

Sanctions Update: Iran Sanctions Extension Act Becomes Law Without the President's Signature; Treasury Department Releases Revised FAQs on Potential Re-Imposition of Sanctions on Iran

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On Thursday, December 15, 2016, the White House Press Secretary released a [statement](#) noting that an extension of the Iran Sanctions Act ("ISA"), passed [overwhelmingly](#) by Congress, is becoming law without the President's signature. As discussed in our prior memoranda dated [August 11, 2015](#), [January 20, 2016](#), and [November 30, 2016](#), under the Joint Comprehensive Plan of Action ("JCPOA") agreed to on July 14, 2015, the United States committed to cease the application of certain sanctions against Iran, including certain sanctions imposed pursuant to the ISA.

The White House statement stressed the Obama Administration's view that, although the extension of the ISA is unnecessary, it is entirely consistent with the United States' commitments under the JCPOA. The statement noted that the Administration "has, and continues to use, all of the necessary authorities to waive the relevant sanctions, to enforce those that are outside the scope of the JCPOA, and to reimpose sanctions if necessary in the event that Iran should fail to perform its commitments under the JCPOA."

Also on December 15, the Secretary of State released a [statement](#) echoing the White House statement, and noting that while the existing ISA waivers are unaffected by the extension of the ISA's sunset and do not need to be renewed at this time, the Secretary of State nonetheless renewed the waivers on December 15, and informed his JCPOA counterparts, in order to ensure "maximum clarity" and convey to all stakeholders that the United States will continue to uphold its JCPOA commitments.

Iran has suggested that the extension of the ISA violates the JCPOA and has threatened [countermeasures](#). On Tuesday, December 13, Iran's President Hassan Rouhani [released a letter](#) referring to the ISA extension and ordering Iran's Atomic Energy Organization to "plan the design and construction of a nuclear [propulsion system] to be used in marine transportation."

Also on December 15, the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC") published two revised (non-binding) [Frequently Asked Questions](#) ("FAQs") (M.4 and M.5) addressing the potential re-imposition of sanctions lifted pursuant to the JCPOA (also known as "snapback"). Among other things, the amended FAQs clarify that, with respect to activities that were consistent with U.S. sanctions at the time they were conducted and were undertaken pursuant to a written contract or written agreement entered into prior to snapback:

- The U.S. government would provide non-U.S., non-Iranian persons a 180-day period to wind down operations in, or business involving, Iran in the event of a snapback;
- If a non-U.S., non-Iranian person is owed payment at the time of snapback for goods or services fully provided or delivered to an Iranian counterparty prior to snapback, the U.S. government would allow the non-U.S., non-Iranian person to receive payment for those goods or services according to the terms of the written contract or written agreement;

- If a non-U.S., non-Iranian person is owed repayment for loans or credits extended to an Iranian counterparty prior to snapback, the U.S. government would allow the non-U.S., non-Iranian person to receive repayment of the related debt or obligation according to the terms of the written contract or written agreement. (OFAC notes, however, that any such payments could not involve U.S. persons or the U.S. financial system, unless the transactions are exempt from regulation or authorized by OFAC); and
- To the extent that snapback results in the revocation of general or specific licenses issued by OFAC, the U.S. government would similarly provide U.S. persons and U.S.-owned or -controlled foreign entities a 180-day period to wind down operations in or business involving Iran conducted pursuant to an OFAC authorization, and to receive payments according to the terms of a written contract or written agreement entered into prior to snapback for goods or services fully provided or delivered pursuant to an OFAC authorization prior to snapback.

The amended FAQs make clear that the provision or delivery of additional goods or services and/or the extension of additional loans or credit to an Iranian counterparty after snapback, with the exception of the aforementioned authorized activities related to the wind down of operations, including pursuant to written contracts or written agreements entered into prior to snapback, may result in the imposition of U.S. sanctions unless such activities are exempt from regulation, authorized by OFAC, or not otherwise sanctionable. Finally, OFAC notes that the U.S. government would, in the event of snapback, evaluate matters falling outside of the above parameters on a case-by-case basis.

On December 15, OFAC also issued [General License J-1](#) (“GL J-1”) “Authorizing the Reexportation of Certain Civil Aircraft to Iran on Temporary Sojourn and Related Transactions,” which replaces and supersedes in its entirety GL J, issued on July 29, 2016. GL J-1 authorizes the temporary reexport to Iran by non-U.S. persons of “Eligible Aircraft” (as defined in the GL), subject to certain conditions, and eliminates GL J’s condition that the Eligible Aircraft not carry a flight number issued to an Iranian air carrier.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

John B. Reynolds III

+1 202 962 7143

john.reynolds@davispolk.com

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