THE NATIONAL LAW REVIEW

# OFAC Publishes New Iranian Transactions and Sanctions Regulations

Wednesday, October 24, 2012

Article By Raymond Paretzky
David J. Levine McDermott Will & Emery

Antitrust & Trade Regulation
Financial Institutions & Banking
Administrative & Regulatory
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Recently the **U.S. Treasury Department Office of Foreign Assets Control (OFAC)** issued new **Iranian Transactions and Sanctions Regulations**. Notably, the regulations formally address financing provisions for authorized sales to Iran of agricultural commodities, medicine and medical devices. Previously such provisions were found only on OFAC's website, and companies selling these products to Iran reported issues receiving payment as banks refused to participate in the transactions.

On October 22, 2012, the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) published a notice replacing its Iranian Transactions Regulations in their entirety with new Iranian Transactions and Sanctions Regulations (ITSR), which will appear at 31 CFR Part 560. Of particular note, the ITSR formalize provisions for the financing of authorized sales of agricultural commodities, medicine and medical devices to Iran pursuant to the **Trade Sanctions Reform and Export Enhancement Act (TSRA)**. Because these financing provisions previously were found only in responses to FAQ on OFAC's website, many companies selling licensed food, medicine and medical products to Iran reported problems getting paid because banks refused to participate in the transactions.

**Background**

The **National Defense Authorization Act for Fiscal Year 2012 (NDAA),** which was signed into law on December 31, 2011, required the president to block the property and interests in property subject to U.S. jurisdiction of all Iranian financial institutions, including the **Central Bank of Iran (CBI).** Notably, the NDAA included an exception prohibiting the president from imposing sanctions “with respect to any person for conducting or facilitating a transaction for the sale of food, medicine, or medical devices to Iran.” On February 5, 2012, **President Obama** signed **Executive Order (EO)** 13599, blocking all property and interests in property of the **Government of Iran (GOI),** including the CBI and all Iranian financial institutions. On May 1, 2012, President Obama signed EO 13608, which prohibited transactions by U.S. persons involving such blocked entities, effectively cutting these entities off from the U.S. marketplace and financial system.

**Distinguishing Among Iranian Banks**

In its FAQ, OFAC outlined key distinctions in the various ways in which Iranian financial institutions and other entities can be sanctioned. In short, the [IRAN] tag on OFAC’s Specially Designated Nationals (SDN) List connotes an entity is “blocked” due to the U.S. Government’s identification of the entity as the GOI and/or as an Iranian financial institution. “Designated” persons, in contrast, appear on the SDN List due to the U.S. Government’s having determined they meet the criteria set forth in any of a number of other EOs concerning, for example, assisting Iran’s weapons of mass destruction development or aiding international terrorism. Such entities are identified on the SDN List with various tags other than [IRAN], such as [NPWMD] or [SDGT]. Exempt or authorized transactions to or from Iran (such as TSRA transactions) may involve the use of a blocked Iranian financial institution as long as the institution is identified on the SDN List only with the tag [IRAN] and as long as there is a third-country, non-U.S. financial institution as an intermediary between the U.S. financial institution and the Iranian financial institution.  It is not allowable, however, for banks identified on the SDN List with tags other than or in addition to [IRAN] to be involved in the transaction in any way.

**The ITSR**

New section 31 CFR § 560.532 of the ITSR formalizes these financing provisions.  The new section is discussed in the preamble to the regulations, which explains that "a new authorized payment term for all TSRA sales is being added in section 560.532.  New paragraph (a)(4) of section 560.532 specifies that the new payment term is a letter of credit issued by an Iranian financial institution whose property and interests in property are blocked solely pursuant to 31 CFR part 560.  Such a letter of credit must be initially advised, confirmed or otherwise dealt in by a third-country financial institution that is not a United States person, an Iranian financial institution, or the Government of Iran before it is advised, confirmed or dealt in by a U.S. financial institution."

Companies selling food, medical devices and other products authorized by specific or general license under TSRA should review the new regulations (77 *Fed. Reg.* 64,664 (Oct. 22, 2012)).  Time will tell whether the formalization of the financing provisions in the new regulations serves to help make banks more willing to participate in these transactions.