

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

SECOND EDITION  
NOVEMBER 2012

## **ACKNOWLEDGEMENTS**

This is a Know Your Rights publication by the Asian Law Caucus, a member of the Asian American Center for Advancing Justice. It updates the original publication, released in May 2011, which was written by Niki Khoshzamid Moore and Veena Dubal of the Asian Law Caucus. The update was done by Christina Sinha and Nasrina Bargzie of the Asian Law Caucus. We are grateful to the WilmerHale law firm for providing us with excellent pro bono expertise on the Iran Sanctions, and in particular to Ronald Meltzer and Jeffrey Kessler, without whom this publication and update would not have been possible. We would also like to thank Shirin Sinnar for her insightful review of the original draft, as well as Farhad Alavi for sharing his perspectives on representation of individuals affected by the Iran Sanctions in the travel context. This guide is current as of September 20, 2012.

This publication was designed by Debbie Dare and printed by Inkworks Press.

## **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 National Security and Civil Rights Program of the Asian Law Caucus is committed to protecting the civil rights of individuals and communities, including Asian American and immigrant communities in Northern California and the broader U.S. Since 2007, the Asian Law Caucus has combated profiling and discrimination against the Arab, Middle Eastern, Muslim, and South Asian 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 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 U.S. 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 the “Iran Sanctions”?

Sanctions are trade and financial restrictions that one country imposes on a country, person, or other entity 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 undermines U.S. interests. Though there are other sanctions that affect Iran, the most relevant sanctions affecting your personal, commercial, and financial dealings are the Iranian Transactions Regulations (“Iran Sanctions”),<sup>1</sup> which are the focus of this guide.

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

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

OFAC. OFAC stands for the “Office of Foreign Assets Control,” which is an agency of the U.S. Department of the 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 limit 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 someone in Iran, operate a website or have an online business, plan to travel to Iran, 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, imprisonment for up to 20 years, or both.
- Civil penalties may include fines of up to \$250,000 or twice the amount of the transaction, whichever is greater.

### How are the Iran Sanctions structured?

The Iran Sanctions are complex and confusing; however, these rules generally prohibit a broad range of transactions, and then carve out certain, limited activities as permissible. Therefore, when trying to do anything involving Iran, it is useful to start from the assumption that what you are trying to do is not allowed. Then, look to see if there is an explicit exemption (for example, the “travel” exemption) in the law that allows you to do what you are trying to do. If there is no exemption, look to see if there is a “general license” (for example, the “personal communications” general license) that allows that activity. If there is no exemption or general license that explicitly gives you permission to undertake a proposed transaction, then you must obtain a specific license, otherwise you may be in violation of the Iran Sanctions. Exemptions and licenses are discussed next.

### What is an “exemption” and how is it different from a “license”?

Exemptions are certain types of activity that Congress has carved out as permissible, and are written into the law itself. Congress can revoke an exemption (in other words, say that activity is no longer allowed), but OFAC may not. Licenses also carve out certain activities and make them permissible, but unlike exemptions, they are issued by OFAC, so OFAC has the power to revoke them.

## What is an OFAC license?

A license is explicit permission from OFAC to engage in a transaction (do something) that otherwise would not be allowed. In other words, any export, import, or other transaction involving Iran that is not covered by an exemption in the law 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 pre-authorizes a particular type of transaction or activity for everyone, meaning U.S. persons can do what a general license allows without individually asking OFAC for specific permission (as long as you stay strictly within the limits of the general license). For example, the reason we are allowed to send some kinds of computer software to Iran (discussed in Section V) is because there is a general license that allows us to do so.<sup>3</sup>

By contrast, a specific license is written permission from OFAC that is given to a particular person or company that allows only that person or company to do a specific transaction. In order to get a specific license, you must submit a written application to OFAC. See Section VII for more information on licenses.<sup>4</sup>

## A note on recent changes to the Iran Sanctions

Since the first publication of this guide in May 2011, there have been a number of significant changes to the Iran Sanctions. The Asian Law Caucus has received numerous inquiries from community members who were unclear about whether the limited activities authorized by the Iran Sanctions were still permissible. OFAC has made it clear that those authorizations do still apply, with some limited changes.<sup>5</sup> Those

changes will be discussed throughout this guide, where applicable. This publication is up to date as of September 20, 2012.

## Scope and purpose of this publication:

This publication is meant as a general guide for community members who want to become familiar with the types of requirements the Iran Sanctions impose. It does not contain every rule and requirement that must be followed, and is not meant to be legal advice.

For more specific questions regarding the Iran Sanctions, please see Section VIII of this guide for information on how to contact the Asian Law Caucus. The Asian Law Caucus provides general consultations on the Iran Sanctions, and also maintains a list of attorneys, law firms, and organizations that may be able to assist you with your questions or concerns about the Iran Sanctions.

## 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 you fall into any of the following categories:<sup>6</sup>

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

If you fall into any of these categories, you are considered a “U.S. person” and you must comply with the Iran Sanctions. Throughout this guide, 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) who are not U.S. persons. May I ask them to take care of some of the transactions that I am prohibited from doing?**

No. You cannot ask, pay, or help non-U.S. persons (including family and friends) to do what you are prohibited from doing 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 any of the restrictions in the Iran Sanctions, including facilitating, approving, financing, or guaranteeing prohibited transactions (transactions that a U.S. person cannot legally do) undertaken by other people, even if they themselves don’t qualify as a U.S. person.<sup>7</sup>

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

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

### **All my relatives live here in the U.S., and none of us travels to Iran anymore. Can the Iran Sanctions still affect me?**

Yes. Even if you do not travel to Iran, the Iran Sanctions may still 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 U.S. As a further illustration, if you have an online business in the U.S., 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>8</sup>
- Make new investments in property owned or controlled by the “Government of Iran.”<sup>9</sup>
- Be involved in any transaction or dealing related to goods or services of Iranian origin or that are owned or controlled by the “Government of Iran.”<sup>10</sup> This includes purchasing, selling, transporting, swapping, brokering, approving, financing, facilitating, or guaranteeing such goods.
- Continue charging fees or getting interest on existing Iranian loans.<sup>11</sup>
- Trade in, or finance trading in, Iranian oil or petroleum products refined in Iran.<sup>12</sup>

#### What does “owned or controlled by the Government of Iran” mean?

This term includes entities that the Government of Iran: i) has 50% or more of an interest in, ii) has a “controlling” interest in, or iii) controls in some other way.<sup>13</sup>

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

OFAC publishes a list of entities (including people) that it has determined to be “owned or controlled by the Government of Iran” as 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>.<sup>14</sup> However, if a person or entity meets the definition of “owned or controlled by the Government of Iran” discussed directly above, you are prohibited from doing business with that person or entity, even if the name does not appear on the list. In practice, this means that we have to be exceedingly cautious when engaging in any activity that directly or indirectly involves Iran.

#### A note on Iranian banks, other Iranian financial institutions,<sup>15</sup> and “hawala”

Prior to December 2011, most, but not all, Iranian banks and financial institutions were on the SDN list (meaning U.S. persons could not do business with them). Since then, new requirements<sup>16</sup> have been imposed that forbid U.S. persons from doing business with *any* Iranian financial institution, even private ones.<sup>17</sup> Therefore, do not use any Iranian bank or financial institution (including their foreign branches) unless you have a license.<sup>18</sup> The implications of this new requirement on our ability to transfer funds are discussed below.

Please also note that “hawala” services (also known as “havoleh”) are expressly forbidden. Hawala is an informal value transfer system used extensively in the Middle East and Northern Africa. In this system, money is transferred from sender to recipient via a network of hawala brokers. In the most basic version of this system, a customer approaches a hawala broker in City A and gives a sum of money to be transferred to a recipient in City B. The hawala broker in City A calls another hawala broker in City B, gives him instructions on how and to whom to deliver the funds, and promises to settle the debt at a later date. Despite its common use, the law is clear that U.S. persons may *not* use this system.

#### 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 noncommercial, personal remittance<sup>19</sup>**  
Despite the recent changes discussed above in the section on Iranian banks and financial institutions, there are general licenses that allow you to send and receive money to and from your family and friends in Iran, as long as it is not for a commercial (business-related) reason, provided that certain conditions are met.<sup>20</sup>

Please note that these general licenses do not allow you to send funds for reasons related to a family-owned business or any other type of business. They also do not allow you to send charitable donations (that requires a specific license). Please see Section V for more on charitable donations. Finally, though the text of the law does not specify this, in practice, the “noncommercial personal remittance” authorization is viewed primarily as a way to send money to your family. While you are also allowed to send money to your friends in Iran (provided all conditions discussed above are met), you should be cautious to not overuse this authorization to send money to non-family members.

The process for moving funds to and from Iran has grown quite complex. The Asian Law Caucus has heard of numerous instances where Iranian-Americans who have tried to transfer funds from Iran to the U.S. have had their U.S. bank accounts closed, even though the attempted funds transfers were legal under the Iran Sanctions, and even though their banks were clearly allowed to process the proposed funds transfers. We therefore advise that you seek the assistance of an attorney and / or seek OFAC guidance or authorization to make sure that your proposed transfer of funds is permitted; we also advise you to contact your bank and inform them of the proposed transfer, referencing any specific license you may have for the transfer, before the money comes through. Contact the Asian Law Caucus for a list of attorneys that may be able to assist you.

- **Payment associated with one of the import or export exceptions**  
(See Sections IV and V of this report for a detailed discussion of these exceptions.)
  - Payment for the exportation (to Iran) or the importation (from Iran) of information and information materials.<sup>21</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 arrangements (air, sea, land).<sup>22</sup>

- Payment for the shipment of donations of articles (food, clothes, medicine) to relieve human suffering.<sup>23</sup>
  - Payments for licensed sales of agricultural commodities, medicine and medical devices, only if an appropriate OFAC license is referenced.<sup>24</sup>
- **Any transaction authorized by OFAC through a general or specific license<sup>25</sup>**
  - **Payments to Iran associated with the overflight of Iran or emergency landing in Iran<sup>26</sup>**

## 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 a purchase) new property in Iran for your or your family’s personal use, unless you have first obtained a license from OFAC.

### *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? Can I bring the money over to the U.S.?*

You are prohibited from depositing the money in an Iranian bank to earn interest, even if it is a private bank. This is for two reasons. First, we are prohibited from doing business with any Iranian financial institutions; second, depositing money into a bank in Iran would be considered a “new investment” in Iran, which is also prohibited.

Bringing the money over to the U.S. may qualify as a non-commercial personal remittance and therefore would be permitted, subject to the rules discussed

above. However, keep in mind that you cannot use Iranian banks for any part of the money transfer (unless there is a general or specific license that allows you to do so), making this transfer legally and practically complicated. Again, you are also prohibited from using hawala 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.

***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, we recommend that you speak with an attorney and consider filing a “voluntary

disclosure”<sup>27</sup> and get a specific license from OFAC, if necessary.

***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 noncommercial personal remittance. However, keep the following in mind:

- You must meet all the requirements discussed above in the noncommercial, personal remittance section, and
- Your financial support to your grandmother has to be personal. In other words, it cannot be related to her business or other business activity.

## TRUE IRAN SANCTIONS STORIES – MONEY AND INVESTMENT VIOLATIONS

Mr. Banki, a U.S. citizen, was accused of transferring money between the U.S. and Iran in violation of the Iran Sanctions. Mr. Banki 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 the hawala system. The U.S. government alleged that by using the hawala system, Mr. Banki understood that he was receiving 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 and appealed his conviction to the U.S. Court of Appeals for the Second Circuit. In October 2011, that court reversed part of Mr. Banki's conviction, upheld part of it, and vacated and remanded the rest. Though the government reopened his case in February 2012 and scheduled a retrial for later in the year, the case against Mr. Banki was closed in June 2012 after a settlement was reached between the parties. Mr. Banki was sentenced to no prison time, but was ordered to pay a fine.

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 U.S. 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.

## IV. IMPORT PROHIBITIONS

### How do the Iran Sanctions affect the import of goods and services from Iran to the U.S.?

The Iran Sanctions prohibit the following import transactions:<sup>28</sup>

- Importing goods or services of Iranian origin into the U.S.;
- Importing goods or services owned or controlled by the “Government of Iran”<sup>29</sup> into the U.S.;
- Approving, financing, facilitating, or guaranteeing the importation of goods or services by non-U.S. persons, if it would be prohibited for a U.S. person to do so. In other words, if you are a U.S. person, you cannot help another person or company to import goods or services of Iranian origin (for example, by paying for the shipping costs) if the Iran Sanctions forbid you from importing those goods or services yourself.

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>30</sup>

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

Example 1: You are traveling from Iran to the U.S. (with a 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 bring them to the U.S. 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 U.S. 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. They are merely intended to show you the extensive reach of the prohibitions.

*Therefore, unless you are absolutely sure that what you are bringing into the U.S. 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 U.S. 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.

- **Certain Gifts**<sup>31</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 or 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(s) if you are questioned at the airport.

- **Accompanied Baggage and Personal Use**<sup>32</sup>  
This authorization allows you to bring Iranian-origin personal baggage (meaning, the baggage itself, along with the items in it that people routinely bring for personal use) to the U.S. 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.

In other words, this authorization also allows you to bring goods of Iranian origin that you purchased in Iran to the U.S., as long as they were for personal use and were incident to your travel, are not intended for sale or for other people, and are not otherwise prohibited.

- **Household Goods and Personal Effects**<sup>33</sup>  
If you are arriving in the U.S., you may bring your Iranian-origin household and personal effects to the U.S. if all of the following conditions are met:
  - You (or other family members arriving in the U.S. from the same foreign household) were actually using the items abroad;
  - The items are intended for your own household's use in the U.S., and not intended for any other person or for sale; and

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

- **Information Exemption**<sup>34</sup>  
Transactions involving imports of information or informational materials are generally permitted. The term “information or information materials” includes: publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, and news wire feeds. It may also include artwork, if the artwork is classified under certain subheadings of the Harmonized Tariff Schedule of the U.S.<sup>35</sup>

- **Substantially Transformed Iranian-Origin Goods by a Non-U.S. Person**<sup>36</sup>  
You are allowed to import into the U.S. from third countries (e.g., Germany) goods manufactured in that third country that contain certain minimal amounts of Iranian-origin raw materials or components if several conditions are met.<sup>37</sup>

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

- **Telecommunications and Mail**<sup>38</sup>  
You are allowed to receive mail, telephone calls, and other personal communications from Iran. However, the parcels and packages you receive must only contain items that are covered by one of the Iran Sanctions import authorizations and / or by a specific license you have obtained from OFAC.

- **Diplomatic Pouches and Contents**<sup>39</sup>

## 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 U.S.?*

Yes, as long as you meet all the requirements of the "Certain Gifts" authorization above. Subject to its conditions, this authorization covers gifts you receive in Iran and bring to the U.S., as well as gifts you purchase and bring for your friends and family in the U.S.

*Am I allowed to bring carpets of Iranian origin to the U.S. 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.

## V. EXPORT PROHIBITIONS

### How do the Iran Sanctions affect the export of goods and services to Iran from the U.S.?

The Iran Sanctions prohibit the following transactions:<sup>40</sup>

- Exporting goods, technology, and services to Iran;
- Exporting goods, technology, and services to the “Government of Iran;”<sup>41</sup>
- Exporting goods, technology, or services from the U.S. to a third country (e.g., the U.A.E.), if you know or have reason to know that the items are intended for shipment or exportation (directly or indirectly) to Iran or to the Government of Iran. See the “Commonly Asked Questions” discussion in this Section for examples of this.
- Exporting goods, technology, or services from the U.S. to a third country (e.g., Germany), if you know or have reason to know that such items are intended for the production of, for comingling with, or for 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>42</sup> Also note that the prohibition against technology exports generally extends to software.<sup>43</sup> However, “personal communication” software is generally exportable; this is discussed in detail below.

### 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.

- **Certain Gifts**<sup>44</sup>

You are permitted to take or ship gifts from the U.S. to Iran, 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 or 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

### 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. Between August 2002 and March 2007, DHL made numerous shipments to Iran. 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**.

a total value of less than \$100. This type of behavior is risky because it might be construed as an attempt to evade the Iran Sanctions, which is prohibited.<sup>45</sup>

- **Accompanied Baggage and Personal Use**<sup>46</sup>

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

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

- **Household Goods and Personal Effects**<sup>47</sup>

If you are departing from the U.S. to relocate to Iran, you are permitted to export your household and personal effects, as long as you meet all the following conditions:

- The articles were actually used in the U.S. 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 Exemption**<sup>48</sup>

Same as the “Information Exemption” for imports. See Section IV of this Publication.

- **Personal Communications and Necessary Software**<sup>49</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 are also allowed to send computer software that is incidental to personal communication via the internet<sup>50</sup> (such as instant messaging, chat and email, social networking, photograph sharing, web browsing, and blogging), as long as the things you are sending are free (available at no cost to the user), publically available, and are not being sent to the Government of Iran.<sup>51</sup>

In March 2012, OFAC did two things that relate to this authorization. First, OFAC issued guidelines<sup>52</sup> that give some examples of software that fall under this authorization (meaning, you can send them without asking OFAC for permission first). They include:

- Personal communications (and their updates), such as Yahoo! Messenger, Google Talk, and the free version of Skype
- Personal data storage, such as Dropbox
- Internet browsers and their updates, such as Google Chrome, Mozilla Firefox, and Internet Explorer
- Plug-ins, such as Flashplayer and Java
- Document readers, such as Adobe Acrobat
- Free mobile apps (applications) related to personal communications, and
- RSS feed readers and aggregators, such as Google Feed Burner.

This is not a complete list of software that you are allowed to send. As long as what you are trying to send meets the requirements discussed in this section, you are allowed to send it. If you are unclear about whether or not you can send something under this authorization, contact OFAC and/or seek the assistance of a lawyer. If what you would like to send does not meet these requirements, you must first ask OFAC for a specific license before sending it.

The second thing OFAC did that affects the personal communications authorization was to clarify its policy around specific licenses in this area.<sup>53</sup> As discussed above, if the software you are trying to send does not meet the above requirements, you must apply for a specific license from OFAC before sending it. In March 2012, OFAC clarified that it has a “favorable licensing policy” regarding personal communications, meaning that OFAC has said it is likely to grant specific licenses to U.S. persons who want to send services and software that is not already covered by the Personal Communications authorization.<sup>54</sup>

- **Humanitarian Donation Exemption<sup>55</sup>**  
Donations of articles to relieve human suffering (such as food, clothing, and medicine) are permitted. However, if you plan to use this exemption frequently to send articles to Iran, we advise you to obtain a specific license from OFAC.

When relying on this exemption, you must also ensure that you do not send these types of donations to anyone on the SDN list. To make certain you are not sending donations to a forbidden entity, we advise that you check with OFAC and / or contact an attorney who can help you check to make sure you are allowed to send the articles to your intended recipient.

Please note that even though this exemption allows you to ship donations of articles (meaning, items) 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 (SPECIFIC LICENSE NEEDED)<sup>56</sup>**  
You are permitted to export medicine, medical devices, and agricultural commodities to Iran 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 for a one-year specific license (see Section VII below).

- **Export of U.S. Low-Level Goods or Technology to Third Countries<sup>57</sup>**

It may not be a violation of the Iran Sanctions if you send U.S. goods and technology to third countries (e.g., U.A.E.) which are then incorporated into or substantially transformed into a foreign product which is then 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 complicated authorization, the goods must fulfill certain requirements.<sup>58</sup>

If you are engaged in a business that may require you to rely on this authorization, we strongly advise you to seek the assistance of an attorney to help you institute an OFAC compliance program.

- **Certain Legal Services<sup>59</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.

## 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 U.S. 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.

- **Diplomatic Pouches and Contents**<sup>60</sup>  
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>61</sup>) that further restricts 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 U.S. 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., U.A.E.) to take to my grandmother in Iran?*

**No.** Unless you meet the requirements of one of the authorizations discussed above, or unless 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?*

Maybe. 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 U.S. 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 in 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 make sure 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 and consider filing a “voluntary disclosure.”

## 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 U.S. 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 authorizations (discussed below) or they first obtain a specific license from OFAC, they are prohibited from exporting services to Iran as well.

*Am I responsible if my general charitable donations (e.g., donations to the Red Cross) inadvertently go to an Iranian non-profit, or worse, to an entity on the SDN list?*

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, contact an attorney and consider filing a “voluntary disclosure.”

*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 actually for your own personal use. The “Accompanied Baggage and Personal Use” authorization should allow you to take your personal medication, as long as there is no ulterior motive (e.g., you may not take medicine that is 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 “Certain Gifts” Authorization?*

No. Purchasing medication in the U.S. with the intent to give it to someone else implicates serious issues beyond the Iran Sanctions.

## 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.

## VI. ENFORCEMENT

### **How will OFAC notify me if they think I have violated the Iran Sanctions?<sup>62</sup>**

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 about the transaction(s) at issue. If OFAC determines that your response is inadequate, or if it still believes a violation of the Iran Sanctions occurred, it may issue you a “Pre-Penalty Notice,”<sup>63</sup> which is a notice of OFAC’s intent to impose a penalty. This notice would describe the alleged violation (including the laws and regulations that OFAC believes were violated) and include the amount of the proposed monetary penalty. It will also contain information on how to respond to the pre-penalty notice.<sup>64</sup>

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

You have the right to respond within 30 days of the mailing of the 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>65</sup>

We strongly advise that you seek assistance from an attorney as soon as possible 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 of the Iran Sanctions, it is required to promptly notify you of that decision in writing. However, if OFAC determines that you did violate the Iran Sanctions, it

may send you a written “Penalty Notice” imposing a monetary penalty.<sup>66</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 will likely be referred to a collection agency or even to the Department of Justice, which may bring a civil lawsuit against you.<sup>67</sup>

### **I think I have violated the OFAC rules but haven’t received any notice. What should I do?**

You should consult an attorney as soon as possible. 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 violation will not happen again), can result in an outcome where OFAC issues a simple warning letter and closes the matter.<sup>68</sup>

### **What happens if, while I’m traveling (at the airport or other ports of entry), a border agent believes that an item(s) 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, s/he has the authority to seize it.<sup>69</sup> If your property is seized at the airport, the CBP officer is required to give you a receipt for whatever is taken.<sup>70</sup> It is also a good idea to ask the officer whom you should contact to follow up regarding the seized property (to attempt to get it back). CBP is not required to consult with OFAC before seizing the property.

## IRAN SANCTIONS AT THE BORDER

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 U.S. 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.

## VII. OFAC LICENSING: FREQUENTLY ASKED QUESTIONS

### What is an OFAC License?

Please see Section I for an overview of licenses.

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

OFAC licensing is a complex matter, especially if the person filing for the license inadvertently informs OFAC about activity that may be a violation of the Iran Sanctions. We therefore recommend that you seek the assistance of an attorney when applying for a license. 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.
- 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>.

### What information is generally needed to apply for a license to sell real property (land or buildings) in Iran, and to transfer the money from the sale to the U.S.?

In general, the information you will need to have in order to apply for this type of license is:

- The names of the U.S. persons who are selling the property in Iran and / or receiving the money from the sale of that property.
- A description and / or the location of the property you wish to sell.
- A statement regarding whether or not you intend to use the services of an attorney, a funds agent, a real estate broker, or any other service provider in Iran to effect the sale.
- The name of the banking or financial institutions in Iran and in the U.S. that will be used to process the funds from the sale.

### 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:

Again, because obtaining licenses can be complicated, especially when they also involve bringing money from Iran to the U.S., we recommend that you consult with an attorney prior to starting this process.

## 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

You may also fax your license application to OFAC's Licensing Division at (202) 622-1657; however, you must still send in the original documents to the above mailing address.

## 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 them 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.<sup>71</sup>

## Does getting a license excuse prior violations of the Iran Sanctions?

No. Licenses are not retroactive, unless they specifically say that they are.<sup>72</sup> Moreover, if you have violated the Iran Sanctions in a past transaction, you should not apply for a specific license covering the same types of transactions without first disclosing the prior violation.

## VIII. CONTACT INFORMATION

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

Yes. The 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 time-consuming to reach OFAC personnel to discuss questions about compliance or the status of your license request.

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

Contact the Asian Law Caucus at (415) 896-1701 and ask to speak to someone in the National Security & 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 the Iran Sanctions are an effective U.S. foreign policy tool remains a matter of longstanding debate and is outside the scope of this publication. However, there can be no doubt that the Iran Sanctions have both intended and collateral effects. For example, the restrictions can complicate the ability of U.S. persons to support family members in Iran or to engage in charitable work in Iran. The purpose of this publication is to educate you about the Iran

Sanctions, not to discourage you from helping your family or community in Iran. You should keep in mind that even though the Iran Sanctions prohibit a broad range of transactions, OFAC does provide you with mechanism—such as the issuance of general or specific licenses—to legally pursue your personal, family, and charitable affairs in Iran. Contact us if you have questions, need a referral, or want to share your story concerning the Iran Sanctions.

## Endnotes

- 1 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.
- 2 31 C.F.R. § 560.701; 50 U.S.C. § 1705.
- 3 31 C.F.R. § 560.540. See ITR Part 560, Subpart E for a non-comprehensive listing of general licenses.
- 4 Throughout this guide, the word “exemption” will refer to areas of activity that Congress has carved out as permissible, whereas the word “exception” will be used interchangeably with “authorization,” and will refer to both “exemptions” in the law and general licenses.
- 5 Executive Order 13599 § 4(a); General License A (issued 02/05/2012); General License B (issued 02/05/2012); OFAC Fact Sheet: Implementation of National Defense Authorization Act Sanctions on Iran (issued 02/06/2012), available at <http://www.treasury.gov/press-center/press-releases/Pages/tg1409.aspx>.
- 6 31 C.F.R. § 560.314.
- 7 31 C.F.R. § 560.203 & 560.208. Furthermore, in May 2012, the Treasury Department was given new authority to single out foreign entities (non-U.S. persons) who evade the Iran Sanctions and essentially cut them off from the U.S. financial and commercial system. In other words, foreign entities that were not traditionally subject to U.S. jurisdiction vis-à-vis the Iran Sanctions can now be placed on the SDN list if they are determined to be a “foreign sanctions evader.” Executive Order 13608 (issued 05/01/2012); OFAC Fact Sheet: New Executive Order Targets Foreign Sanctions Evaders (issued 05/01/2012), available at [http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Documents/fse\\_fact\\_sheet\\_05012012t.pdf](http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Documents/fse_fact_sheet_05012012t.pdf); OFAC FAQ Regarding E.O. 13608, available at [http://www.treasury.gov/resource-center/faqs/Sanctions/Pages/ques\\_index.aspx#fse](http://www.treasury.gov/resource-center/faqs/Sanctions/Pages/ques_index.aspx#fse).
- 8 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.
- 9 31 C.F.R. § 560.207.
- 10 31 C.F.R. § 560.206.
- 11 31 C.F.R. § 560.206, 560.527, 560.316, 560.317, & 560.412.
- 12 31 C.F.R. § 560.209. Additional restrictions on dealings with the Iranian petroleum industry were imposed by Executive Order 13590 (issued 11/21/2012).
- 13 31 C.F.R. § 560.313. On March 20, 2012, OFAC amended the Iranian Transactions Regulations to redefine this term as including “any corporation, partnership, association, or other entity in which the Government of Iran owns a 50 percent or greater interest or a controlling interest, and any entity which is otherwise controlled by that government.” This was done to make this definition conform to the definition used in the Iranian Financial Sanctions Regulations. Federal Register Vol. 77, No. 54 at 16170 (03/20/2012); OFAC Press Release, “Iranian Transactions Regulations Amendment” (issued 05/01/2012), available at [http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20120320\\_2.aspx](http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20120320_2.aspx).
- 14 The SDN list contains the names of entities that U.S. persons are prohibited from dealing with pursuant to a variety of sanctions programs, not just the Iran Sanctions. However, you can tell that an entity is on the list because of the Iran Sanctions by the tag that comes before the name. A list of the meanings of the tags is located at the bottom of the SDN list.
- 15 This term means “a financial institution organized under the laws of Iran or any jurisdiction within Iran (including foreign branches), any financial institution in Iran, any financial institution, wherever located, owned or controlled by the Government of Iran, and any financial institution, wherever located, owned or controlled by any of the foregoing.” E.O. 13599 § 7(f).
- 16 NDAA § 1245(c); E.O. 13599.
- 17 Executive Order 13599 § 4; General License A. See General License A § (c)-(d) for transactions that were previously authorized, but are no longer permitted after February 6, 2012.
- 18 NDAA §1245(c); Executive Order 13599 §1(a)-(b), § 7(f); OFAC FAQ Regarding the NDAA, available at [http://www.treasury.gov/resource-center/faqs/Sanctions/Pages/ques\\_index.aspx#ndaa](http://www.treasury.gov/resource-center/faqs/Sanctions/Pages/ques_index.aspx#ndaa).
- 19 31 C.F.R. § 560.516(a)(2); General License B (issued 05 February 2012).
- 20 U.S. banks, depository institutions, registered brokers, and dealers in securities are allowed to process “noncommercial, personal remittances,” provided the following conditions are all met: i) the funds transfer does not involve any entity deemed to be the “Government of Iran,” as defined by E.O. 13599 § 7(d), ii) the funds are not transferred to, by, or through an entity blocked pursuant to the Weapons of Mass Destruction Proliferators Sanctions Regime (31 C.F.R. part 544, marked with a [NPWMD] tag on the SDN) or the Global Terrorism Sanctions Regulations (31 C.F.R. part 594, marked with a [SDGT] tag on the SDN list), and iii) if an Iranian financial institution is used, the institution is only blocked by E.O. 13599, meaning the only reason the entity is blocked is because of E.O. 13599. See General License B §(d) for an example of a transaction that would be authorized as a noncommercial, personal remittance. General License B (issued 02/05/2012).
- 21 31 C.F.R. § 560.210(c) & 560.516(a)(3).
- 22 31 C.F.R. § 560.210(d) & 560.516(a)(3).
- 23 31 C.F.R. § 560.210(b) & 560.516(a)(3). Note that Executive Orders 13599, 13606, and 13608 prohibit such donations to any entity blocked by those Orders.
- 24 31 C.F.R. § 560.516(a)(1).
- 25 31 C.F.R. § 560.516(a)(1).
- 26 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 or company or registered in the U.S. is permitted. For example, if a plane has to make an emergency landing in Iran, this authorization allows payment to the Government of Iran for fuel or necessary parts. 31 C.F.R. § 560.522.
- 27 31 C.F.R. Part 501 Appendix A §(I)(I). See also OFAC FAQ: <http://www.treasury.gov/resource-center/faqs/Sanctions/Pages/answer.aspx#11>.
- 28 31 C.F.R. § 560.201 & 560.208.
- 29 See Section III of this Report for what constitutes the “Government of Iran.”
- 30 31 C.F.R. § 560.201 & 560.406(a).
- 31 31 C.F.R. § 560.506.
- 32 31 C.F.R. § 560.210(d) & 560.507; 22 U.S.C. 8512(d)(2).
- 33 31 C.F.R. § 560.524(b).
- 34 31 C.F.R. § 560.210(c) & 560.315.
- 35 Specifically, it must be classified under chapter subheading 9701, 9702, or

- 9703 of the Harmonized Tariff Schedule of the United States (*available at* <http://www.usitc.gov/tata/hts/>).
- 36 31 C.F.R. § 560.407.
- 37 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. *Id.*
- 38 31 C.F.R. § 560.508.
- 39 31 C.F.R. § 560.521.
- 40 31 C.F.R. § 560.204-205.
- 41 See Section III of this report for what constitutes the “Government of Iran.”
- 42 31 C.F.R. § 560.204 & 560.406(b).
- 43 31 C.F.R. § 560.418.
- 44 31 C.F.R. § 560.506.
- 45 Transactions by U.S. persons (wherever located) or within the U.S. that evades or avoids the Iran Sanctions, has the purpose of evading or avoiding them, or is an attempt to violate them, is prohibited. 31 C.F.R. 560.203.
- 46 31 C.F.R. § 560.210(d) & 560.507.
- 47 31 C.F.R. § 560.524(a) & 560.518(c)(2).
- 48 31 C.F.R. § 560.210(c) & 560.315.
- 49 31 C.F.R. § 560.210(a) & 560.540. OFAC “Interpretive Guidance and Statement of Licensing Policy on Internet Freedom in Iran” (issued 03/20/2012), *available at* [http://www.treasury.gov/resource-center/sanctions/Programs/Documents/internet\\_freedom.pdf](http://www.treasury.gov/resource-center/sanctions/Programs/Documents/internet_freedom.pdf). See also OFAC “Fact Sheet: Treasury Issues Interpretive Guidance and Statement of Licensing Policy on Internet Freedom in Iran” (issued 03/20/2012), *available at* <http://www.treasury.gov/press-center/press-releases/Pages/tg1456.aspx>.
- 50 The exact language is “services incident to the exchange of personal communications over the Internet.” 31 C.F.R. § 560.540.
- 51 You may also send software that is necessary to enable these types of services, provided that certain requirements are met. 31 C.F.R. 560.540(a)(2).
- 52 This “Interpretive Guidance” is available at [http://www.treasury.gov/resource-center/sanctions/Programs/Documents/internet\\_freedom.pdf](http://www.treasury.gov/resource-center/sanctions/Programs/Documents/internet_freedom.pdf). Its stated purpose is “to ensure that the sanctions on Iran do not have an unintended chilling effect on the ability of companies to provide personal communications tools to individuals in [Iran].” About one month after this Interpretive Guidance was released, President Obama signed Executive Order 13606, which targets inter alia those who have facilitated human rights abuses of the Iranian people via information technology. This Order caused some confusion about whether or not exportation of personal communications software would continue to be allowed. However, OFAC clarified that that this Order was “not intended to block exports of technology that enable the...Iranian people to freely communicate among themselves and with the outside world.” Thus, it appears EO 13606 simply imposes an additional requirement on those seeking to export personal communications software, namely that they ensure that anything they send does not go to anyone who is targeted by the Order (designated with a [HRIT] tag on the SDN list).
- 53 This was a clarification of OFAC’s pre-existing Statement of Licensing Policy.
- 54 OFAC “Interpretive Guidance and Statement of Licensing Policy on Internet Freedom in Iran” (issued 03/20/2012), *available at* [http://www.treasury.gov/resource-center/sanctions/Programs/Documents/internet\\_freedom.pdf](http://www.treasury.gov/resource-center/sanctions/Programs/Documents/internet_freedom.pdf).
- 55 31 C.F.R. § 560.210(b).
- 56 31 C.F.R. § 560.530.
- 57 31 C.F.R. § 560.205(b) & 560.420(a)-(d) & 560.511.
- 58 In order to meet the de minimis content requirement for this exception, all of the following must be met: 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). 31 C.F.R. § 560.205(b) & 560.420(a)-(d) & 560.511.
- 59 31 C.F.R. § 560.525.
- 60 Diplomatic pouches and their contents may be taken or sent to Iran. 31 C.F.R. § 560.521.
- 61 *Available at* [http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?sid=1a9810310a2f0f9e2b48dc112b58e1aa&c=ecfr&tpl=/ecfrbrowse/Ttitle15/15cfrv2\\_02.tpl#700](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?sid=1a9810310a2f0f9e2b48dc112b58e1aa&c=ecfr&tpl=/ecfrbrowse/Ttitle15/15cfrv2_02.tpl#700)
- 62 For a complete list of the types of actions that an OFAC investigation can lead to, see 31 C.F.R. Part 501, Appendix A § (II).
- 63 31 C.F.R. § 560.703. See also 31 C.F.R. Part 501, Appendix A § (V)(A).
- 64 31 C.F.R. § 560.703.
- 65 31 C.F.R. § 560.703(b)(2) & 560.704.
- 66 31 C.F.R. § 560.705. A Penalty Notice constitutes a final agency determination. 31 C.F.R. Part 501, Appendix A §(V)(A)(3).
- 67 31 C.F.R. § 560.706.
- 68 For a listing of General Factors Affecting Administrative Action, see 31 C.F.R. Part 501, Appendix A § (III).
- 69 19 C.F.R. § 162.21(a).
- 70 19 C.F.R. § 162.21(a).
- 71 OFAC Licensing FAQ #76, *available at* <http://www.treasury.gov/resource-center/faqs/Sanctions/Pages/answer.aspx#60>.
- 72 31 C.F.R. § 560.501(a).







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

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