

CLIENT ALERT:

NEW U.S. SANCTIONS AGAINST IRAN AFFECT METALS SECTORS

Introduction

On May 8, 2019, exactly one year after President Trump announced that the United States was withdrawing from the Joint Comprehensive Plan of Action (“JCPOA”) and would re-impose the U.S. secondary sanctions against Iran, President Trump issued an Executive Order “Imposing Sanctions with Respect to the Iron, Steel, Aluminum, and Copper Sectors of Iran.” The Executive Order is not yet numbered but is characterized as “further steps” taken under Executive Order 12957 of March 15, 1995.

As explained in the Executive Order, the new sanctions are imposed to deny Iran all paths to both a nuclear weapon and intercontinental ballistic missiles, and to counter the totality of Iran’s malign influence in the Middle East. Specifically, the United States seeks to deny the Iranian government revenue from the export of iron, steel, aluminum, and copper. To view the Executive Order, [click here](#). To view FAQs issued by the Office of Foreign Asset Control (“OFAC”) regarding the Executive Order, [click here](#).

Sanctionable Activities

The Executive Order authorizes blocking sanctions on any person (not just a U.S. person) determined by the Secretary of the Treasury, in consultation with the Secretary of State:

1. To be operating in the iron, steel, aluminum, or copper sectors of Iran, or to be a person that owns, controls, or operates an entity that is part of the iron, steel, aluminum, or copper sector in Iran;
2. To have knowingly engaged, on or after the date of this order, in a significant transaction for the sale, supply, or transfer to Iran of significant goods or services used in connection with the iron, steel, aluminum, or copper sectors of Iran;

3. To have knowingly engaged, on or after the date of this order, in a significant transaction for the purchase, acquisition, sale, transport, or marketing of iron, iron products, aluminum, aluminum products, steel, steel products, copper, or copper products from Iran;
4. To have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of any person whose property and interests in property are blocked pursuant to this section; or
5. To be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to this section.

Under the Executive Order, vessel owners now risk having their property blocked should they “transfer” to or from Iran significant goods or services used in connection with the iron, steel, aluminum, or copper sectors of Iran. Such goods would no doubt include coking coal transported to Iran for use in steel plants. In addition, blocking sanctions can be imposed for the transfer from Iran of any products produced by the iron, steel, aluminum, or copper sectors of Iran. Typically, OFAC blocks a person’s property and interest in property by designating the person on the U.S. SDN List.

Foreign Financial Institutions

The Executive Order provides that foreign financial institutions may also be subject to restrictions with respect to opening or maintaining correspondent accounts in the U.S. if it is determined that the foreign financial institution has, on or after the date of the Executive Order, knowingly conducted or facilitated any significant financial transaction:

1. For the sale, supply, or transfer to Iran of significant goods or services used in connection with the iron, steel, aluminum, or copper sectors of Iran;
2. For the purchase, acquisition, sale, transport, or marketing of iron, iron products, aluminum, aluminum products, steel, steel products, copper, or copper products from Iran; or
3. For or on behalf of any person whose property and interests in property are blocked pursuant to this order.

Wind-Down Period

According to FAQ 667, the Executive Order became effective immediately upon signing on May 8, 2019. However, the FAQ 668 explains that persons engaged in sanctionable transactions under the Executive Order will have a 90-day period to wind down those transactions without exposure to sanctions under the Executive Order, if those transactions pre-dated May 8, 2019. However, the FAQ advises that entering into new business that would be sanctionable under the Executive Order after May 8, 2019 *will not* be considered wind-down activity and could be sanctioned even during the wind-down period.

Summary

The Executive Order of May 8, 2019 provides for the blocking of the property of U.S. and non-U.S. persons who, among other things, transfer significant goods or services used in connection with the iron, steel, aluminum, or copper sectors of Iran, or who engage in a significant transaction for the purchase, acquisition, sale, transport, or marketing of products from those sectors. While the Executive Order provides a 90 day wind-down period for transactions entered into before May 8, 2019, any new business after that date would be considered sanctionable and not wind-down activity.

Disclaimer: This Client Alert provides only a general summary of the Executive Order of May 8, 2019 and is not intended to constitute comprehensive legal advice. Specific legal advice should be taken with respect to each individual inquiry regarding the designations. For additional clarification, please feel free to contact Bill Juska (juska@freehill.com), Gina Venezia (venezia@freehill.com) or Bill Pallas (pallas@freehill.com).

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