

United States Ends Participation in Iran Nuclear Deal, Re-Imposes Sanctions Against Iran

美国退出伊核协议，恢复对伊制裁

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International Trade Controls /国际贸易管制

On May 8, 2018, President Trump [announced](#) his decision to end U.S. participation in the Joint Comprehensive Plan of Action (“JCPOA”) and re-impose sanctions against Iran that had been suspended as part of this 2015 nuclear agreement between the United States, Iran, and certain other governments. This action will have far-reaching effects for both U.S. and non-U.S. companies transacting business with Iran pursuant to the U.S. government’s JCPOA-related sanctions relief, which will be phased out over the next six months.

2018年5月8日，美国总统特朗普宣布，美国将退出《联合全面行动计划》（“伊核协议”）并恢复因美国、伊朗及其他几个政府于2015年达成之前述核协议而暂停实施的对伊制裁。美国政府早前按照伊核协议暂时解除了对伊朗的制裁，某些美国公司及非美国公司基于该等制裁的解除与伊朗开展业务，对于此类美国公司及非美国公司，此次行动将具有深远影响，在未来六个月内，美国将逐步恢复实施前述制裁。

In a [National Security Presidential Memorandum \(“NSPM”\)](#) accompanying the announcement, the President directed the Secretary of State and the Secretary of the Treasury to re-impose all nuclear-related sanctions that had been waived or lifted as part of the JCPOA. Although the possibility of re-imposing some sanctions was widely anticipated, the Administration’s decision goes much further, and will effectively return U.S. Iran policy to its pre-JCPOA posture.

在特朗普总统宣布上述决定的当日，白宫发布了一份《[国家安全总统备忘录](#)》（“NSPM”），在该备忘录中，总统命令国务卿和财政部部长全面恢复先前作为伊核协议一部分而被豁免或解除的核相关制裁。虽然各界曾普遍预测美国可能恢复实施一些制裁，但是美国政府的决定仍远远超出大家的意料，且此次的决定事实上将使美国对伊政策重回伊核协议之前的状态。

Re-imposition of sanctions comes in two main phases. First, after a 90-day wind-down period ending on August 6, 2018, the U.S. government will fully re-impose an initial list of sanctions. Second, after a 180-day wind-down period ending on November 4, 2018, the U.S. government will fully re-impose additional sanctions. By November 5, 2018, the U.S. government also expects to move to the List of Specially Designated Nationals and Blocked Persons (the “SDN List”) various Iranian parties that were removed from the SDN List on January 16, 2016.

恢复制裁主要分为两个阶段。第一阶段，在截至2018年8月6日的90天过渡期结束后，美国政府将全面恢复首批制裁措施。第二阶段，在截至2018年11月4日的180天过渡期结束后，美国政府将全面恢复其余制裁措施。至2018年11月5日，美国政府还可能将2016年1月16日已从《特别指定国民和被封锁人士名单》（“SDN名单”）中移除的涉伊人士或实体重新纳入SDN名单。

The Treasury Department's Office of Foreign Assets Control ("OFAC") has provided [initial guidance](#) on what activities are permissible during the two applicable wind-down periods. OFAC will be taking follow-on actions to issue general licenses governing the wind-down periods and to revoke or revise other authorizations.

美国财政部海外资产控制办公室（“OFAC”）已经就前述两个过渡期间允许开展的活动给出[初步指南](#)。OFAC 将继续采取行动授予适用于过渡期的普通许可并撤销或修改其他授权。

OFAC also emphasized that the U.S. government maintains multiple authorities apart from those affected by the May 8 announcement that target “Iranian malign activity outside of Iran’s nuclear program, including Iran’s support for terrorism, ballistic missile program, human rights abuses, and destabilizing activity in the region.” These existing sanctions authorities, which will also continue to be enforced by OFAC, broadly prohibit most commercial activity between the United States and Iran, including most exports from the United States to Iran, most imports from Iran to the United States, and other activities in or involving Iran, its government, and its residents by U.S. persons and non-U.S. entities that they own or control, except as authorized by OFAC.

OFAC 还强调，除了 5 月 8 日的决定涉及的权力之外，美国政府还将维持多项权力打击“伊朗核计划之外的伊朗恶意活动，包括伊朗对该区域恐怖主义、弹道导弹计划、侵犯人权和不稳定活动的支持”。这些亦将继续由 OFAC 执行的现有制裁权力，将大范围禁止美国和伊朗间的大多数商业活动，包括美国对伊朗的大多数出口活动、伊朗对美国的大多数进口活动，以及美国人士和他们拥有或控制的非美国实体开展的位于伊朗或涉及伊朗、其政府及其居民的其他活动，除非前述活动获得 OFAC 的授权。

Political Landscape / 政治环境

The JCPOA was signed on July 14, 2015 and took effect on January 16, 2016. In the United States, the agreement was reviewed by Congress pursuant to the Iran Nuclear Agreement Review Act. Under the procedures of that law, President Obama was permitted to implement the JCPOA notwithstanding that majorities of both houses of Congress voted to disapprove the agreement (but not the supermajorities required under that law to block implementation).

伊核协议于 2015 年 7 月 14 日签订，并于 2016 年 1 月 16 日生效。在美国，该协议由国会依照《伊朗核协议审查法案》进行审查。虽然国会参众两院的多数票反对伊核协议（并未达到前述法案规定就禁止实施协议所需达到的绝对多数票），但依据前述法案规定的程序，奥巴马总统最终获准实施伊核协议。

As our earlier [alert](#) explained, pursuant to the agreement, the United States, the EU, and the United Nations extended broad sanctions relief to Iran in exchange for Iran accepting limitations on its nuclear program. Specifically, under the JCPOA, Iran accepted limitations on its enrichment of uranium, spent fuel processing, and certain research and development activities, and committed to transparency measures intended to enable the international community to verify Iran’s implementation of these measures. In exchange, the United States, the EU, and the United Nations provided phased sanctions relief upon the International Atomic Energy Agency’s verification that Iran had met certain nuclear-related commitments.

正如我们之前的[电子期刊](#)所解释的，按照上述协议，作为伊朗同意限制其核计划的交换，美国、欧盟以及联合国大范围解除对伊朗的制裁。具体而言，按照伊核协议，伊朗同意对其铀浓缩、乏燃料处理以及特定研发活动进行限制，且承诺采取透明措施以使国际社会能够核实伊朗对上述限制措施的落实。作为交换条件，在国际原子能机构证实伊朗确已满足特定核相关承诺的前提下，美国、欧盟和联合国逐步解除制裁。

Although most “primary” U.S. sanctions—which prohibit U.S. persons¹ and their owned or controlled non-U.S. affiliates from engaging in most unlicensed dealings with Iran—remained in place under the JCPOA, the United States significantly relaxed its “secondary sanctions” targeting non-U.S. persons that engage in certain dealings with Iran. In addition, OFAC licensed non-U.S. entities that are owned or controlled by U.S. persons to engage in transactions or dealings with Iran that it deemed consistent with the JCPOA. That authorization came in the form of [General License H](#), issued on January 16, 2016, and described in our prior [alert](#). A number of U.S. companies’ non-U.S. affiliates entered business relationships and made investments in Iran pursuant to this authorization. As described below, General License H will now be revoked, and wind-down of activities authorized by that license must conclude within 180 days.

虽然美国实施的大多数“主要”制裁在伊核协议下依然适用（该等主要制裁禁止美国人士²及其拥有或控制的非美国关联方与伊朗开展大多数未经授权的交易），但是美国在相当大程度上放松了其针对非美国人士与伊朗开展特定交易的“二级制裁”。此外，OFAC 向美国人士拥有或控制的非美国实体授予许可，允许其与伊朗进行 OFAC 认为符合伊核协议的交易或商业往来。该等授权采用 2016 年 1 月 16 日颁布的[普通许可 H](#)形式（见我们往期[电子期刊](#)的相关介绍）。许多美国企业的非美国关联方根据该等授权与伊朗的人士或实体建立业务关系以及在伊朗进行投资。如下文所述，普通许可 H 即将被撤销，该许可下授权的活动必须在 180 天内逐步终止。

The President’s May 8 action follows widespread predictions in the wake of the 2016 U.S. presidential election that some sanctions relief agreed to pursuant to the JCPOA might be withdrawn, as then-candidate Donald Trump had campaigned against the agreement. The likelihood of this occurring increased on October 13, 2017, when President Trump [announced](#) that he would no longer certify that the suspension of sanctions pursuant to the JCPOA was “appropriate and proportionate” to the steps Iran had taken to terminate its nuclear program. It increased again on January 12, 2018, when President Trump [announced](#) that he was extending the waiver of U.S. secondary sanctions on Iran one last time, “but only in order to secure our European allies’ agreement to fix the terrible flaws of the Iran nuclear deal.”

特朗普总统于 5 月 8 日采取的行动并非毫无征兆，2016 年美国总统大选时各界就普遍预测，按照伊核协议约定的某些制裁豁免可能被取消，因为当时的总统候选人唐纳德·特朗普在竞选时就对该协议表示反对。2017 年 10 月 13 日前述行动发生的可能性进一步增加，当时特朗普总统宣布，其不再认证按照伊核协议暂停实施制裁的举措与伊朗为终止其核计划所采取的措施“相适应和成比例”。2018 年 1 月 12 日这种可能性再度增加，当时特朗普总统宣布其最后一次延长豁免美国对伊朗的二级制裁，“但仅仅是为了使我们的欧洲盟友同意修补伊朗核协议的严重漏洞”。

Intensive consultations subsequently took place between diplomats from the United States, the United Kingdom, France, and Germany to identify ways to “fix” the JCPOA, but in the end the two sides were too far apart, particularly on the question of what to do about the agreement’s sunset provisions, which will lift most restrictions on uranium enrichment activity by Iran beginning in January 2026. Over the past week, it became evident that no common ground could be reached on the sunset issue. In the final days, French President Macron, German Chancellor Merkel, and British Foreign Secretary Johnson all came to Washington in part to try to convince President Trump that the United States should remain in the

¹ A “U.S. person” is a legal entity organized under U.S. law and its non-U.S. branches and offices; individual U.S. citizens and lawful permanent residents (“green-card” holders), wherever located or employed; and persons and entities in the United States.

² “美国人士”指：依照美国法律组建的法律实体及其非美国分支机构和办事处；美国自然人公民与合法永久居民（“绿卡”持有人），无论位于或受雇于何处；以及位于美国的个人和实体。

JCPOA. Their pleas were emphatically rejected by President Trump, who announced that not only would he allow an expiring sanctions waiver to lapse, but that he would also proactively restore other sanctions that were administratively rescinded by the Obama Administration. The scope of President Trump's May 8 decision is broader than many observers predicted, and appears designed to return U.S. sanctions to their pre-JCPOA posture.

之后，为找出“修补”伊核协议的方法，美国、英国、法国和德国的外交官展开了密集的磋商，但是两方终究未能达成共识，尤其是对如何处理协议日落条款的问题存在分歧，根据该等日落条款的规定，对伊朗铀浓缩活动的大多数限制将于 2026 年 1 月开始解除。在过去的一周，越来越明显的是，各方无法就该等日落问题达成共识。在最后几天，法国总统马克龙、德国总理默克尔以及英国外交大臣约翰逊一起访问华盛顿，其中一个目的就是尝试说服特朗普总统将美国留在伊核协议。特朗普总统断然拒绝了他们的请求，并宣布，他不仅将取消已近终止的制裁豁免，而且还将主动恢复奥巴马政府解除的其他制裁。特朗普总统 5 月 8 日的决定牵涉的范围比许多观察员预测的范围更为宽广，而且此决定似乎旨在使美国制裁重回伊核协议之前的状态。

Immediately following the President's announcement, the leaders of France, Germany, and the United Kingdom issued a [joint statement](#) emphasizing their “continuing commitment to the JCPOA,” and “urge[d] all sides to remain committed to its full implementation and to act in a spirit of responsibility.” Accordingly, there are no immediate reports that pre-JCPOA EU sanctions are affected by this development, and [early reports](#) suggest that the Iranian government may seek to negotiate with EU nations, Russia, and China to preserve its benefits under the JCPOA.

在特朗普总统宣布其决定后不久，法国、德国和英国的首脑发布了一则[联合声明](#)，强调他们“将继续留在伊核协议”，且“力劝各方依旧致力于伊核协议的全面实施并以负责的精神行事”。因此，目前暂时没有报告称欧盟制裁可能因此次行动回到伊核协议前的状态，且[早前的报导](#)暗示伊朗政府可能尝试与欧盟各国、俄罗斯以及中国进行谈判以维持其在伊核协议下的利益。

The President did signal, in the NSPM, that he was “open to consultations with allies and partners on future international agreements to counter the full range of Iran's threats, including the nuclear weapon and intercontinental ballistic missile threats”—a point he also made in remarks when announcing his decision to have the United States exit the JCPOA. But he left open the form and timing of any such future agreements. Further, by insisting that any future agreement address other issues in addition to Iran's nuclear capabilities, such as missile proliferation, and also that its restrictions on Iranian enrichment activities be of unlimited duration, President Trump established objectives that will be difficult to achieve in any future negotiations.

特朗普总统在 NSPM 中曾表示其“愿意与盟友及合作伙伴磋商未来的国际协议，以处理伊朗造成的各种威胁，包括核武器和洲际弹道导弹威胁”——其在宣布美国退出伊核协议时亦提到这一点。但是特朗普总统并未确定任何该等未来协议的形式和时间。此外，特朗普总统坚持任何未来协议不仅针对伊朗的核能力问题还针对其他问题，例如导弹复兴，且坚持对伊朗铀浓缩活动的限制无限期，特朗普总统设立的目标难以在未来的任何谈判中实现。

Sanctions Re-Imposed After 90 Days / 将于 90 天后恢复的制裁措施

On August 6, 2018, the initial 90-day wind-down period will end. At that point, the U.S. government will re-impose the first group of sanctions targeting Iran that had been lifted under the JCPOA. Those sanctions include:

2018 年 8 月 6 日，首个 90 天的过渡期将结束。届时，美国政府将针对伊朗恢复第一批在伊核协议下已经解除的制裁措施。该等制裁包括：

- Sanctions on the purchase or acquisition of U.S. dollar-denominated banknotes by the government of Iran;
- 就伊朗政府购买或获得美元的交易实施的制裁；

- Sanctions on Iran’s trade in gold or precious metals;
- 就伊朗的黄金或贵金属交易实施的制裁；

- Sanctions on the direct or indirect sale, supply, or transfer to or from Iran of graphite, raw or semi-finished metals such as aluminum and steel, coal, and software for integrating industrial processes;
- 就直接或间接与伊朗开展的石墨、铝和钢等金属原材料或半成品、煤炭以及工艺集成软件的销售、供应或转让交易实施的制裁；

- 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;
- 就购买或出售伊朗里亚尔、或者在伊朗境外维持以伊朗里亚尔表示之重要资金或账户的重大交易实施的制裁；

- Sanctions on the purchase, subscription to, or facilitation of the issuance of Iranian sovereign debt; and
- 就购买、认购或协助发行伊朗外债的交易实施的制裁； 和

- Sanctions on Iran’s automotive sector.
- 就伊朗的汽车业实施的制裁。

Following the wind-down period that ends on August 6, 2018, the U.S. government will revoke certain JCPOA-related authorizations that permitted:

在上述过渡期于 2018 年 8 月 6 日结束后，美国政府将撤销与伊核协议相关的特定授权，该等授权允许开展以下活动：

- The importation into the United States of Iranian-origin carpets and foodstuffs and certain related financial transactions pursuant to general licenses;
- 根据普通许可向美国进口原产于伊朗的地毯和食品以及进行特定的相关金融交易；

- Activities pursuant to specific licenses related to the export and reexport of commercial passenger aircraft, issued under the JCPOA Statement of Licensing Policy for Activities Related to the Export or Re-export to Iran of Commercial Passenger Aircraft and Related Parts and Services (“SLP”)³; and

³ OFAC explained that the SLP has now been rescinded. OFAC thus will not consider further license applications under the SLP, and will revoke specific licenses issued pursuant to the SLP. OFAC will instead issue authorizations to provide for a wind-down period ending on August 6, 2018. Companies are permitted to resubmit their license applications for consideration under a separate safety of flight statement of licensing policy in the Iranian Transactions and Sanctions Regulations (“ITSR”).

- 根据关于出口和再出口商用客机的特定许可开展的活动，该等特定许可系根据伊核协议下《关于向伊朗出口或再出口商用客机及相关零部件和服务的许可政策声明》（“SLP”）授予⁴；和
- Activities pursuant to General License I relating to contingent contracts for transactions that had previously been eligible for authorization under the JCPOA SLP. OFAC will revoke General License I and publish a replacement authorization for wind-down activities.
- 根据普通许可 I 开展的、与之前符合伊核协议 SLP 下之授权的交易所适用的相机合同相关的活动。OFAC 将撤销普通许可 I 并公布适用于过渡期活动的替代性授权。

OFAC advises persons engaged in any of the above activities to take the steps necessary to wind them down by August 6, 2018, in order to avoid sanctions and enforcement exposure.

OFAC 建议参与以上任何活动的人士采取必要的措施在 2018 年 8 月 6 日之前逐步终止该等活动，从而避免遭受制裁和执法的风险。

Sanctions Re-Imposed After 180 Days / 将于 180 天后恢复的制裁措施

On November 4, 2018, the 180-day wind-down period will end. At that point, the U.S. government will re-impose a second group of sanctions targeting Iran that had been lifted under the JCPOA. Those sanctions include:

2018 年 11 月 4 日，180 天的过渡期将结束。届时，美国政府将针对伊朗恢复第二批在伊核协议下已经解除的制裁措施。该等制裁包括：

- Sanctions on Iran’s port operators, and shipping and shipbuilding sectors, including on the Islamic Republic of Iran Shipping Lines, South Shipping Line Iran, and their affiliates;
- 就伊朗的港口运营商，以及船运和造船行业实施的制裁，包括就伊朗伊斯兰共和国航运公司（Islamic Republic of Iran Shipping Lines）、伊朗南方航运公司（South Shipping Line Iran）以及他们各自的关联方实施的制裁；
- Sanctions on petroleum-related transactions with, among others, the National Iranian Oil Company, Naftiran Intertrade Company, and National Iranian Tanker Company, including the purchase of petroleum, petroleum products, or petrochemical products from Iran;
- 就与伊朗国家石油公司（National Iranian Oil Company）、Naftiran Intertrade Company 以及伊朗国家油轮公司（National Iranian Tanker Company）等开展的石油相关交易实施的制裁，包括从伊朗购买石油、石油产品或者石化产品的交易；
- Sanctions on significant 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;

⁴ OFAC 解释称，SLP 目前已经废除。OFAC 因此不再接受依据 SLP 提出的任何许可申请，且将撤销依照 SLP 授予的特定许可。就此，OFAC 将就截止于 2018 年 8 月 6 日的过渡期提供授权。公司可重新提交许可申请，该等重新提交的许可申请将依据《伊朗贸易制裁规则》（“ITSR”）中单独的飞行安全许可政策声明进行审查。

- 就外国金融机构与伊朗中央银行以及《2012 财政年度美国国防授权法案》第 1245 节下指明的伊朗金融机构之间开展的重大交易实施的制裁；
- Sanctions on the provision of specialized 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, Accountability, and Divestment Act of 2010;
- 就向伊朗中央银行以及 2010 年《伊朗全面制裁、责任追究和撤资法》第 104(c)(2)(E)(ii) 节所述的伊朗金融机构提供专项金融资讯服务的活动实施的制裁；
- Sanctions on the provision of underwriting services, insurance, or reinsurance; and
- 就提供承保服务、保险或再保险的活动实施的制裁；和
- Sanctions on Iran's energy sector.
- 就伊朗的能源业实施的制裁。

In addition to re-imposing the above-noted sanctions, beginning on November 5:

除了恢复上述制裁外，自 11 月 5 日起：

- The U.S. government will revoke authorization for U.S.-owned or -controlled foreign entities to wind down certain activities with the government of Iran or persons subject to its jurisdiction that had previously been authorized under General License H; and
- 美国政府将撤销为使美国拥有或控制的外国实体逐步终止之前普通许可 H 下授权的、与伊朗政府或其管辖人士开展的特定活动而提供的授权；和
- The U.S. government will consider as subject to secondary sanctions activities with persons that have been reinstated to the SDN List, and which under the JCPOA appeared on the “E.O. 13599 List” identifying persons that met the definition of the terms “Government of Iran” or “Iranian Financial Institution.” Those persons on the E.O. 13599 List will be moved to the SDN List “[n] later than November 5,” according to OFAC. Depending on the authority pursuant to which this re-listing occurs, secondary sanctions may attach to dealings with such persons following their re-designation.
- 美国政府将考虑将以下活动纳入二级制裁的范围：与重新被加入 SDN 名单且在伊核协议下被列入“第 13599 号行政令封锁人士名单”（该名单旨在确认符合“伊朗政府”或“伊朗金融机构”之定义的人士）的人士之间的活动。OFAC 称，将“在不迟于 11 月 5 日”将第 13599 号行政令名单上的该等人士纳入 SDN 名单。取决于该等重新加入名单行动所依据的权力，二级制裁可能针对在该等人士被重新加入名单后与该等人士之间的交易。

As with the sanctions subject to a 90-day wind-down period, OFAC advises parties engaged in any of the above activities to wind them down within 180 days, or face exposure to U.S. sanctions or enforcement actions.

对于受限于 90 天过渡期的制裁，OFAC 建议参与上述任何活动的人士或实体在 180 天内逐步终止该等活动，否则他们将面临遭受美国制裁或执法行动的风险。

Permissible Wind-Down Activities and Other Relief / 过渡期间允许的活动及其他救济

Although they stem from various legal authorities, including both federal statutes and executive orders, the U.S. government has divided the sanctions to be re-imposed pursuant to the May 8 announcement into two categories for wind-down purposes: those with a 90-day wind-down period, and those with a 180-day wind-down period. To implement these wind-down periods, the Secretary of State has revoked certain sanctions waivers issued in conjunction with the JCPOA, and replaced them with more limited waivers designed to implement the limited wind-down periods noted above.

虽然制裁依据的是各种法律授权，包括联邦法律和行政命令，但是美国政府为过渡之目的，已将待按照 5 月 8 日的决定恢复的制裁分为两类：90 天过渡期后恢复的制裁和 180 天过渡期后恢复的制裁。为实施这些过渡期，国务卿已经取消按照伊核协议授予的某些制裁豁免，并将其替换为更加受限的豁免，从而实施上述受限的过渡期。

OFAC cautions that after the applicable wind-down periods end, the State Department does not expect to issue additional “broad waivers” of relevant statutory authorities, and will revoke any remaining sanctions relief under existing general or specific licenses.

OFAC 提醒，在相关过渡期结束后，国务院并无计划授予具有相关法定效力的其他“大范围豁免”，且将撤销现有普通或特定许可下的任何其余制裁豁免。

With respect to whether parties may engage in “new activity involving Iran” if concluded before the applicable wind-down period ends, OFAC does not state in its initial guidance that such activity is prohibited or sanctionable. Instead, it notes that when considering enforcement actions in response to any impermissible post-wind-down activities, “OFAC will evaluate efforts and steps taken to wind down activities and will assess whether any new business was entered into involving Iran during the applicable wind-down period.” Moreover, as detailed below, OFAC has advised that parties will only be permitted to collect obligations owed for permissible activities undertaken pursuant to written contracts or written agreements in effect prior to May 8.

至于如果相关方在适用的过渡期结束前了结了相关活动，其是否可以开展“涉及伊朗的新活动”，OFAC 在其初步指南中并未说明该等活动是否受禁止或制裁。就此，OFAC 称，在考虑采取何等执法行动应对过渡期后任何未经允许的活动时，“OFAC 将评估为逐步终止活动所作出的努力和采取的措施，并将评估相关过渡期间是否开展了涉及伊朗的任何新业务”。此外，如下文所述，OFAC 已表明，仅允许相关各方就其根据 5 月 8 日之前生效的书面合同或书面协议已实施的经许可活动收取应收账款。

OFAC also has provided additional guidance for certain specific situations, as discussed in more detail below.

OFAC 还就特定的具体情况提供了额外指南，如下文详述。

Non-U.S., Non-Iranian Persons 非美国且非伊朗人士

In situations where non-U.S., non-Iranian persons (i) had a written contract or written agreement in effect prior to May 8, 2018, to provide goods or services to an Iranian counterparty that was consistent with then-governing sanctions; and (ii) have fully completed the provision or delivery of such goods or services to the Iranian counterparty prior to the end of the applicable wind-down period, the non-U.S., non-Iranian person may collect any payments owed for such goods or services after the applicable wind-

down period expires without being exposed to U.S. secondary sanctions, if the collection is pursuant to the terms of the written contract or agreement.

若为非美国且非伊朗人士，在以下两种情况下，在收款活动符合相关书面合同或协议之条款的前提下，该等非美国且非伊朗人士可以在相应的过渡期结束后就相关商品或服务收取任何应收账款而不会遭受美国二级制裁：该等非美国且非伊朗人士（i）为了向受限于当时适用之制裁的伊朗相对方提供商品或服务，已签订书面合同或书面协议且该等合同或协议已于 2018 年 5 月 8 日之前生效；和（ii）已经在相应的过渡期结束之前彻底完成向伊朗相对方提供或交付该等商品或服务。

Further, in situations where non-U.S., non-Iranian persons (i) had a written contract or written agreement in effect prior to May 8, 2018, to extend a loan or credit to an Iranian counterparty that was consistent with then-governing sanctions; and (ii) extended such loan or credit prior to the end of the applicable wind-down period, the non-U.S., non-Iranian person may receive repayment of the debt or obligation according to the terms of the written contract or agreement after the applicable wind-down period expires without being exposed to U.S. secondary sanctions.

此外，若为非美国且非伊朗人士，在以下两种情况下，该等非美国且非伊朗人士可以在相应的过渡期结束后，按照相应的书面合同或协议的条款获得相对方对债务或义务的偿付，而不会遭受美国二级制裁：该等非美国且非伊朗人士（i）为了向受限于当时适用之制裁的伊朗相对方提供贷款或信贷，已签订书面合同或书面协议且该等合同或协议已于 2018 年 5 月 8 日之前生效；和（ii）在相应的过渡期结束前提供了前述贷款或信贷。

OFAC explains that these allowances are “designed for non-U.S., non-Iranian parties to be made whole for debts and obligations owed or due to them for goods or services fully provided or delivered or loans or credit extended to an Iranian party prior to the end of the 90-day or 180-day wind-down period, as applicable.” OFAC also cautions that any payments made pursuant to this wind-down “allowance” may not involve U.S. persons or the U.S. financial system unless authorized by OFAC or otherwise exempt. OFAC 解释称，这些措施“针对的是非美国且非伊朗人士或实体，且完全是针对该等非美国且非伊朗人士或实体因在 90 天或 180 天过渡期（视具体情况而定）结束前向伊朗人士或实体充分提供或交付商品或服务或者提供贷款或信贷而应当受偿或到期的债务和义务”。OFAC 同时提醒，按照此等过渡“措施”进行的任何付款不得涉及美国人士或者美国金融体系，除非获得 OFAC 的授权或者另行获得豁免。

U.S. Persons 美国人士

OFAC also explains that U.S. persons and U.S.-owned or -controlled foreign entities may wind down any activities involving Iran that had been conducted pursuant to OFAC authorizations until the expiration of the applicable wind-down period. These persons may receive payments according to the terms of any written contracts or agreements entered into prior to May 8, 2018, for goods or services fully provided or delivered pursuant to an OFAC authorization. OFAC’s guidance does not expressly confirm that such collection activities will be permitted to continue after the wind-down period, but it appears that may be the intended approach in light of the comparable relief afforded to non-U.S. parties.

OFAC 还解释称，美国人士和美国拥有或控制的外国实体可逐步终止按照 OFAC 授权已经开展的任何涉伊活动，直至相应的过渡期结束。该等人士可以按照 2018 年 5 月 8 日之前签订的任何书面合同或协议的条款，就其根据 OFAC 授权充分提供或交付的商品或服务，收取款项。OFAC 的指南并未明确确认过渡期后允许继续开展该等收款活动，但是鉴于向非美国人士或实体提供的相应救济措施，这似乎也可能适用于美国人士和美国拥有或控制的外国实体。

According to OFAC, it will replace General Licenses H and I “[a]s soon as administratively feasible,” as well as general licenses relating to Iranian carpets and foodstuffs set forth in federal regulations,⁵ with “more narrowly scoped authorizations . . . to engage in all transactions ordinarily incident and necessary to wind down activities that were previously authorized” by the above-referenced general licenses. Providing goods or services, or extending additional loans or credit to an Iranian counterparty after the applicable wind-down period—even if done pursuant to a pre-May 8, 2018 written contract or agreement—may result in enforcement actions under applicable U.S. sanctions, unless such activities are exempt from regulation or authorized by OFAC.

据 OFAC 称，其将“在行政层面可行的范围内尽早”将普通许可 H 和 I 以及涉及联邦条例规定之伊朗地毯和食品的普通许可替换为“范围更窄的授权……以便实施为逐步终止原先按照上述普通许可获准开展的活动而通常伴随的以及必需的所有交易”。在相应的过渡期后向伊朗相对方提供商品或服务或者提供其他贷款或信贷，即使按照 2018 年 5 月 8 日之前的书面合同或协议进行，也可能引发按照适用的美国制裁实施的执法活动，除非该等活动获得法律的豁免或者 OFAC 的授权。

Foreign Financial Institutions **外国金融机构**

As noted above, the U.S. government will re-impose sanctions under Section 1245(d) of the [National Defense Authorization Act for Fiscal Year 2012](#) following a 180-day wind-down period. Under that provision, foreign financial institutions that the President determines “knowingly conducted or facilitated any significant transaction with the Central Bank of Iran or another Iranian financial institution designated by the Secretary of the Treasury for the imposition of sanctions,” including foreign central banks, are barred from opening—and subject to strict conditions on maintaining—a correspondent account or payable-through account in the United States.

如上所述，美国政府将在 180 天过渡期后恢复《2012 财政年度美国国防授权法案》第 1245 (d) 节下的制裁。根据该节的规定，对于总统认定为“故意与伊朗中央银行或者美国财政部为实施制裁而指明的其他伊朗金融机构开展任何重大交易或为该等交易提供便利”的外国金融机构，包括外国央行，则禁止其运营，且在受限于严格条件的情况下，禁止其在美国维持往来账户或过渡账户。

Under Section 1245(d)(4)(D), however, those sanctions do not apply if the President determines “that the country with primary jurisdiction over the foreign financial institution has significantly reduced its volume of crude oil purchases from Iran” during periodic 180-day reporting periods. OFAC explains that pursuant to the May 8 re-imposition of sanctions, the State Department will once again “evaluate and make determinations with respect to significant reduction exceptions” in this provision. For the initial exceptions, the State Department will consider efforts to reduce crude oil imported from Iran during the initial 180-day wind-down period, and “expects to engage in consultations with countries currently purchasing Iranian crude oil” during that time.

但是，根据第 1245(d)(4)(D) 节，如果总统认定在每个 180 天的定期报告期间，“对外国金融机构有优先管辖权的国家大幅减少其来自伊朗的原油购买量”，则不适用上述制裁。OFAC 解释称，根据 5 月 8 日重新实施制裁的决定，国务院将再一次就本条的“重大例外情况进行评估和认定”。对于初步例外情况，国务院将考虑在首个 180 天过渡期间为减少从伊朗进口原油作出的努力，并“期望在该等期间与目前正从伊朗购买原油的国家展开谈判”。

⁵ See 31 C.F.R. §§ 560.534 and 560.535.

As noted, no later than November 5, OFAC will re-designate various parties that were removed from the SDN List in connection with the JCPOA. This will include most, if not all, Iranian banks that were removed from the SDN List pursuant to the JCPOA, which will further expose foreign financial institutions to the risk of secondary sanctions.

如前所述，对于之前因伊核协议已从 SDN 名单移除的相关人士或实体，OFAC 最迟将在 11 月 5 日重新将其纳入 SDN 名单。这将包括按照伊核协议已从 SDN 名单移除的大多数（若非所有）伊朗银行，重新加入 SDN 名单将进一步使外国金融机构面临遭受二级制裁的风险。

* * *

Covington has deep experience advising clients on the legal, policy, and practical dimensions of U.S. trade controls, including Iran sanctions. We will continue to monitor developments in this area, including responses by the EU to the United States' withdrawal from the JCPOA, and are well-positioned to assist clients in understanding how these recent actions may affect their business operations.

科文顿拥有丰富的经验向客户提供关于美国出口管制（包括对伊朗的制裁）之法律、政策和实践方面的咨询服务。我们将密切关注此方面的相关动态，包括欧盟对美国退出伊核协议的反应，且我们有充分能力协助客户了解该等近期行动对其业务经营可能产生的影响。

If you have any questions concerning the material discussed in this client alert, please contact the following members of our International Trade Controls practice:

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