

ECONOMIC SANCTIONS UPDATE

Additional U.S. Sanctions with Respect to Iran Signed Into Law on August 10, 2012: The Iran Threat Reduction and Syria Human Rights Act of 2012.

August 15, 2012

Introduction

On August 1, 2012, the U.S. Congress approved new legislation, the Iran Threat Reduction and Syria Human Rights Act of 2012 (H.R. 1905) (formerly known as the Iran Sanctions, Accountability, and Human Rights Act of 2012) [the “Act”] providing for punishing new sanctions targeting Iran's energy and shipping sectors and those who support these sectors. The round of sanctions in the Act, which targets, among others, any person or company which works with Iran's petroleum or natural gas sector, provides insurance to the National Iranian Oil Company, engages in uranium mining with Iran, or transports crude oil from Iran, passed the U.S. Senate by a unanimous consent vote after overwhelming approval in the U.S. House of Representatives. The Act and was signed into law by President Obama on August 10, 2012. A summary of the main provisions of the Act is provided below.

The detailed and far-reaching Act builds on and strengthens existing U.S. Iran sanctions laws, and provides for the imposition of sanctions against any person that provides a vessel, insurance or reinsurance, or any other shipping service for the transportation to or from Iran of goods that could materially contribute to the activities of the Government of Iran with respect to the proliferation of weapons of mass destruction or support for acts of international terrorism.

The Act provides for the imposition of sanctions with respect to the lifting and transportation of crude oil from Iran (and with respect to the insurance of such transportation) and deems such activity to constitute activity that could materially contribute to the activities of the Government of Iran with respect to the proliferation of weapons of mass destruction or support for acts of international terrorism, and thus be sanctionable. The Act expresses the sense of Congress that the energy sector of Iran remains a zone of proliferation concern since the Government of Iran continues to divert substantial revenues derived from sales of petroleum resources to finance its illicit nuclear and missile activities; and urges the President to apply the full range of sanctions under the Iran Sanctions Act of 1996, as amended by this Act, to address the threat posed by the Government of Iran.

A Summary of the Iran Sanctions, Accountability, and Human Rights Act of 2012

IMPOSITION OF SANCTIONS WITH RESPECT TO JOINT VENTURES WITH THE GOVERNMENT OF IRAN RELATING TO DEVELOPING PETROLEUM RESOURCES (Section 201 of the Act)

The Act amends the Iran Sanctions Act of 1996 and requires the imposition of sanctions with respect to a person that knowingly participates, on or after the date of the enactment of the Act, in a joint venture with respect to the development of petroleum resources outside of Iran if—

- (i) the joint venture is established on or after January 1, 2002; and
- (ii)(I) the Government of Iran is a substantial partner or investor in the joint venture; or
(II) Iran could, through a direct operational role in the joint venture or by other means, receive technological knowledge or equipment not previously available to Iran that could directly and significantly contribute to the enhancement of Iran’s ability to develop petroleum resources in Iran.

The foregoing does not apply with respect to participation in a joint venture established on or after January 1, 2002, and before the date of the enactment of the Act if the person participating in the joint venture terminates that participation not later than the date that is 180 days after such date of enactment.

IMPOSITION OF SANCTIONS WITH RESPECT TO THE PROVISION OF GOODS, SERVICES, TECHNOLOGY, OR SUPPORT FOR THE ENERGY OR PETROCHEMICAL SECTORS OF IRAN (Section 201)

Subject to certain exceptions, the Act requires the imposition of 3 or more of the sanctions described in the Iran Sanctions Act with respect to a person that knowingly, on or after the date of the enactment of the Act, sells, leases, or provides to Iran goods, services, technology, or support, as described below,

- (i) any of which has a fair market value of \$1,000,000 or more; or
- (ii) that, during a 12-month period, have an aggregate fair market value of \$5,000,000 or more.

The goods, services, technology, or support are goods, services, technology, or support that could directly and significantly contribute to the maintenance or enhancement of Iran’s—

- (i) ability to develop petroleum resources located in Iran; or
- (ii) domestic production of refined petroleum products, including any direct and significant assistance with respect to the construction, modernization, or repair of petroleum refineries

or directly associated infrastructure, including port facilities, railroads, or roads, if the primary use of those facilities, railroads, or roads is for the transportation of refined petroleum products.

DEVELOPMENT AND PURCHASE OF PETROCHEMICAL PRODUCTS FROM IRAN (Section 201)

The Act also requires the imposition of sanctions with respect to a person if the person knowingly, on or after the date of the enactment of the Act sells, leases, or provides to Iran goods, services, technology, or support described below,

- (i) any of which has a fair market value of \$250,000 or more; or
- (ii) that, during a 12-month period, have an aggregate fair market value of \$1,000,000 or more.

The goods, services, technology, or support are those that could directly and significantly contribute to the maintenance or expansion of Iran's domestic production of petrochemical products.

IMPOSITION OF SANCTIONS WITH RESPECT TO TRANSPORTATION OF CRUDE OIL FROM IRAN AND EVASION OF SANCTIONS BY SHIPPING COMPANIES (Section 202)

The Act requires the imposition of sanctions against any person that

- (i) is a controlling beneficial owner of, or otherwise owns, operates, or controls, or insures, a vessel that, on or after the date that is 90 days after the date of the Act, was used to transport crude oil from Iran to another country; and
- (ii) in the case of a person that is a controlling beneficial owner of the vessel, the person had actual knowledge the vessel was so used; or in the case of a person that otherwise owns, operates, or controls, or insures, the vessel, the person knew or should have known the vessel was so used.

The Act provides that the decision to impose sanctions as provided above shall only be made if there is a sufficient supply of petroleum and petroleum products produced in countries other than Iran to permit purchasers of petroleum and petroleum products from Iran to reduce significantly their purchases from Iran at the time of the transportation of the crude oil.

The Act also provides that sanctions shall not be imposed with respect to the transportation of crude oil from Iran if the transportation is to a country to which a waiver (waivers granted for countries which have significantly reduced their purchases of crude oil from Iran) has been granted under paragraph (4)

(D) of section 1245 (d) of the National Defense Authorization Act for Fiscal Year 2012 and such waiver applies at the time of the transportation of the crude oil.

CONCEALING IRANIAN ORIGIN OF CRUDE OIL AND REFINED PETROLEUM PRODUCTS (Section 202)

The Act, 90 days after the enactment of the Act, requires the imposition of sanctions against vessels, ship owners, and ship managers (persons who own and control vessels) if such persons have actual knowledge or knowingly conceal the Iranian origin of crude oil or refined petroleum products transported on vessels, including by:

- (i) permitting the operator of the vessel to suspend the operation of the vessel's satellite tracking device; or
- (ii) obscuring or concealing the ownership, operation, or control of the vessel by—
 - a. the Government of Iran;
 - b. the National Iranian Tanker Company (NITC) or the Islamic Republic of Iran Shipping Lines (IRISL); or
 - c. any other entity any other entity determined by the President to be owned or controlled by the Government of Iran or NITC or IRISL.

The Act also authorizes the President, in addition to other sanctions that may be imposed, to prohibit a vessel owned, operated, or controlled by a person, including a controlling beneficial owner, with respect to which the President has imposed sanctions and that was used for the activity for which the President imposed those sanctions from landing at a port in the United States for a period of not more than 2 years after the date on which the President imposed those sanctions.

The Act provides that a person shall be deemed to have actual knowledge that a vessel is owned, operated, or controlled by the Government of Iran or NITC, IRISL, etc. if the International Maritime Organization vessel registration identification for the vessel is—

- (i) included on a list of specially designated nationals and blocked persons maintained by the U.S. Treasury's Office of Foreign Assets Control, and
- (ii) identified by the Office of Foreign Assets Control as a vessel in which the Government of Iran or another entity such as NITC or IRISL has an interest.

Under the Act the term ‘Iranian origin’ means—

- (i) with respect to crude oil, that the crude oil was extracted in Iran; and
- (ii) with respect to a refined petroleum product, that the refined petroleum product was produced or refined in Iran.

EXCEPTION - UNDERWRITING SERVICES AND INSURANCE AND REINSURANCE

Sanctions will not be imposed against insurers and reinsurers that provide insurance for the transportation of crude oil or refined petroleum products from Iran if it is determined that such entities exercised due diligence in establishing and enforcing official policies, procedures, and controls to ensure that they do not provide underwriting services or insurance or reinsurance for such transportation.

The Act requires, within 90 days after the date of the enactment of the Act, that the President prescribe regulations or guidelines that are necessary to implement the above provisions of the Act.

EXPANISON OF SANCTIONS WITH RESPECT TO EXPORTS, TRANSFERS AND TRANSSHIPMENTS TO HELP IRAN’S DEVELOPMENT OF WEAPONS OF MASS DESTRUCTION (Section 203)

The Act provides for the imposition of sanctions against any person that has exported or transferred, or permitted or otherwise facilitated the transshipment of, any goods, services, technology, or other items to any other person; and knew or should have known that—

- (i) the export, transfer, or transshipment of the goods, services, technology, or other items would likely result in another person exporting, transferring, transshipping, or otherwise providing the goods, services, technology, or other items to Iran; and
- (ii) the export, transfer, transshipment, or other provision of the goods, services, technology, or other items to Iran would contribute materially to the ability of Iran to—
 - (I) acquire or develop chemical, biological, or nuclear weapons or related technologies; or
 - (II) acquire or develop destabilizing numbers and types of advanced conventional weapons.

IMPOSITION OF SANCTIONS WITH RESPECT TO JOINT VENTURES WITH THE GOVERNMENT OF IRAN RELATING TO MINING, PRODUCTION, OR TRANSPORTATION OF URANIUM (Section 203)

The Act requires the imposition of sanctions against a person that, on or after the date of the enactment of the Act, knowingly participates in a joint venture that involves any activity relating to the mining, production, or transportation of uranium—

- (i) established on or after February 18, 2012; and
- (ii) with the Government of Iran;
- (iii) (an entity incorporated in Iran or subject to the jurisdiction of the Government of Iran; or
- (iv) a person acting on behalf of or at the direction of, or owned or controlled by, the Government of Iran or an entity described above; or established before February 2, 2012 with the Government of Iran or an entity referred to above, and
- (v) through which through which—
 - a. uranium is transferred directly to Iran or indirectly to Iran through a third country;
 - b. the Government of Iran receives significant revenue; or
 - c. Iran could, through a direct operational role or by other means, receive technological knowledge or equipment not previously available to Iran that could contribute materially to the ability of Iran to develop nuclear weapons or related technologies.

Sanctions would apply with respect to participation, on or after the date of the enactment of the Act, in—

- (i) a joint venture established on or after such date of enactment; and
- (ii) a joint venture established before such date of enactment unless a person participating in a joint venture described in above terminates that participation not later than the date that is 180 days after the date of the enactment of the Act.

EXPANSION OF CERTAIN SANCTIONS UNDER THE IRAN SANCTIONS ACT (Section 204)

The Act amends present law (the Iran Sanctions Act, as amended by CISADA) by expanding available sanctions. The Act authorizes the President to ban U.S. persons from making investments in a sanctioned person. The Act also provides for the denial of visas to and for the exclusion from the United States, any foreign individual that is a corporate officer or principal of, or a shareholder with a controlling interest in, a sanctioned person. The Act also provides for sanctions against executive officer or officers of any sanctioned person, or on persons performing similar functions and with similar authorities as such officer or officers. The Act goes on to state that sanctions apply with respect to

sanctionable activities described in the Iran Sanctions Act of 1996, as amended by this Act, commenced on or after such date of enactment.

The Act also provides for amendments to present law related to waivers with respect to the imposition of sanctions and reports to Congress on the status and effectiveness of sanctions.

Under the Act, the term ‘petrochemical product’ includes any aromatic, olefin, or synthesis gas, and any derivative of such a gas, including ethylene, propylene, butadiene, benzene, toluene, xylene, ammonia, methanol, and urea.

IMPOSITION OF SANCTIONS WITH RESPECT TO THE PROVISION OF VESSELS OR SHIPPING SERVICES TO TRANSPORT CERTAIN GOODS RELATED TO PROLIFERATION OR TERRORISM ACTIVITIES TO IRAN
(Section 211)

The Act requires the imposition of sanctions against a person that, on or after the date of the enactment of this Act, knowingly provides a vessel, insurance or reinsurance, or any other shipping service for the transportation to or from Iran of goods that could materially contribute to the activities of the Government of Iran with respect to the proliferation of weapons of mass destruction or support for acts of international terrorism. The Act provides for the blocking and prohibit of all transactions in all property and interests in property of sanctioned persons, as specified below, if such property and interests in property are in the United States, come within the United States, or are or come within the possession or control of a United States person.

The persons specified above are—

(1) persons that sold, leased, or provided a vessel, or provided insurance or reinsurance, or another shipping service described above; and

(2) any person that is a successor entity to the person referred to above; owns or controls the person referred to above, if the person that owns or controls the person referred to above had actual knowledge or should have known that the person referred to above provided the vessel, insurance or reinsurance, or other shipping service; or

is owned or controlled by, or under common ownership or control with, the person referred to above, if the person owned or controlled by, or under common ownership or control with (as the case may be), the person referred to above knowingly engaged in the provision of the vessel, insurance or reinsurance, or other shipping service.

The President may waive the requirement to impose sanctions with respect to a person as provided above on or after the date that is 30 days after the President—

- (1) determines that such a waiver is vital to the national security interests of the United States; and
- (2) submits to the appropriate congressional committees a report that contains the reasons for that determination.

IMPOSITION OF SANCTIONS WITH RESPECT TO PROVISION OF UNDERWRITING SERVICES OR INSURANCE OR REINSURANCE FOR THE NATIONAL IRANIAN OIL COMPANY OR THE NATIONAL IRANIAN TANKER COMPANY (Section 212)

Not later than 60 days after the date of the enactment of the Act (August 10, 2012), the Act requires the imposition of sanctions with respect to a person that the person knowingly, on or after August 10, provides underwriting services or insurance or reinsurance for the National Iranian Oil Company, the National Iranian Tanker Company, or a successor entity to either such company.

Sanctions will not be imposed with respect to a person that provides underwriting services or insurance or reinsurance if the person has exercised due diligence in establishing and enforcing official policies, procedures, and controls to ensure that the person does not provide underwriting services or insurance or reinsurance for the National Iranian Oil Company, the National Iranian Tanker Company, or a successor entity to either such company.

The President is authorized not to impose sanctions with respect to a person if the President receives reliable assurances that the person will terminate the provision of underwriting services or insurance or reinsurance for the National Iranian Oil Company, the National Iranian Tanker Company, and any successor entity to either such company, not later than the date that is 120 days after the date of the enactment of the Act.

Sanctions will also not be imposed for the provision of underwriting services or insurance or reinsurance for any activity relating solely to—

- (i) the provision of agricultural commodities, food, medicine, or medical devices to Iran; or
- (ii) the provision of humanitarian assistance to the people of Iran.

IMPOSITION OF SANCTIONS WITH RESPECT TO PURCHASE, SUBSCRIPTION TO, OR FACILITATION OF THE ISSUANCE OF IRANIAN SOVEREIGN DEBT (Section 213)

The Act requires the imposition of sanctions with respect to a person that knowingly, on or after the date of the enactment of the Act, purchases, subscribes to, or facilitates the issuance of—

- (i) sovereign debt of the Government of Iran issued on or after such date of enactment, including governmental bonds; or
- (ii) debt of any entity owned or controlled by the Government of Iran issued on or after such date of enactment, including bonds.

IMPOSITION OF SANCTIONS WITH RESPECT TO SUBSIDIARIES AND AGENTS OF PERSONS SANCTIONED BY UNITED NATIONS SECURITY COUNCIL RESOLUTIONS (Section 214)

The Act provides for the amendment of existing sanctions law and requires the imposition of sanctions against subsidiaries and agents of persons sanctioned by United Nations Security Council Resolutions.

IMPOSITION OF SANCTIONS WITH RESPECT TO TRANSACTIONS WITH PERSONS SANCTIONED FOR CERTAIN ACTIVITIES RELATING TO TERRORISM OR PROLIFERATION OF WEAPONS OF MASS DESTRUCTION (Section 215)

The Act amends and strengthens existing Iran sanctions law applicable with respect to transactions in this area.

EXPANSION OF, AND REPORTS ON, MANDATORY SANCTIONS WITH RESPECT TO FINANCIAL INSTITUTIONS THAT ENGAGE IN CERTAIN ACTIVITIES RELATING TO IRAN (Section 216)

The Act amends and strengthens existing Iran sanctions law applicable with respect to activities in this area.

CONTINUATION IN EFFECT OF SANCTIONS WITH RESPECT TO THE GOVERNMENT OF IRAN, THE CENTRAL BANK OF IRAN, AND SANCTIONS EVADERS (Section 217)

The Act requires relevant existing Iran sanctions to continue in effect and prescribes the conditions under which sanctions under such laws can be lifted.

LIABILITY OF U.S. PARENT COMPANIES FOR VIOLATIONS OF SANCTIONS BY THEIR FOREIGN SUBSIDIARIES (Section 218)

The Act, 60 days after the date of the enactment of this Act, requires the President to prohibit an entity owned or controlled by a United States person and established or maintained outside the United States from engaging in any transaction directly or indirectly with the Government of Iran or any person subject to the jurisdiction of that Government if that transaction would be prohibited by present U.S. Iran sanctions law if the transaction were engaged in by a United States person or in the United States. The Act requires the extension of civil liability and penalties applicable under existing U.S. sanctions laws to a United States person that owns or controls a foreign entity that violates, attempts to violate, conspires to violate, or causes a violation of existing laws.

However, under the Act, the foregoing sanction will not apply with respect to a transaction described above by an entity owned or controlled by a United States person and established or maintained outside the United States if the United States person divests or terminates its business with the entity not later than the date that is 180 days after the date of the enactment of the Act.

REQUIRED DISCLOSURES TO THE SECURITIES AND EXCHANGE COMMISSION RELATING TO SANCTIONABLE ACTIVITIES (Section 219)

The Act amends the Securities Exchange Act of 1934 (the “SEC Act”) to require additional disclosures as follows:

Each issuer required to file an annual or quarterly report under subsection of the SEC Act shall disclose in that report the information required, if, during the period covered by the report, the issuer or any affiliate of the issuer—

- (A) knowingly engaged in an activity described in section 5 of the Iran Sanctions Act of 1996;
- (B) knowingly engaged in an activity described in subsection (c)(2) of section 104 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (CISADA) or a transaction described in subsection (d)(1) of that section;
- (C) knowingly engaged in an activity described in section 105A (b) (2) of CISADA; or
- (D) knowingly conducted any transaction or dealing with—

(i) any person the property and interests in property of which are blocked pursuant to Executive Order 13224 (relating to blocking property and prohibiting transactions with persons who commit, threaten to commit, or support terrorism);

(ii) any person the property and interests in property of which are blocked pursuant to Executive Order 13382 (relating to blocking of property of weapons of mass destruction proliferators and their supporters); or

(iii) any person identified under section 560.304 of title 31, Code of Federal Regulations (relating to the definition of the Government of Iran).

If an issuer or an affiliate of the issuer has engaged in any activity described above, the issuer shall disclose a detailed description of each such activity, including—

(A) the nature and extent of the activity;

(B) the gross revenues and net profits, if any, attributable to the activity; and

(C) whether the issuer or the affiliate of the issuer (as the case may be) intends to continue the activity.

If an issuer reports, as described above, that the issuer or an affiliate of the issuer has knowingly engaged in any activity described above, the Act requires the issuer to separately file with the Commission (SEC), concurrently with the annual or quarterly report, a notice that the disclosure of that activity has been included in that annual or quarterly report that identifies the issuer and contains the information required.

Upon receiving a notice that an annual or quarterly report includes a disclosure of an activity described above, the Commission shall promptly—

(A) transmit the report to—

(i) the President;

(ii) the Committee on Foreign Affairs and the Committee on Financial Services of the House of Representatives; and

(iii) the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(B) make the information provided in the disclosure and the notice available to the public by posting the information on the Internet website of the Commission.

Upon receiving a report that includes a disclosure of an activity required to be disclosed, the Act requires the President to —

(A) initiate an investigation into the possible imposition of sanctions under the Iran Sanctions Act of 1996, the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, or any other provision of law relating to the imposition of sanctions with respect to Iran, as applicable; and

(B) not later than 180 days after initiating such an investigation, make a determination with respect to whether sanctions should be imposed with respect to the issuer or the affiliate of the issuer (as the case may be).

The new disclosure requirements mentioned above take effect after the date that is 180 days after the date of the enactment of the Act.

REPORTS ON, AND AUTHORIZATION OF IMPOSITION OF SANCTIONS WITH RESPECT TO, THE PROVISION OF SPECIALIZED FINANCIAL MESSAGING SERVICES TO THE CENTRAL BANK OF IRAN AND OTHER SANCTIONED IRANIAN FINANCIAL INSTITUTIONS (Section 220)

Not later than 60 days after the date of the enactment of the Act, and every 90 days thereafter, the Act requires the U.S. Treasury to submit to the appropriate congressional committees a report that contains—

- (i) a list of all persons that the Treasury has identified that directly provide specialized financial messaging services to, or enable or facilitate direct or indirect access to such messaging services for, the Central Bank of Iran or a financial institutions; and
- (ii) a detailed assessment of the status of efforts by the Secretary of the Treasury to end the direct provision of such messaging services to, and the enabling or facilitation of direct or indirect access to such messaging services for, the Central Bank of Iran or an Iranian financial institution.

On or after the date that is 90 days after the date of the enactment of the Act, sanctions may be imposed on a person if the person continues to knowingly and directly provide specialized financial messaging services to, or knowingly enable or facilitate direct or indirect access to such messaging services for, the Central Bank of Iran or a financial institution. Sanctions, however, will not be imposed

on a person that provides the messaging services in question if it is prohibited from knowingly doing so under foreign law applicable to it and it is in compliance with such foreign law.

OTHER PROVISIONS AND SECTIONS OF THE ACT

Other sections of the Act provide for:

1. The identification of, and immigration restrictions on, senior officials of the Government of Iran and their family members. [\(Section 221\)](#)
2. Government Accountability Office report on foreign entities that invest in the energy sector of Iran or export refined petroleum products to Iran. [\(Section 223\)](#)
3. Reporting on the importation to and exportation from Iran of crude oil and refined petroleum products. [\(Section 224\)](#)
4. Identification of, and imposition of sanctions with respect to, officials, agents, and affiliates of Iran's Revolutionary Guard Corps. [\(Section 301\)](#)
5. Identification of, and imposition of sanctions with respect to, persons that support or conduct certain transactions with Iran's Revolutionary Guard Corps or other sanctioned persons. [\(Section 302\)](#)
6. Identification of, and imposition of measures with respect to, foreign government agencies carrying out activities or transactions with certain Iran-affiliated persons. [\(Section 303\)](#)
7. Additional Measures Relating to Iran's Revolutionary Guard Corps in the form of:
 - Expansion of procurement prohibition to foreign persons that engage in certain transactions with Iran's Revolutionary Guard Corps, and [\(Section 311\)](#)
 - Determinations of whether the National Iranian Oil Company and the National Iranian Tanker Company are agents or affiliates of Iran's Revolutionary Guard Corps. [\(Section 312\)](#)
8. Measures relating to human rights abuses in Iran, including:

Imposition of sanctions on certain persons responsible for or complicit in human rights abuses committed against citizens of Iran or their families after the June 12, 2009 elections in Iran.

(Section 401)

Imposition of sanctions with respect to the transfer of goods or technologies to Iran that are likely to be used to commit human rights abuses. (Section 402)

Imposition of Sanctions with respect to persons who engage in censorship or other related activities against citizens of Iran. (Section 403)

9. Additional measures to promote human rights, including:

Codification of existing sanctions with respect to grave human rights abuses by the governments of Iran and Syria using information technology. (Section 411)

Clarification of sensitive technologies for purposes of procurement ban under CISADA. (Section 412)

Expedited consideration of requests for authorization of certain human rights-, humanitarian-, and democracy-related activities with respect to Iran. (Section 413)

Comprehensive strategy to promote Internet freedom and access to information in Iran. (Section 414)

10. Exclusion of citizens of Iran seeking education relating to the nuclear and energy sectors of Iran. (Section 501)

11. The Act also provides for the attachment of and execution against certain financial assets related to Iran. In this regard, the Act specifically does away with sovereign immunity and preempts any inconsistent provision of State law, and provides for the assets of a foreign (non-Iranian) financial intermediary to be used to satisfy the judgments entered against Iran for damages for personal injury or death caused by an act of torture, extrajudicial killing, aircraft sabotage, or hostage-taking, or the provision of material support or resources for such an act, if the assets of the intermediary are equal in value to a financial asset of Iran, including an asset of the central bank or monetary authority of the Government of Iran or any agency or instrumentality of that Government, that such foreign securities intermediary or a related intermediary holds abroad.

Remarkably, the Act expressly mentions and applies specifically to property that has been identified in and is the subject of proceedings in the United States District Court for the Southern District of New York in Peterson et al. v. Islamic Republic of Iran et al., Case No. 10 Civ. 4518 (BSJ) (GWG). (Section 502)

12. Expansion of sanctions under the National Defense Authorization Act for Fiscal Year 2012 – related to transactions by foreign financial institutions related to significant transactions with and oil purchases from Iran. (Section 504)
13. The Act requires the U.S. Department of Energy to submit reports to Congress on natural gas exports from Iran. (Section 505)
14. The Act also provides for reports on membership of Iran in international organizations. (Section 506)
15. Exportation of goods, services, and technology for aircraft produced in the United States. The Act expresses the sense of Congress that licenses to export or reexport goods, services, or technologies for aircraft produced in the United States should be provided only in situations in which such licenses are truly essential and in a manner consistent with the laws and foreign policy goals of the United States. It is presumed that this provision applies with respect to Iran or exports to Iranian air carriers operating U.S.-produced aircraft. (Section 507)
16. Applicability of the Act to certain natural gas projects. The Act makes clear that nothing in the Act applies to any activity relating to a project:
 - (i) for the development of natural gas and the construction and operation of a pipeline to transport natural gas from Azerbaijan to Turkey and Europe;
 - (ii) that provides to Turkey and countries in Europe energy security and energy independence from the Government of the Russian Federation and other governments with jurisdiction over persons subject to sanctions imposed under the Act or amendments made by the Act; and
 - (iii) that was initiated before the date of the enactment of this Act pursuant to a production-sharing agreement, or an ancillary agreement necessary to further a production-sharing agreement, entered into with, or a license granted by, the government of a country other than Iran before such date of enactment.

Certain limited circumstances would cause the above exception to not apply. (Section 603)

17. As it relates to Syria, the Act provides for sanctions with respect to human rights abuses in Syria, including:

The imposition of sanctions with respect to:

- persons who are responsible for or complicit in human rights abuses committed against citizens of Syria or their family members, (Section 702)
- the transfer of goods or technologies to Syria that are likely to be used to commit human rights abuses, and (Section 703)
- persons who engage in censorship or other forms of repression in Syria. (Section 704)

Implementation and Compliance

Given the present number and complexity of U.S. laws governing U.S. sanctions against Iran which are cumulative and provide for comprehensive prohibitions and the imposition of sanctions against a wide range of non-U.S. persons trading with Iran (for transactions wholly outside of the United States), and the constantly evolving rules, the U.S laws governing sanctions against Iran are very broad and detailed. Thus, the risk that a transaction or activity involving Iran or an Iranian entity will implicate U.S. prohibitions or trigger the imposition of U.S. sanctions under the Act and previous similar laws such as the Iran Sanctions Act, CISADA, and relevant Presidential Executive Orders, or the Act at any given time is relatively high. Ambiguities in the law make this risk higher.



Legal determinations as to whether a transaction is permitted or whether it constitutes prohibited or sanctionable activity are very fact-sensitive. Readers are therefore urged to exercise a high degree of caution and due diligence and to obtain expert guidance related to their activities involving Iran in order to avoid the imposition of sanctions as well as violations of the law. Judgments as to whether, and if so, how sanctions may apply to or impact a certain transaction or activity should be made on case-by-case basis.

Questions and Guidance

The Eren Law Firm will continue to very closely monitor the Act's interpretation and implementation by the designated agencies of the U.S. government. The Eren Law Firm will continue to interface with the

policy-making as well as the enforcement offices of the U.S. government to address questions and issues with respect to the Act, and advise clients on compliance with the Act, and on how to permissibly avoid the imposition of sanctions.

For more information or questions regarding the subjects covered in this *Economic Sanctions Update*, please contact:

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The Eren Law Firm is an economic sanctions boutique. Its other core areas of concentration and practice include corporate transactions, and international dispute resolution, anti-money laundering, and international trade regulation. The Firm's clients from around the world include banks and financial institutions; insurance, reinsurance and other financial services companies; natural resource extraction companies, industrial companies, marine and air transportation companies, shipowners; sovereign governments; foreign state enterprises; and individuals.

Mr. Eren and Mr. Pinter of the Firm served at the U.S. Treasury's Office of Foreign Assets Control (OFAC), the U.S. government agency that administers and enforces U.S. economic sanctions, for a combined 25 years prior to entering private law practice, respectively 11 and 10 years ago, and have devoted and continue to devote most of their time in private practice to economic sanctions issues and matters. Ms. Maucher of the firm advises on EU sanctions issues and matters.

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