

# How does the Nuclear Deal Affect Personal Transactions Involving Iran?



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Many questions have arisen following yesterday's landmark announcement of implementation of the nuclear agreement reached last July between Iran and the P5+1 states (the United States, United Kingdom, France, Russia, China and Germany). This deal, known as the Joint Comprehensive Plan of Action (or JCPOA), has brought about much speculation about Iran's emergence from roughly a decade of punishing sanctions and its reintegration into the international economic and political sphere. The JCPOA is memorialized in a lengthy, detailed document. Not surprisingly, there is much confusion as to how these transactions will affect most day-to-day transactions involving Iranian-Americans.

Many erroneously believe that the nuclear deal signals the end of requirements administered by the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC). This, however, could not be farther from the truth. It is critical to obtain a complete understanding of the JCPOA's scope to prevent unintentional sanctions violations.

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## **Will all sanctions against Iran be repealed?**

Absolutely not. Most unilateral U.S. sanctions currently in place against Iran were implemented by President Clinton in 1995. Those laws continue to exist today in the form of the Iranian Transactions and Sanctions Regulations, 31 CFR Part 560 (the "ITSR"). The ITSR covers many day-to-day activities engaged in by "United States persons," which the law defines to include U.S. citizens and permanent residents (wherever they are located, even in Iran), individuals physically in the United States (such as individuals on an employment, student, or tourist visa), and U.S. companies and their foreign subsidiaries.

The JCPOA is an agreement on Iran's nuclear program and therefore largely unrelated to the ITSR. The ITSR are in place because of Iran's alleged support of terrorism and human rights abuses. Therefore, the bulk of the ITSR remains intact, with only minor changes. Therefore, it can be seen that the JCPOA is not a final settlement of all of the United States' grievances vis-à-vis Iran.

What changes have the JCPOA brought about then?

- Many European Union (EU) sanctions on Iran have been repealed.
- Many U.S. sanctions on third country activities involving Iran have been removed. For example, non-U.S., non-Iranian companies (such as those in European or Asian nations) will no longer face potential reprisal and punitive measures if they invest in Iran's petrochemical industry or sell Iran high amounts of refined petroleum. This will impact the range of activities non-U.S., non-Iranian companies will be able to lawfully engage in with Iran.
- Foreign subsidiaries of U.S. companies are now able to resume trade with Iran to some extent, although U.S. persons themselves generally can have no role in facilitating such business.
- Many Iranian entities will be removed the Specially Designated Nationals (SDN) list, an effective "blacklist" OFAC maintains. These are parties that are generally off limits for U.S. persons.
- U.S. persons will be able to import certain dried goods, pistachios, caviar, and carpets from Iran.
- U.S. persons will be able to obtain specific licenses from Iran for the exportation to Iran of civilian aircraft, parts, and services for Iran's civilian aviation sector, subject to certain conditions.

## **Will any changes will take place directly for U.S. persons?**

Beyond the limited new authorizations applicable to U.S. persons, one area that will likely change is that already authorized transactions with Iran (such as the sale of certain humanitarian goods) will become somewhat easier to execute. For example, it may become logistically easier to send and receive lawful remittances from Iran or to sell authorized medical, food or information technology (IT) items

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to Iran. These are items that are to a generally authorized, subject to certain conditions. With less Iranian banks on the SDN list subject to blocking, and Iran's reentry into the international SWIFT banking messaging system (the means by which banks can wire funds) the underlying financial transactions for these already-authorized transactions may become substantially easier. Shipping lawful items and insuring such shipments may, within the confines of applicable law, also become easier as more third country companies begin to offer such services with Iran.

## **Will individuals still need licenses for personal transactions?**

Generally, yes. OFAC has over the years relaxed many of its requirements and issued a number of "general licenses," which are general authorizations allowing certain transactions without requiring OFAC authorization, so long as one acted within the framework of the law. However, many transactions will continue to require specific OFAC licenses. These include the sale of many types of real property in Iran, the rental of property there, the sale of all other assets there (including businesses, shares of stock, etc.), the opening, maintaining, and closure of bank accounts in Iran, and engaging in many charitable and academic activities, even activities such as speaking at conferences.

U.S. persons will also notably continue to be prohibited from investing in Iran (irrespective of where the funds originate), most employment in Iran, opening bank accounts there, and buying property in Iran absent specific OFAC authorization.

## **Will OFAC take a softer approach towards sanctions violations?**

Most probably not. Many view the JCPOA as a first step towards U.S.-Iran rapprochement. It remains to be seen whether that is the case. However, two points are exceptionally clear – (1) the United States and Iran have not reestablished relations; and (2) the Obama Administration by many measures faced a very uphill battle to get this deal through Congress. Many opposed to the JCPOA thought the deal was too accommodating towards the Iranian government. Given the negative opinion many have towards the deal, it is widely believed that the Administration will be more resolved to show that it is not appeasing the Iranian government and that it is resolutely enforcing those sanctions remaining in place. As such, it is very much possible that OFAC and the U.S. Department of Justice (which enforces the criminal component of the sanctions laws) will actually ratchet up their enforcement. In other words, civil enforcement in the form of Administrative Subpoenas (often the beginning of an OFAC investigation) and penalties, and criminal enforcement in the form of formal investigations and prosecutions. Therefore, the JCPOA should not be seen a softening of remaining U.S. economic sanctions against Iran.

## **Conclusion**

The JCPOA is a formidable step towards Iran's economic reintegration with the rest of the world, but the sanctions are far from gone, particularly for U.S. persons. What is key that compliance should be at the forefront of the minds of



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not just businesses, but any individuals seeking to engage in transactions with or involving Iran. The euphoria surrounding the nuclear deal should not cloud one's understanding of the sanctions regime in place against Iran. Accordingly, it is best to always seek the advice of those knowledgeable in this area rather than risk violating these very complicated laws and regulations.

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