

EU responds to US re-imposition of sanctions on Iran

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The European Union has announced a package of measures in response to the re-imposition of US secondary sanctions on European persons and companies with dealings with Iran.

On 18 May 2018, the European Commission announced¹ a string of measures aimed at protecting the interests of European companies in Iran, in light of the decision of the United States to re-impose secondary sanctions targeting (among others) activities of European companies in Iran.²

1. Update of the EU Blocking Regulation

The Commission will update the list of sanctions falling within the scope of the EU Blocking Regulation to cover the re-imposed US sanctions on Iran.³ This 1996 Regulation aims to protect against and counteract the effects of certain extra-territorial sanctions. It prohibits EU individuals and companies from taking action to comply with specified foreign sanctions (unless authorisation is granted by the European Commission on the basis that non-compliance would seriously damage EU or party interests). It also provides that any foreign judgment or administrative decision giving effect to the specified foreign sanctions shall be unenforceable, and envisages the possibility for persons engaged in international trade, capital movement and related commercial activities between the EU and Iran to recover damages caused by the application of such sanctions.

The Commission will, under its delegated powers, update the annex to include the re-imposed US sanctions on Iran. This would come into force after two months in the absence of objections from the European Parliament or Council (or sooner if the European Parliament or Council indicate that they do not object).⁴ The Commission aims to have the measure in force by **6 August 2018**, when the first so-called wind-down period imposed by the US will expire.

The Commission's delegated powers only extend to amending the annex. Any changes to the substance of the EU Blocking Regulation would have to follow the lengthy 'ordinary legislative process', which could involve protracted negotiations with the European Parliament and Council.

¹ See Commission Press Release IP/18/3861 of 18 May 2018, available [here](#).

² For more information on the US decision, see our recent Client Alert, available [here](#).

³ Council Regulation (EC) No 2271/96 of 22 November 1996 protecting against the effects of the extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom, the latest consolidated version of this Regulation is available [here](#).

⁴ The European Parliament and the Council may also request that that period be extended by up to four months, or they may inform the Commission before that time that they will not object. For these purposes, the European Parliament acts by majority and the Council by a qualified majority procedure which reflects each country's relative size.

Penalties for breach of the EU Blocking Statute are a matter of national law of the Member States, but must be “effective, proportional and dissuasive”. To date, there are no known cases of penalties being imposed for violations of the EU Blocking Statute, and there is general acceptance by EU companies doing business in the US (especially those exposed to the US financial system and US dollar transactions), of the importance of complying with US sanctions. It remains to be seen whether this will change.

2. Other measures to mitigate the impact of US sanctions on European businesses and to maintain the growth of trade and economic relations between the EU and Iran

The European Commission also announced other measures to mitigate the impact of the re-imposition of US sanctions.

- It will start the process to enable the **European Investment Bank** (EIB) to finance activities in Iran, allowing it to support EU investment in Iran, in particular by small and medium-sized companies.
- It will continue and strengthen **sectoral cooperation** with, and assistance to, Iran, including in the energy sector, as a confidence building measure.
- It is encouraging Member States to explore the possibility of **one-off bank transfers to the Central Bank of Iran**, allowing the Iranian authorities to receive e.g. oil-related revenues, and thus by-passing US sanctions targeting EU entities that are active in oil transactions with Iran.

The Commission’s Press Release underlined that the EU was committed to maintaining the essential cooperation that exists with the United States, which is a key partner and ally. It states that the process of activating the EU Blocking Statute could be ended if political circumstances no longer justified the adoption of the measures.

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