

JAPAN P&I NEWS

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To the Members

Dear Sirs,

USA — Withdrawal from the JCPOA Agreement with Iran

The decision by President Trump announced on May 8 to cease the US participation in the JCPOA (between Iran the P5+1 (the five permanent members of the United Nations Security Council—China, France, Russia, United Kingdom, United States + Germany) and the European Union) and to begin re-imposing US nuclear-related sanctions, which were lifted to implement the JCPOA, is likely to have significant ramifications for maritime trade with Iran and the insurance of such trade. A full assessment of the likely impact of the decision will only be possible following receipt of clarification of the position of the remaining JCPOA partners, who have recently reaffirmed their support for the JCPOA, together with further clarification from the US Department of the Treasury's Office of Foreign Assets Control (OFAC) in relation to the management of the "wind-down" periods envisaged under the decision.

The International Group of P&I Clubs will continue to monitor developments in this regard.

Further details are provided in FAQs issued by OFAC as per the attached.

We shall keep you informed of further developments.

Yours faithfully,

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Attachment: FAQs issued by OFAC

This document is explanatory only and does not have the force of law. Please see particularly the legally binding provisions cited below governing the sanctions. This document does not supplement or modify the statutory authorities, Executive orders, or regulations.

Frequently Asked Questions Regarding the Re-Imposition of Sanctions Pursuant to the May 8, 2018 National Security Presidential Memorandum Relating to the Joint Comprehensive Plan of Action (JCPOA)

1. GENERAL QUESTIONS

1.1. Effective May 8, 2018, what sanctions snap back into place?

On May 8, 2018, the President announced his decision to cease the United States' participation in the Joint Comprehensive Plan of Action (JCPOA), and to begin re-imposing, following a wind-down period, the U.S. nuclear-related sanctions that were lifted to effectuate the JCPOA sanctions relief. In conjunction with this announcement, the President issued a National Security Presidential Memorandum (NSPM) directing the Secretary of State and the Secretary of the Treasury to prepare immediately for the re-imposition of all of the U.S. sanctions lifted or waived in connection with the JCPOA, to be accomplished as expeditiously as possible and in no case later than 180 days from the date of the NSPM.

To implement the President's direction, the Departments of State and of the Treasury will take steps necessary to establish a 90-day and a 180-day wind-down period for activities involving Iran that were consistent with the U.S. sanctions relief provided for under the JCPOA. FAQs 1.2. and 1.3. below set out in further detail which sanctions will be re-imposed in which time frame.

Pursuant to the NSPM, the State Department revoked certain statutory waivers issued to implement the JCPOA sanctions relief, issued the necessary statutory sanctions waivers to provide for a wind-down period, and plans to take appropriate action to keep such waivers in place for the duration of the relevant wind-down periods. Following November 4, 2018, OFAC expects that all the U.S. nuclear-related sanctions that had been lifted under the JCPOA will be re-imposed and in full effect.

Persons engaging in activity undertaken pursuant to the U.S. sanctions relief provided for in the JCPOA should take the steps necessary to wind down those activities by either August 6, 2018, or November 4, 2018, as applicable, to avoid exposure to sanctions or an enforcement action under U.S. law. [05-08-2018]

1.2. Which sanctions will be re-imposed after the 90-day wind-down period ending on August 6, 2018?

After the 90-day wind down period ends on August 6, 2018, the U.S. government will re-impose the following sanctions that were lifted pursuant to the JCPOA, including sanctions on associated services related to the activities below:

- i. Sanctions on the purchase or acquisition of U.S. dollar banknotes by the Government of Iran;

- ii. Sanctions on Iran's trade in gold or precious metals;
- iii. Sanctions on the direct or indirect sale, supply, or transfer to or from Iran of graphite, raw, or semi-finished metals such as aluminum and steel, coal, and software for integrating industrial processes;
- iv. Sanctions on significant transactions related to the purchase or sale of Iranian rials, or the maintenance of significant funds or accounts outside the territory of Iran denominated in the Iranian rial;
- v. Sanctions on the purchase, subscription to, or facilitation of the issuance of Iranian sovereign debt; and
- vi. Sanctions on Iran's automotive sector.

In addition, following the 90-day wind-down period that ends on August 6, 2018, the U.S. government will revoke the following JCPOA-related authorizations under U.S. primary sanctions regarding Iran:

- i. The importation into the United States of Iranian-origin carpets and foodstuffs and certain related financial transactions pursuant to general licenses under the Iranian Transactions and Sanctions Regulations, 31 C.F.R. part 560 (ITSR);
- ii. Activities undertaken pursuant to specific licenses issued in connection with the *Statement of Licensing Policy for Activities Related to the Export or Re-export to Iran of Commercial Passenger Aircraft and Related Parts and Services* (JCPOA SLP); and
- iii. Activities undertaken pursuant to General License I relating to contingent contracts for activities eligible for authorization under the JCPOA SLP.

Persons engaging in the activities listed above undertaken pursuant to the U.S. sanctions relief provided for in the JCPOA should take the steps necessary to wind down those activities by August 6, 2018, to avoid exposure to sanctions or an enforcement action under U.S. law. (See FAQ 2.1. below for a description of activities that would not be prohibited or sanctionable during the wind-down period). [05-08-2018]

1.3. Which sanctions will be re-imposed after the 180-day wind-down period ending on November 4, 2018?

Following the 180-day wind-down period ending on November 4, 2018, the U.S. government will re-impose the following sanctions that were lifted pursuant to the JCPOA, including sanctions on associated services related to the activities below:

- i. Sanctions on Iran's port operators, and shipping and shipbuilding sectors, including on the Islamic Republic of Iran Shipping Lines (IRISL), South Shipping Line Iran, or their affiliates;
- ii. Sanctions on petroleum-related transactions with, among others, the National Iranian Oil Company (NIOC), Naftiran Intertrade Company (NICO), and National Iranian Tanker Company (NITC), including the purchase of petroleum, petroleum products, or petrochemical products from Iran;

- iii. Sanctions on transactions by foreign financial institutions with the Central Bank of Iran and designated Iranian financial institutions under Section 1245 of the National Defense Authorization Act for Fiscal Year 2012 (NDAA);
- iv. Sanctions on the provision of specialized financial messaging services to the Central Bank of Iran and Iranian financial institutions described in Section 104(c)(2)(E)(ii) of the Comprehensive Iran Sanctions and Divestment Act of 2010 (CISADA);
- v. Sanctions on the provision of underwriting services, insurance, or reinsurance; and
- vi. Sanctions on Iran's energy sector.

In addition, effective November 5, 2018, the U.S. government will revoke the authorization for U.S.-owned or -controlled foreign entities to wind down certain activities with the Government of Iran or persons subject to the jurisdiction of the Government of Iran that were previously authorized pursuant to General License H. (See FAQ 4.4. below).

Furthermore, no later than November 5, 2018, the U.S. government will re-impose, as appropriate, the sanctions that applied to persons removed from the List of Specially Designated Nationals and Blocked Persons (SDN List) and/or other lists maintained by the U.S. government on January 16, 2016.

Persons engaging in the activity listed above undertaken pursuant to the U.S. sanctions relief provided for in the JCPOA should take the steps necessary to wind down those activities by November 4, 2018, to avoid exposure to sanctions or an enforcement action under U.S. law. (See FAQ 2.1. below for a description of activities that would not be prohibited or sanctionable during the wind-down period.) [05-08-2018]

1.4. Are the sanctions lifted via Executive Order 13716 reinstated as of May 8, 2018?

OFAC expects the U.S. government to take action to re-impose relevant provisions of Executive Orders 13574, 13590, 13622, 13628, and 13645, by the end of the relevant wind-down period, *i.e.*, August 6, 2018, or November 4, 2018, depending on the activity involved (see FAQs 1.2. and 1.3.). The provisions of Executive Orders 13574, 13590, 13622, 13628, and 13645 that were revoked by Executive Order 13716 have not yet been reinstated as of May 8, 2018. Persons engaging in activity undertaken consistent with the U.S. sanctions relief as specified in the JCPOA should take the steps necessary to wind down those activities to avoid exposure to sanctions or an OFAC enforcement action under U.S. law after August 6, 2018, or November 4, 2018, depending on the activity. [05-08-2018]

1.5. Do the FAQs and Guidance posted on OFAC’s website relating to the JCPOA sanctions relief remain in effect?

As noted above, the President has directed the Secretaries of State and of the Treasury to re-impose U.S. sanctions that were lifted or waived to effectuate the JCPOA sanctions relief as set out in sections II, III, IV, and V of the [Guidance Document](#) at the end of the applicable wind-down period. Furthermore, although the sanctions waivers described in section VI of the Guidance Document are no longer in place, they have been replaced with waivers that will allow for the orderly wind-down of activities as specified above. Persons engaging in activity undertaken pursuant to the U.S. sanctions relief provided for in the JCPOA should take the steps necessary to wind down their activities between May 8, 2018 and August 6, 2018, or between May 8, 2018 and November 4, 2018, as applicable, to avoid exposure to sanctions or an enforcement action under U.S. law. The JCPOA Guidance and [JCPOA FAQs](#) issued on January 16, 2016, as amended, remain available on OFAC’s website only to assist persons in determining which activities were not sanctionable or prohibited between January 16, 2016 and May 8, 2018, and to determine how best to wind down such activity. To the extent there are inconsistencies between the JCPOA FAQs, including guidance on wind-down, and other guidance provided by the Department of State or the Department of the Treasury on or after May 8, 2018, the later-issued guidance should be treated as governing. [05-08-2018]

2. WIND-DOWN

2.1. How long is the wind-down period and what types of activities are allowed?

The U.S. government has a past practice of working with U.S. or third-country companies to minimize the impact of sanctions on the legitimate activities of those parties undertaken prior to the imposition of sanctions.

To implement the May 8, 2018 NSPM, the Departments of State and of the Treasury will establish a 90-day and a 180-day wind-down period, as applicable, for activities involving Iran that were consistent with the U.S. sanctions lifting under the JCPOA. (See FAQs 1.2. and 1.3. above for a list of activities subject to the 90-day or 180-day wind-down period.)

Consistent with this guidance from the President, the Department of State has revoked certain statutory waivers issued to implement the JCPOA sanctions relief, issued the necessary sanctions waivers to provide for an appropriate wind-down period, and plans to take appropriate action to keep such waivers in place for the duration of the relevant wind-down period, *i.e.*, until August 6, 2018, or November 4, 2018, depending on the activity. Non-U.S., non-Iranian persons are advised to use these time periods to wind-down their activities with or involving Iran that will become sanctionable at the end of the applicable wind-down period.

In the event that a non-U.S, non-Iranian person is owed payment after the conclusion of the wind-down period on August 6, 2018, or November 4, 2018, as applicable, for goods or services fully provided or delivered to an Iranian counterparty prior to August 6, 2018,

or November 4, 2018, as applicable, pursuant to a written contract or written agreement entered into prior to May 8, 2018, and such activities were consistent with U.S. sanctions in effect at the time of delivery or provision, 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. Similarly, if a non-U.S., non-Iranian person is owed repayment after August 6, 2018, or November 4, 2018, as applicable, for loans or credits extended to an Iranian counterparty prior to the end of the 90-day or 180-day wind-down period, as applicable, provided that such loans or credits were extended pursuant to a written contract or written agreement entered into prior to May 8, 2018, and such activities were consistent with U.S. sanctions in effect at the time the loans or credits were extended, 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. This allowance is designed for non-U.S., non-Iranian parties to be made whole for debts and obligations owed or due to them for goods or services fully provided or delivered or loans or credit extended to an Iranian party prior to the end of the 90-day or 180-day wind-down period, as applicable. Any payments would need to be consistent with U.S. sanctions, including that payments could not involve U.S. persons or the U.S. financial system, unless the transactions are exempt from regulation or authorized by OFAC.

Consistent with the conditions described above, OFAC will take steps to allow U.S. persons and U.S.-owned or -controlled foreign entities until August 6, 2018, or November 4, 2018, as applicable, to wind down operations in or business involving Iran conducted pursuant to an OFAC authorization, and to receive payments according to the terms of the written contract or written agreement entered into prior to May 8, 2018, for goods or services fully provided or delivered pursuant to an OFAC authorization. As soon as administratively feasible, OFAC intends, via Federal Register publication, to replace General License H, General License I, and the general licenses set forth at 31 C.F.R. §§ 560.534 and 560.535 (relating to trade in Iranian-origin carpets and foodstuffs) with more narrowly scoped authorizations to allow U.S. persons and, as appropriate, U.S.-owned or -controlled foreign entities, to engage in all transactions ordinarily incident and necessary to wind down activities that were previously authorized pursuant to General License H, General License I, or the general licenses set forth at 31 C.F.R. §§ 560.534 and 560.535 and to receive payments according to the terms of the written contract or written agreement entered into prior to May 8, 2018, for goods or services fully provided or delivered pursuant to an OFAC authorization.

The provision or delivery of additional goods or services and/or the extension of additional loans or credits to an Iranian counterparty after August 6, 2018, or November 4, 2018, as applicable, including pursuant to written contracts or written agreements entered into prior to May 8, 2018, may result in the imposition of U.S. sanctions unless such activities are exempt from regulation, authorized by OFAC, or otherwise not sanctionable.

The U.S. government would evaluate matters falling outside the above parameters on a case-by-case basis.

See FAQs 1.2. and 1.3. above for a list of activities subject to the 90-day or 180-day wind-down period. [05-08-2018]

2.2. Can I engage in new activity involving Iran if the activity will not extend beyond the end of the relevant wind-down period?

At the end of the wind-down periods, the State Department does not expect to issue further broad waivers of relevant statutory authorities, and OFAC plans to revoke the general and specific licenses issued in connection with the sanctions relief provided under the JCPOA that may remain in effect as of that time. (See FAQs 4.1.-4.5. for more details on the wind-down approach for general and specific licenses.) Prior to August 6, 2018, or November 4, 2018, as applicable, persons engaging in activity consistent with the U.S. sanctions relief specified in the JCPOA should take the steps necessary to wind down operations by that date to avoid exposure to sanctions or an enforcement action when the applicable wind-down period ends. When considering a potential enforcement or sanctions action with respect to activities engaged in after August 6, 2018, or November 4, 2018, as applicable, OFAC will evaluate efforts and steps taken to wind down activities and will assess whether any new business was entered into involving Iran during the applicable wind-down period. [05-08-2018]

3. SANCTIONS LISTINGS

3.1. Will the persons that were placed on the List of Persons Identified as Blocked Solely Pursuant to Executive Order 13599 (E.O. 13599 List) on JCPOA Implementation Day (January 16, 2016) be put back on the SDN List?

No later than November 5, 2018, OFAC expects to move persons identified as meeting the definition of the terms “Government of Iran” or “Iranian financial institution” from the List of Persons Blocked Solely Pursuant to E.O. 13599 (the “E.O. 13599 List”) to the SDN List. OFAC will not add these persons to the SDN List on May 8, 2018, to allow for the orderly wind down by non-U.S., non-Iranian persons of activities that had been undertaken prior to May 8, 2018, consistent with the U.S. sanctions relief provided for under the JCPOA involving persons on the E.O. 13599 List. The Government of Iran and Iranian financial institutions remain persons whose property and interests in property are blocked pursuant to E.O. 13599 and section 560.211 of the ITSR, and U.S. persons continue to be broadly prohibited from engaging in transactions or dealing with the Government of Iran and Iranian financial institutions. Beginning on November 5, 2018, activities with most persons moved from the E.O. 13599 List to the SDN List will be subject to secondary sanctions. Such persons will have a notation of “Additional Sanctions Information – Subject to Secondary Sanctions” in their SDN List entry.

The United States has and continues to enforce multiple authorities that target a range of Iranian malign activity outside of Iran’s nuclear program, including Iran’s support for

terrorism, ballistic missile program, human rights abuses, and destabilizing activity in the region. Treasury will continue to target aggressively anyone who engages in such sanctionable activity, regardless of whether the individual or entity was removed from the SDN List on Implementation Day. [05-08-2018]

3.2. As of May 8, 2018, do secondary sanctions attach to the persons that were removed from the SDN List and/or other OFAC sanctions lists on Implementation Day?

No. However, no later than November 5, 2018, OFAC will re-impose, as appropriate, the sanctions that applied to persons removed from the SDN List and/or other lists maintained by OFAC on January 16, 2016. Depending on the authority or authorities pursuant to which these actions to re-list are taken, there may be secondary sanctions exposure for parties that engage in certain activities with these persons after their re-listing. Persons subject to secondary sanctions will have a notation of “Additional Sanctions Information – Subject to Secondary Sanctions” in their SDN List entry. Transactions conducted during the wind-down periods involving persons removed from the SDN List on January 16, 2016 could be sanctionable to the extent they are outside the scope of the wind-down waivers issued by the State Department or involve persons on the SDN List or conduct described in [JCPOA FAQ A.3.ii-iii](#). OFAC recommends that a person conducting activities in Iran or with Iranian persons during the wind-down periods exercise due diligence sufficient to ensure that it is not knowingly engaging in transactions with persons on the SDN List or in activities that would be sanctionable under authorities targeting Iran’s malign activities.

The United States has and continues to enforce multiple authorities that target a range of Iranian malign activity outside of Iran’s nuclear program, including Iran’s support for terrorism, ballistic missile program, human rights abuses, and destabilizing activity in the region. Treasury will continue to target aggressively anyone who engages in such sanctionable activity, regardless of whether the individual or entity was removed from the SDN List on Implementation Day. [05-08-2018]

4. LICENSING

4.1. Will OFAC continue to consider license applications under the *Statement of Licensing Policy for Activities Related to the Export or Re-export to Iran of Commercial Passenger Aircraft and Related Parts and Services* (JCPOA SLP)?

No. Following the issuance of the May 8, 2018 NSPM, OFAC rescinded the JCPOA SLP and will no longer evaluate applications under the JCPOA SLP. OFAC will still consider applications, however, under the safety of flight statement of licensing policy found in 31 C.F.R. § 560.528. [05-08-2018]

4.2. Does OFAC anticipate revoking specific licenses issued under the JCPOA SLP?

Yes. To the extent they have not yet expired, OFAC expects to revoke the specific licenses issued pursuant to the JCPOA SLP and issue authorizations to provide for a wind-down period that will end on August 6, 2018. License applications that were submitted to OFAC pursuant to the JCPOA SLP but for which no license has been issued will be returned without action. Applicants may resubmit their applications for consideration under the safety of flight statement of licensing policy found in 31 C.F.R. § 560.528. [05-08-2018]

4.3. Is General License I (GL I) still in effect?

Following the issuance of the May 8, 2018 NSPM, OFAC removed from its website, and will no longer evaluate applications under, the JCPOA SLP. Accordingly, OFAC expects to revoke, as soon as is administratively feasible, GL I, which authorized U.S. persons to enter into, and to engage in transactions that are ordinarily incident to the negotiation of and entry into, contingent contracts for activities eligible for authorization under the JCPOA SLP. OFAC also expects to issue a revised authorization for the wind-down of activities authorized pursuant to GL I. The wind-down of those activities authorized pursuant to GL I must be completed by August 6, 2018. Notice of the revocation of GL I and the issuance of the wind-down authorization will be published in the Federal Register. [05-08-2018]

4.4. Is General License H (GL H) still in effect during the wind-down period?

OFAC intends to revoke GL H, which authorized U.S.-owned or -controlled foreign entities to engage in certain activities involving Iran, as soon as is administratively feasible. OFAC also expects to issue a revised authorization for the wind down of activities involving Iran authorized pursuant to GL H. The wind-down of those activities authorized pursuant to GL H must be completed by November 4, 2018. Notice of the revocation of GL H and the issuance of the wind-down authorization will be published in the Federal Register. Any activities by U.S.-owned or -controlled foreign entities that continue after the wind-down period concludes on November 4, 2018, in violation of the ITSR may be subject to enforcement actions by OFAC. In considering what potential

enforcement or sanctions actions to take with respect to activities engaged in after November 4, 2018, OFAC will take into account the efforts to wind down activities involving Iran prior to that date. [05-08-2018]

4.5. Can I continue to import Iranian-origin carpets and foodstuffs after May 8, 2018?

OFAC intends to amend the general licenses at 31 C.F.R. §§ 560.534 (authorizing the importation into the United States of, and dealings in, certain Iranian-origin carpets and foodstuffs) and 560.535 (authorizing certain related letters of credit and brokering services) as soon as is administratively feasible in order to narrow the scope of those general licenses to authorize the wind-down of activities by August 6, 2018, that were undertaken consistent with the sanctions relief provided for in the JCPOA. Notice of the revocation of the general licenses set forth at 31 C.F.R. §§ 560.534-535 and the issuance of the wind-down authorization will be published in the Federal Register. Any activities by U.S. persons or U.S.-owned or -controlled foreign entities that continue after the wind-down period concludes on August 6, 2018, in violation of the ITSR may be subject to enforcement actions by OFAC. In considering what potential enforcement or sanctions actions to take with respect to activities engaged in after August 6, 2018, OFAC will take into account the efforts to wind-down activities involving Iran prior to that date. [05-08-2018]

5. OTHER

5.1. Will the United States resume efforts to reduce Iran's crude oil sales?

Yes. The sanctions lifted under section 1245(d) of the NDAA will be re-imposed following a 180-day wind-down period, and the United States will again pursue efforts to reduce Iran's sales of crude oil under the NDAA during and following that period. For more information about NDAA sanctions, [see Topic NDAA \(Section 1245 of the National Defense Authorization Act for Fiscal Year 2012\)](#)

5.2. How and when will significant reduction exceptions be determined?

The State Department will evaluate and make determinations with respect to significant reduction exceptions provided for in section 1245(d)(4)(D) of the NDAA at the end of the 180-day wind-down period. Countries seeking such exceptions are advised to reduce their volume of crude oil purchases from Iran during this wind-down period. Consistent with past practice, the Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of Energy, and the Director of National Intelligence, would make such determinations following a process of rigorous due diligence. For the initial set of such determinations, the State Department intends to consider relevant evidence in assessing each country's efforts to reduce the volume of crude oil imported from Iran during the 180-day wind-down period, including the quantity and percentage of the reduction in purchases of Iranian crude oil, the termination of contracts for future

delivery of Iranian crude oil, and other actions that demonstrate a commitment to decrease substantially such purchases. The State Department expects to engage in consultations with countries currently purchasing Iranian crude oil during the 180-day wind-down period.