

Sanctions 17 Jan, 2020

Iran sanctions - Wind-down period announced for recent measures



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Further to our News Item of 13 January 2020, OFAC have now issued a FAQ related to the new sanctions against Iran which provides for a 90-day period – i.e. until 9 April 2020 - for parties to wind down their activities related to the construction, mining, manufacturing, and textiles sectors of the Iranian economy. It will be recalled that these new measures were introduced as a result of an Executive Order (E.O. 13902) issued by President Trump on 10 January 2020.

The FAQ reads as follows:

“Persons engaged in transactions that could be sanctioned under E.O. 13902 with respect to the construction, mining, manufacturing, and textiles sectors of the Iranian economy have a 90-day period after the issuance of E.O. 13902 to wind down those transactions without exposure to sanctions under E.O. 13902. Such persons should take the necessary steps to wind down transactions by the end of the 90-day wind-down period to avoid exposure to sanctions, and be aware that entering into new business that would be sanctionable under the E.O. on or after January 10, 2020 will not be considered wind-down activity and could be sanctioned even during the wind-down period. The wind-down period with respect to the construction, mining, manufacturing, and textiles sectors expires on April 9, 2020.”

Our U.S. attorneys Freehill Hogan & Mahar have commented that whilst the FAQ is not specific, based on other relevant FAQs the following are suggested:

1) Wind-down activities will be permitted for contracts that were in place as of 10 January 2020 (when the EO was issued), provided all goods or services are fully provided by the expiration of the wind-down period (9 April 2020). Thus, if a ship is already fixed to carry cargo to or from Iran which might implicate these new sanctions, the ship should be permitted to complete that contract provided it can load, carry and discharge the cargo by the deadline and provided the underlying sale was in place as of 10 January.

2) Payment after the wind-down for goods or services fully provided or delivered to an Iranian counterparty before the expiration of the wind-down pursuant to a contract in effect on 10 January 2020, should be permitted. The key is that the goods or services need to be provided by the deadline and must be in connection with a contract pending as of 10 January 2020, when the sanctions were announced.

Also, Freehill's have been able to discuss the status of cement clinker and gypsum cargoes with OFAC, who commented that “if the materials come from or are used in the industries named in their normal course of business, then they are subject to being included within the broad definitions of these industries. ... [As such] there is the potential for these items and related activity to be included in the definition of these industries.” Freehill's are consequently of the view that the carriage of clinker or gypsum carries a risk of sanctions under EO 13902. Members should avoid carriage of these cargoes to or from Iran accordingly.

Members with any questions on this or any other sanctions matter should contact the Managers for guidance. Further information on all sanctions matters including Iran can also be found on our dedicated sanctions webpages, including advice on the practical impacts on the operation of Club cover for legitimate calls to Iran. In this regard Members are reminded that the Club may be severely constrained in its ability to assist if the vessel has an incident whilst in Iranian waters.