

November 5, 2015

Although initial implementation of the Joint Comprehensive Plan of Action (JCPOA) with Iran has only just begun and it is expected to take several months before nuclear-related sanctions are lifted, some companies have already moved to explore business opportunities in Iran. They should reconsider their interest, given the continuing legal, financial, and reputational risks of doing business in Iran. Given the significant risks that remain, responsible companies should exercise caution and continue to forgo Iran business until Iran demonstrates sustained compliance with the JCPOA and fundamentally abandons its pursuit of nuclear weapons, sponsorship of terrorism, human rights violations, and destabilizing aggression in the Middle East.

Risks related to Iran business generally fall into three categories: Risks related to the JCPOA; the risk of violating the extensive sanctions that remain beyond the scope of the JCPOA; and the reputational risks of doing business with a regime notorious for sponsoring terrorism and violating the rights of its own citizens.

Under the JCPOA, nuclear-related sanctions on Iran will only be lifted once the International Atomic Energy Agency (IAEA) verifies that Iran has completed certain steps to restrict the scope and size of its nuclear program. Just recently, the U.S. State Department warned foreign governments, companies, and the banking community that sanctions against Iran remain in effect. Further, under the JCPOA, sanctions may be re-imposed, or ‘snapped back,’ depending on Iran’s conduct and compliance with the JCPOA. The mechanism for snapping back sanctions was designed to quickly respond to potential Iranian violations. Accordingly, foreign businesses operating in Iran may find the legal footing of their Iranian operations uncertain and rapidly changing unless and until Iran demonstrates long-term adherence to its JCPOA obligations—a dubious prospect given Iran’s long record of cheating on its international nuclear obligations.

Separate from and beyond the JCPOA’s terms, broad sanctions related to Iran’s sponsorship of international terrorism and human rights violations remain in effect. According to the U.S. Treasury Department, “more than 200 Iran-linked companies and individuals will remain designated by the United States and subject to direct U.S. and secondary sanctions” (outside of U.S. jurisdiction). The penalties for violating sanctions are significant, including asset freezes, prohibitions on transactions with the U.S. financial system, and bans on importation of U.S.-origin goods.

Civil or criminal penalties remain under the Anti-Terrorism Act and the Iranian Transactions and Sanctions Regulations, which authorize sanctions on persons who provide financial, material, or technological support to or on behalf of foreign persons designated for involvement in acts of terrorism that threaten U.S. national security. Additionally, a company can easily run afoul of human rights sanctions, given that the Iranian regime misuses technology and equipment designed for civilian applications to repress its own people. For example, telecommunications

technology has been misused to restrict and monitor internet and mobile phone communication, motorcycles imported into Iran are driven by Iran's Basij militia to brutally crack down on civilian dissent, and construction cranes are routinely used to publicly hang dissidents.

Secondary sanctions also remain on Iran's Islamic Revolutionary Guard Corps ("IRGC"), the main instrument used in Iran's domestic repression and global terrorist activities. The IRGC has penetrated and controls numerous sectors of the Iranian economy, particularly its energy sector. For example, the U.S. Treasury Department has determined that the National Iranian Oil Company is an "agent or affiliate" of the IRGC. This gives the IRGC control over large-scale projects in Iran in sectors such as energy, civil engineering, manufacturing, shipping, and telecommunications.

Doing business in Iran without also doing business with the IRGC in some form is therefore a near impossible task. This risk is only further amplified because the IRGC routinely operates through an extensive network of front companies that mask the IRGC's involvement. An international firm active in Iran could therefore easily conduct or facilitate transactions with the IRGC or one of its affiliates or front companies, potentially triggering costly penalties under U.S. sanctions.

Iranian financial institutions also remain locked out of the U.S. financial system, and therefore cut off from much of the global financial system. International banks have been hit with \$14 billion in fines since 2009 for violating U.S. sanctions on Iran. With the serious money laundering issues in Iran, the risks associated with banking in Iran continue to be significant, as strong penalties remain for those institutions that directly or indirectly facilitate prohibited transactions. While the JCPOA provides limited relief from U.S. sanctions on Iran's Central Bank and certain other Iranian financial institutions, the U.S. continues to designate the entire Iranian financial sector as a jurisdiction of primary money laundering concern under Section 311 of the USA PATRIOT Act and the 2012 National Defense Authorization Act. It is highly unlikely that most transactions with an Iranian business could be structured so as to avoid benefiting Iran's financial sector, government, or government officials, and thus possibly aiding Tehran's sponsorship of terrorism and other nefarious activities.

Beyond the direct legal and financial risks of doing business in Iran, there are grave reputational risks that further degrade the economic utility of returning to Iran for companies. The Iranian regime remains an international outlaw and force for instability. Iran is the world's leading state sponsor of terrorism, aiding terrorist groups including Hezbollah and Hamas. Tehran and its proxies are spreading instability in the Middle East from Iraq to Lebanon to Yemen and to Syria, where Iran remains a staunch supporter of the brutal Assad regime. And the Iranian regime continues to violate the human rights of its own people.

Recent Iranian actions suggest that Iran will not forgo its history of bad behavior. On October 10, 2015, for example, Iran tested a new guided, long-range ballistic missile. In response, the White House condemned "the provocative launch" of a missile "inherently capable of delivering a nuclear weapon" as "yet another clear violation of UN sanctions."

Severe legal, financial, and reputational risks associated with Iran business will continue for the foreseeable future—unless and until Iran fundamentally changes its behavior. Consequently, companies should conclude that business opportunities in Iran still are not worth the risk.

Sincerely,



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