



## IRAN SANCTIONS UPDATE

### THE EU IMPLEMENTS NEW RESTRICTIVE MEASURES

The EU continues to impose new sanctions against Iran. The latest measures significantly increase the range of goods which cannot be traded (directly or indirectly) with Iran, increase the number of persons and entities which are subject to the asset freeze, and impose new restrictions on EU banks which bring them more in line with the domestic restrictions which already apply to UK banks.

Regulations 1263/2012 and 1264/2012 (the Regulations) were published on 22 December 2012 and entered into force on 23 December 2012, and these will have a particular impact on companies which are active in the following areas, as well as their insurers and banks:

- Trade in graphite and raw or semi-finished materials (as defined in the Regulations).
- Trade in oil, petrochemical products and natural gas (which includes propane and butanes).
- Trade in information security systems.

- The provision of tankers and storage vessels (even where those vessels are not made available to an Iranian person, entity or body).
- Trade in equipment for the oil and gas and petrochemical industries.
- Tanker construction.
- Trade in naval equipment or technology (as defined in the Regulations).
- Trade in software for integrating industrial processes.
- Classification, surveys, inspections, audits, etc.
- Design, construction and repair of ships and their parts.

There are certain exemptions, as well as transitional provisions, which expire between 15 January 2013 and 15 April 2013.



The Regulations will also have an impact on those companies which make or receive transfers of funds to or from any Iranian person, entity or body, and insurance brokers placing insurance for natural gas which originates in Iran or has been exported from Iran.

Regulation 1263/2012 implements the measures contained in Council Decision 2012/635/CFSP of 15 October 2012 and amends Regulation 267/2012 of 23 March 2012.

Regulation 1264/2012 amends the asset freeze list by adding one individual and 18 new entities, mainly in the oil and metals sectors, including the National Iranian Oil Products Distribution Company (NIOPDC).

### **Council Regulation (EU) No 1263/2012 of 21 December 2012 - Overview**

The new restrictive measures contained in Regulation 1263/2012 include the following:

1. It is prohibited to sell, supply, transfer or export key naval equipment and technology for shipbuilding, maintenance or refit (including the construction of oil tankers), directly or indirectly, to any Iranian person, entity or body, or for use in Iran. It is also prohibited to provide technical assistance or brokering services, or financing or financial services, related to such equipment and technology. Relevant contracts concluded before 22 December 2012 and necessary ancillary contracts can be performed before 15 February 2013.
2. It is prohibited to sell, supply, transfer or export graphite or raw or semi-finished metals (such as aluminium and steel) to any Iranian person, entity or body, or for use in Iran. Relevant contracts concluded before 22 December 2012 and necessary ancillary contracts can be performed before 15 April 2013. It is also prohibited to provide technical assistance or brokering services, or financing or financial services, related to these goods.
3. It is prohibited to purchase, transport, import into the EU, or swap natural gas which originates in Iran or has been exported from Iran. This includes a ban on related financial assistance, including financial derivatives, as well as related insurance, reinsurance and brokering services. Natural gas is defined to include natural gas in liquefied and gaseous states and propane and butanes. The prohibition does not apply to, amongst other things, the execution of contracts for the delivery of natural gas originating in a state other than Iran into the EU.
4. With effect from 15 January 2013, it is prohibited to provide classification services of any kind to oil tankers and cargo vessels which are Iranian flagged or which are owned, chartered, or operated, directly or indirectly, by an Iranian person, entity or body. From the same date and for the same ships it is also prohibited to supervise and participate in the design, construction or repair of ships and their parts, and to inspect, test or certify marine equipment, materials and components and to carry out ship surveys, inspections and audits.
5. It is prohibited to make available vessels designed for the transport or storage of oil and petrochemical products to Iranian persons, entities or bodies or to any other persons, entities or bodies unless the provider of the vessel has *“taken appropriate action to prevent the vessel from being used to carry or store oil or petrochemical products that originate in Iran or have been exported from Iran”*.
6. There is a ban on unauthorised business relationships and transfers between EU financial and credit institutions and Iranian banks, including branches and subsidiaries outside Iran.
7. Transactions required by a historic trade contract concerning key equipment or technology in the exploration or production of crude oil and natural gas, or for the petrochemical industry, must be performed before 15 April 2013, provided that at least 20 working days’ advance notice is provided to the relevant competent authority. The list of key equipment has been expanded to include items such as casing, tubing and drill pipe, line pipe and containers for compressed or liquefied gas, of iron or steel.
8. It is prohibited to sell, supply, transfer or export Enterprise Resource Planning (ERP) software designed specifically for use in the nuclear, military, gas, oil, navy, aviation, financial and construction industries, directly or indirectly, to any Iranian person, entity or body, or for use in Iran. ERP software is software used for financial accounting,



management accounting, human resources, manufacturing, supply chain management, project management, customer relationship management, data services, or access control. Relevant contracts concluded before 22 December 2012, may be performed before 15 January 2013. It is also prohibited to provide related technical or financial assistance or brokering services.

9. It is prohibited to sell, supply, transfer or export to Iran information security systems and equipment designed or modified to use cryptography, and software for the same purpose. Contracts concluded before 22 December 2012 may be performed before 15 April 2013. As these items are designated "dual use equipment", the relevant permissions should be sought.
10. Those providing insurance or other essential services to the Islamic Revolutionary Guard Corps are specifically identified as potential asset freeze targets. Persons, entities or bodies that provide support to entities owned or controlled by the Government of Iran are also specifically identified as potential asset freeze targets.

### Prohibition on transfers of funds between EU credit and financial institutions and Iranian banks

Regulation 1263/2012 introduces a prohibition on EU financial and credit institutions transferring funds to or from Iranian financial and credit institutions, without prior authorisation.

If a transfer between an EU bank and

an Iranian bank is to take place, the new prohibition applies. If a transfer between an EU bank and an Iranian person, entity or body is to take place, and no Iranian bank is involved in the transaction, the pre-existing prohibitions and arrangements for obtaining authorisation apply.

Financial and credit institutions in the EU are prohibited from transferring funds to or from:

1. Iranian credit and financial institutions and bureaux de change, and their branches and subsidiaries, wherever located.
2. Credit and financial institutions and bureaux de change that are not domiciled in Iran but are controlled by persons, entities or bodies domiciled in Iran,

unless such transfers are authorised in accordance with the new processes.

The following financial transfers are caught by the new prohibition:

1. Transfers effected through several operations, which appear to be linked. This includes both a series of consecutive transfers from or to the same financial or credit institutions which are made in connection with a single obligation to a transfer of funds.
2. Transfers which, individually, fall below the relevant threshold set out in Article 30, but which, in the aggregate, meet the criteria for notification or authorisation.
3. A chain of transfers involving different payment service providers which effects a single obligation to make a transfer of funds.

It remains prohibited for UK credit and financial institutions to enter into or maintain business relationships or transactions with Iranian banks, so UK credit and financial institutions should not experience a significant difference following the adoption of the new EU prohibition.

### Authorisations for transfers of funds between EU credit and financial institutions and Iranian banks

Article 30 provides that competent authorities of Member States (HM Treasury in the UK) may authorise the following transfers between EU and Iranian banks:

1. Transfers regarding foodstuffs, healthcare, medical equipment, or for agricultural or humanitarian purposes. Transfers below EUR 100,000 or equivalent may be carried out without any prior authorisation. However, transfers shall be notified in advance in writing if equal to or above EUR 10,000 or equivalent. Transfers equal to or above EUR 100,000 or equivalent shall require prior authorisation of the competent authority of the Member State concerned.
2. Transfers regarding personal remittances. Transfers below EUR 40,000 or equivalent shall be carried out without any prior authorisation. However, transfers shall be notified in advance in writing if equal to or above EUR 10,000 or equivalent. Transfers equal to or above EUR 40,000 or equivalent shall require prior authorisation of the competent authority of the Member State concerned.



3. Transfers in connection with a specific trade contract for EUR 10,000 or more, provided that such transfer is not prohibited under the Regulation.
4. Transfers regarding diplomatic missions or consular posts or international organisations enjoying immunities in accordance with international law, for EUR 10,000 or more, insofar as such transfers are intended to be used for official purposes of the diplomatic missions or consular posts or organisations enjoying immunities in accordance with international law.
5. Transfers for EUR 10,000 or more regarding payment to satisfy claims by or against an Iranian person, entity or body, or transfers of similar nature provided that they do not contribute to the activities prohibited under the 2012 Regulation, on a case by case basis, if the Member State concerned has notified the other Member States and the Commission at least ten days in advance of its intention to grant an authorisation.
6. Transfers for EUR 10,000 or more necessary for the execution of obligations arising from historic contracts for supply of Iranian crude oil and petroleum products and their proceeds for the reimbursement of outstanding

amounts to EU persons, entities or bodies.

Note that transfers of funds below EUR 10,000 or equivalent do not require any prior authorisation or notification under Article 30, but for UK banks a licence is required under the Financial Restrictions (Iran) Order 2012.

New authorisations need not be sought for transactions already notified or authorised under the pre-existing rules, provided that the transfer takes place before 15 April 2012.

#### Central Bank of Iran

Competent authorities can authorise the release of certain frozen funds or economic resources of the Central Bank of Iran, after having determined that the funds or economic resources are:

1. Necessary for the purpose of providing credit or financial institutions with liquidity for the financing of trade, or the servicing of trade loans.
2. Necessary for the reimbursement of a claim due under a contract or agreement concluded by an Iranian person, entity or body before 16 October 2012, where such a contract or agreement provides for the reimbursement of outstanding amounts to persons, entities or bodies under the jurisdiction of Member States.

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