

To: Our Clients and Friends

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Latest OFAC Designation Likely To Disrupt Licensed Transactions with Iran

On Monday, January 23, 2012, the Office of Foreign Assets Control (“OFAC”) added Bank Tejarat, Iran’s third-largest bank, to the Specially Designated Nationals List (“SDN List”) for providing assistance to other Iranian banks and entities sanctioned by OFAC for participating in proliferation activities relating to Iran’s nuclear weapon and missile programs. The European Union followed suit shortly thereafter, also designating Bank Tejarat and freezing assets at its European branch in Paris. Before its designation, Bank Tejarat was the largest bank in Iran not identified on the SDN List. U.S. exporters and services providers engaged in licensed transactions involving Iran often received payment from Bank Tejarat accountholders. The designation is disruptive to existing licenses and supply chains, as Iranian customers of U.S. exporters and services providers must now identify and establish relationships with other Iranian banks to ensure payments will be processed.

The United States maintains a comprehensive program prohibiting virtually all activities by U.S. persons with Iran. 31 C.F.R. Part 560 (the Iranian Transactions Regulations or “ITR”). In addition, OFAC has authority to designate banks and other entities, individuals and even vessels pursuant to other U.S. sanctions programs such as the non-proliferation and antiterrorism programs. Since 2007, OFAC has exercised that authority and added 23 Iranian financial institutions under non-proliferation and antiterrorism programs, including all of the country’s largest state-owned banks; Tidewater Middle East Co., the major operator of ports in Iran; and Islamic Republic of Iran Shipping Lines, a major shipping carrier transporting goods around the world.

While the ITR prohibitions are extremely broad, specific licenses are available for exports of agricultural products, medicine and medical devices to Iran under the authority of the Trade Sanctions Reform and Export Enhancement Act of 2000 (“TSRA”). Specific licenses are also available for humanitarian activities and for exports to support aircraft safety. In addition, general licenses in Subpart E of the ITR authorize activities including the filing of patent applications and telecommunications services. These authorized activities may not involve any entity, including banks, ports or vessels, identified on the SDN List under the non-proliferation or the antiterrorism sanctions programs. The designations of many Iranian banks engaged in international transactions and Iran’s primary port operator have made it increasingly difficult to ensure that activities, including payments, do not involve entities on the SDN List.

Bank Tejarat’s designation adds to these difficulties and may complicate existing licenses and payment flows. Specific license holders with licenses identifying Bank Tejarat should determine whether an alternative bank can be used to conduct the licensed activities and then contact OFAC to obtain additional guidance about how to proceed. There appear to be a number of other banks that offer international banking services and could help fill the void for U.S. exporters and service providers engaged in authorized activities. These banks, which do not appear on the SDN List at this time, include Eghtesad Novin Bank (“EN Bank”), Pasargad Bank, Karafarin Bank, Saman Bank and Tat Bank. In addition, there may be other Iranian banks available to provide these services. Exporters and service providers should conduct due diligence prior to using any of these institutions

and continue to monitor the SDN List and OFAC website for further announcements that could impact otherwise authorized activities involving Iran.

Prepared by: Lynn M. Van Buren
(202) 508-6320
lynn.vanburen@bryancave.com

Michael D. Mellen
(202) 508-6143
michael.mellen@bryancave.com

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Bryan Cave LLP International Trade Client Service Group

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*Non-legal professionals

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