

U.S. Government ends uncertainty surrounding the use of the Central Bank of Iran (CBI) in humanitarian trade with Iran and opens U.S.-Swiss Humanitarian Channel

5 March 2020

On 27 February 2020, the Office of Foreign Assets Controls (OFAC) issued [General License \(GL\) 8](#) authorizing certain humanitarian trade transactions involving the Central Bank of Iran (CBI) that are otherwise prohibited under the [Global Terrorism Sanctions Regulations \(GTSR\)](#) or the [Iranian Transactions and Sanctions Regulations \(ITSR\)](#).

The [designation of the CBI as a Specially Designated National \(SDN\)](#) on 20 September 2019 under the GTSR created tremendous uncertainty for companies that relied on the general license in the ITSR for the export of food, agricultural commodities, medicines, or medical devices to Iran (31 C.F.R. § 560.530, or the “ag/med GL”). The potential involvement of the CBI in such sales could not always be readily ascertained given the opacity of the Iranian financial system.

For companies utilizing the ag/med GL, the potential involvement of the CBI in humanitarian trade undermined its utility, and posed additional compliance challenges for an already complicated market. With the issuance of GL 8, these major problems are largely addressed, as any potential involvement by the CBI in such transactions is now authorized (although other Iranian banks designated as SDNs under GTSR or weapons proliferation sanctions still cannot be involved). Along with this announcement, OFAC released [FAQs 821-823](#) to address specific concerns regarding the applicability of GL 8.

Also on 27 February 2020, and separate from the announcement of GL 8, OFAC [formally announced](#) the establishment of the Swiss Humanitarian Trade Arrangement (SHTA) to assist foreign governments and foreign financial institutions in establishing payment mechanisms to facilitate humanitarian exports to Iran that are subject to enhanced due diligence. OFAC had initially announced the humanitarian channel in [October 2019](#), and announced the processing of the first transactions through this channel on [30 January 2020](#).

Taken together, both measures indicate an effort on the part of the U.S. Government to facilitate humanitarian trade with Iran, which had become a risky prospect for many companies after the CBI’s 20 September 2019 designation.

Please see below a more detailed discussion of the impact of GL 8, as well as the separate U.S.-Swiss Humanitarian Channel.

GL 8 authorizes certain transactions involving CBI in sales of food, agricultural commodities, medicines, and medical devices

GL 8 authorizes the involvement of the CBI in the following categories of activities that are otherwise authorized under the ag/med GL and related GLs:

- (1) Sales of eligible agricultural commodities and related activities that are permitted under the general licenses in sections 560.530(a) or (b); 560.532; or 560.533 of the ITSR. As noted in FAQ 821, this authorization only applies to CBI, not other Iranian financial institutions designated as SDNs for global terrorism, or weapons proliferation reasons (of which there are a number).
- (2) Transactions and activities that are ordinarily incident and necessary to the activities described above that are either (1) authorized under section 560.516 (which authorizes certain transfers of funds involving Iran) or (2) consistent with section 560.405 (i.e., transactions that are ordinarily incident and necessary to an authorized transaction, with certain exceptions) of the ITSR.
- (3) Other transactions and activities authorized under any specific license issued by OFAC pursuant to 31 C.F.R. §§ 560.530, 560.532, or 560.533 in the ITSR. For example, this would include specific licenses for sale of food products, medicines, and medical devices that are either not covered by the general license in section 560.530 or that do not comply with payment terms set forth in section 560.532.

Due to the high rate of inflation and other factors, the Iranian government has imposed strict controls in recent years on access to hard currency for purposes of importing goods. Companies that seek to obtain hard currency to purchase imported goods, such as Iranian distributors of medical supplies, have to go through complicated approval processes to obtain hard currency, and some of these processes may involve the CBI, directly or indirectly.

CBI's designation in September 2019 raised the issue of whether CBI's indirect involvement in approving foreign currency releases for imports of medicine and medical devices was a prohibited transaction for dealing with CBI. As a result, some U.S. companies supplying medicine or medical devices suspended certain sales to Iran. Now, companies can rely on GL 8 to proceed with transactions that may indirectly (or directly) involve CBI, assuming that all of the conditions of the ag/med GL are met.

Swiss Humanitarian Trade Arrangement is a new alternative for financial transactions involving Iran for companies that have a presence in Switzerland

Use of the SHTA humanitarian channel is voluntary, but it offers companies with a Swiss presence a mechanism whereby they can receive assurances that their activities will not result in "secondary" sanctions exposure in exchange for submitting detailed transactional information to the Swiss Government (which must authorize use of the SHTA), and undertaking enhanced due diligence regarding their activities involving Iran. Activities undertaken pursuant to the SHTA must otherwise comply with the requirements of the ag/med GL and GL 8 (or specific license(s) issued by OFAC).

Details of the requirements for participation in the SHTA can be obtained from the Swiss State Secretariat for Economic Affairs (SECO) at SHTA@seco.admin.ch, but at a minimum, such transactions must involve an entity subject to Swiss jurisdiction (including Swiss entities owned or controlled by U.S. persons or third-country persons – e.g., a Swiss subsidiary of a U.S.

company could potentially qualify). Additional information is available in the [guidance](#) published by OFAC on 25 October 2019.

In conjunction with the announcement of GL 8, OFAC released [FAQs 824-826](#) to provide additional information on ways that companies can use the SHTA to facilitate financial transactions in Iran.

Continued diligence is still required

Despite the issuance of GL 8, companies must still ensure that they are fully complying with the terms and conditions of the ag/med GL. For example, this includes ensuring that all products sold to Iran are eligible agricultural products, food, medicine, or medical devices not described on the [List of Medical Devices Requiring Specific Authorization](#) and that prohibited parties, including certain SDNs, are not otherwise involved.

As noted previously, GL 8 does not authorize the participation, directly or indirectly, of any other Iranian SDN banks designated for global terrorism or weapons proliferation reasons, including but not limited to: Bank Mellat, Bank Melli, Bank Saderat, Bank Parsian, or Bank Tejarat (and numerous others). Therefore, companies need to remain vigilant regarding the entire payment flow for sales of eligible food, agricultural commodities, medicines, and medical devices to Iran, and need to ensure that payment terms comply with the relevant OFAC general license if the activity involves any U.S. nexus.

Finally, companies must take steps to confirm that their business partners in Iran, such as distributors, do not provide products to parties that are not authorized under the ag/med GL, including not just entities affiliated with SDNs, but also military, intelligence, or law enforcement entities. This often requires enhanced due diligence, and merely checking party names against the SDN List will not always flag such prohibited parties.

SEC reporting obligations remain intact

Because the CBI is designated under the global terrorism sanctions, issuers that are required to file quarterly and annual reports with the U.S. Securities and Exchange Commission (SEC) must assess whether they “knowingly conducted any transaction or dealing with” the CBI, as such activities must be disclosed in certain filings with the SEC under [Section 219 of the Iran Threat Reduction and Syria Human Rights Act of 2012 \(ITRA\)](#), even if authorized by OFAC. GL 8 does NOT relieve companies of this obligation; therefore, any issuers relying on GL 8 must assess, based on the unique facts and circumstances of their business activities involving Iran, if Section 219 triggers a mandatory disclosure obligation.

While GL 8 helps facilitate certain humanitarian transactions with Iran, navigating the Iranian sanctions program is complex, and must always take into account the particular facts of a given transaction.

Please contact any of the attorneys listed below if you have any questions regarding the ag/med GL, GL 8, or the SHTA.

Contacts



Anthony Capobianco
Partner, Washington, D.C.
T +1 202 637 2568
anthony.capobianco@hoganlovells.com



Brian P. Curran
Partner, Washington, D.C.
T +1 202 637 4886
brian.curran@hoganlovells.com



Aleksandar Dukic
Partner, Washington, D.C.
T +1 202 637 5466
aleksandar.dukic@hoganlovells.com



Ajay Kuntamukkala
Partner, Washington, D.C.
T +1 202 637 5552
ajay.kuntamukkala@hoganlovells.com



Gregory Lisa
Partner, Washington, D.C., New York
T +1 202 637 3647 (Washington, D.C.)
T +1 212 918 3644 (New York)
gregory.lisa@hoganlovells.com



Beth Peters
Partner, Washington, D.C.
T +1 202 637 5837
beth.peters@hoganlovells.com



Stephen Propst
Partner, Washington, D.C.
T +1 202 637 5834
stephen.propst@hoganlovells.com

Anne Salladin
Partner, Washington, D.C.
T +1 202 637 6461
anne.salladin@hoganlovells.com



Anne W. Fisher
Counsel, Washington, D.C.
T +1 202 637 6569
anne.fisher@hoganlovells.com



Adam Berry
Senior Associate, Washington, D.C.
T +1 202 637 2871
adam.berry@hoganlovells.com



Chris Mullen
Associate, Washington, D.C.
T +1 202 637 6687
chris.mullen@hoganlovells.com

www.hoganlovells.com

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