

Memorandum

President Authorizes Secondary Sanctions Related to Iran's Metals Sector

May 10, 2019

On May 8, 2019, President Donald Trump issued a new executive order, "Imposing Sanctions with Respect to the Iron, Steel, Aluminum, and Copper Sectors of Iran" (the "Order"). The Order expands the Iranian sanctions program and authorizes the imposition of blocking sanctions on any person determined to be engaged in certain business dealings involving the Iranian iron, steel, aluminum, and copper sectors (the "Iranian Metals Sectors").

The Order is of particular relevance to non-U.S. companies and non-U.S. financial institutions, as it authorizes so-called "secondary sanctions" with respect to prohibited conduct. Secondary sanctions target the conduct of foreign parties engaged in business dealings that may occur entirely outside the United States. The U.S. government is empowered to restrict any transaction involving the property or interests of a sanctioned person and a sanctioned person may be designated a "Specially Designated National" and blocked from any dealings with U.S. persons or access to the U.S. financial system.

The Order authorizes the imposition of sanctions on any person engaged in:

- direct business operations in the Iranian Metals Sectors;
- significant transactions for the sale, supply, or transfer to Iran of goods or services used in connection with the Iranian Metals Sectors;
- significant transactions for the purchase, acquisition, sale, transport, or marketing of iron, iron products, aluminum, aluminum products, steel, steel products, copper, or copper products from Iran; or
- activities constituting material assistance or support to any such person subject to blocking sanctions pursuant to the Order.

The Order also authorizes the imposition of certain secondary sanctions on any foreign financial institution (“FFI”) that facilitates dealings related to the Iranian Metals Sectors. FFIs that violate the terms of the Order will be subject to potential prohibitions on opening or maintaining correspondent accounts and payable-through accounts in the United States.

The Order was issued hours after Iran publicly threatened to renew uranium enrichment activities, and one year after the President withdrew the United States from the Joint Comprehensive Plan of Action, commonly referred to as the Iran nuclear deal. The Order is seen as an effort to starve the Iranian regime of funding sources, and it is the latest development in the growing rift between Washington and Tehran. In a statement issued concurrently with the Order, the President also commented that further actions can be expected unless Iran’s leaders “change their destructive behavior and return to the negotiating table.”

As a result of the Order, any person or entity, regardless of nationality, that is engaged in any of the aforementioned activities involving the Iranian Metals Sectors, and any FFI facilitating any such dealings, should take immediate steps to evaluate whether it is advisable to discontinue or avoid such dealings as of the date of the Order. The effective date of the Order is May 8, 2019, and the U.S. government may impose sanctions based on any new dealings or transactions subsequent to that date. For any existing business in the Iran Metals Sectors as of the effective date, OFAC has authorized a 90-day “wind-down” period. Given recent rhetoric from the White House, all persons and entities with other touchpoints to Iran should brace for the possibility of additional, future sanctions.

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