



Looking Ahead to Lifting Sanctions Against Iran

Key takeaways from the July 22, 2015 conference call

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Key takeaways

On July 22, 2015, Shearman & Sterling hosted a client call on Iran sanctions led by Dan Newcomb, Anthony Patten, Barney Reynolds and James Campbell to examine the impact of this historic agreement and discuss how companies should prepare to take advantage of these business opportunities. The key takeaways from this presentation are highlighted below.

International agreement to lift Iran sanctions

On July 14, 2015, the "P5+1" international working group composed of the US, the UK, China, France, Germany and Russia reached an agreement regarding Iran's nuclear program. The Joint Comprehensive Plan of Action (JCPOA) lays out a framework for lifting certain UN, EU and US sanctions targeting Iran. In exchange, Iran has agreed never to "*seek, develop or acquire any nuclear weapons*," a promise which is backed by detailed inspections and monitoring. However, no sanctions have yet been lifted. There will be a wide-ranging lifting of restrictions on business with Iranians in the finance and oil sectors on "Implementation Day," which is currently not anticipated to occur before mid-October 2015 and is contingent on Iran meeting its obligations as verified by the International Atomic Energy Agency (IAEA). Other sanctions will be lifted over the course of 10 years, provided that Iran continues to meet its commitments regarding its nuclear program. The JCPOA contains a "snapback" provision which would effectively reinstate sanctions against Iran in the event that Iran does not adhere to the terms of the deal.

How will US sanctions be lifted?

On Implementation Day, the US will lift a number of so-called "secondary" sanctions directed at non-US persons: the JCPOA is almost completely silent on how primary US sanctions directed at US persons will be handled. Because primary US sanctions are largely the product of executive authority, they are subject to licensing and amendment under the authority of the Executive branch. While the JCPOA's guidance is vague with respect to primary sanctions, it is clear that sanctions pertaining to terrorism, ballistic missiles and human rights violations will not be lifted.

The reporting company disclosure requirements under the Iran Threat Reduction and Syria Human Rights Act of 2012 (TRA) will also not be eliminated. Under the TRA, SEC filers (both US and non-US companies) are required to disclose any business they do with Iran and Syria. This disclosure feeds into legislation in roughly 30 US states and localities that prohibits either procurement from or investment by local pension plans in the securities of companies that do business in those countries. While it is unclear whether any local laws affect the JCPOA's implementation, the US government has agreed to take appropriate action to achieve implementation of the JCPOA.

How will EU sanctions be lifted?

At least initially, the EU will lift a broader range of sanctions than the US. It will no longer be prohibited for EU persons to participate in activities which include the following:

- Transfers of funds between EU persons and entities and Iranian persons and entities
- Banking activities and the opening of new branches and subsidiaries in EU member states
- Transactions in public-guaranteed bonds
- Insurance and reinsurance with Iranian persons and entities
- Import and export of Iranian oil
- Investment in the oil, gas and petrochemical sectors
- Shipping and transport activities
- Delivery of Iranian coins and notes

Sanctions in relation to human rights issues are unaffected by the JCPOA, although these restrictions generally do not impact upon the above activities. Asset freezes against persons and entities involved in nuclear-proliferation-related activities will also remain in place for some time.

EU companies, banks and investors will have substantially more access to the opening Iranian market than US companies and their foreign subsidiaries. However, companies subject to both rules may face difficult compliance issues. The UK Government has warned that US banks may be reluctant to handle Iran-related transactions while US sanctions remain in place.

Investment opportunities in Iran

In terms of anticipated activity:

- We expect to see serious efforts with respect to natural gas development. Qatar's successes have been based on reserves in the North Field, with numerous LNG and gas to liquids projects. The massive North Field is shared with Iran (referred to in Iran as South Pars). Iran will now want to play serious catch-up in the LNG sector with Qatar.
- Notwithstanding its oil reserves, Iran curiously imports gasoline and other refined products. And elsewhere in the downstream sector, petrochemicals and gas to liquids has historically also been a focus.

- Foreign investors in the oil and gas sector will need to deal with NIOC, the National Iranian Oil Company. NIOC is the key player in the Iranian oil and gas industry, and operates most of the existing fields. The Iranian constitution prohibits foreign persons from owning oil and gas reserves, as these are vested in NIOC.
- NIOC has stated that the old Iranian buyback contract, which weighed risk heavily on IOCs with limited reward, is rumored to be replaced by a more investor-friendly Petroleum Contract, to be released later in 2015.

In light of the expected governmental involvement in future negotiations which are permitted from Implementation Day, companies should be sensitive to the constraints of applicable anti-corruption laws, such as the US Foreign Corrupt Practices Act and the UK Bribery Act.

Next steps

Before sanctions are lifted, it is not permitted under US or EU rules to negotiate or agree to any transactions with Iranians, but you may “refresh your Rolodex” by renewing contacts over a business meal.

In doing business, it is critical to understand the Iranian regulatory environment: we have the expertise to advise on and structure business in the context of Iranian laws which have fallen out of touch with international investment and are undergoing significant change in light of the JCPOA.

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