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Iran Nuclear Agreement: Potential Easing of US and EU Sanctions

Initial pact could lead to limited and temporary relaxation of sanctions in the petrochemical, gold, automobile, aircraft, and financial services sectors.

The recently-announced preliminary agreement between the Islamic Republic of Iran and the so-called "P5+1" (the US, UK, France, Russia, China and Germany) holds out the promise of a gradual easing of certain trade and economic sanctions against Iran in exchange for Tehran's agreement to suspend certain elements of its nuclear program. Notwithstanding the historic significance of this initial agreement, it is important to recognize that the preliminary agreement represents only a first step towards a more comprehensive — but still uncertain — resolution of the nuclear issue. Equally important, broad trade and economic sanctions targeting Iran, maintained principally by the US and the EU, are not yet being rolled back, and will not be rolled back in any significant way, and we expect regulators will continue to enforce these sanctions aggressively.

Since 1995, comprehensive US trade and economic sanctions have prohibited US companies and US persons from engaging in or supporting virtually all forms of business involving Iran. To these "direct" sanctions, the US Congress and the Obama Administration have recently added various "secondary" or extraterritorial sanctions measures that target certain trade and financial activities between non-US parties and Iran (*e.g.,* energy, shipping, automotive and shipbuilding sectors), even if the non-US parties have little or no connection to the US. These secondary sanctions — which can include, among others, a denial of access to US financial markets or the inability to contract with the US government — are designed to alter the behavior of parties that are beyond the reach of the primary US sanctions against Iran.

The modest easing of US sanctions that should flow from the recent P5+1 agreement will largely be limited to a temporary paring down of the secondary US sanctions. We expect that the Obama Administration will use Presidential Executive Orders, and perhaps temporary general licenses, to implement the modest easing. However, such changes are not anticipated for at least a few weeks and, until then, all of the sanctions addressed under the preliminary agreement remain in full force and effect.

"Limited, Temporary, Targeted, and Reversible"

While the Joint Plan of Action announced by the P5+1 reflects progress in the on-going international effort to forestall Iran's development of weapons of mass destruction, the plan does not foretell the wholesale lifting of United Nations, US, or EU sanctions on Iran. Regardless of any advancement on the non-proliferation front, sanctions on Iran remain a significant component of US and EU foreign policy — and a continuing reality for most multinational companies with ties to these jurisdictions. We expect that agencies will continue to enforce these sanctions aggressively.

US Secretary of State John Kerry has characterized the agreement as a "first-step," and the relief contemplated is accordingly time-limited (six months) and modest. As described in the Obama Administration's Fact Sheet, the reprieve will be "limited, temporary, targeted, and reversible," and US and UK officials have stressed that any violation of the agreement could result in the immediate revocation of the relief and the imposition of additional sanctions.

The P5+1 has not yet articulated any specific steps it will take to ease sanctions, and it has not released a timeline for those changes, which we expect will be weeks in coming. Indeed, the bulk of the multilateral sanctions framework remains intact, while the parties continue to focus on trying to reach a broader and longer-term agreement. From a US perspective, the longstanding sanctions that prohibit transactions between US persons (including US companies and their owned or controlled foreign affiliates) are essentially unchanged under the Joint Plan of Action. In addition, the agreement only contemplates the temporary suspension of a subset of the secondary sanctions, described above. Similarly, the bulk of the recently-expanded EU sanctions remain in place as well.

Limited Easing of Sanctions

The Joint Plan of Action calls for the easing of certain sanctions measures in a limited manner, both in terms of substance and timing:

- **Temporary Moratorium on New Sanctions:** The P5+1 agreed to suspend temporarily the imposition of new "nuclear-related" sanctions on Iran (by the UN Security Council, the EU and the US), provided Iran honors the agreement. The agreement has a built-in six-month deadline, after which any relief may be revoked, extended, or expanded. Further, the agreement does not foreclose the possibility that additional sanctions unrelated to the nuclear sanctions program will be imposed. Notwithstanding the terms of the agreement, initial press reports suggest that members of the US Congress may introduce (and advance) new sanctions legislation which, if passed, could force President Obama into a veto position.

- **Temporary Suspension of Certain Sanctions relating to Petrochemicals and Gold and Precious Metals:** The Joint Plan of Action outlines a suspension of existing US and EU sanctions on Iran's exports of petrochemicals, gold, and precious metals. This suspension will extend to sanctions on "associated services," defined to include insurance, transportation, and financial dealings required to facilitate now-authorized transactions – although it is understood that this definition does not contemplate any relaxation of the prohibitions regarding US person conduct.

    - Petrochemical Exports: The EU sanctions contain multiple provisions under Article 13 of Council Regulation (EU) 267/2012 restricting the importation into the EU, the purchase of, and the transport of Iranian petrochemical products, as well as the financing and insuring of these transactions. The US maintains multiple sanctions relating to Iran's petrochemical sector, including those announced under Executive Order 13622, which permit the imposition of sanctions on foreign financial institutions and other non-US parties that finance or engage in a "significant transaction for the purchase or acquisition of petrochemical products from Iran." The US sanctions relating to Iran's petrochemical sector that extend beyond restrictions on exports — some of which have been codified by statute — remain intact.

    - Gold and Precious Metals: The EU sanctions under Article 15 of Council Regulation (EU) 267/2012 prohibit the sale and purchase of gold and precious metals to or from Iranian public bodies and prohibit certain financial services relating to these transactions. The US has imposed additional sanctions restricting the purchase of precious metals from the Government of Iran under Executive Order 13622.

- **Temporary Suspension of Certain US Sanctions Relating to the Iranian Automotive Sector:** The agreement contemplates the suspension of current secondary sanctions imposed by the US pursuant to Executive Order 13645, which prohibit "the sale, supply, or transfer to Iran of significant goods or services used in connection with the automotive sector of Iran" and related financial dealings.

- **Temporary Licensing for Certain Aircraft Safety-Related Repairs:** The agreement contemplates temporary licensing to permit the supply of aircraft spare parts to Iran as well as the provision of related services (*e.g.,* inspections) to repair civilian aircraft for safety purposes. Such relief would extend to "associated services" (*e.g.,* insurance, transportation and financial services) and reportedly apply to civil aircraft owned and operated by Iran Air and non-designated Iranian airlines. We expect this to be the only area in which direct US sanctions on Iran may be eased temporarily, presumably through the issuance of a narrow general license from the Office of Foreign Assets Control (OFAC).

- **Pause in the Efforts to Further Reduce Iran's Crude Oil Exports:** The P5+1 will pause their efforts to reduce exports of crude oil from Iran, by freezing the permissible volume of crude exports at their current volume and authorizing the repatriation of certain associated Iranian funds. In addition, the Joint Plan of Action provides that sanctions prohibiting "associated insurance and transportation services" will also be lifted.

- **Increase the EU Authorization Thresholds for Transactions for Non-Sanctioned Trade to an Agreed Amount:** The EU also will increase the Euro thresholds above which certain activities are prohibited unless and until authorization is obtained by the competent authority of the relevant Member State.

- **Additional Items Relating to Government-Provided Student Aid and Humanitarian Assistance:** The P5+1 will permit tuition assistance from the Government of Iran — previously subject to asset freezes — to be transferred directly to certain educational institutions in third countries. The P5+1 will also work to establish a financial channel to facilitate humanitarian trade for Iran's domestic needs by using Iranian oil revenues in third countries. Humanitarian trade would consist of food, agricultural products, medicines, medical devices and medical expenses incurred abroad.

Conclusion

While the announcement of the Joint Plan of Action suggests progress in negotiations between the P5+1 and Iran, the sanctions relief contemplated under the agreement is narrow and time-limited, and at this stage lacks detail and definition. Interested parties should continue to proceed with extreme caution until the P5+1 or individual member countries provide additional guidance and, even then, parties should appreciate the tenuous, temporary nature of the agreement and any accompanying easing of sanctions.

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