Government of Iran, its public bodies, and the Central Bank of Iran, or persons or entities acting on their behalf.

Given the limited scope and duration of the sanctions relief, as well as the uncertainty regarding the prospects for a long-term agreement, the continuing drumbeat in the U.S. Congress for new and more restrictive sanctions, and the substantial complexity of the sanctions regimes subject to relief, it is advisable for anyone seeking to pursue potential new business opportunities based on the recent U.S. guidance to exercise extreme caution.

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### Iranian Exports of Petroleum and Petroleum Products.

Subject to certain exceptions, U.S. law authorizes the imposition of sanctions on non-U.S. persons for engaging in certain activities relating to the energy sector of Iran, including, in particular, significant transactions for the purchase, acquisition, sale, transport, or marketing of petroleum or petroleum products from Iran.

Pursuant to a sanctions waiver set forth in the relief guidelines, during the JPOA Period the following countries will be permitted to maintain their current average level of imports of petroleum and petroleum products from Iran: China, India, Japan, the Republic of Korea, Taiwan, and Turkey. Services associated with such transactions will not subject the service providers to sanctions during the JPOA period. As part of this relief, the U.S. Government will not require U.S. financial institutions to impose correspondent or payable-through account sanctions with respect to foreign financial institutions under the primary jurisdiction of China, India, Japan, the Republic of Korea, Taiwan, and Turkey that conduct or facilitate transactions exclusively during the JPOA Period by non-U.S. persons not otherwise subject to the ITSR<sup>5</sup> relating to the export of petroleum or petroleum products from Iran to these countries, as well as associated insurance and transportation services, including transactions involving the National Iranian Oil Company (“NIOC”) or the National Iranian Tanker Company (“NITC”).<sup>6</sup> Please note, however, that these transactions cannot involve persons on the SDN List other than NIOC, NITC, or any Iranian depository institutions listed solely pursuant to Executive Order 13599, which essentially means no Iranian financial institutions that are specifically designated on the SDN List as supporting terrorism or the proliferation of weapons of mass destruction.

In addition, under the JPOA, approximately \$4.2 billion held in accounts in non-U.S. financial institutions that have been designated under the U.S. sanctions relief guidelines as Restricted Funds<sup>7</sup> are permitted to be repatriated in eight installments throughout the JPOA Period, contingent on the fulfillment by Iran of its commitments under the JPOA.<sup>8</sup>

Furthermore, the U.S. Government will not impose blocking sanctions (*i.e.*, the designation of entities as SDNs and an associated asset freeze) with respect to non-U.S. persons not otherwise subject to the ITSR that, exclusively during the JPOA Period, materially assist, sponsor, or provide financial, material, or technological support for, or goods or services, in support of the above-described exports of petroleum or petroleum products from Iran to China, India, Japan, the Republic of Korea, Taiwan, and Turkey.

The U.S. Government also is suspending the application of so-called “menu-based” sanctions relating to petroleum-related transactions. By statute, the U.S. Government is required to impose a certain number sanctions from a “menu” of available sanctions when imposing sanctions for petroleum-related trade with Iran.

### Iranian Exports of Petrochemical Products.

U.S. law authorizes the imposition of sanctions on non-U.S. persons for engaging in certain activities relating to the petrochemical sector of Iran, including, in particular, significant transactions for the purchase, acquisition, sale, transport, or marketing of petrochemical products from Iran. These activities will not subject the involved parties to sanctions during the JPOA Period. As with petroleum and petroleum products transactions, as part of this relief, the U.S. Government will not require U.S. financial institutions to impose correspondent or payable-through account sanctions with respect to foreign financial

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institutions that conduct or facilitate transactions by non-U.S. persons not otherwise subject to the ITSR involving the export of petrochemical products, as defined in Executive Order 13622, initiated and completed during the JPOA Period, and will not impose blocking sanctions with respect to persons engaged in activities ancillary to such transactions. The transactions at issue, however, cannot involve persons on the SDN List, with the exception of 14 specifically enumerated Iranian petrochemical companies and any Iranian depository institutions listed solely pursuant to Executive Order 13599. The U.S. Government also is suspending the application of additional “menu-based” sanctions required to be imposed on non-U.S. persons in connection with sanctions for engaging in specified petrochemical transactions.

### Transactions Involving Gold and Other Precious Metals.

U.S. law authorizes the imposition of sanctions on non-U.S. persons for engaging in certain activities relating to precious metals, including, in particular, the sale, supply, or transfer, directly or indirectly, to or from Iran, of any precious metal. These activities will not subject the involved parties to sanctions during the JPOA Period. As part of this relief, the U.S. Government will not require U.S. financial institutions to impose correspondent or payable-through account sanctions with respect to foreign financial institutions that conduct or facilitate transactions by non-U.S. persons not otherwise subject to the ITSR for the purchase or acquisition of precious metals to or from Iran that are initiated and completed during the JPOA Period. However, the funds for the purchase of any such precious metals may not be drawn from Restricted Funds and the transactions cannot involve persons on the SDN List other than Government of Iran entities and Iranian depository institutions listed solely pursuant to Executive Order 13599. In addition, the U.S. Government will not impose blocking sanctions with respect to persons engaged in activities ancillary to such transactions during the JPOA Period.

### Transactions Involving the Iranian Automotive Industry.

Under U.S. law, non-U.S. persons may be sanctioned for engaging in significant transactions for the sale, supply, or transfer to Iran of significant goods or services used in connection with the automotive sector in Iran. These activities will not subject the involved parties to sanctions during the JPOA Period. During the JPOA Period, the U.S. Government also is suspending the requirement that U.S. financial institutions impose correspondent or payable-through account and menu-based sanctions in connection with the sale, supply, or transfer to Iran of goods, including complete knock-down kits, and services, including shipping, warranty, insurance, and maintenance services, used in connection with the Iranian automotive sector<sup>9</sup> by non-U.S. persons not otherwise subject to the ITSR, as well as associated services, provided that such transactions do not involve any persons on the SDN List other than Iranian depository institutions listed solely pursuant to Executive Order 13599.

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### Transactions Relating to Civil Aviation in Iran.

The ITSR generally prohibit the exportation, reexportation, sale or supply, directly or indirectly, from the United States or by a U.S. person, wherever located, of any goods, technology, or services to Iran or the Government of Iran. Furthermore, the ITSR generally prohibit the reexportation by a non-U.S. person from a third country, directly or indirectly, to Iran or the Government of Iran of any goods that have been exported from the United States, if the exportation of such goods from the United States to Iran was subject to applicable U.S. export license application requirements.

However, pursuant to the Statement of Licensing Policy on Activities Related to the Safety of Iran's Civil Aviation Industry,<sup>10</sup> which was published by OFAC coincident with the JPOA guidance, U.S. persons, non-U.S. entities owned or controlled by U.S. persons, and non-U.S. persons can request specific authorization from OFAC to engage in otherwise prohibited exports or reexports that are initiated and completed entirely within the JPOA Period to ensure the safe operation of Iranian commercial passenger aircraft, including transactions involving Iran Air, but not other Iranian airlines appearing on the SDN List. The activities that may be licensed include, but are not limited to, the exportation and reexportation of services related to the inspection, repair, or servicing of commercial aircraft and parts in Iran or a third country and goods, including spare parts, to Iran or a third country. Any licensed activity must be concluded by July 20, 2014.

Furthermore, in connection with activities described in the statement of licensing policy (see above) conducted by non-U.S. persons that would not require a specific OFAC license, the U.S. Government will not require U.S. financial institutions to impose correspondent or payable-through account sanctions with respect to foreign financial institutions that conduct or facilitate such activities, provided that such activities are initiated and concluded entirely within the JPOA Period and do not involve persons other than Iran Air or Iranian depository institutions listed solely pursuant to Executive Order 13599 on the SDN List.

Finally, the U.S. Government will not impose blocking sanctions on non-U.S. persons engaged in ancillary activities within the scope of the JPOA guidance.

### Humanitarian and Other Assistance.

The JPOA also established a mechanism whereby foreign financial institutions selected by Iran and specifically contacted and advised by the U.S. Government will be permitted to facilitate purchases by Iran food, agricultural commodities, medicine, and medical devices, as well as Iran's payment of its United Nations obligations, payments for medical expenses incurred by Iranian citizens outside of Iran, and payments totaling approximately \$400 million in tuition assistance for Iranian students studying outside of Iran. Please note, however, that preexisting exceptions to the U.S. sanctions regime generally permit humanitarian trade with Iran such that the above-described mechanism is not the exclusive means for non-U.S. persons not otherwise subject to the ITSR to facilitate or finance such sales.

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With the exception of humanitarian trade and activities relating to civil aviation in Iran, U.S. persons and their owned or controlled non-U.S. affiliates are not impacted by the temporary sanctions relief detailed above. Indeed, the sanctions relief specifically targets so-called "secondary" sanctions, which apply to non-U.S. persons even when no U.S. persons or items

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of U.S.-origin are involved. The sanctions relief window, however, even in the case of non-U.S. persons, is quite narrow and non-U.S. persons intending to engage in transactions on the basis that they temporarily are free from sanctions are advised to carefully assess whether such transactions are, in fact, exempt from sanctions and whether such transactions reasonably can be concluded prior to July 20, 2014. Also, please be aware that if Iran fails to live up to its commitments, the temporary sanctions relief may be terminated, even prior to July 20, 2014.

For assistance understanding and applying the temporary sanctions relief, please contact Daniel J. Gerkin, Donald W. Smith, or Jerome J. Zaucha in Washington in connection with U.S. implementation issues and Vanessa Edwards in London in connection with EU implementation issues.

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### Authors:

**Daniel J. Gerkin**  
**Of Counsel**

daniel.gerkin@klgates.com  
+1.202.778.9168

**Jerome J. Zaucha**  
**Partner**

jerome.zaucha@klgates.com  
+1.202.778.9013

**Holly E. Chapin**  
**Associate**

holly.chapin@klgates.com  
+1.202.778.9022

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1 The JPOA may be accessed at [http://eeas.europa.eu/statements/docs/2013/131124\\_03\\_en.pdf](http://eeas.europa.eu/statements/docs/2013/131124_03_en.pdf).

2 See [http://www.treasury.gov/resource-center/sanctions/Programs/Documents/jpoa\\_guidance.pdf](http://www.treasury.gov/resource-center/sanctions/Programs/Documents/jpoa_guidance.pdf); see also [http://www.treasury.gov/resourcecenter/sanctions/Programs/Documents/jpoa\\_faqs.pdf](http://www.treasury.gov/resourcecenter/sanctions/Programs/Documents/jpoa_faqs.pdf).

3 For purposes of the JPOA sanctions relief, the term “associated service” means any necessary service, including any insurance, transportation, or financial service, ordinarily incident to the underlying activity covered by the JPOA, provided that, with certain exceptions, such services may not involve persons identified on the List of Specially Designated Nationals and Blocked Persons (“SDN List”) maintained by the U.S. Department of the Treasury, Office of Foreign Assets Control (“OFAC”).

4 Please note that the European Union likewise implemented temporary sanctions relief, effective January 20, 2014, through Council Regulation 2014/42/EU, which amended Council Regulation (EU) 267/2012 (see a further description of the EU relief below).

5 The term “non-U.S. persons not otherwise subject to the ITSR” refers to non-U.S. persons that are neither owned or controlled by U.S. persons.

6 Any funds owed to Iran as a result of such trade must be credited to an account located in the country with primary jurisdiction over the foreign financial institution involved in the transaction. However, as detailed below, please note that these funds may not be used for the purchase or acquisition of gold or other precious metals.

7 “Restricted Funds” refers to: (i) any existing and future revenues from the sale of Iranian petroleum or petroleum products, wherever held; and (ii) any Central Bank of Iran (“CBI”) funds, with certain exceptions for non-petroleum CBI funds held in third country central banks.

8 Certain financial institutions in the above-listed six countries, as well as financial institutions under the primary jurisdiction of Switzerland, may be notified directly in writing by the U.S. Government that they are authorized to engage in financial transactions with the Central Bank of Iran in connection with the repatriation of revenues and the establishment of a financial channel for humanitarian and other assistance, as detailed below. Only those financial institutions that are contacted by the U.S. Government directly will be permitted to engage in these activities without risking the imposition of U.S. sanctions.

9 The Iranian automotive sector means the manufacturing or assembling in Iran of light and heavy vehicles, including passenger cars, trucks, buses, minibuses, pick-up trucks, and motorcycles, as well as original equipment manufacturing and aftermarket parts manufacturing relating to such vehicles.

10 See [http://www.treasury.gov/resource-center/sanctions/Programs/Documents/civil\\_aviation\\_slp\\_iran.pdf](http://www.treasury.gov/resource-center/sanctions/Programs/Documents/civil_aviation_slp_iran.pdf).