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A legal update from Dechert LLP

EU Introduces New Restrictive Measures in Respect of Iran, Including on the Import of Iranian Natural Gas and Tightens Existing Financial Sanctions in Relation to Iranian Banks

In light of Iran's failure to engage in negotiations to address international concerns about its nuclear programme, the EU has adopted additional restrictive measures against Iran. The new measures are set out in Council Decision 2012/635/CFSP of 15 October 2012 ("the Decision"). The Decision 2012/635 is binding upon all Member States. However, at this stage only the asset freeze provisions are binding on EU nationals and entities incorporated under the laws of a Member State.

The remaining measures are likely to be implemented through a review of the existing Iran Sanctions Regulation (EU) No 267/2012.

Guarding Against Sanctions: Complimentary Autumn Sanctions Surgeries 22 October to 9 November 2012

New Measures

The new restrictive measures include:

An asset freeze on further individuals and entities, including Iranian State-owned entities engaged in the oil and gas sector. In particular existing financial sanctions against the Iranian oil and gas industry have been strengthened through the extension of the current EU asset freeze to over 30 firms and institutions. Those added to the list include the National Iranian Oil Company (NOIC) and the National Iranian Tanker Company.

A ban on financial transactions between the EU financial sector and Iranian banks, including their branches and subsidiaries outside Iran. The EU is likely to implement this through an amendment of the existing Iran Sanctions Regulation, or the adoption of a new Regulation in due course. This will prohibit those in the EU financial sector from undertaking transactions with all Iranian banks. Certain exemptions will apply with the detail to be set out in the Regulation. Competent EU authorities will retain the authority to issue licences authorising certain transactions between the EU financial sector and Iranian banks. The conditions under which licences can be issued will be set out in the Regulation.

In addition, existing restrictions on EU financial institutions dealing with "designated" Iranian banks have been widened. Similar to existing measures implemented in the UK under the Financial Restrictions (Iran) Order 2011, all EU financial institutions are prohibited from entering into, or continuing to participate in, any transactions with banks domiciled in Iran, including their branches and subsidiaries of banks domiciled in Iran regardless of where they are based and financial entities that are not domiciled in Iran, but that are controlled by persons and entities domiciled in Iran.

A ban on the import, purchase or transport of Iranian natural gas. Supplementing existing prohibitions on the sale of oil and petroleum products from Iran, the Decision introduces new prohibitions on the import, purchase or transport of Iranian natural gas. In addition, the provision of financing or financial assistance for these activities (including financial derivatives, insurance and reinsurance, and brokering services relating to insurance and reinsurance), are also prohibited. These measures are likely to be introduced through an

amendment to the existing Regulation. The amended Regulation is likely to introduce grandfathering rules for existing contracts, for example, the right to take delivery and make payments under existing contracts.

A ban on the sale, supply or transfer to Iran of Graphite and raw or semi-finished metals. The Decision prohibits the sale, supply or transfer to Iran of graphite and raw or semi-finished metals such as aluminum and steel. The decision further prohibits the provision of related technical assistance or training and financing or financial assistance for the sale, supply or transfer of these items. Furthermore, any intentional participation by EU nationals in activities which have as their object or effect the circumvention of these prohibitions is itself prohibited. Contracts concluded before October 16, 2012, and to be executed before April 15, 2013 will not be affected.

Key naval equipment and technology for ship building. The Decision introduces new measures targeted at Iran's shipping industry. The sale, supply or transfer of key equipment or technology for ship-building, maintenance or refit, to Iran or to Iranian or Iranian-owned enterprises, is prohibited, as well as the provision of technical assistance or training and financing or financial assistance with regard to these items. An exemption is provided for the supply of equipment and technology to a non-Iranian-owned or controlled vessel that is forced, under force majeure, into an Iranian port or Iranian territorial waters. Any intentional participation by EU nationals in activities which have the object or effect of circumventing these prohibitions is itself prohibited. Contracts concluded before October 16, 2012, and to be executed before April 15, 2013 will not be affected. In addition, the construction or participation in the construction of oil tankers for Iran or Iranian persons and entities is prohibited.

Software for integrating industrial processes and the participation in the construction of new oil tankers for Iran. The Decision prohibits the sale, supply or transfer to Iran of software for integrating industrial processes to industries controlled directly or indirectly by the Iranian Revolutionary Guard Corps or to those involved in Iran's nuclear, military and ballistic missile program. Again, any intentional participation by EU nationals in activities which have the object or effect of circumventing these prohibitions is itself prohibited. The specific items covered by the new prohibition are still to be determined by means of amendment to the existing Regulation.

All companies who do business, either directly or indirectly with Iran should seek legal counsel to ensure that they comply with the new measures.

How Dechert Can Help You

Dechert's Trade and EU Government Affairs practice regularly works with many businesses and financial institutions on the application of international sanctions measures, including advice on:

- How to ensure compliance with sanctions, whilst minimising the impact on business continuity and legitimate commercial aims;
- Screening potential transactions to identify "sensitive" destinations, entities and individuals;
- Minimising operational and commercial risks associated with changes to sanction regimes;
- Obtaining licence exemptions and prior authorisations;
- Reporting obligations under financial sanctions regulations;
- Compliance reviews and the presentation of voluntary disclosures; and
- Managing investigations and enforcement proceedings.

Dechert's Trade and EU Government Affairs Practice

Our Trade and EU Government Affairs practice advises on all aspects of trade law and policy, including sanctions, export control, WTO matters, anti-dumping, customs law and trade agreements. We bring together international trade lawyers and practitioners with political advisors to offer a unique blend of legal and strategic trade advice. We have wide ranging experience in advising European, US and other companies and financial institutions on transactions involving countries, entities and individuals subject to sanctions regimes. We draw on the first hand experience of ex regulators to provide legal advice and minimise corporate and personal exposure to enforcement proceedings.

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