

KNOW YOUR RIGHTS

The Impact of  
U.S. Sanctions  
Against Iran  
on You



A PUBLICATION BY

ASIAN  
LAW CAUCUS



MEMBER OF  
ASIAN AMERICAN CENTER  
FOR ADVANCING JUSTICE

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## ACKNOWLEDGEMENTS

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## ASIAN LAW CAUCUS

The mission of the Asian Law Caucus is to promote, advance and represent the legal and civil rights of the Asian and Pacific Islander Communities. Recognizing that social, economic, political and racial inequalities continue to exist in the United States, the Asian Law Caucus is committed to the pursuit of equality and justice for all sectors of our society with a specific focus directed toward addressing the needs of low-income Asian and Pacific Islanders.

The Civil Rights and National Security Program of the Asian Law Caucus is committed to U.S. national security policies that protect the civil rights of individuals and communities, including Asian American and immigrant communities in Northern California and the broader United States. Since 2007, the Asian Law Caucus has combated profiling and discrimination against the Arab, Middle Eastern, South Asian, Sikh and Muslim communities, including launching a campaign against intrusive questioning and searches of U.S. citizens and residents at U.S. borders. The Asian Law Caucus has assisted individuals with complaints about border profiling and conducted “know your rights” outreach to affected communities.

Asian Law Caucus is increasingly receiving inquiries from community members regarding the Iran Sanctions. This Know Your Rights publication aims to provide a general discussion of the Iran Sanctions, the scope of the prohibited and allowed transactions under the Iran Sanctions, and the serious impact the Iran Sanctions pose on people’s lives, especially United States citizens and residents of Iranian descent. ***This publication should not be regarded as legal advice.***

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## I. INTRODUCTION TO IRAN SANCTIONS

### What are “Iran Sanctions”?

Sanctions are penalties that one country imposes on another country for foreign policy or national security reasons. For a number of years, the United States has imposed sanctions against Iran, generally on the basis that the Iranian government works against U.S. interests. The most relevant sanctions affecting your commercial and financial dealings with Iran are the Iranian Transactions Regulations (“Iran Sanctions”)<sup>1</sup>.

Iran Sanctions significantly restrict activities involving Iran, such as receiving goods from Iran or bringing them when traveling (imports), taking or shipping goods to Iran (exports), receiving or sending funds to friends and family, owning or selling property in Iran, and receiving inheritances.

### Who regulates U.S. sanctions against Iran?

OFAC. OFAC stands for “Office of Foreign Assets Control,” which is an agency of the United States Department of Treasury. Among other things, OFAC is responsible for administering and enforcing the Iran Sanctions.

### Why do I need to learn about and comply with the Iran Sanctions?

The Iran Sanctions significantly restrict your ability to bring, receive, take, or send goods, services, technology and money from and to Iran. It is also important to learn about the Iran Sanctions if you have property in Iran, may at some point receive an inheritance from a relative in Iran, operate an online business or website, or plan to do charitable work in Iran.

### What happens if I don’t comply with the Iran Sanctions?

Failure to comply with the Iran Sanctions can result in *severe* criminal and civil consequences:<sup>2</sup>

- Criminal penalties may include a fine of up to 1 million dollars, imprisonment up to 20 years, or both;
- Civil penalties may be the greater of up to \$250,000 or twice the amount of the transaction.

## II. WHO HAS TO COMPLY WITH THE IRAN SANCTIONS

### Do I have to comply with the Iran Sanctions?

You have to comply with the Iran Sanctions if:<sup>3</sup>

- You are physically in the United States (regardless of your immigration status).
- You are a United States citizen, regardless of whether you live in the U.S. or abroad.
- You are a United States permanent resident (green card holder), regardless of whether you live in the U.S. or abroad.
- Your company is organized under U.S. laws, including any foreign branches.

Throughout this publication, we will be referring to individuals and companies noted above as a **U.S. person** and to everyone else as a non-U.S. person.

### Even though I am a U.S. person, I have family members who live abroad (e.g., Europe) and are not U.S. citizens or residents. May I ask them to take care of some of the transactions that I'm prohibited to conduct myself?

**No.** You cannot ask, pay or help non-U.S. persons (including family and friends) to do what you are prohibited to do yourself. In addition to prohibiting you from directly engaging in most transactions with Iran, the Iran Sanctions also expressly prohibit you from attempts to evade the import/export restrictions and from facilitating, approving, financing, or guaranteeing prohibited transactions undertaken by other people, even if they themselves don't qualify as a U.S. person.<sup>4</sup>

### Do the Iran Sanctions only apply to individuals of Iranian descent?

No. The Iran Sanctions apply to all U.S. persons, regardless of national origin.

### All my relatives live here, and none of us travels to Iran anymore. I don't need to worry about the Iran Sanctions, right?

No. Even if you do not travel to Iran, the Iran Sanctions still may affect you because they impact a broad range of activity. For example, you cannot buy items of Iranian origin from a third country (e.g., Turkey or Germany) and import them into the United States. As a further illustration, if you have an online business in the United States, you cannot provide certain services to individuals who live in Iran without first obtaining an OFAC license.

### III. MONEY AND INVESTMENT MATTERS

#### What is prohibited?

You are not allowed to:

- Make new investments in Iran.<sup>5</sup>
- Make new investments in property owned or controlled by the “Government of Iran.”<sup>6</sup>
- Purchase, sell, transport, swap, broker, approve, finance, facilitate or guarantee any goods or services of Iranian origin or owned by the “Government of Iran.”<sup>7</sup>
- Continue charging fees and getting interest on existing Iranian loans, unless you apply for and obtain a specific license from OFAC.<sup>8</sup>
- Trade in or finance trading in Iranian oil or petroleum products refined in Iran.<sup>9</sup>

#### How do I know what properties or entities are owned or controlled by the “Government of Iran?”

OFAC publishes a list of persons determined to be the Government of Iran as a part of its “Specially Designated Nationals List.” The list, commonly known as the “SDN List” is available in a number of formats on OFAC’s website, at <http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>.

*Most Iranian banks are on this list. Do not use them to transfer any funds or conduct any business.*

#### What is generally allowed?

U.S. banks are allowed to handle funds transfers to and from Iran, through third-country banks, for the following transactions:

- **A non-commercial family remittance**<sup>10</sup>  
This means you are allowed to send and receive money to and from your family, as long as it is not for a commercial transaction or related to a

family-owned business. Also remember that you cannot use banks which are on the prohibited SDN list<sup>11</sup> for the funds transfer. You are also prohibited from using “Hawala” to transfer the money.<sup>12</sup>

In practice, funds transfers between U.S. and Iran that do not violate the Iran Sanctions are few and far between because most transactions with Iran are prohibited and almost all Iranian banks are on the SDN list. We therefore advise that you seek the assistance of an attorney and seek OFAC guidance or authorization to make sure that your proposed transfer of funds to and from your family is permitted. Contact the Asian Law Caucus for a list of attorneys, law firms, and organizations that may be able to assist you.

- **Payment associated with one of the import or export exceptions**  
(See sections IV and V of this publication for a detailed discussion of these exceptions.)
  - Payment for the exportation to or importation from Iran of information and information materials.<sup>13</sup>
  - Travel-related payments, such as payment of living expenses, payment for accompanied baggage and goods and services acquired for personal use, and payment for travel arrangement (air, sea, land).<sup>14</sup>
  - Payment for the shipment of donation of articles (food, clothes, medicine) to relieve human suffering.<sup>15</sup>
  - Payments for *licensed* sales of agricultural commodities, medicine and medical devices, only if an appropriate OFAC license is referenced.<sup>16</sup>
- **Any transaction authorized by OFAC through a specific or general license**<sup>17</sup>
- **Payments to Iran associated with the overflight of Iran or emergency landing in Iran**<sup>18</sup>  
Payments for services rendered by the Government of Iran in connection with the

overflight of Iran or emergency landing in Iran of aircraft owned by a U.S. person/company or registered in the U.S. is permitted. For example,

if a plane has to make an emergency landing in Iran, this exception allows payment to the Government of Iran for fuel or necessary parts.

## TRUE IRAN SANCTIONS STORIES – MONEY AND INVESTMENT VIOLATIONS

Accused of transferring money between United States and Iran in violation of the Iran Sanctions, Mahmoud Reza Banki was convicted and sentenced by a federal court to **two and a half years in prison**. Mr. Banki was also ordered to forfeit 3.4 million dollars.

Mr. Banki, a United States citizen, was a consultant at an established global management consulting firm at the time of his arrest. He had a doctorate in chemical engineering from Princeton University and an undergraduate degree from the University of California, Berkeley. From 2006 to 2009, Mr. Banki allegedly received over three million dollars into his Bank of America account from his family in Iran, through "Hawala," which is an informal value transfer system used in the Middle East and Northern Africa. The Government alleged that using the "Hawala" system, Mr. Banki understood that he was receiving the funds from third parties in the U.S. and elsewhere, and that an equivalent amount of Iranian currency would be sent to Iranian residents. Mr. Banki never physically or electronically transferred any funds to Iran, and he paid taxes on proceeds he received. Nevertheless, the Government argued that Mr. Banki violated the Iran Sanctions by transferring funds to Iranian parties.

Mr. Banki was convicted in June 2010. He appealed his conviction to the United States Court of Appeals for the Second Circuit and currently awaits a decision. In November 2010, Asian Law Caucus, Iranian American Bar Association, and a number of other organizations co-authored an amicus brief in the *United States v. Banki* appeal.

In the last seven years, OFAC has imposed financial penalties on many U.S. banks, including their foreign branches, for unauthorized funds transfers to and from Iran, operation of accounts of individuals living in Iran, improper closure of such accounts, or performing financial services in the United States on behalf of an account holder while the account holder was located in Iran.

OFAC penalized an individual **\$30,000** for sending and/or attempting to send funds to Iran for investment in a catering business on or about June 14, 2006, November 13, 2006, and November 27, 2006. In deciding the amount of the penalty, OFAC took into account that the individual's action was not egregious, and that this was the individual's first violation of an OFAC sanctions program.

On or about May 22, 2006, an individual attempted to transfer funds to an entity in a third country in order to pay a debt on behalf of an entity in Iran. OFAC penalized the individual **\$550** for violating Iran Sanctions.

## Commonly Asked Questions

### **Am I allowed to buy new property in Iran?**

No. The prohibition against making new investments in Iran includes not buying new property for investment purposes in Iran. This includes buying (or otherwise becoming involved in such purchase) new property in Iran for your or your family's personal use, without first obtaining OFAC authorization.

### **I already have property in Iran. Can I sell it and bring over the money?**

No, unless you first obtain a specific license from OFAC.

### **My uncle passed away and left me some money in Iran. Can I deposit the money in an Iranian bank to earn interest? Can I bring the money over to the United States?**

You are prohibited from depositing the money in an Iranian bank. First, almost all Iranian banks are on the SDN list,<sup>19</sup> meaning OFAC considers them to be entities controlled by the Government of Iran. Second, even if the bank is private, depositing money in a bank in Iran constitutes a new investment, which is prohibited under the Iran Sanctions.

Bringing the money to the United States may qualify as a non-commercial family remittance and therefore would be permitted. However, keep in mind that you cannot use most Iranian banks for such remittances, making this transfer legally and practically complicated. Again, you are also prohibited from using "Hawala"<sup>20</sup> to transfer the money. We therefore advise that you seek the assistance of an attorney and seek OFAC guidance or authorization to make sure that your proposed transfer of funds is permitted.<sup>21</sup>

### **What should I do if I already have a bank account in Iran?**

This is an unclear area of law. If you already have a bank account in Iran, it is prudent to file a "voluntary disclosure" with OFAC explaining your situation

and the legal ambiguity, and seek a specific license if necessary. We recommend that you seek the assistance of an attorney.

### **My grandmother called and asked me for financial support. May I send her money from a U.S. bank?**

This may qualify as a permitted non-commercial family remittance. However, keep the following in mind:

- The money must be sent by the U.S. bank, through third-country banks, that are not on OFAC's SDN List.<sup>22</sup>
- Your financial support to your grandmother has to be personal. In other words, it cannot be related to her business or other business activity.

## IV. IMPORT PROHIBITIONS

### How do the Iran Sanctions affect the import of goods and services from Iran to the United States?

The Iran Sanctions prohibit the following import transactions:<sup>23</sup>

1. Importing goods or services of Iranian origin into the United States;
2. Importing goods or services owned or controlled by the “Government of Iran”<sup>24</sup> into the United States;
3. Providing financing, approval, facilitation or guarantees for transactions falling into categories (1) or (2) above. In other words, you cannot help another person or company to import goods or services of Iranian origin by for example paying for the shipping costs.

These prohibitions do not just apply to direct imports (Iran to U.S.), but also prohibit imports through a third country (Iran to third country to U.S.) and importations for transshipment (Iran to U.S. to third country).<sup>25</sup>

### What are examples of imports that violate the Iran Sanctions?

Example 1: You are traveling from Iran to the United States (with layover in Paris). You have bought goods of Iranian origin in Iran, including a gift for your boss that you bought for \$300. You place the gift in your suitcase which you check in with the airline to be sent directly to the United States. You have violated the Iran Sanctions and may be penalized.

Example 2: Same as Example 1, except you retrieve your bags in Paris and check them back in. You have violated the Iran Sanctions and may be penalized.

Example 3: You ask your grandmother in Iran to send you via mail or private carrier goods of Iranian origin that are prohibited by the Iran Sanctions. You have

violated the Iran Sanctions and may be penalized.

Example 4: You are vacationing in Germany. While shopping, you come across a store with carpets of Iranian origin. The prices are great, so you buy three of them. You plan to bring them to the United States in your luggage, and sell them to your acquaintances at the same price you bought them. You have violated the Iran Sanctions and may be penalized.

Example 5: Same as Example 4, except you ask the store to ship them to your United States address. You have violated the Iran Sanctions and may be penalized.

The imports in Examples 1 thru 5 are prohibited unless you first obtain a specific license from OFAC. Keep in mind that the above examples are **not** a full list of all the scenarios where Iran Sanctions import prohibitions apply, but instead, they are hypotheticals reflecting our understanding of the law and intended to show you the extensive reach of the prohibitions.

*Therefore, unless you are absolutely sure that what you are bringing into the United States falls within one of the narrow exceptions (discussed below) or you have obtained a specific license from OFAC, you are strongly advised to refrain from importing any goods or services of Iranian origin into the United States. When in doubt, call OFAC and/or seek the assistance of a lawyer who specializes in this area. Contact the Asian Law Caucus for a list of attorneys, law firms, and organizations that may be able to assist you.*

### Are there any exceptions to the Iran Sanctions import prohibitions?

The following is a summary of the narrow exceptions to the Iran Sanctions import prohibitions. You only need to qualify for one exception, not all of them.

- **Gift Exception**<sup>26</sup>  
You are allowed to bring gifts from Iran (gifts you are bringing to the U.S. for others, as well as gifts

you have received from family and friends in Iran and are bringing to the U.S.) as long as all of the following conditions are met:

- The total value of the gifts is not more than \$100;
- The items are of a type and in quantities normally given as gifts between individuals; **and**
- The items are not controlled for chemical and biological weapons, missile technology, national security or nuclear proliferation.

We recommend that you keep your receipts if possible, because they may provide good evidence of the fair market value of the gift if you are questioned at the airport.

- **Accompanied Baggage and Personal Use Exception<sup>27</sup>**

This exception allows you to bring Iranian-origin personal baggage to the United States if:

- It is for your personal use;
- It is not intended for sale or for some other person; **and**
- It is not otherwise prohibited, such as purchased Iranian carpets.

This exception also allows you to bring goods of Iranian origin you have purchased in Iran as long as they are for personal use incident to your travel, not intended for sale or other people, and not otherwise prohibited.

- **Household Exception<sup>28</sup>**

You may bring your Iranian-origin household and personal effects that were actually used by you in your foreign household if all of the following conditions are met:

- You (or other family members arriving in the U.S. from the same foreign household) were using the Iranian-origin household and personal items abroad;
- These household or personal items are intended for your own household's use in the

United States, and not intended for any other person or for sale; **and**

- These articles are not otherwise prohibited from importation under the Iran Sanctions.

- **Information Exception<sup>29</sup>**

Transactions involving imports of information or informational materials are generally permitted. Information or information materials include publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, and news wire feeds. Information materials may also include artwork, if the artwork is classified under the Harmonized Tariff Schedule of the United States.<sup>30</sup>

- **Substantially Transformed Iranian-origin Goods by a Non-U.S. person<sup>31</sup>**

You are allowed to import into the U.S. from third countries (e.g., Germany) goods manufactured in that third country that contain Iranian-origin raw materials or components if particular conditions are met.<sup>32</sup>

If you or your company intends to rely on this complex exception, we strongly recommend that you consult with an attorney.<sup>33</sup>

- **Telecommunications and Mail<sup>34</sup>**

You are allowed to receive mail, telephone calls, and other personal communication. However, the parcels and packages you receive must only contain items that are covered by one of the Iran Sanctions import exceptions and/or by a specific license you have obtained from OFAC.

- **Diplomatic Pouches and Contents<sup>35</sup>**

Diplomatic pouches and their contents may be brought into the United States.

## TRUE IRAN SANCTIONS STORIES – IMPORT VIOLATIONS

Mahdavi's A&A Rug Company (Norcross, Georgia) was alleged to have violated the Iran Sanctions by importing Iranian goods without a license. In 2008, OFAC reported that Mahdavi had paid **\$9,240** to settle the matter.

OFAC alleged that in June 2006, an individual attempted to purchase electronic gold from Me-Gold Kish Co. in Iran. In 2008, after paying **\$400**, the individual settled the matter with OFAC.

OFAC alleged that on or about October 2003, International Golden Foods, Inc. ("IGF") attempted to import goods of Iranian origin without an OFAC license. IGF settled the allegations of violations of the Iran Sanctions by remitting **\$3,150** to OFAC. IGF also instituted a U.S. sanctions compliance program.

## Commonly Asked Questions

**As a graduation gift, my grandmother gave me a gold necklace while I was visiting family in Iran. Can I bring it back with me to the United States?**

Yes, as long as you meet all the requirements of the "Gift Exception" above. Subject to its conditions, the Gift Exception covers gifts you receive in Iran and bring to the United States, as well as gifts you purchase and bring for your friends and family in the United States.

**Am I allowed to bring carpets of Iranian origin to the United States for my own personal use?**

No, unless you have obtained a specific license from OFAC. This ban also applies to carpets of Iranian origin bought outside of Iran. Some sources indicate that Treasury officials may be working on an interpretation of the law that might allow importation of carpets under one of the existing exceptions ("accompanied baggage" or "household goods") or otherwise. However, until this is made clear in the law, we advise that you not bring carpets of Iranian origin into the United States unless you have a specific license from OFAC to do so.

## V. EXPORT PROHIBITIONS

### How do the Iran Sanctions affect the export of goods and services to Iran from the United States?

You are generally prohibited from the following transactions:<sup>36</sup>

- Exporting goods, technology, and services to Iran;
- Exporting goods, technology, and services to “Government of Iran;”<sup>37</sup>
- Exporting goods, technology, or services from the United States to a third country (e.g., UAE), if you know or have reason to know that such items are intended for shipment or exportation (directly or indirectly) to Iran.
- Exporting goods, technology, or services from the United States to a third country (e.g., Germany), if you know or have reason to know that such items are intended for production, for comingling with, or incorporation into goods, technology, or services which will then be exported (directly or indirectly) to Iran.

These export prohibitions include direct exports (U.S. to Iran), exports through a third country (U.S. to third country to Iran), and exportations for transshipment (U.S. to Iran to third country).<sup>38</sup> Also note that the prohibition against technology exports generally extends to software.<sup>39</sup>

### TRUE IRAN SANCTIONS STORIES – EXPORT VIOLATIONS

DHL Express (USA), Inc. and DPWN Holdings (USA), Inc. (collectively "DHL") paid over **9 million dollars** to OFAC to settle allegations of DHL's violation of a few sanctions programs, including the Iran Sanctions. OFAC alleged that, between August 2002 and March 2007, DHL made numerous shipments to Iran, and that the company also failed to maintain records with respect to other shipments to Iran.

OFAC alleged that Varian Inc. violated the Iran Sanctions between March 2001 and October 2003 by exporting U.S.-origin software. Varian settled the allegations by paying **over one hundred thousand dollars** to OFAC.

Diversified Business Communications ("Diversified") allowed an entity located in Iran to book a booth space at an annual European seafood exposition in April 2002. OFAC found Diversified to have violated the Iranian Sanctions by exporting services to Iran without a license, and assessed a penalty of **\$5,500**.

## Are there any exceptions to the export prohibitions?

The following is a summary of the narrow exceptions to the Iran Sanctions export prohibitions. You only need to qualify for one exception, not all of them.

- **Gifts Exception**<sup>40</sup>

You are permitted to take or ship gifts from the United States to Iran as long as all of the following conditions are met:

- The total value of the gifts are not more than \$100;
- The items are of a type and in quantities normally given as gifts between individuals; **and**
- The items are not controlled for chemical and biological weapons, missile technology, national security or nuclear proliferation.

We advise that you do not attempt to avoid the law by sending multiple packages, each with a total value of less than \$100. Such behavior is risky because it may be interpreted and rise to the level of attempting to evade the Iran Sanctions.

- **Accompanied baggage and Personal Use Exception**<sup>41</sup>

When leaving the United States for Iran, you are permitted to export your accompanied baggage as long as it is not intended for any other person and not for sale.

You may also take with you personal items incident to travel (e.g., your clothes, toiletries, personal medicine).

- **Household Goods Exception**<sup>42</sup>

If you are departing from the United States to relocate to Iran, you are also permitted to export from the United States to Iran your household and personal effects, as long as you meet **all** the following conditions:

- The articles were actually used in the United States by you or family members accompanying you;
- The articles are not intended for any other person or for sale; **and**
- The articles are not otherwise prohibited from exportation.

- **Information Exception**<sup>43</sup>

Same as the “Information Exception” for imports. *See* page 8 of this publication.

- **Humanitarian Donation Exception**<sup>44</sup>

Donations of articles to relieve human suffering, such as food, clothing, and medicine are permitted. However, if you plan to heavily rely on this exception to send food, clothing or medicine to Iran, we advise you to obtain a specific license from OFAC.

You should also note that even though this exception allows you to pay for shipment of donation of articles to relieve human suffering, it **does not** allow you to send monetary donations to Iranian-based charities. Do not send any money to Iranian charities unless you have first obtained a specific license from OFAC.

- **Licensed Agricultural and Medical Commodities Exception (LICENSE NEEDED)**<sup>45</sup>

You are permitted to export medicine, medical devices, and agricultural commodities, to Iran, **only if you have obtained a specific license from OFAC**. For example, you cannot send blood pressure monitors or dental products to Iran without a specific license. Specifically, you need to apply to OFAC for a one-year license (*see* Section VII below).

## TRUE IRAN SANCTIONS STORIES – EXPORT VIOLATIONS

Between October 2000 and January 2003, Datex-Ohmeda, Inc.'s former division Spacelabs Medical Inc. allegedly exported medical devices from the United States through an entity in Dubai, U.A.E. to Iran without a license. Accused of violating the Iran Sanctions, Datex-Ohmeda remitted **\$66,547** to OFAC and settled the matter in April 2007.

In January 2008, Zimmer Dental Inc. ("Zimmer Dental") paid OFAC **\$82,850** on behalf of itself and its predecessors to settle allegations of violations of the Iran Sanctions. OFAC alleged that between March 2002 and May 2004, goods and services were exported to Iran without an OFAC license. Zimmer Dental voluntarily disclosed this matter to OFAC and has instituted a comprehensive U.S. sanctions compliance program.

- **Personal Communications and Necessary Software Exception<sup>46</sup>**

You are allowed to communicate with your family and friends in Iran, via email, mail, fax, telegraph, telephone, or other personal communication means, as long as nothing of value is transferred. You may also send free computer software used for internet communications (e.g., software for chat, email and social media). You or your company are also permitted to offer email, chat, and social media services to Iran (e.g., Gmail or Facebook), as long as these services are free and publicly available.

- **Export of U.S. Low-Level Goods or Technology to Third Countries Exception<sup>47</sup>**

It may not be a violation of the Iran Sanctions if you send U.S. goods and technology to third countries (e.g., UAE) which are then incorporated into or substantially transformed into a foreign product exported to Iran, if the U.S. goods or technology you sent make up a low percentage of the foreign product. In order to qualify for this exception, the goods must fulfill certain requirements.<sup>48</sup>

If you are engaged in a business that may require you to rely on this exception, we strongly advise you to seek assistance of an attorney to help you institute an OFAC compliance program.<sup>49</sup>

- **Certain Legal Services<sup>50</sup>**

If you are an attorney, you may be authorized to provide certain legal services involving Iran. However, you should consult 31 C.F.R. § 560.525 concerning authorized legal services and consider consulting with OFAC. You will need to obtain a specific license from OFAC to receive payment for such legal services.

- **Diplomatic Pouches and Contents<sup>51</sup>**

Diplomatic pouches and their contents may be taken or sent to Iran.

Beyond the Iran Sanctions, the Bureau of Industry and Security of the Department of Commerce ("BIS") enforces U.S. export controls (Export Administration Regulations<sup>52</sup>) that restrict exports and reexports of goods, technology and software to Iran. Any shipments to Iran must take these export controls into account, as well as the Iran Sanctions. *Given the complexity of U.S. export controls and sanctions involving shipments to Iran, we advise that you consult with an attorney if you wish to make any shipments to Iran, either directly from the United States or through third countries (e.g., Germany) or third parties (e.g., family or businesses located in Europe). Contact the Asian Law Caucus for a list of attorneys, law firms, and organizations that may be able to assist you.*

## Commonly Asked Questions

### Is it OK to send U.S. products to my friend who lives in a third country (e.g., UAE) to take to my grandmother in Iran?

No. Unless an exception applies or you have obtained a specific license from OFAC, this is an indirect export of goods to Iran, from you to your grandmother via your friend, and is prohibited.

### Am I responsible if I send goods, technology or services to a third country (e.g., China), if I don't intend it to be sent/taken to Iran?

Yes, you may still be responsible. Under the Iran Sanctions if you **know or have reason to know** that the items you have shipped to a company or individual in a third country are intended for supply, shipment or export to Iran, then you must not make that shipment.

Example 1: You are a business owner in the United States selling American designer handbags and shoes. One of your regular customers, Company D, is a

company in Dubai and often places large orders with you. You **know** that Company D re-exports/re-sells the items to Iran. Your sale violates the Iran Sanctions and you may be penalized.

Example 2: Same as #1, except in this example, you do not know for sure that Company D re-exports/re-sells the items to Iran. You do, however, know that Company D's main customer is located in Iran. This may indicate that you have **reason to know** that the items may be exported directly or indirectly to Iran. In these circumstances, you need to determine that the items will not be sent to Iran before proceeding with the sale.

If you believe that your business may violate the Iran Sanctions because it ships goods or services to non-Iranian companies that may then re-export them to Iran, you should consult an attorney who can help you institute an OFAC compliance program for your company.<sup>53</sup>

## TRUE IRAN SANCTIONS STORIES – EXPORT VIOLATIONS

In 2007, Primavera Systems, Inc., a provider of project portfolio systems, paid **\$13,430** to settle OFAC allegations of violations of the Iran Sanctions. OFAC had alleged that between November 2002 and July 2005, Primavera acted without an OFAC license when it exported goods and services to its Dubai based representative with knowledge that the goods and services were destined for re-export to Iran. Primavera had voluntarily disclosed this matter to OFAC.

On April 7, 2011, OFAC reported that Aegis Electronic Group, Inc. had agreed to pay **\$20,000** to settle allegations of violations of Iran Sanctions. OFAC alleged that between August 2008 and January 2009, Aegis exported two camera control units from the United States to Austria with knowledge that the items were intended for re-export to Iran. The case against Aegis was initiated as a criminal investigation by U.S. Immigration and Customs Enforcement.

**I have a company that provides online services. Is it OK if people who live in Iran use my services? Does it matter that my company is a non-profit organization?**

No. Unless you have obtained a specific license from OFAC, you are prohibited from providing services to individuals in Iran. This means that you generally cannot offer or operate accounts (including online accounts) for them.

Non-profit and charitable organizations are not excused from complying with the Iran Sanctions. Unless their activities fall within one of the narrow export prohibitions (discussed above) or they first obtain a specific license from OFAC, they are prohibited from exporting services to Iran as well.

## TRUE IRAN SANCTIONS STORIES – EXPORT VIOLATIONS

In September 2009, OFAC reported that it had assessed a penalty of **almost three million dollars** on Gold & Silver Reserve, Inc. ("GSR"). OFAC alleged that GSR had exported financial services without a license to Iran, by activating 56,739 "e-currency" accounts through its website for persons located in Iran.

**Am I responsible if my general charitable donations (e.g., donation to Red Cross or Humanitarian Law Project) inadvertently go to an Iranian non-profit or worse to an entity on the SDN list without OFAC authorization?**

No, unless you know or have reason to know that your donation has been routed to such entities. If you find out that your donation has been sent to an Iranian non-profit, a terrorist organization, or an entity on the SDN list<sup>54</sup>, consider filing a "voluntary disclosure" with the assistance of an attorney.

**Can I do fundraising for a non-profit based in Iran as long as I intend to obtain a license before I actually transfer the funds?**

It would be prudent to obtain a specific license from OFAC before engaging in any fundraising to avoid the risk and perception of attempting to evade the Iran Sanctions. At the very least, you should make sure to explain to all donors in writing that their money will not be transferred to any Iranian non-profits until an OFAC license is obtained.

**Can I take medicine to Iran for my own personal use?**

Yes, as long as the medicine is for your own personal use. The "Accompanied Baggage and Personal Use" exception should allow you to take your personal medication, as long as there is no ulterior motive (e.g., medicine is not intended for someone else or for commercial sale).

**Can I take or send prescription medicine to Iran as a gift for a family member or friend as long as I meet all the requirements of the "Gift Exception?"**

No. Purchasing prescription medication in the United States with the intent to give it to someone else implicates serious issues beyond OFAC.

## VI. ENFORCEMENT

### How will OFAC notify me if they think I have violated the Iran Sanctions?

If OFAC has reason to believe that you or someone in your household has violated the Iran Sanctions, it may send you a subpoena requiring that you provide further information and/or documentation concerning the transaction(s) at issue. If OFAC determines that your response is inadequate or otherwise evidences an apparent violation, it would issue to you a **“Pre-Penalty Notice,”** which is a notice of OFAC’s intent to impose a monetary penalty. Such notice will describe the alleged violation as well as the laws and regulations OFAC believes you have violated. It will also state the amount of the proposed monetary penalty as well as the information on how to respond to the Pre-Penalty Notice.<sup>55</sup>

### What should I do if I receive a Pre-Penalty Notice?

You have the right to respond within 30 days of mailing of the Pre-Penalty Notice. You could make a written presentation as to why no violation occurred, why a monetary penalty should not be imposed and/or why any penalty that is imposed should be a lesser amount.<sup>56</sup>

We strongly advise that you seek assistance from an attorney ASAP if you receive a Pre-Penalty Notice. Contact the Asian Law Caucus for a list of attorneys, law firms, and organizations that may be able to assist you.

### What happens after I respond to the Pre-Penalty Notice?

If after considering your response to the pre-penalty notice, OFAC determines that there was no violation, it is required to promptly notify you in writing of this determination. If, on the other hand, OFAC determines that you did violate its regulations involving Iran Sanctions, it will send you a written **“Penalty Notice”** imposing a monetary penalty.<sup>57</sup>

### How long do I have to pay the fine after I receive the Penalty Notice? What happens if I don’t pay the fine?

You have 30 days from the mailing of the written Penalty Notice. If you do not pay your fine, the matter may be referred to a collection agency or even to the Department of Justice to bring a civil lawsuit against you.

### I think I have violated the Iran Sanctions but I haven’t received any notice. What should I do?

You should consult an attorney ASAP.<sup>58</sup> You should also consider filing a voluntary disclosure to OFAC. Such voluntary disclosures are strongly encouraged by OFAC and have a significant effect in reducing penalties. Indeed, in many cases voluntary disclosures coupled with evidence of corrective action (e.g., steps to ensure that the problem will not recur) can result in an outcome where OFAC issues a simple warning letter and closes the matter.

## **What happens, if while I'm traveling (at the airport or other ports), a border agent believes that one of the items in my luggage violates the Iran Sanctions?**

If a U.S. Customs and Border Patrol (CBP) agent reasonably believes that an item violates the Iran Sanctions, he or she will seize the item.<sup>59</sup> You should be given a receipt for your property at the time of seizure.<sup>60</sup> CBP is not required to consult with OFAC to carry out such seizure.

### **IRAN SANCTIONS AT THE BORDER**

Several United States citizens and permanent residents of Iranian descent returning to the United States from overseas have reported increased and more detailed questioning about whether and why they travel to Iran, their family and business affairs there, and the contents of their luggage. Some of these individuals were returning to the United States from third countries and had not visited Iran on their trip.

On April 3, 2011, United States Customs & Border Patrol (CBP) officers at the Washington-Dulles International Airport seized from a passenger an estimated \$3,000 in Iranian jewelry from a passenger. The jewelry, which included one gold and one silver ring, two gold necklaces, a gold bracelet and a pair of earrings, allegedly violated the Iran Sanctions. CBP officers also required the passenger to complete a form for possessing currency exceeding \$10,000 in U.S. dollars or foreign equivalent. The passenger admitted to carrying \$9,300, but officers discovered \$11,106 in U.S. dollars and 141,177 Iranian Rials, equal to about \$14 in U.S. dollars.

## VII. OFAC LICENSING

### What is an OFAC license?

A license is an authorization from OFAC to engage in a transaction that otherwise would be prohibited. In other words, any export, import or transaction involving Iran that is not covered by an exception, is prohibited unless you have a license from OFAC. There are two types of licenses: general licenses and specific licenses.

### What is the difference between general and specific licenses?

A general license authorizes a particular type of transaction for everyone without the need to apply for a license. To date, OFAC has issued only two general licenses under the Iran Sanctions:

- General License 1 (issued by OFAC in December 2003): allowed all U.S. persons to make financial donations to be used for humanitarian relief and reconstruction in response to the Bam earthquake for 90 days. *This general license has expired and is no longer in force.*
- General License 2 (effective August 22, 2006): Employees in six international organizations<sup>61</sup> are authorized to engage in transactions in or involving Iran, as is necessary to carry out their official business, as long as it does not create a debit or credit on the books of a U.S. bank.

A specific license is a written authorization issued by OFAC to a particular person or company in response to a written license application covering a particular transaction described in the request.

### Does getting a license excuse prior transactions in violation of the Iran Sanctions?

No. Licenses are not retroactive, unless they specifically say that they are.<sup>62</sup> Moreover, if you have violated the Iran Sanctions in a past transaction, you may not apply for a specific license covering the

same types of transactions without first submitting a voluntary disclosure concerning the prior violation.

### What is required for applying for a license?

Because OFAC licensing is a complex matter, we recommend that you seek the assistance of an attorney.<sup>63</sup> When applying for a license, you must provide:

- The applicant's full legal name, mailing and street address, telephone and fax numbers, and email (if available). If the applicant is a business entity, provide the state or jurisdiction of incorporation and principal place of business. It is recommended that you also include any available supporting documents, *e.g.*, bylaws, 501(c)(3) designation and tax records, and annual filings.
- Names of the individuals responsible for the application and related commercial transactions, along with their telephone and fax numbers and, if available, e-mail addresses.
- Detailed description of your proposed transaction, including detailed information on any exports or imports involved and their intended use.
- Explanation of how and why the proposed transaction should be authorized under the Iran Sanctions.
- The names, mailing addresses, and, if available, fax and telephone numbers of all parties with an interest in the transaction.

### What is required to apply for one-year licenses to export agricultural and medical commodities and devices?

In addition to information and documentation above, you must also provide:

- A description of all items to be exported or re-exported pursuant to the requested one-year license, including a statement that the item

is classified as EAR 99, and accompanied by documentation sufficient to verify that the items are classified as such and that they do not violate other agency regulations.

- An official commodity classification of EAR 99 issued by BIS, certifying that the product is EAR 99, is required to be submitted to OFAC with the request for a license authorizing the exportation or re-exportation of all fertilizers, live horses, western red cedar, and medical devices other than basic medical supplies, such as syringes, bandages, gauze and similar items. Certain medical supplies and medicines do not require an official commodity classification of EAR 99, a list of which is available at <http://www.bis.doc.gov/policiesandregulations/tradesanctionsreformexportenhancementact.html>.

Because OFAC licensing is a complex matter, we recommend that you seek the assistance of an attorney.

## How do I send my license application to OFAC?

You must send your license application by mail or courier to the following address:

Attn: Licensing Division  
Office of Foreign Assets Control  
U.S. Department of the Treasury  
Treasury Annex  
1500 Pennsylvania Avenue, NW  
Washington, DC 20220

At this time, electronic and facsimile transmissions are not supported.

## How long does it take OFAC to process my license application? Can I find out the status of my application?

The length of time for determinations to be reached will vary depending on a number of factors. OFAC encourages applicants to wait at least two to three weeks before calling to inquire about the status of their application.

## Can I appeal a denial of my license application?

The Iran Sanctions do not provide for a formal appeal process. However, OFAC will reconsider its denial of your license application for “good cause,” for example, if you submit additional relevant information, show changed circumstances, or demonstrate why OFAC incorrectly denied your license request.

## VIII. Contact Information

### **Can I contact OFAC with questions about compliance with OFAC's regulations involving Iran Sanctions or licensing?**

Yes. OFAC Licensing Division can be reached at (202) 622-2480. For compliance questions, you may call the Compliance Division at (202) 622-2490 or 800-540-6322. Please be aware that it is often difficult (and frustrating) to contact OFAC personnel for discussing compliance questions or the status of your license request.

### **How do I contact Asian Law Caucus if I have additional questions? How can I find a lawyer regarding a matter involving Iran Sanctions?**

Contact Asian Law Caucus at (415) 896-1701 and ask to speak to someone in the National Security and Civil Rights Program. Asian Law Caucus maintains a list of attorneys, law firms, and organizations that may be able to assist you. You may also search for an attorney on the Iranian American Bar Association website at [www.iaba.us](http://www.iaba.us).

## IX. Final Remarks

Whether U.S. economic sanctions, such as the Iran Sanctions, are an effective tool of American foreign policy remains a matter of longstanding debate and is outside the scope of this publication. However, there is little dispute that the Iran Sanctions can have both intended and collateral effects. For example, the restrictions can complicate the ability of United States citizens and permanent residents to support family members and friends in Iran or to engage in charitable work in Iran. Our purpose in providing you with this publication is to educate you about the Iran Sanctions—not to discourage you from helping your family and community in Iran. You should keep in mind that even though the Iran Sanctions do restrict a broad range of activity, OFAC does provide you with a mechanism—the issuance of specific licenses—to legally pursue your family or charitable affairs in Iran. Contact us if you have questions, need a referral, or want to share with us your story concerning Iran Sanctions.

## Endnotes

- <sup>1</sup> 31 C.F.R. § 560. The United States previously imposed the Iranian Assets Control Regulations, 31 C.F.R. Part 535, which blocked assets of the Government of Iran following the seizure of the American Embassy in Tehran in 1979. The assets freeze was eventually expanded to a full trade embargo, which remained in effect until the Algiers Accords were signed with Iran on January 19, 1981. In 2010, Congress enacted the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (“CISADA”), 22 U.S.C. 8501, which imposed sanctions on any person (U.S. and non-U.S.) that made certain investments to develop Iran’s energy resources and that engaged in certain transactions involving the domestic production and importation of refined petroleum in Iran. Section 103 of the CISADA also revoked the authorization to import into the United States, or deal in, certain foodstuffs and carpets of Iranian origin.
- <sup>2</sup> 31 C.F.R. § 560.701; 50 U.S.C. § 1705.
- <sup>3</sup> 31 C.F.R. § 560.314.
- <sup>4</sup> 31 C.F.R. § 560.203 & 560.208.
- <sup>5</sup> 31 C.F.R. § 560.207. New investments are defined as transactions that occur after 12:01 EDT, May 7, 1995. 31 C.F.R. § 560.316.
- <sup>6</sup> *Id.*
- <sup>7</sup> 31 C.F.R. § 560.206.
- <sup>8</sup> *Id.*
- <sup>9</sup> 31 C.F.R. § 560.209.
- <sup>10</sup> 31 C.F.R. § 560.516(a)(2).
- <sup>11</sup> The SDN list is available in a number of formats on OFAC’s website, at <http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>.
- <sup>12</sup> Hawala is an informal value transfer system used in the Middle East and Northern Africa, in which money is transferred via a network of Hawala brokers. In the most basic variant of the Hawala system, a customer approaches a Hawala broker in one city and gives a sum of money to be transferred to a recipient in another city. The Hawala broker calls another Hawala broker in the recipient’s city, gives him instructions on how and to whom to deliver the funds, and promises to settle the debt at a later date.
- <sup>13</sup> 31 C.F.R. § 560.210(c) & 560.516(a)(3).
- <sup>14</sup> 31 C.F.R. § 560.210(d) & 560.516(a)(3).
- <sup>15</sup> 31 C.F.R. § 560.210(b) & 560.516(a)(3).
- <sup>16</sup> 31 C.F.R. § 560.516(a)(1).
- <sup>17</sup> *Id.*
- <sup>18</sup> 31 C.F.R. § 560.522.
- <sup>19</sup> *Supra*, note 11.
- <sup>20</sup> *Supra*, note 12.
- <sup>21</sup> Contact the Asian Law Caucus for a list of attorneys, law firms, and organizations that may be able to assist you.
- <sup>22</sup> *Supra*, note 11.
- <sup>23</sup> 31 C.F.R. § 560.201 & 560.208.
- <sup>24</sup> See Section III of this publication for what constitutes the “Government of Iran.”
- <sup>25</sup> 31 C.F.R. § 560.201 & 560.406(a).
- <sup>26</sup> 31 C.F.R. § 560.506.
- <sup>27</sup> 31 C.F.R. § 560.210(d) & 560.507; 22 U.S.C. 8512(d)(2).
- <sup>28</sup> 31 C.F.R. § 560.524(b).
- <sup>29</sup> 31 C.F.R. § 560.210(c) & 560.315.
- <sup>30</sup> Available at <http://www.usitc.gov/tata/hts/>
- <sup>31</sup> 31 C.F.R. § 560.407.
- <sup>32</sup> In order to qualify for this exception, you must meet all of the following: The Iranian-origin raw materials must have been substantially transformed or incorporated into the third-party manufactured product; the substantial transformation or incorporation of the Iranian-origin raw materials into the final product must have occurred in the third country; and the substantial transformation or incorporation of the Iranian-origin raw materials into the final product was performed by a non-U.S. person or company. *Id.*
- <sup>33</sup> Contact Asian Law Caucus for a list of attorneys, law firms, and organizations that may be able to assist you.
- <sup>34</sup> 31 C.F.R. § 560.508.
- <sup>35</sup> 31 C.F.R. § 560.521.
- <sup>36</sup> 31 C.F.R. § 560.204-205.
- <sup>37</sup> See Section III of this publication for what constitutes the “Government of Iran.”
- <sup>38</sup> 31 C.F.R. § 560.204 & 560.406(b).
- <sup>39</sup> 31 C.F.R. § 560.418.
- <sup>40</sup> 31 C.F.R. § 560.506.
- <sup>41</sup> 31 C.F.R. § 560.210(d) & 560.507.
- <sup>42</sup> 31 C.F.R. § 560.524(a).
- <sup>43</sup> 31 C.F.R. § 560.210(c) & 560.315.
- <sup>44</sup> 31 C.F.R. § 560.210(b).
- <sup>45</sup> 31 C.F.R. § 560.530.
- <sup>46</sup> 31 C.F.R. § 560.210(a) & 560.540.
- <sup>47</sup> 31 C.F.R. § 560.205(b) & 560.420(a)-(d) & 560.511.
- <sup>48</sup> In order to qualify for this exception, you must who meet all of the following: The U.S. exported goods or technology were incorporated into a foreign-made product outside the United States; the aggregate value of the U.S. goods and technology made up less than 10% of the total value of the foreign-made product that will be exported to Iran or the U.S.-origin goods or technology comprise less than 10% of the foreign-made good; the foreign product is not intended for use in the Iranian petroleum or petrochemical industry; and the foreign product is not in violation of regulations administered by other U.S. agencies (e.g., Export Administration Regulations, International Traffic in Arms Regulations). *Id.*
- <sup>49</sup> Contact the Asian Law Caucus for a list of attorneys, law firms, and organizations that may be able to assist you.
- <sup>50</sup> 31 C.F.R. § 560.525.
- <sup>51</sup> 31 C.F.R. § 560.521.
- <sup>52</sup> Available at [http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?sid=1a9810310a2f0f9e2b48dc112b58e1aa&c=ecfr&ctpl=/ecfrbrowse/Ttitle15/15cfrv2\\_02.tpl#700](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?sid=1a9810310a2f0f9e2b48dc112b58e1aa&c=ecfr&ctpl=/ecfrbrowse/Ttitle15/15cfrv2_02.tpl#700)
- <sup>53</sup> Contact the Asian Law Caucus for a list of attorneys, law firms, and organizations that may be able to assist you.
- <sup>54</sup> *Supra*, note 11.
- <sup>55</sup> 31 C.F.R. § 560.703.
- <sup>56</sup> 31 C.F.R. § 560.704.
- <sup>57</sup> 31 C.F.R. § 560.705.
- <sup>58</sup> Contact the Asian Law Caucus for a list of attorneys, law firms, and organizations that may be able to assist you.
- <sup>59</sup> 19 C.F.R. § 162.21.
- <sup>60</sup> *Id.*
- <sup>61</sup> United Nations, World Bank, International Monetary Fund, International Atomic Energy Agency, International Labor Organization; and World Health Organization.
- <sup>62</sup> 31 C.F.R. § 560.501(a).
- <sup>63</sup> Contact the Asian Law Caucus for a list of attorneys, law firms, and organizations that may be able to assist you.



# The Impact of U.S. Sanctions Against Iran on You

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