

Luxembourg newsflash

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Recent lifting of the EU nuclear-related sanctions against Iran: some business restrictions still apply!

Contact us:



[Philippe-Emmanuel Partsch](#),
Partner,
EU Financial & Competition Law



[Sophie Baly](#),
Associate,
EU Financial & Competition Law

Further to the verification by the International Atomic Energy Agency (IAEA) that Iran has implemented the agreed nuclear-related measures as set out in the Joint Comprehensive Plan of Action (JCPOA), the Council of the European Union terminated all EU nuclear-related economic and financial sanctions on 16 January 2016 (I). This statement does not however mean that all business restrictions sanctions have ceased to apply to Iran. Some proliferation-related sanctions and restrictions against Iran will indeed still be applicable while the sanctions imposed by the EU in view of the human rights situation in Iran, support for terrorism and other grounds also remain in place (II). Finally, enhanced due diligence is required for any operation with Iran whose anti-money laundering and combating the financing of terrorism (“**AML/CFT**”) regime is still considered to have substantial and strategic deficiencies (III).

This newsflash is intended therefore to provide you with general practical information concerning the lifting of EU sanctions, the scope and limits of this measure and also to remind you of Iran’s status with respect to the international AML/CFT framework.

I. EU sanctions that have effectively been lifted

The EU has imposed over the past decade a wide range of economic and financial sanctions on Iran in addition to implementing the restrictive measures adopted by the UN Security Council with a view to persuading Iran to stop enriching uranium for nuclear proliferation purposes. These restrictive measures have comprised restrictions in the financial sector, the freezing of assets imposed on certain listed persons and entities, restrictions on trade in several goods and measures in the transport sector.

In the field of financial activities, the prohibition on transferring funds to or from Iran has been lifted, **with the exception of the transfer of funds or economic resources to listed persons or entities**. Consequently, all limitations on transferring funds to or from Iran applicable to non-listed Iranian banks, financial institutions and bureaux de change, as well as any subsidiary or branch, other non-listed Iranian person, entity or body will cease to apply. It is therefore no longer necessary to file notifications and requests for authorisations relating to the transfer of funds to or from Iran; equally, restrictions linked to the amount of funds to be transferred no longer apply from an EU sanctions perspective, provided that the funds are not intended for **listed** persons. The provision of financial support for trade with Iran, such as export credit, guarantees or insurance, is also once more permitted.

Restrictive measures that were applicable to the oil, gas and petrochemical sectors as well as to the shipping, shipbuilding and transport sectors no longer apply. Related activities such as import/export, provision of technical assistance, training and investment are therefore permitted. All cargo flights operated by Iranian carriers or originating from Iran have access to airports under the jurisdiction of EU Member States. The inspection, seizure and disposal by EU Member States of cargoes to and from Iran in their territories no longer apply with regard to **items that are no longer prohibited** (see below).

Finally, transactions linked to gold and precious metals, as well as diamonds, and the provision of related services to, from or for the Government of Iran, its public bodies, corporation and agencies, or the Central Bank of Iran are allowed.

II. EU Restrictions that still remain applicable

As mentioned above, despite the lifting of sanctions, certain measures still remain in place.

These concern, on the one hand, the arms embargo, sanctions related to missile technology, restrictions on certain nuclear-related transfers and activities, provisions concerning certain metals and software which are now permitted, subject however to prior authorisation to be granted on a case-by-case basis. Certain related individuals and entities, including certain Iranian banks, also remain listed and thus subject to asset freezes, visa bans and a prohibition on the provision of specialised financial messaging services (SWIFT).

On the other hand, restrictive measures adopted by the European Union since 2011 relating to violations of human rights in Iran also remain in place. These measures include asset freezes and visa bans on 87 persons and 1 entity identified as responsible for grave human rights violations as well as a ban on exports to Iran of equipment which might be used for internal repression and of equipment for monitoring telecommunications.

Finally, Iranian persons who are listed under EU terrorism and Syria sanctions regimes (or any other EU sanctions regime) continue to be subject to restrictive measures under these regimes.

III. Status of Iran with respect to the international AML/CFT framework

Finally, it must not be forgotten that, aside from the lifting of sanctions as described above, Iran remains the only jurisdiction together with the Democratic People's Republic of Korea which has been made subject by the Financial Action Task Force (FATF), *i.e.* the global standard setting intergovernmental body for anti-money laundering and combating the financing of terrorism (AML/CFT), to a FATF call to apply counter-measures to protect the international financial system. Iran was urged by the FATF in October 2015 to "immediately and meaningfully address its AML/CFT deficiencies, in particular by criminalising terrorist financing and effectively implementing suspicious transaction reporting requirements. If Iran fails to take concrete steps to continue to improve its CFT regime, the FATF will consider calling on its members and urging all jurisdictions to strengthen counter-measures in February 2016". As required by CSSF Circular 15/623, all persons and undertakings supervised by the CSSF are therefore requested to apply enhanced due diligence and monitoring measures for any business relationship and transaction as well as correspondent banking relationships with Iran.

We remain at your disposal for further questions.

This publication is intended to provide information on recent legal developments and does not cover every aspect of the topics with which it deals. It was not designed to provide legal or other advice and it does not substitute for the consultation with legal counsel before any actual undertakings.

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