Government Contracts Blog

Posted at 11:25 AM on July 12, 2010 by Sheppard Mullin

New Iranian Sanctions Legislation: Summary of Key Provisions

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On July 1, 2010, President Obama signed the Comprehensive Iran Sanction, Accountability, and Divestment Act of 2010 ("CISADA"). CISADA expands many existing restrictions and includes many new provisions designed to reach foreign firms currently doing business with Iran. More details into the impact of this legislation will emerge as the agencies charged with implementing this legislation issue their regulations.

Below are the highlights of the statute. Look for a more in-depth analysis of some of the key provisions in next month's blog.

- **New Sanctionable Activities.** CISADA expands the scope of sanctionable activities under the Iran Sanctions Act of 1996 ("ISA"), focusing on the following three areas:
    - Investment in Iran's petroleum production: As of July 1, 2010, knowingly making an investment of $20 million or more (including by increments of at least $5 million within twelve months) that directly and significantly contributes to the enhancement of Iran's ability to develop petroleum resources is prohibited.
    - Expansion of Iran's refined petroleum industry: As of July 1, 2010, knowingly selling, leasing or providing to Iran goods, services, technology, information or support that could facilitate the maintenance or expansion of Iran's domestic production of refined petroleum products is prohibited. The restrictions apply to any individual transaction of at least $1 million or a total of $5 million over twelve months.
    - Export of refined petroleum products to Iran, or assistance to Iran's ability to import such products: As of July 1, 2010, knowingly selling or providing to Iran refined petroleum products, or selling, leasing, or providing to Iran goods, services, technology, information, or support that could enhance Iran's ability to import refined products, worth at least $1 million in a single transaction, or $5 million or more during a twelve-month period is prohibited.

- **New Sanctions.** CISADA expands the scope of sanctions that may be applied under ISA.

The pre-existing sanctions are:

  - Denial of export-import bank assistance for exports;
  - Denial of U.S. export licenses or other specific permission under the U.S. export control laws;
  - Denial of certain loans from U.S. financial institutions;
  - Prohibitions on a sanctioned person that is a financial institution;
  - Banned from receiving a U.S. Government contract; and
  - Restrict imports in accordance with the International Emergency Economic Powers Act ("IEEPA")

The new sanctions are:

  - Denial of foreign exchange transactions subject to U.S. jurisdiction.
  - Prohibition on transfers of credit or payments between, by, through, or to financial institutions that are subject to U.S. jurisdiction.
  - Denial of conducting any transaction with respect to property subject to U.S. jurisdiction.

- **Expanded Scope Of Persons Who May Be Sanctioned.** CISADA expands the scope of who may be sanctioned under ISA. Specifically, the threshold for parent company liability for the conduct of foreign subsidiaries has been significantly lowered, in effect, to a "reason to know" standard.

- **New Restrictions For Financial Institutions.** CISADA establishes new restrictions for financial institutions; specifically banning U.S. banks from engaging in financial transactions with foreign banks doing business in Iran or facilitating Iran's nuclear program or support for terrorism.

- **Mandatory Investigations.** U.S. Government investigations into possible sanctionable conduct are now mandatory upon the receipt of "creditable evidence".

- **Contractor Certification.** U.S. Government contractors will be required to certify that neither they, nor any company they control, engage in sanctionable activity.

- **Bans Contracts With Persons Who Export Sensitive Technology To Iran.** CISADA prohibits executive agencies from entering or renewing a contract with a contractor that exports sensitive technology to Iran. Sensitive technology is defined as hardware, software, telecommunications equipment, or any other technology used to restrict the free flow of information in Iran; or disrupt, monitor, or otherwise restrict speech of the people of Iran.

- **Codification Of Executive Orders.** CISADA codifies the authority behind the existing Office of Foreign Assets Control ("OFAC") Iranian Transaction Regulations ("ITR"). In the future, there may be changes to the OFAC regulations as a result of this codification.

- **Harmonization Of Criminal Penalties.** Criminal penalties for a variety of export violations have been standardized to a fine of $1,000,000, or 20 years imprisonment, or both.

- **Designations Of Diversion Control.** There is a new type of country designation and licensing requirement for "Destinations of Diversion Control" that should be monitored and included in export compliance programs.

- **Divestment.** CISADA establishes the ability for state and local governments more easily to divest themselves of, or to prohibit, investments of public funds in companies that invest in Iran.

- **Penalties For Human Rights Abusers.** CISADA imposes financial penalties and travel restrictions on Iranian human rights abusers.

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