

Our Ref: HWRB/C2/2018

14 August 2018

TO THE MEMBERS

Dear Sirs

IRAN US SANCTIONS

This Circular is further to Circular C1-2018 of 15 May 2018.

The Association has sought further US legal advice on what activities may or may not be subject to US sanctions and the extent to which the same are either now in force or are likely to come into force. Members are, however, urged to proceed with caution in any event and to carry out their own due diligence, as they may be confronted by the twin difficulties of obfuscation within Iran and the lack of absolute clarity from OFAC on the US position.

As previously reported, President Trump announced on 8 May 2018 that he intended to withdraw the USA from participation in the JCPOA (Joint Comprehensive Plan of Action) as agreed between Iran, the EU, and the P5+1 (the five permanent members of the United Nations Security Council – China, France, Russia, United Kingdom, United States plus Germany), and to re-impose US nuclear-related sanctions.

Pursuant to that announcement, after **6 August 2018**, the following activities are now in breach of US sanctions:

1. the purchase or acquisition of US dollar banknotes by the Government of Iran;
2. Iran's trade in gold or precious metals;
3. the direct or indirect sale, supply or transfer to or from Iran of graphite, raw, or semi-finished metals such as aluminium and steel, coal, and software for integrating industrial processes, if those materials are to be used:
 - (a) in connection with the energy, shipping or shipbuilding sectors of Iran or any sector of the economy of Iran determined to be controlled, directly or indirectly, by Iran's Revolutionary Guard Corps, or
 - (b) sold, supplied or transferred to or from an Iranian person included on the U.S. list of Specially Designated Nationals ("SDNs"), or

- (c) determined to be used in connection with the nuclear, military or ballistic missile programs of Iran, or
 - (d) as a medium for barter, swap, or any other exchange or transaction, or
 - (e) for listing as assets of the Government of Iran for the purposes of the national balance sheet of Iran;
4. 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;
 5. sanctions on the purchase, subscription to, or facilitation of the issuance of Iranian sovereign debt;
 6. Iran's automotive sector;
 7. trade in Iranian-origin carpets and foodstuffs; and
 8. licensing of exports to Iran of commercial passenger aircraft and related parts and services and contracts in relation to the same.

After **4 November 2018**, the following activities will become in breach of US sanctions:

9. 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;
10. petroleum-related transactions with, among others, the National Iranian Oil Company (NIOC), Naftiran Intertrade Company (NICO), and National Iranian Tanker Company (NITC), including the purchase of petroleum, petroleum products, or petrochemical products from Iran;
11. transactions by foreign financial institutions with the Central Bank of Iran and designated Iranian financial institutions under Section 1245 of the National Defense Authorization Act for Fiscal Year 2012 (NDAA);
12. the provision of specialised financial messaging services to the Central Bank of Iran and Iranian financial institutions described in Section 104(c)(2)(E)(ii) of the Comprehensive Iran Sanctions and Divestment Act of 2010 (CISADA);
13. the provision of underwriting services, insurance, or reinsurance; and
14. Iran's energy sector.

Exports of iron ore from Iran

Iron ore exports from Iran are a trade that may therefore not be subject to US sanctions, if negative answers to the criteria 3) (a) to (e) can be given, with 3 (a) and (c) unlikely to be relevant in relation to exported cargo. Due to the difficulties of visibility within Iran, imports of the materials described in 3) carry more risk of generating a positive answer to some or all of the criteria detailed in 3) (a) to (e) and as such carry greater risk of being in breach of US sanctions.

Dealing with Iran’s port operators

In respect of 9) it is the Association’s understanding that normal expenses associated with loading and discharging in Iran, on permissible voyages, would not be considered sanctionable transactions with port operators. That position is set forth in OFAC FAQ 315, issued on 6 August 2018, which reads as follows:

“315. Will routine payments or fees be subject to sanctions if they are made to a person determined to be a port operator in Iran and if the vessel is carrying non-sanctioned goods?”

Any company involved in loading or unloading cargo in Iran should exercise great caution to avoid engaging in transactions with entities designated by the United States, including the Tidewater Middle East Co. which was designated for its involvement in Iran’s proliferation of weapons of mass destruction. However, to the extent that a shipping company transacts with port operators in Iran that have been identified as such under IFCA [Iran Freedom and Non-proliferation Act] but not otherwise designated, and as long as such payments are limited strictly to routine fees including port dues, docking fees, or cargo handling fees, paid for the loading and unloading of non-sanctioned goods at Iranian ports, we anticipate that such transactions would not be considered significant transactions for the purposes of IFCA. Non-routine and/or large payments or fees that materially exceed standard industry rates could expose a person to sanctions. Furthermore, providing any port operator in Iran with any significant financial, material, technological, or other support could expose a person to sanctions. [08-06-18]”

The provision of underwriting services and insurance

In respect of 13), it is the Association’s understanding that the provision of insurance services is in breach of US sanctions if it is in relation to forbidden activities. Provision of insurance services is permissible for activities which are not subject to sanctions.

The import of foodstuffs into Iran

It is the Association’s understanding that the import of foodstuffs into Iran is currently permitted, provided none of the parties involved are SDNs.

Winding down

It remains the Association’s understanding that the upcoming deadline of 4 November 2018 is for the winding down of activity which will become subject to

US sanctions afterwards. Accordingly, the fulfilment of obligations relating to business agreed prior to President Trump's announcement on 8 May 2018 is likely to be consistent with the concept of winding down. To try and be compliant with US sanctions, Members should endeavour to ensure that any such pre-existing business is completed prior to 4 November 2018 if it is due to become subject to US sanctions after 4 November 2018. New business, which would appear to encompass the agreement of new charterparties entered into on or after 8 May 2018, and relates to the above listed activities, is potentially subject to US sanctions even if expected to be completed prior to the remaining 4 November 2018 deadline.

This Circular, the previous Circular of 15 May 2018 or any subsequent Circular on this topic are not to be construed as legal advice but as information reflecting the Association's current understanding of what is a changeable situation. The Association cannot guarantee that any eventual assessment by the US government of what is and is not subject to US sanctions in light of the specific facts of a case will tally with the Association's analysis. The membership's attention is also respectfully drawn to Sanctions Limitation and Exclusion Rule 3.9, whereby the Association is unable to provide insurance cover for activities which are in breach of US, EU or UN sanctions as a matter of contract agreed between the Association and the membership. Cover always remains subject to the Rules.

The Managers are keeping the situation under review and will provide additional guidance for the membership when possible.

The Managers would be pleased to answer any questions that may arise.

Yours faithfully

THOMAS MILLER (BERMUDA) LTD
Managers

Copies of this Circular and other publications, including the Association's Rules, can be viewed and downloaded from the Association's website at www.hellenicwar risks.com