

# IRAN SANCTIONS UPDATE

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In our August client briefings on Iran sanctions, we reported that the Council of the European Union had published a Decision on 26 July 2010 but that further implementing measures would be required to give it full effect. On 31 August 2010, the EU began the implementation process by publishing a proposal for a new Council Regulation. The Foreign & Commonwealth Office have advised us that it is likely that the new Regulation will be adopted early in October 2010.

In providing the text of the draft Regulation, the proposal clarifies how the EU sanctions regime is likely to operate going forward. This briefing reflects the draft Regulation, and a further briefing will follow once the Regulation has been finalised and adopted.

The Regulation is already proving contentious, particularly in light of the proposed prohibition on the provision of insurance and reinsurance, as well as the fact that the draft Regulation prohibits the sale or supply (etc) to the Iranian oil and gas industry of “key equipment in the oil and gas industry”, but that key equipment has

not yet been identified and could, potentially, be described very widely.

## Aim

The new Regulation will give effect to the EU’s sanctions regime in one, consolidated regulation and will repeal the previous Regulation (EC) No 423/2007. The aim is to confirm all the restrictive measures taken against Iran since 2007 and to provide for additional measures in order to comply with UN Security Council Resolution 1929 (2010), including further restrictions on:

- The Iranian banking sector.
- Iran’s access to insurance and bonds markets in the European Union.
- Transfers of funds to and from Iran.
- Certain services to Iranian ships and cargo aircraft.
- Trade in dual use goods and technology



and equipment which might be used for internal repression.

- Trade in key equipment for and investment in the Iranian oil and gas industry.
- Iranian investment in the uranium mining and nuclear industries.

### Application

The new Regulation will have direct effect in all Member States of the EU and is intended to be wide-reaching. Like Regulation 423/2007, it will apply:

- Within EU territory.
- On any aircraft or vessel under a Member State's jurisdiction.
- To any national of a Member State, wherever they are located.
- To any legal person, body or entity incorporated or constituted under the law of a Member State.
- To any legal person, body or entity in respect of any business.

### Restrictions

As reported in our August briefings, the Regulation will impose restrictions on:

- The import and export of specific items to and from Iran.
- The sale, supply or transfer of key equipment and technology for the Iranian oil and natural gas industry.
- Granting financial loans or credit to, or setting up joint ventures with, those involved in the Iranian oil and gas industry.
- Opening new branches, subsidiaries or offices of Iranian banks in Member States.
- Providing insurance and reinsurance to the Iranian Government or Iranian entities.

### Requirements

The Regulation will require Member States to inspect cargo travelling to and from Iran if there are reasonable grounds to believe that it contains prohibited items. Pre-arrival and pre-departure information on all goods travelling between Iran and the EU must be submitted to customs authorities.

If there are reasonable grounds to believe that prohibited items are on board, then it is prohibited to provide bunkering or ship supply services to Iranian owned or contracted vessels

(including chartered vessels). All funds and economic resources belonging to specified persons, or to persons and entities associated with or providing support for Iran's nuclear activities, are frozen under the new Regulation.

The Regulation will include a requirement that individuals and companies must supply immediately any information which would facilitate compliance with the Regulation, such as details of accounts or amounts frozen, to the competent authority within their Member State.

### Enforcement

The individual Member States are responsible for enforcing the new Regulation and are required to lay down "effective, proportionate and dissuasive" penalties for infringement.

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