

## **European Union Measures against Iran - Council Regulation 1263/2012 - Frequently Asked Questions 1 February 2013**

### **Background**

1. On 15 October 2012 the European Union Foreign Affairs Council agreed further measures restricting trade activities with Iran. The Council Decision 2012/635/CFSP has been given effect in a new Council Regulation 1263/2012 amending existing Regulation 267/2012. The Regulation can be accessed electronically by clicking [here](#).
2. The following FAQs outline those provisions in 1263/2012 that are likely to affect members and Clubs. These FAQs should be read in conjunction with the previously issued Club Circulars [No.11-022 dated 9 February, 2012](#), [No.11-025 dated 27 February, 2012](#), [No.11-030 dated 29 March, 2012](#), [No.12-001 dated 10 April, 2012](#), [No.12-008 dated 28 June, 2012](#), [No.12-012 dated 17 August, 2012](#) and [No.12-019 dated 27 November, 2012](#).

### **What is the legal status of Council Regulation 1263/2012?**

3. Regulation 267/2012, as amended by Regulation 1263/2012 is binding on Member States, persons and private entities.

### **What products and services are prohibited by the new Regulation?**

4. Regulation 1263/2012 introduces new measures and prohibitions that further restrict trade activities with Iran. In addition to the restrictions that apply now by virtue of Regulation 276/2012, amending Regulation 1263/2012 prohibits:
  - a) The purchase, transport or import into the European Union of Iranian “natural gas”, being, natural gas condensates, natural gas in liquefied state, natural gas in gaseous state, propane and butanes, the swapping of natural gas which originate in Iran or has been exported from Iran (See Article 14 a). Specific gas product codes (HS Code) are detailed in Regulation 1263, Annex II. The Group has sought further clarification from the European Commission and UK authorities in respect of the scope of this new prohibition and in their view the prohibitions on purchase and transport apply to any natural gas which originates in Iran or has been exported from Iran, regardless of the intended destination of that gas. It follows that the provision, directly or indirectly, of brokering services, financing or financial assistance and insurance and reinsurance and associated broking services related to the purchase, transport, import or swapping of Iranian natural gas is prohibited also;
  - b) to make available vessels designed for the transport or storage of oil and petrochemical products to Iranian persons, entities or bodies or any others transporting or storing Iranian oil or petrochemical products that originate in Iran or have been exported from Iran (See Article 37b);
  - c) the sale, supply, transfer or export of graphite, and raw or semi-finished metals such as aluminium and steel to any Iranian person, entity or body or for use in Iran, or which are relevant to industries either controlled directly or indirectly by the Iranian Revolutionary Guard Corps (IRGC) or which are relevant to Iran’s nuclear, military

and ballistic missile programme. (See Article 15a) Specific products and product codes (HS Code) are contained in Regulation 1263 at Annex VI. It is prohibited for Member State nationals, vessels or aircraft under the jurisdiction of Member States to transport such products to Iran and for such products to be exported from EU Member States to Iran.

- d) the sale, supply, transfer or export directly or indirectly to any Iranian person, entity or body, or for use in Iran of key naval equipment and technology including that for ship building, maintenance or refit or used in the construction of oil tankers (see Article 10a). A full list of such equipment is listed in Regulation 1263 at Annex V. An exemption exists for vessels not owned by an Iranian person, entity or body, forced into Iranian ports or territorial waters by reason of force majeure.
- e) the sale, supply, transfer or export directly or indirectly to any Iranian person, entity or body or for use in Iran of software for integrating industrial processes relevant to industries controlled directly or indirectly by the IRGC or which is relevant to Iran's nuclear, military and ballistic missile programme, by nationals or from territories of EU Member States or using EU flagged vessels or aircraft. (see Article 10d) . Proscribed software in listed in Annex V.
- f) It is also prohibited to provide directly or indirectly to any Iranian person, entity or body, or for use in Iran, technical assistance or brokering services related to the items in paragraphs (d) (e) and (f) above and their provision, manufacture, maintenance and use as well as financing or financial assistance related to the items . (See Articles 10b, 10e and 15b).
- g) with effect from 15 January 2013 the provision by EU nationals or companies or from the territory of EU member States of various services to Iranian flagged oil tankers and cargo vessels or such ships that are owned, chartered or operated, directly or indirectly, by an Iranian person, entity or body. (See article 37 a 1). Such services include (a) the provision of classification services of any kind; (b) see (i) below (c) the inspection, testing and certification of marine equipment, materials and components; and (d) surveys, inspections, audits, visits and the issuance, renewal or endorsement of relevant certificates and documents of compliance on behalf of the flag state administration.
- h) With effect from 15 January 2013 the supervision of, and participation in the design, construction and repair of Iranian flagged oil tankers and cargo vessels or their parts, or tankers and cargo vessels (flying any flag) that are owned, chartered or operated, directly or indirectly, by an Iranian person, entity or body, and related technical assistance, financing or financial assistance; (See Article 37 a 1); and
- i) EU financial institutions effecting fund transfers with banks and financial institutions domiciled in Iran, including their branches and subsidiaries in EU Member States and elsewhere, and Iranian controlled financial entities (unless authorised in advance by the relevant Member State). (See Article 30). Authorisation may be available for transactions regarding foodstuffs, healthcare, medical equipment, personal remittances, certain claims and trade contracts and for agricultural humanitarian, and diplomatic purposes and is subject to applicable notification value thresholds,

In addition:

- j) Article 1(7) of Regulation 1263/2012 amends article 12(1) of Regulation 267/2012 so that the purchase of bunker oil produced and supplied by a third country other than Iran and intended for the propulsion of the engines of vessels is exempted from the ban in Article 11 on the purchase, transport or import of Iranian crude oil or petrochemical products and provision of related (re)insurance.
- k) Article 1(11) of Regulation 1263/2012 amends article 23.2(c) of Regulation 267/2012 to include as an asset freeze target any entity which provides insurance or other essential services to the IRGC or any of its members, or entities controlled by the IRGC or acting on its behalf

## Summary

- 5. New provisions prohibit the purchase, transport or import of natural gas products into the EU and the insurance and reinsurance relating to this activity replicating the existing provisions contained in Regulation 267/2012 in respect of the purchase, import or transport of oil, petroleum and petrochemical products. The gas prohibitions do not apply to Iranian natural gas products that have been blended with gas from a third country, providing the blending happens in, and the gas is exported from, a third country. (See Article 14a)
- 6. The new restrictions on “making available” (i.e. the “supply” of) vessels designed for the transport or storage of oil and petrochemical products (see Article 37b) do not expressly prohibit the insurance of vessels used exclusively for storage, but where such a vessel is engaged in the transport of Iranian origin oil and petrochemical products and it is entered in a Group Club, the owner could be considered to be in breach of the prohibitions contained in Regulation 267/2012 for transporting products prohibited in that Regulation with the consequent exclusion of cover under the Club Rules.
- 7. The new restrictions prohibit the supply of vessels designed for the transport or storage of oil and petrochemical products to Iranian persons, entities or bodies and to anyone for the transport or storage of Iranian-origin oil and petrochemicals. “Supply” would seem to include both the sale and charter of a vessel. Members are, therefore, advised to exercise due diligence before contracting for the supply of a vessel (including its sale or charter) to Iranian persons, entities or bodies or where such vessel is used for the transport or storage of Iranian-origin oil or petrochemical products, albeit that such storage and transport in the performance of certain contracts may be permitted by the limited residual exemptions set out in Article 12 (1) and Article 14(1) of Regulation 267/2012, as amended by Article 1(7) and (8) of Regulation 1263.
- 8. It would seem that ships stemming bunkers that contain a blend of Iranian origin crude oil will not be caught by the prohibitions (providing the bunker oil is used for the propulsion of the ship and not carried as cargo) on purchase, transport or import of Iranian-origin crude oil in Regulation 267, provided also that the blended bunkers were produced and stemmed in a third country other than Iran, or, as a result of a force majeure event, the bunkers were stemmed in a port of refuge in Iran. (See new article 12(1)(d) and (e))
- 9. Article 23 of Regulation 267 expands the scope of the asset freezing provisions to include any insurer providing insurance or other essential services to the IRGC, or any of its

members, or owned and controlled entities, or natural and legal persons acting on their behalf. (See Article 1(11))

10. Increased financial restrictions in article 1(15) and (16) of Regulation 1263 amend articles 30 and 31 of Regulation 267/2012, which previously required Member States to exercise enhanced monitoring over all the activities of financial institutions within their jurisdiction. The new restrictions in Regulation 1263/2012 are more extensive and prohibit fund transfers equal to or above Euro 10,000, unless authorised in advance by the relevant Member State, between EU financial institutions and Iranian financial institutions being:

- banks and financial institutions domiciled in Iran, including the Central Bank of Iran;
- branches and subsidiaries, of banks etc. domiciled in Iran whether within the jurisdiction of the Member States, or elsewhere ;
- financial entities that are not domiciled in Iran, but that are controlled by persons and entities domiciled in Iran

Funds transfers between EU and Iranian financial institutions may be permitted for certain limited purposes, such as medical, humanitarian and agricultural purposes, and are subject to Euro 10,000, 40,000 and 100,000 value thresholds for notification and authorisation.. . ,

Funds transfers to and from Iranian persons, entities and bodies not involving an Iranian bank or financial institution still need to be notified if they are Euro 10,000 or over, and authorised if they are Euro 40,000 or over, as previously required under Regulation 267 Article 30.

11. It would seem that the new restrictions are likely to increase the reluctance of banks to process any payments to /from non-designated Iranian persons, entities or bodies, even where an Iranian bank is not involved, and thus may limit further a Club's ability to settle local Iranian fees and or claims, including local correspondents' and lawyers' fees through usual banking channels. The provision of guarantees on behalf of Clubs will also remain problematic.

12. The new vessel design, construction and repair restrictions will directly impact the suppliers of labour, services and equipment, including in particular classification societies.

13. Further updates will be provided as and when Regulation 1263/2012 is amended.