"Maximum Pressure" to the Max: United States Sanctions Additional Sectors of Iran's Economy

January 14, 2020

On January 10, 2020, President Trump issued **Executive order 13902** ("**E.O. 13902**"), which authorizes the U.S. Department of the Treasury to impose additional sanctions targeting the construction, mining, manufacturing and textiles sectors of the Iranian economy, as well as any other sector of the Iranian economy subsequently specified by the Secretary of the Treasury.[1] E.O. 13902 introduces these new sanctions as part of a **response** to Iran's recent use of military force and support to Iranian-backed militia groups in Iraq.

Concurrent with the issuance of E.O. 13902, the Treasury Department's Office of Foreign Assets Control ("**OFAC**") **announced** sweeping sanctions targeting Iran's metals industry under **Executive order ("E.O.") 13871**,[2] including the designation of 17 Iranian metals producers and mining companies (among which were the country's largest steel, aluminum, and copper producers) and three China- and Seychelles-based entities, as well as the identification as blocked property of a Chinese vessel involved in the purchase, sale and transfer of Iranian metals products. OFAC also imposed largely symbolic sanctions against a number of Iranian government and military officials.

E.O. 13902 and these sanctions designations do not materially change the sanctions obligations of U.S. persons, but do create additional risks for non-U.S. persons that choose to do business with Iran by bringing several additional major sectors of the Iranian economy within the scope of U.S. secondary sanctions, and by giving the Secretary of the Treasury broad authority to target additional sectors without the need for further action by the President or Congress. These secondary sanctions risks are illustrated by the OFAC action targeting non-Iranian entities for engaging in significant transactions involving the purchase of Iranian metals products.

We provide below a brief overview of the relevant sections of E.O. 13902, as well as the OFAC designations.

Overview of E.O. 13902

E.O. 13902 authorizes two types of sanctions targeting Iran's economy: (1) blocking sanctions implemented by the Treasury Department that can be used to target persons operating in identified sectors of the Iranian economy and persons engaged in certain conduct; and (2) secondary sanctions that can be used to target foreign financial institutions that knowingly conduct or facilitate significant transactions involving those sectors of Iran's economy or persons sanctioned under the order. Each of these categories of sanctions is described in detail below.

Blocking Sanctions

Section 1(a) of the order blocks all property and interests in the property of persons determined by the Secretary of the Treasury, in consultation with the Secretary of State:

[1] Executive Order, "Imposing Sanctions with Respect to Additional Sectors of Iran" (January 10, 2020).

[2] Executive Order 13871 of May 8, 2019, "Imposing Sanctions With Respect to the Iron, Steel, Aluminum, and Copper Sectors of Iran," 84 Fed. Reg. 20761 (May 10, 2019).

- to operate in the construction, mining, manufacturing, or textiles sectors of the Iranian economy, or any other sector of the Iranian economy as may be determined by the Secretary of the Treasury, in consultation with the Secretary of State;
- to have knowingly engaged, on or after January 10, 2020 , in a significant transaction for the sale, supply, or transfer to or from Iran of significant goods or services used in connection with a sector of the Iranian economy specified in or pursuant to E.O. 13902;
- to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, any person whose property and interests in property are blocked pursuant to E.O. 13902; or
- to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to E.O. 13902

Secondary Sanctions against Foreign Financial Institutions

Section 2 of the order authorizes the Secretary of the Treasury to prohibit the opening, or prohibit or impose strict conditions on the maintenance, in the United States of a correspondent account or payable-through account by any foreign financial institution if it is determined that such institution knowingly conducted or facilitated a significant financial transaction:

- for the sale, supply, or transfer to or from Iran of significant goods or services used in connection with a sector of the Iranian economy specified in or pursuant to E.O. 13902; or
- for or on behalf of a person whose property or interests in property are blocked pursuant to Section 1 of E.O. 13902

While extremely broad in scope, E.O. 13902 does contain two notable exemptions. Section 11 of the order provides that it shall not apply with respect to any person conducting or facilitating a transaction for the provision (including any sale) of agricultural commodities, food, medicine, or medical devices to Iran, thus preserving the existing allowance under U.S. secondary sanctions for so-called “humanitarian trade.” Section 12 of the order exempts from its prohibitions transactions for the conduct of the official business of the United Nations (including its specialized agencies, programs, funds, and related organizations) by employees, grantees, or contractors thereof.

Sanctions Designations

OFAC complemented the announcement of E.O. 13902 by imposing, for the first time, sanctions targeting Iran’s metals sector under E.O. 13871, issued in May 2019.[3] OFAC designated 17 Iranian metals producers and mining companies, including the country’s largest producers of steel (Mobarakeh Steel Company), aluminum (IRALCO), and copper (National Iranian Copper Industries). OFAC also imposed sanctions against a network of entities based in China and the Seychelles that it alleges to have made purchases from, and sold inputs to, entities operating in Iran’s metal sector. While the Chinese entities sanctioned do not appear to be particularly significant actors, their targeting reinforces that secondary sanctions are real, and that non-U.S. companies that continue to engage in trade involving targeted sectors of the Iranian economy risk losing access to the U.S. financial system and economy.

[3] For further details on E,O, 13871, please see our blog post, “U.S. Expands Sanctions Targeting Iran’s Metals Sector,” *available at* https://www.finregreform.com/single-post/2019/05/09/u-s-expands-sanctions-targeting-irans-metals-sector.

The full list of the entities and vessel targeted under E.O. 13871 is as follows:

- Al-Mahdi Aluminum Corporation;
- Arfa Iron and Steel Company;
- Chadormalu Mining and Industrial Company;
- Esfahan Steel Company;
- Golgohar Mining and Industrial Company;
- Hong Xun (Chinese Vessel)
- Hongyuan Marine Co. Ltd.;
- Hormozgan Steel Company;
- Iran Alloy Steel Company;
- Iran Aluminum Company;
- Iranian Ghadir Iron & Steel Co;
- Khalagh Tadbir Pars Co.
- Khorasan Steel Company;
- Khouzestan Steel Company;
- Mobarakeh Steel Company;
- National Iranian Copper Industries;
- Oxin Steel Company;
- Pamchel Trading Beijing Co. Ltd.
- Power Anchor Limited
- Saba Steel; and
- South Kaveh Steel Company.

OFAC also announced largely symbolic sanctions targeting the following Iranian government and military officials:

- Ali Shamkhani, the Secretary of Iran’s Supreme National Security Council (“**SNSC**”);
- Mohammad Reza Ashtiani, Deputy Chief of Staff of Iranian armed forces;
- Gholamreza Soleimani, Commander of the Basij Resistance Force of the Islamic Revolutionary Guards Corps (“**IRGC**”);
- Mohsen Reza’I, Secretary of the Expediency Discernment Council;
- Mohsen Qomi, Deputy Advisor for International Affairs in the Supreme Leader’s Office;
- Ali Abdollahi, senior military appointee, and former Deputy Commander of Iran’s Law Enforcement Forces;

- Asghar Mir-hejazi, senior official within the Supreme Leader's Office; and
- Mohammad Reza Naqdi, Deputy Coordinator of the IRGC.[4]

These individuals and entities were added to OFAC's List of Specially Designated Nationals and Blocked Persons ("**SDN List**"). As a result of the designations, all property and property interests of the designated persons in the United States or the possession or control of a U.S. person is blocked, and U.S. persons are prohibited from engaging in transactions involving the designated persons except as authorized by OFAC or exempt. These prohibitions extend as well to any entity that is 50 percent or more owned, individually or in the aggregate, by one or more of the sanctioned persons. Non-U.S. persons may also risk secondary sanctions if they engage in certain transactions with the listed persons.

Looking Forward

E.O. 13902 builds on the already extensive array of secondary sanctions authorities available to the administration as it continues its effort to apply "maximum pressure" against Iran's government. With the exception of "humanitarian" trade in agricultural commodities, food, medicine, or medical devices, which as noted above, is expressly exempted from the order's sanctions provisions, almost any trade with Iran now carries at least potential secondary sanctions exposure. In a **press briefing** on the new sanctions, Treasury Secretary Mnuchin reinforced this threat by warning that INSTEX, the proposed European Union mechanism to facilitate trade with Iran, would "most likely be subject to secondary sanctions" if used for non-humanitarian transactions. With no apparent pathway to resolving the conflict between the United States and Iran, additional sanctions are likely, and the U.S. may become increasingly willing to target non-Iranian actors that it views as providing significant economic benefits to the Iranian regime.

If you have any questions regarding the matters covered in this publication, please contact any of the lawyers listed below or your regular Davis Polk contact.

John B. Reynolds	+1 202 962 7143	john.reynolds@davispolk.com
Will Schisa	+1 202 962 7129	will.schisa@davispolk.com
Kendall Howell	+1 202 962 7068	kendall.howell@davispolk.com

[4] Full identifying information on the sanctioned persons and vessel is available at **https://home.treasury.gov/index.php/news/press-releases/sm870**.