

## Frequently Asked Questions Regarding Executive Order of August 6, 2018, “Reimposing Certain Sanctions With Respect to Iran”

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### 597. What is the purpose of Executive Order (E.O) of August 6, 2018, “Reimposing Certain Sanctions With Respect to Iran”?

In accordance with his May 8, 2018 decision to cease the United States' participation in the Joint Comprehensive Plan of Action (JCPOA) and to reimpose all of the U.S. sanctions lifted or waived in connection with the JCPOA, the President issued E.O. 13846 on August 6, 2018 to reimpose relevant provisions of E.O. 13574 of May 23, 2011; E.O. 13590 of November 20, 2011; E.O. 13622 of July 30, 2012; and E.O. 13645 of June 3, 2013, that had been revoked by E.O. 13716 of January 16, 2016. Consistent with guidance issued by the Department of the Treasury on May 8, 2018, E.O. 13846 reimposes specified sanctions relating to Iran following relevant wind-down periods, i.e., on or after August 7, 2018 or November 5, 2018, depending on the activity involved. In addition, to provide clarity and consolidate relevant authorities into a single E.O., E.O. 13846 revokes E.O.s 13716 and 13628 and continues in effect sanctions authorities provided for in those E.O.s. E.O. 13846 also broadens the scope of certain provisions contained in those E.O.s, as outlined in FAQ 601 below. [08-06-2018]

### 598. What does E.O. 13846 do?

E.O. 13846 reimposes relevant blocking sanctions, correspondent and payable-through account sanctions, and menu-based sanctions previously provided for in E.O.s 13574, 13590, 13622, and 13645, which were revoked by E.O. 13716, and continues in effect sanctions authorities provided for in E.O.s 13628 and 13716. As incorporated into E.O. 13846, these measures include implementing authority for and additional tools related to: the Iran Sanctions Act of 1996, as amended (ISA), the Comprehensive Iran Sanctions, Accountability and Divestment Act of 2010, as amended (CISADA), the Iran Threat Reduction and Syria Human Rights Act of 2012 (TRA), and the Iran Freedom Counter-Proliferation Act of 2012 (IFCA) (see FAQ 605). As a general matter, E.O. 13846 incorporates exceptions to these sanctions, including for transactions for the provision of agricultural commodities, food, medicine, or medical devices to Iran, to the same extent such exceptions applied under the prior E.O.s. E.O. 13846 also broadens the scope of certain provisions contained in those E.O.s, as outlined in FAQ 601 below.

Section 1 of E.O. 13846 authorizes blocking sanctions on persons determined:

- i. On or after August 7, 2018, to have provided material support for, or goods or services in support of, the purchase or acquisition of U.S. bank notes or precious metals by the Government of Iran (GOI) (subsection 1(a)(i));
- ii. On or after November 5, 2018, to have provided material support for, or goods or services in support of, the National Iranian Oil Company (NIOC), the Naftiran Intertrade Company (NICO), or the Central Bank of Iran (CBI) (subsection 1(a)(ii));
- iii. On or after November 5, 2018, to have provided material support for, or goods or services in support of:
  - a. Any Iranian person on the List of Specially Designated Nationals and Blocked Persons (SDN List) (other than an Iranian depository institution whose property and interests in property are blocked solely pursuant to E.O. 13599) (subsection 1(a)(iii)(A)); or
  - b. Any other person on the SDN List whose property and interests in property are blocked pursuant to subsection 1(a) of E.O. 13846 or E.O. 13599 (other than an Iranian depository institution whose property and interests in property are blocked solely pursuant to E.O. 13599) (subsection 1(a)(iii)(B)); or
- iv. Pursuant to the relevant statutory authorities in IFCA, to be:
  - a. Part of Iran's energy, shipping, or shipbuilding sectors (subsection 1(a)(iv)(A));
  - b. A port operator in Iran (subsection 1(a)(iv)(B)); or
  - c. A person that knowingly provides significant support to a person determined to be part of Iran's energy, shipping, or shipbuilding sectors, a port operator in Iran, or an Iranian person included on the SDN List (other than a person described in section 1244(c)(3) of IFCA) (subsection 1(a)(iv)(C)).

Section 2 of E.O. 13846 authorizes correspondent and payable-through account sanctions on foreign financial institutions (FFIs) determined to have knowingly conducted or facilitated any significant financial transaction:

- i. On or after August 7, 2018, for the sale, supply, or transfer to Iran of significant goods or services used in connection with Iran's automotive sector (subsection 2(a)(i));
- ii. On or after November 5, 2018, on behalf of an Iranian person on SDN List (other than an Iranian depository institution whose property and interests in property are blocked solely pursuant to E.O. 13599) or any other person on the SDN List whose

property is blocked pursuant to subsection 1 (a) of E.O. 13846 or E.O. 13599 (other than an Iranian depository institution whose property and interests in property are blocked solely pursuant to E.O. 13599) (subsection 2(a)(ii));

iii. On or after November 5, 2018, with NIOC or NICO, except for the sale or provision to NIOC or NICO of the products described in section 5(a)(3)(A)(i) of ISA provided that the fair market value of such products is lower than the applicable dollar threshold specified in that provision (subsection 2(a)(iii));

iv. On or after November 5, 2018, for the purchase, acquisition, sale, transport, or marketing of petroleum or petroleum products from Iran (subsection 2(a)(iv)); and

v. On or after November 5, 2018, for the purchase, acquisition, sale, transport, or marketing of petrochemical products from Iran (subsection 2(a)(v)).

Section 3 of E.O. 13846 authorizes menu-based sanctions on persons determined to:

i. Have knowingly engaged, on or after August 7, 2018, in a significant transaction for the sale, supply, or transfer to Iran of significant goods or services used in connection with Iran's automotive sector (subsection 3(a)(i));

ii. Have knowingly engaged, on or after November 5, 2018, in a significant transaction for the purchase, acquisition, sale, transport, or marketing of petroleum or petroleum products from Iran (subsection 3(a)(ii));

iii. Have knowingly engaged, on or after November 5, 2018, in a significant transaction for the purchase, acquisition, sale, transport, or marketing of petrochemical products from Iran (subsection 3(a)(iii)); or

iv. Be a successor entity to a person determined to meet any of the criteria set out in subsections 3(a)(i)-(a)(iii) of E.O. 13846 (subsection 3(a)(iv)); or

v. Own or control a person determined to meet any of the criteria set out in subsections 3(a)(i)-(a)(iii) of E.O. 13846 and to have had knowledge that the person engaged in the activities referred to in the relevant subsection (subsection 3(a)(v)); or

vi. Be owned or controlled by, or under common ownership or control with, a person determined to meet any of the criteria set out in sections 3(a)(i)-3(a)(iii) of E.O. 13846, and knowingly engaged in the activities referred to in the relevant subsection (subsection 3(a)(vi)).

Section 4 of E.O. 13846 provides authority for the heads of relevant agencies of the U.S. government to implement the menu-based sanctions provided for in section 3.

Section 5 of E.O. 13846 provides authority for the Treasury Department to implement the menu-based sanctions provided for in ISA, CISADA, TRA, IFCA, and section 3 of E.O. 13846

Section 6 of E.O. 13846 authorizes correspondent or payable-through account sanctions or blocking sanctions on FFIs that are determined to have, on or after August 7, 2018: (a) knowingly conducted or facilitated any significant transaction related to the purchase or sale of Iranian rials or a derivative, swap, future, forward, or other similar contract whose value is based on the exchange rate of the Iranian rial (subsection 6(a)(i)); or (b) maintained significant funds or accounts outside the territory of Iran denominated in the Iranian rial (subsection 6(a)(ii)).

Section 7 of E.O. 13846 carries forward sections 2 and 3 of E.O. 13628 and subsection 3(c) of E.O. 13716 (see FAQ 602 below) by providing for blocking sanctions on persons determined to:

i. Have engaged, on or after January 2, 2013, in corruption or other activities relating to the diversion of goods, including agricultural commodities, food, medicine, and medical devices, intended for the people of Iran (subsection 7(a)(i));

ii. Have engaged, on or after January 2, 2013, in corruption or other activities relating to the misappropriation of proceeds from the sale or resale of goods described in subsection 7(a)(1) of E.O. 13846 (subsection 7(a)(ii));

iii. Have knowingly, on or after August 10, 2012, transferred or facilitated the transfer of, goods or technologies to Iran, any entity organized under the laws of Iran, or otherwise subject to the jurisdiction of the GOI, or any national of Iran for use in or with respect to Iran, that are likely to be used by the GOI or any of its agencies or instrumentalities, or by any person on behalf of the GOI or any such agencies or instrumentalities, to commit serious human rights abuses against the people of Iran (subsection 7(a)(iii));

iv. Have knowingly, on or after August 10, 2012, provided services, including services relating to hardware, software, or specialized information or professional consulting, engineering, or support services with respect to goods or technologies that have been transferred to Iran and that are likely to be used by the GOI or any of its agencies or instrumentalities, or by any person on behalf of the GOI or any such agencies or instrumentalities, to commit serious human rights abuses against the people of Iran (subsection 7(a)(iv));

v. Have engaged in censorship or other activities with respect to Iran, on or after June 12, 2009, that prohibit, limit, or penalize the exercise of freedom of expression or assembly by citizens of Iran, or that limit access to print or broadcast media, including the facilitation or support of intentional frequency manipulation by the GOI or an entity owned or controlled by the GOI that would jam or restrict an international signal (subsection 7(a)(v));

vi. Have materially assisted or provided other support for activities listed in subsections 7(a)(i)-(a)(v) of E.O. 13846 (subsection 7(a)(vi)); or

vii. 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 section 7 of E.O. 13846 (subsection 7(a)(vii)).

Section 8 of E.O. 13846 continues in effect the sanctions previously contained in section 4 of E.O. 13628, which prohibit an entity owned or controlled by a U.S. person and established or maintained outside the United States (a "U.S.-owned or -controlled foreign entity") from knowingly engaging in any transaction, directly or indirectly, with the GOI or any person subject to the jurisdiction of the GOI, if that transaction would be prohibited by specified authorities if engaged in by a U.S. person or in the United States (see FAQs 621-623 below).

Section 9 of E.O. 13846 provides that it revokes and supersedes E.O.s 13628 and 13716 (see FAQ 602 below).

Sections 10-22 of E.O. 13846 contain exceptions, definitions, and other implementing provisions related to the sanctions in the E.O. [08-06-2018]

#### 599. When does E.O. 13846 become effective?

E.O. 13846 is effective at 12:01 a.m. eastern daylight time (EDT) on August 7, 2018. However, certain sanctions set out in E.O. 13846 apply only to activities that take place on or after November 5, 2018, as set out in FAQ 598 above and in the relevant provisions of E.O. 13846.

E.O. 13846 is being issued to coincide with the end of the 90-day wind down period which started on May 8, 2018. The last day of the 90-day wind-down period is August 6, 2018, and, as announced on May 8, 2018, certain sanctions previously lifted under the JCPOA will be reimposed on August 7, 2018, including sanctions set out in E.O. 13846 (see FAQ 598 above). [08-06-2018]

#### 600. Why does subsection 1(a)(iv) of E.O. 13846 take effect before November 5, 2018?

Subsection 1(a)(iv) authorizes blocking sanctions pursuant to section 1244(c)(1)(A) of IFCA on persons determined to: (A) be part of the energy, shipping, shipbuilding sectors of Iran; (B) operate a port in Iran; or (C) knowingly provide significant support to certain other persons sanctioned pursuant to section 1244(c)(1)(A) of IFCA or an Iranian person on the SDN List. Consistent with the guidance issued by the U.S. Department of the Treasury on May 8, 2018, the relevant sanctions in section 1244(c)(1)(A) of IFCA are waived through November 4, 2018 to provide a wind-down period for activities involving Iran that were consistent with the U.S. sanctions relief provided for under the JCPOA. However, the sanctions provided for in section 1244(c)(1)(A) of IFCA targeting significant support to Iranian persons on the SDN List remained in effect even when the JCPOA sanctions relief was in effect. To the extent activities within the scope of section 1244(c)(1)(A) of IFCA involve persons on the SDN List or otherwise sanctionable conduct, persons engaging in such activities could be exposed to sanctions under subsection 1(a)(iv) of E.O. 13846 prior to November 5, 2018. [08-06-2018]

#### 601. Does E.O. 13846 expand the scope of sanctions that were in effect prior to January 16, 2016 (Implementation Day of the JCPOA)?

Yes. E.O. 13846 broadens the scope of the sanctions that were in effect prior to January 16, 2016 and provides for greater consistency in the administration of Iran-related sanctions provisions. These added measures are as follows:

- i. Subsection 1(a)(iii)(B): Providing new authority for blocking sanctions on persons determined, on or after November 5, 2018, to have provided material support for, or goods and services in support of, persons blocked for:
  - a. Providing material support for, or goods and services in support of, the purchase or acquisition of U.S. bank notes or precious metals by the GOI (i.e., persons designated pursuant to subsection 1(a)(i));
  - b. Providing material support for, or goods and services in support of, NIOC, NICO, or CBI (i.e., persons designated pursuant to subsection 1(a)(ii)); or
  - c. Being part of the energy, shipping, or shipbuilding sectors of Iran or a port operator in Iran or knowingly providing significant support to certain other persons blocked pursuant to section 1244(c)(1)(A) of IFCA or to an Iranian person on the SDN List (i.e., persons blocked pursuant to subsection 1(a)(iv) for meeting the criteria of section 1244(c)(1)(A) of IFCA).
- ii. Subsection 2(a)(ii): Providing new authority for correspondent and payable-through account sanctions on FFIs determined to have, on or after November 5, 2018, knowingly conducted or facilitated any significant financial transaction on behalf of the persons blocked under the new authorities in subsection 1(a)(iii)(B) described above (i.e., any person blocked pursuant to subsections 1(a)(i), 1(a)(ii), or 1(a)(iv) and included on the SDN List).
- iii. Sections 4 and 5: Expanding the menu of sanctions available to impose on persons determined to have, on or after November 5, 2018, knowingly engaged in certain significant transactions relating to petroleum, petroleum products, or petrochemicals from Iran (i.e., persons determined to meet the criteria in subsections 3(a)(ii)-(a)(iii) or to be a derivative thereof pursuant to subsections 3(a)(iv)-(a)(vi)) by authorizing the imposition of:
  - a. Visa restrictions on corporate officers, principals, or controlling shareholders of a sanctioned person (subsection (4)(e));
  - b. Any of the sanctions from the menu set forth in subsections 4(a)-(e) on principal executive officers of a sanctioned person (subsection 4(f));
  - c. Prohibitions on U.S. persons investing in or purchasing significant amounts of equity or debt instruments of a sanctioned

person (subsection 5(a)(v)); or

d. Any of the sanctions from the menu set forth in subsections 5(a)(i)-(a)(vi) on principal executive officers of a sanctioned person (subsection 5(a)(vii)).

iv. Section 8: Expanding the prohibition on U.S.-owned or -controlled foreign entities previously contained in section 4 of E.O. 13628 (see FAQs 621-623) by prohibiting transactions with persons blocked for:

- a. Providing material support for, or goods and services in support of, Iranian persons on the SDN List and certain other designated persons (i.e., persons designated pursuant to subsection 1(a)(iii)); or
- b. Being part of the energy, shipping, or shipbuilding sectors of Iran or a port operator in Iran or knowingly providing significant support to certain other persons blocked pursuant to section 1244(c)(1)(A) of IFCA or to an Iranian person on the SDN List (i.e., persons blocked pursuant to subsection 1(a)(iv) for meeting the criteria of section 1244(c)(1)(A) of IFCA). [08-06-2018]

#### 602. Why does E.O. 13846 revoke E.O. 13716 and E.O. 13628?

To provide clarity and consolidate relevant authorities into a single document, E.O. 13846 revokes E.O.s 13716 and 13628, and continues in effect relevant provisions from those two revoked E.O.s. Provisions of E.O. 13846 that carry forward relevant provisions of E.O.s 13628 and 13716 include:

- Section 7, which consolidates into a single section designation authorities targeting corruption or other activities relating to the diversion of goods intended for the people of Iran, the transfer of goods or technologies to Iran that are likely to be used by the GOI or any of its agencies or instrumentalities to commit serious human rights abuses against the people of Iran or the provision of certain services with respect to such goods or technologies, and persons engaged censorship in Iran (these provisions previously appeared in sections 2 and 3 of E.O. 13628 and section 8 of E.O. 13645, which was carried forward by subsection 3(c) of E.O. 13716), and
- Section 8 extends certain prohibitions applicable to U.S. persons under OFAC-administered Iran sanctions to U.S.-owned or -controlled foreign entities and provides for civil penalties on the U.S. parent for any violations of such prohibitions to the same extent that they would apply to a U.S. person for the same conduct, consistent with section 218 of the TRA (this provision was formerly contained in section 4 of E.O. 13628). [08-06-2018]

#### 603. Do persons who were designated pursuant to E.O. 13628 of October 9, 2012, "Authorizing the Implementation of Certain Sanctions Set Forth in the Iran Threat Reduction and Syria Human Rights Act of 2012 and Additional Sanctions With Respect to Iran," continue to be subject to sanctions following the issuance of E.O. 13846?

Yes, OFAC is taking action under section 7 of E.O. 13846 to continue in effect the designations of persons who were designated pursuant to E.O. 13628 at the time of the issuance of E.O. 13846. U.S. persons must continue to block the property and interests in property of these individuals and entities, and non-U.S. persons should be aware of the sanctions risk associated with these persons. [08-06-2018]

#### 604. Why do the sanctions set out in E.O.s 13574 and 13590 not appear in E.O. 13846?

The Treasury Department implementation authorities set out in section 1 of E.O. 13574 for "menu-based" sanctions under ISA have been superseded by the implementation authorities for "menu-based" sanctions under a broader range of authorities that include ISA, CISADA, TRA, and IFCA, and section 3 of E.O. 13846. As a result, section 1 of E.O. 13574 is not included verbatim in E.O. 13846.

The sanctions set out in section 1 of E.O. 13590 — relating to development of petroleum resources in Iran and Iran's domestic production of petrochemical products — were incorporated into subsections 5(a)(5)-(a)(6) of ISA by a statutory amendment set forth in section 201 of the TRA. As a result, the sanctions previously set forth in section 1 of E.O. 13590 are not included in E.O. 13846, but remain in place pursuant to statutory authorities. Implementation authorities for the sanctions in subsections 5(a)(5)-(a)(6) of ISA are delegated to the appropriate agency heads through the Presidential Memorandum of October 9, 2012, or through section 5 of E.O. 13846. [08-06-2018]

#### 605. How does E.O. 13846 relate to various Iran-related statutes?

E.O. 13846 implements provisions of, and provides additional tools related to, ISA, CISADA, TRA, and IFCA that were contained in the prior E.O.s. These include:

- i. Invoking the President's authority under the International Emergency Economic Powers Act (IEEPA) to supplement statutory authorities in IFCA with prohibitions or restrictions on the importation of goods;
- ii. Continuing to implement the statutory requirements of sections 105A and 105B of CISADA, as added by sections 402 and

403 of TRA, by providing authority to block the property and interests in property and suspend the entry into the United States of persons determined to have engaged in the transfer of goods or technologies to Iran that are likely to be used by the GOI or any of its agencies or instrumentalities to commit serious human rights abuses against the people of Iran or the provision of services with respect to such goods or technology after they are transferred to Iran, and persons determined to have engaged in censorship in Iran; and

iii. Continuing to implement the statutory requirements of section 105C of CISADA, as added by section 1249 of IFCA, by providing authority to block the property and interests in property and suspend the entry into the United States of persons determined to have engaged in corruption or other activities relating to the diversion of goods intended for the Iranian people or the misappropriation of proceeds from the sale or resale of such goods. [08-06-2018]

#### 606. What activity will become sanctionable on or after August 7, 2018 under E.O. 13846 or other authorities?

After the 90-day wind-down period ends on August 6, 2018, the following sanctions come into effect, including under provisions of E.O. 13846 and relevant statutory authorities:

- i. Sanctions on the purchase or acquisition of U.S. dollar banknotes by the GOI (see, e.g., subsection 1(a)(i) of E.O. 13846);
- ii. Sanctions on Iran's trade in gold or precious metals (see, e.g., subsection 1(a)(i) of E.O. 13846 and subsection 1245(a)(1)(A) of IFCA);
- iii. Sanctions on the direct or indirect sale, supply, or transfer to or from Iran of graphite, raw, or semi-finished metals such as aluminum and steel, coal, and software for integrating industrial processes (see, e.g., section 5 of E.O. 13846 and subsections 1245(a)(1)(B)-(a)(1)(C) and (c) of IFCA);
- iv. Sanctions on significant transactions related to the purchase or sale of Iranian rials, or the maintenance of significant funds or accounts outside the territory of Iran denominated in the Iranian rial (see, e.g., section 6 of E.O. 13846);
- v. Sanctions on the purchase, subscription to, or facilitation of the issuance of Iranian sovereign debt (see, e.g., section 5 of E.O. 13846 and subsection 213(a) of TRA); and
- vi. Sanctions on Iran's automotive sector (see, e.g., subsections 2(a)(i) and 3(a)(i) of E.O. 13846). [08-06-2018]

#### 607. What activity will become sanctionable on or after November 5, 2018 under E.O. 13846 or other authorities?

After the 180-day wind-down period ends on November 4, 2018, the following sanctions come into effect, including under provisions of E.O. 13846 and relevant statutory authorities:

- i. Sanctions on Iran's port operators, and shipping and shipbuilding sectors, including on the Islamic Republic of Iran Shipping Lines (IRISL), South Shipping Line Iran, or their affiliates (see, e.g., subsection 1(a)(iv) and section 5 of E.O. 13846 and section 1244(c)(1) of IFCA);
- ii. Sanctions on petroleum-related transactions with, among others, NIOC, NICO, and the National Iranian Tanker Company (NITC), including the purchase of petroleum, petroleum products, or petrochemical products from Iran (see, e.g., subsections 1(a)(ii), 1(a)(iv), 2(a)(iii)-(a)(v), and 3(a)(ii)-(a)(iii) and sections 4 and 5 of E.O. 13846);
- iii. Sanctions on transactions by FFIs with the CBI and designated Iranian financial institutions under section 1245 of the National Defense Authorization Act for FY 2012 (NDAA 2012) (see, e.g., section 5 of E.O. 13846, section 1245 of NDAA 2012, and subsection 1247(a) of IFCA);
- iv. Sanctions on the provision of specialized financial messaging services to the CBI and Iranian financial institutions described in subsection 104(c)(2)(E)(ii) of CISADA (see, e.g., section 5 of E.O. 13846, section 220 of TRA, and subsection 1244(c)(1) of IFCA);
- v. Sanctions on the provision of underwriting services, insurance, or reinsurance (see, e.g., section 5 of E.O. 13846, section 5(a)(7) of ISA, subsections 211(a) and 212(a) of TRA, and subsections 1246(a) and 1247(a) of IFCA); and
- vi. Sanctions on Iran's energy sector (see, e.g., subsection 1(a)(iv) and section 5 of E.O. 13846, subsection 5(a) of ISA, section 212(a) of TRA, and sections 1244(c)(1), (d) and (h)(2), 1246(a), and 1247(a) of IFCA). [08-06-2018]

#### Sanctions Relating to Transactions Involving the Iranian Rial

#### 608. What transactions involving the Iranian rial are sanctionable under E.O. 13846?

Section 6 of E.O. 13846 reimposes the sanctions previously contained in section 1 of E.O. 13645 with respect to transactions involving the Iranian rial. FFIs risk correspondent and payable-through account sanctions and blocking sanctions if they, on or after August 7, 2018, (i) knowingly conduct or facilitate any significant transaction related to the purchase or sale of Iranian rials or a derivative, swap, future, forward, or other similar contract whose value is based on the exchange rate of the Iranian rial, or (ii) maintain significant funds or accounts outside the territory of Iran denominated in the Iranian rial. [08-06-2018]

**Sanctions Relating to Iran's Automotive Sector****609. What does E.O. 13846 do with respect to the sanctions on Iran's automotive sector?**

E.O. 13846 reimposes the sanctions previously contained in subsections 3(a)(ii) and section 5 of E.O. 13645 by authorizing the imposition of correspondent and payable-through account sanctions (subsection 2(a)(i)) of E.O. 13846) and menu-based sanctions (subsection 3(a)(i) of E.O. 13846) for certain transactions, on or after August 7, 2018, for the sale, supply, or transfer to Iran of significant goods or services used in connection with Iran's automotive sector. [08-06-2018]

**610. What is considered Iran's automotive sector for purposes of E.O. 13846?**

E.O. 13846 defines the automotive sector of Iran as the manufacturing or assembling in Iran of light and heavy vehicles including passenger cars, trucks, buses, minibuses, pick-up trucks, and motorcycles, as well as original equipment manufacturing and after-market parts manufacturing relating to such vehicles. [08-06-2018]

**611. What are goods or services used in connection with Iran's automotive sector for purposes of E.O. 13846?**

E.O. 13846 reimposes sanctions on certain transactions on or after August 7, 2018, for the sale, supply, or transfer to Iran of "significant" goods or services used in connection with the automotive sector of Iran. (See FAQ 289 for an interpretation of the term "significant.")

We anticipate that forthcoming regulations will define "goods or services used in connection with the automotive sector of Iran" to include goods or services that contribute to (i) Iran's ability to research, develop, manufacture, and assemble light and heavy vehicles, and (ii) the manufacturing or assembling of original equipment and after-market parts used in Iran's automotive industry. [08-06-2018]

**612. Is the sale, supply, or transfer of finished vehicles or "auto kits" to Iran sanctionable under the New E.O.?**

E.O. 13846 does not make sanctionable the export of finished vehicles to Iran if no further assembly or manufacturing is required. As such, exporting fully assembled and finished vehicles to Iran for sale would not be sanctionable, so long as the transaction is consistent with U.S. sanctions, including that it does not involve a sanctioned person.

In contrast, "auto kits" (or "knock-down kits") exported to Iran for assembly in Iran would be considered goods or services used in connection with the automotive sector of Iran and the export of such kits to Iran would be sanctionable if the transaction is "significant." (See FAQ 289 for an interpretation of the term "significant.") [08-06-2018]

**613. Is the sale, supply, or transfer of goods or services for the maintenance of finished vehicles sanctionable under E.O. 13846?**

Goods or services for the maintenance of finished vehicles exported to Iran would generally not be considered "significant goods or services used in connection with the automotive sector of Iran" for the purposes of E.O. 13846, and the provision of such goods or services would generally not be sanctionable. However, the export, sale, or distribution of goods (e.g., auto parts and accessories) or services that would contribute to Iran's ability to manufacture or assemble vehicles, or manufacture original equipment and after-market parts in Iran, could create exposure to sanctions. Persons exporting parts and services to Iran for the maintenance or upkeep of finished automobiles, and FFIs facilitating such exports, should exercise caution to ensure that the parts or services are not diverted for the manufacturing or assembly of vehicles in Iran or the manufacturing of original equipment or after-market parts in Iran, and are used only for maintenance and upkeep. [08-06-2018]

**Sanctions on Petroleum-related Transactions****614. What does E.O. 13846 do with respect to Iran's energy, petroleum, and petrochemical sectors?**

E.O. 13846 reimposes sanctions previously set out in E.O.s 13622, 13628, and 13645 with respect to the Iranian energy, petroleum, and petrochemical sectors. As such, subsections 1(a)(ii) and (2)(a)(ii) of E.O. 13846 authorize blocking sanctions and correspondent or payable-through account sanctions on persons providing material support for, or goods or services to,

NIOC or NICO. Separately, subsection 2(a)(iii) of E.O. 13846 authorizes the imposition of correspondent or payable-through account sanctions on an FFI determined to have knowingly conducted or facilitated any significant financial transaction with NIOC or NICO (except for sales of refined petroleum products to NIOC or NICO that are below the dollar threshold that could trigger sanctions under section 5(a)(3)(A)(i) of ISA). Subsections 2(a)(iv)-(a)(v) provide authority to impose sanctions on FFIs determined to have knowingly conducted or facilitated a significant transaction for the purchase, acquisition, sale, transport, or marketing of petroleum, petroleum products, or petrochemicals from Iran, with the aim of deterring Iran or any other country or institution from establishing workaround payment mechanisms for the purchase of Iranian oil to circumvent the NDAA 2012 oil sanctions. Subsections 3(a)(ii)-(a)(iii) provide authority to impose menu-based sanctions on persons determined to have engaged in a significant transaction for the purchase, acquisition, sale, transport, or marketing of petroleum or petroleum products from Iran. Furthermore, persons that sell, supply, or transfer to or from Iran significant goods or services used in connection with Iran's energy sector are exposed to menu-based sanctions pursuant to subsection 1244(d) of IFCA and section 5 of E.O. 13846. The existing exception rules under NDAA 2012 apply to these sanctions. Thus, countries that are determined by the Secretary of State to have significantly reduced their purchases of Iranian crude oil will be excepted from these measures as well. (See FAQs 169-182 relating to the NDAA 2012 sanctions.)

The provisions in E.O. 13846 reimposing these sanctions come into effect beginning on November 5, 2018. [08-06-2018]

**615. Does E.O. 13846 mean that Iran's trade partners should no longer buy petroleum products from Iran? How will this affect exports of Iranian oil?**

These measures, which apply to transactions occurring on or after November 5, 2018, establish a key element of the comprehensive Iran sanctions framework by deterring work-around financial transactions involving NIOC or NICO that were not being captured under the sanctions previously implemented against the CBI at the time E.O. 13622 was issued. Iranian trade partners can continue to buy petroleum and petroleum products from Iran without risking sanctions under E.O. 13846 if they receive a significant reduction exception under relevant provisions of the NDAA 2012 for the relevant period. However, E.O. 13846 provides authority to sanction, on or after November 5, 2018, the purchase of petroleum or petroleum products and significant dealings with NIOC or NICO by persons in jurisdictions that do not have a significant reduction exception. In addition, IFCA provides for sanctions on persons determined to be part of the energy sector of Iran, or to sell, supply, or transfer to or from Iran significant goods or services used in connection with the energy sector of Iran, provided the person is not in a jurisdiction that has received a significant reduction exception. (See FAQs 293-297 relating to IFCA.) [08-06-2018]

**616. Can countries that receive a significant reduction exception under NDAA 2012 purchase oil through NIOC and NICO without facing sanctions?**

All property and interests in property of NIOC and NICO subject to U.S. jurisdiction are already blocked pursuant to E.O. 13599, and U.S. persons are prohibited from all dealings with these entities. E.O. 13846 reestablishes the authority previously contained in E.O. 13622 to sanction FFIs that, on or after November 5, 2018, knowingly conduct or facilitate any significant transaction with NIOC or NICO. Financial institutions in jurisdictions that have received a significant reduction exception are not subject to these sanctions for transactions with NIOC and NICO for the purchase of petroleum or petroleum products from Iran while the exception applies. In addition, IFCA provides for sanctions on persons that knowingly provide significant financial, material, technological, or other support to, or goods or services in support of any activity or transaction on behalf of or for the benefit of an Iranian person on the SDN List (other than non-designated Iranian financial institutions), provided the person is not in a jurisdiction that has received a significant reduction exception. (See FAQs 293-297 relating to IFCA.) [08-06-2018]

**617. E.O. 13846 targets transactions between foreign financial institutions and NIOC and NICO. What about a NIOC or NICO subsidiary? Are transactions with those entities also sanctionable under this E.O.?**

Yes. As in E.O. 13622, E.O. 13846 defines NIOC and NICO to include any entity owned or controlled by, or operating for or on behalf of, NIOC and NICO. [08-06-2018]

**618. Does E.O. 13846 make sanctionable activities related to the pipeline project to supply natural gas from the Shah Deniz gas field in Azerbaijan to Europe and Turkey, given that NICO reportedly has a 10 percent stake in the project?**

No. Section 10 of E.O. 13846 maintains the exceptions previously provided for in E.O. 13622 and E.O. 13645, as well as in subsection 603(a) of the TRA and section 1254 of IFCA, for the pipeline project to supply natural gas from the Shah Deniz gas field in Azerbaijan to Europe and Turkey. [08-06-2018]

**619. Are barter arrangements or other non-cash trade transactions involving petroleum, petroleum products, or petrochemical products originating from Iran sanctionable under the terms of E.O. 13846?**

Yes. To the extent a financial institution is involved, that financial institution could be sanctioned under E.O. 13846 for a barter arrangement, on or after November 5, 2018, related to the purchase or acquisition of petroleum, petroleum products, or petrochemical products from Iran. In addition, barter transactions knowingly conducted with NIOC, NICO, or the CBI also could result in sanctions — regardless of whether a financial institution is involved — to the extent that those transactions constitute material support for, or services to, NIOC, NICO, or the CBI. [08-06-2018]

#### **620. What are the definitions of “petroleum products” and “petrochemical products”?**

The term “petroleum products,” as defined in section 16(o) of E.O. 13846, includes unfinished oils, liquefied petroleum gases, pentanes plus, aviation gasoline, motor gasoline, naphtha-type jet fuel, kerosene-type jet fuel, kerosene, distillate fuel oil, residual fuel oil, petrochemical feedstocks, special naphthas, lubricants, waxes, petroleum coke, asphalt, road oil, still gas, and miscellaneous products obtained from the processing of: crude oil (including lease condensate), natural gas, and other hydrocarbon compounds. The term does not include natural gas, liquefied natural gas, biofuels, methanol, and other non-petroleum fuels.

The term “petrochemical products,” as defined in section 16(m) of E.O. 13846, includes any aromatic, olefin, and synthesis gas, and any of their derivatives, including ethylene, propylene, butadiene, benzene, toluene, xylene, ammonia, methanol, and urea. [08-06-2018]

#### **U.S.-owned or -controlled foreign entities**

#### **621. What is the prohibition on U.S.-owned or -controlled foreign entities, and how does it work?**

Consistent with Section 218 of TRA, section 8 of E.O. 13846 continues in effect the sanctions previously contained in section 4 of E.O. 13628 and expands them to cover activity sanctionable under E.O. 13846 (see FAQ 601). This provision prohibits a U.S.-owned or -controlled foreign entity from knowingly engaging in any transaction, directly or indirectly, with the GOI, or any person subject to the jurisdiction of the GOI, if that transaction would be prohibited by certain Executive orders prohibiting trade and other dealings with, and investment in, Iran and blocking the GOI and Iranian financial institutions, or any regulation issued pursuant to the foregoing (including the Iranian Transactions and Sanctions Regulations, 31 C.F.R. part 560 (ITSR)), if the transaction were engaged in by a United States person or in the United States. Civil penalties for the U.S.-owned or -controlled foreign entity's violation of Section 8, attempted violation, conspiracy to violate, or causing of a violation shall apply to the U.S. person that owns or controls such entity to the same extent that they would apply to a U.S. person for the same conduct.

Section 20(c) of E.O. 13846 contains a savings clause that continues in effect under E.O. 13846 regulations, orders, directives, and licenses that were issued pursuant to E.O. 13628 and remained in effect immediately prior to the date of E.O. 13846. Pursuant to this authority, section 560.215 of the ITSR, which implemented section 4 of 13628, and licenses issued pursuant to E.O. 13628 that were valid as of the date of E.O. 13846 remain in effect, subject to their existing terms and conditions. Such terms and conditions include the expiration date of the license. [08-06-2018]

#### **622. Are U.S.-owned or -controlled foreign entities covered under OFAC general licenses and/or permitted to apply for specific licenses from OFAC?**

To the extent a transaction is exempt from the prohibitions of the ITSR, E.O. 13599, or section 1 or 15 of E.O. 13846, or is authorized by a general license issued pursuant to these authorities if engaged in by a U.S. person, it would not be prohibited for a U.S.-owned or -controlled foreign entity (as defined above) to engage in the transaction, provided that it satisfies all the conditions and requirements of the exemption or general license. Similarly, if the transaction is one for which a U.S. person might apply for a specific license — for example, under OFAC's statement of licensing policy for certain targeted educational, cultural, and sports exchange programs that are designed to directly benefit the Iranian people set forth at section 560.545 of the ITSR — a U.S.-owned or -controlled foreign entity or the U.S. person that owns or controls the entity may apply for a specific license for the U.S.-owned or -controlled foreign entity to engage in the transaction. Note: whether a U.S. parent company's specific license covers transactions by its owned or controlled foreign entity that are otherwise prohibited by section 8 of E.O. 13846 will depend on the terms of that license and the scope of the authorized activities.

Pursuant to subsection 20(c) of E.O. 13846, section 560.556 of the ITSR, which extends general licenses available under the ITSR to U.S.-owned or -controlled foreign entities, remains in effect. [08-06-2018]

#### **623. Is there a wind-down or safe harbor provision for Section 8 of E.O. 13846?**



No. Section 8 of E.O. 13846 continues in effect the prohibition previously contained in section 4 of E.O. 13628, which — consistent with subsection 218(d) of the TRA — provided that civil penalties would not apply if a U.S. person that owns or controls the foreign entity divested or terminated its business with the U.S.-owned or -controlled foreign entity not later than February 6, 2013. Because the relevant prohibition came into effect more than five years ago and a wind-down period was provided at that time, Section 8 of E.O. 13846 does not include such a wind-down authorization.

Please note, however, that section 560.537 of the ITSR authorizes — through 11:59 p.m. EST on November 4, 2018 — all transactions and activities ordinarily incident and necessary to the wind down of activities that had been authorized under the now-revoked Iran General License H. To the extent a U.S.-owned or -controlled foreign entity or a U.S. person is engaging in wind-down activities pursuant to section 560.537 of the ITSR, those activities should be completed prior to the general license's expiration at 11:59 p.m. EST on November 4, 2018. [08-06-2018]

#### **Sanctions Relating to the Provision of Material Assistance to Certain Persons**

##### **624. What are the implications of subsection 1(a)(iii) of E.O. 13846?**

Subsection 1(a)(iii) of E.O. 13846 provides authority to block the property and interests in property of persons determined, on or after November 5, 2018, to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of: (A) Iranian persons included on the SDN List or (B) any other persons included on the SDN List whose property and interests in property are blocked pursuant to Executive Order 13599 or subsection 1(a) of E.O. 13846 (in both cases excluding Iranian depository institutions whose property and interests in property are blocked solely pursuant to Executive Order 13599). Certain activities relating to the pipeline project to supply natural gas from the Shah Deniz gas field in Azerbaijan to Europe and Turkey are excepted from this provision.

In implementing this provision, the United States Government will take appropriate steps to avoid, among other things, undue impacts on the access of the people of Iran to humanitarian items, telecommunications, and other basic services. [08-06-18]

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