

New U.S. Sanctions Target Non-U.S. Firms' Transactions with Iran's Metals Sector

May 13, 2019

On Wednesday, May 8, 2019, President Trump signed [Executive Order 13871](#) entitled "Imposing Sanctions with Respect to the Iron, Steel, Aluminum, and Copper Sectors of Iran." The newly authorized sanctions seek to deter significant transactions, either commercial or financial, by non-U.S. entities with the specified Iranian industrial sectors. The U.S. Treasury Department's Office of Foreign Assets Control ("OFAC") also has updated its [Frequently Asked Questions](#) to explain the new sanctions.

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Commercial Sanctions. The new sanctions target Iran's metals sector by authorizing new blocking sanctions against both Iranian persons and third-country nationals that undertake certain business activities involving that sector. Specifically, the executive order authorizes the secretary of the treasury to block the property of persons determined:

- to be operating in the iron, steel, aluminum or copper sector 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 of Iran;
- to have knowingly engaged 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;
- to have knowingly engaged 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;
- 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
- 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.

Although the executive order does not define “significant transaction,” OFAC’s [FAQ No. 671](#) indicates that the Treasury Department will apply a standard consistent with past sanctions on Iran. Under that standard, the factors considered in determining if a transaction is significant include not only the size of the transaction but also, for example, whether the transaction is part of an ongoing pattern or series of transactions, whether it was known to senior management of the financial institution, whether it involved deceptive practices, whether it provided a significant benefit to the sanctions target and other relevant factors.

OFAC’s [FAQ No. 668](#) states that persons currently engaged in transactions to which the new sanctions apply will have 90 days to take steps to wind down the transactions without risking the imposition of sanctions. There does not appear to be a formal waiver; rather, the FAQ appears to be the Treasury Department’s official statement of policy on how it intends to apply its new sanctions authority.

Financial Sanctions. The new executive order also authorizes the secretary of the treasury to impose correspondent account and payable through account (“CAPTA”) sanctions on foreign financial institutions that engage in “significant” transactions related to the relevant Iranian sectors. CAPTA sanctions “prohibit the opening, and prohibit or impose strict conditions on maintaining, in the United States of a correspondent account or payable-through account” by U.S. financial institutions for foreign financial institutions that the treasury secretary has determined are noncompliant.

The executive order authorizes the imposition of CAPTA sanctions for significant financial transactions:

- for the sale, supply or transfer to Iran of significant goods or services used in connection with its iron, steel, aluminum or copper sectors;
- 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
- for or on behalf of any person whose property and interests in property are blocked pursuant to the executive order.

As discussed above in connection with commercial sanctions, the determination of whether a transaction is “significant” involves the consideration of a number of factors.

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