

Overview of Sanctions Relief in Nuclear Deal with Iran

21 July 2015

EU Sanctions Team: [James Killick](#), [Genevra Forwood](#), [Sara Nordin](#), [Charlotte Van Haute](#), [Fabienne Vermeeren](#)

US Sanctions Team: [Richard Burke](#), [Nicole Erb](#), [Kristina Zissis](#), [Claire A. DeLelle](#), [Cristina Brayton-Lewis](#), [Tanya Hanna](#)

On July 20, 2015, the United Nations Security Council (UNSC) unanimously adopted resolution 2231 endorsing the final nuclear deal agreed between the P5+1 (China, France, Russia, the United Kingdom, and the United States (US), plus Germany), the European Union (EU), and Iran. The deal includes commitments to suspend or lift certain UN, US, and EU sanctions targeting Iran. We describe below these commitments and the anticipated timeline for sanctions relief.¹

On July 14, 2015, the P5+1, the EU, and Iran announced the “Joint Comprehensive Plan of Action” (JCPOA) regarding the Islamic Republic of Iran’s nuclear program. In the JCPOA, Iran agrees to curtail its nuclear program significantly to ensure peaceful civilian use and reaffirms that under no circumstances will Iran ever seek, develop or acquire any nuclear weapons. In return, and upon verification that Iran is abiding by the terms of the deal, the UN, the EU, and the US agree to provide Iran with relief from certain nuclear-related sanctions. This relief is outlined in a step-by-step approach based on the fundamental premise that no sanctions will be suspended or lifted until the International Atomic Energy Agency (IAEA) verifies that Iran has implemented certain agreed nuclear-related measures, including in relation to transparency and IAEA monitoring. Timing of the initial implementation of the JCPOA is uncertain, but could take up to six months or longer. As a first step, the UNSC adopted resolution 2231.

It is important to note that at this time all current sanctions remain in place (with the exception of certain limited sanctions already suspended) and need to be fully complied with until they are formally suspended or lifted. Further, the US has agreed to lift most secondary sanctions, but US primary sanctions largely will remain in place even after implementation of the JCPOA, which could place US companies at a competitive disadvantage. This also means that non-US persons will need to ensure that their transactions under the JCPOA do not involve an impermissible US nexus (e.g., participation by US banks).

To summarize the sanctions relief anticipated under the JCPOA:

- all preexisting UNSC resolutions relating to Iran’s nuclear program will be terminated (while certain specific restrictions, including pre-approval requirements for trade in certain sensitive goods and related assistance and services, will be established);

¹ A copy of the resolution, which includes the JCPOA and its Annexes, is available [here](#).

-
- the US has agreed to gradually lift most “secondary” sanctions against Iran (*i.e.*, sanctions applicable to non-US persons), while largely retaining “primary” sanctions against Iran as they apply to US persons;² and
 - the EU has agreed to gradually lift all EU sanctions in relation to Iran’s nuclear program (*i.e.*, under Council Regulation 267/2012 and Council Decision 2010/413/CFSP), which will only leave certain limited human rights related asset freezes and trade restrictions in place.

Timeline for Step-by-Step Approach

The JCPOA Implementation Plan (Annex V) describes how sanctions relief will be triggered by a series of events. UN, US, and EU sanctions relief depends on Iran’s implementation of agreed commitments—and the precise timing of such relief is therefore uncertain but could take up to six months or longer. Initial UN, US, and EU sanctions relief will not be applied until the following steps have been taken:

1. First, the UNSC must adopt a resolution endorsing the JCPOA (this occurred when resolution 2231 was adopted on July 20, 2015);
2. Second, the JCPOA participants must start making the necessary legal and administrative preparations for implementation of their JCPOA commitments beginning on what the JCPOA terms “Adoption Day.” Adoption Day will occur 90 days after JCPOA endorsement by the UNSC resolution (*i.e.*, on or around October 18, 2015), or at an earlier date by mutual consent of all JCPOA parties; and
3. Third, the IAEA must verify Iran’s implementation of certain agreed nuclear-related measures. The JCPOA refers to the day the IAEA submits its verification as “Implementation Day.” The verification process could take another several months from Adoption Day.

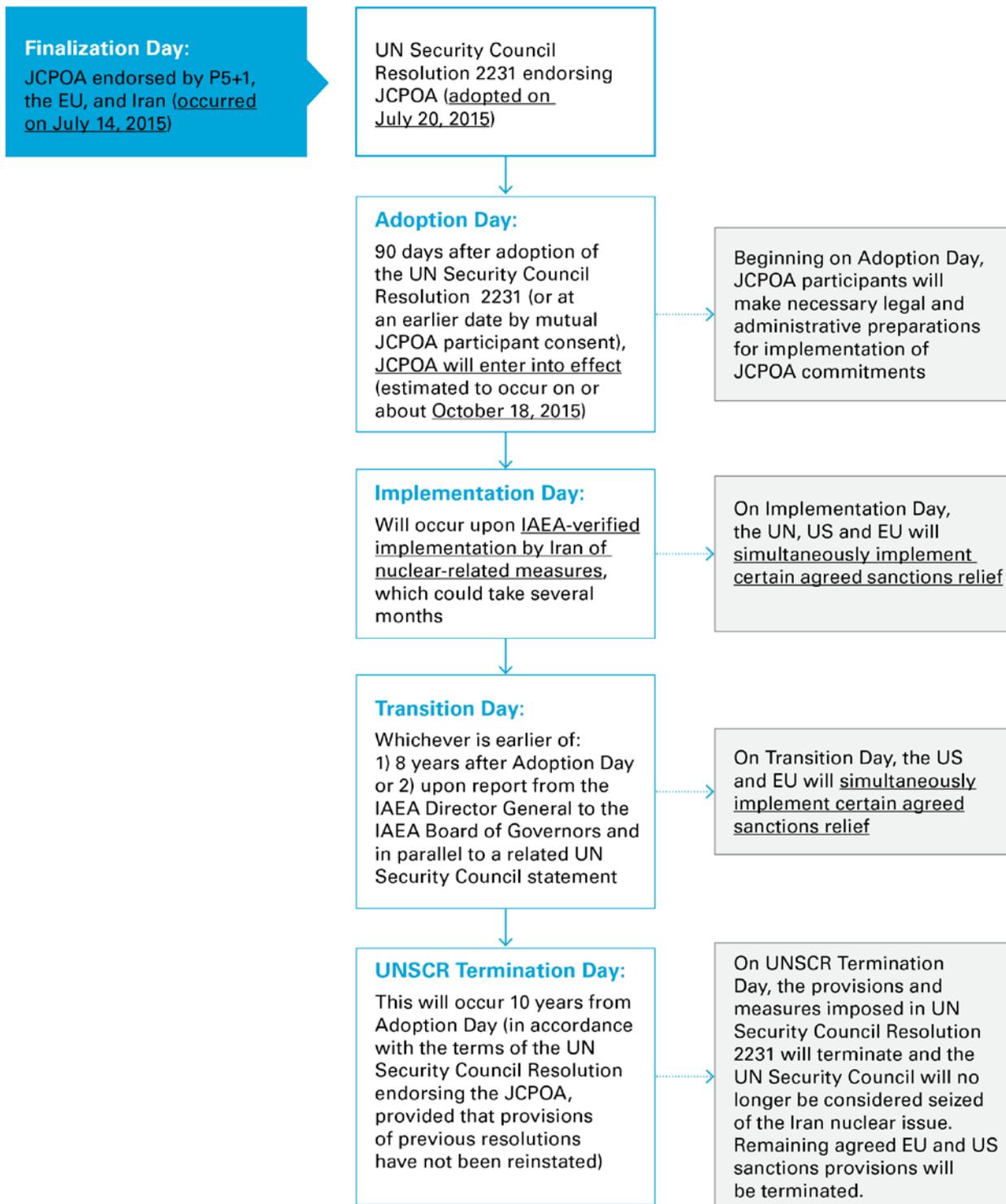
These three key steps must take place in order for certain initial sanctions relief covered by the JCPOA to be provided by the UN, US, and EU. Upon submission of the IAEA verification report, the initial sanctions measures will be simultaneously lifted on Implementation Day. It is difficult to estimate when precisely the initial round of JCPOA sanctions relief could occur. But the fact that the limited suspension of certain current US and EU sanctions has been extended for the next six months suggests a possible timeframe for Implementation Day. Click [here](#) for the client alert detailing the continuation of the limited suspension of certain US and EU sanctions.

It is expected to take up to 8-10 years before additional sanctions relief will be provided by the US and the EU (and before the UNSC will no longer be considered seized of the Iran nuclear issue).

Below is a flowchart with the estimated timeline for implementation of the commitments in the JCPOA.

² US persons are defined to include US citizens and permanent residents, wherever located; entities organized under US law, including foreign branches; and any person located in the US.

Timeline of step-by-step approach



US Congressional Review

US participation in the JCPOA is subject to review by the US Congress pursuant to the Iran Nuclear Agreement Review Act of 2015 (the "Act"), which could take a total of 82 days, starting once Congress has received certain materials to review.³ As required by the Act, the State Department transmitted the materials to Congress on July 19, 2015.

As of the date of receipt of the materials, Congress has up to 60 calendar days, to conduct its review. After the review is completed, Congress can choose either to take no action or to vote on a resolution in favor of or disapproving of the JCPOA. If Congress passes a joint resolution in favor of the JCPOA or chooses to take no action, the sanctions relief provided for in the JCPOA can be implemented. If Congress passes a joint resolution of disapproval, the Act provides for a 12-day period of presidential consideration, during which the President may not waive, suspend, reduce, provide relief from, or otherwise limit the application of statutory sanctions against Iran.

President Obama has stated that he will veto any joint resolution of disapproval. A presidential veto will trigger an additional 10-day period of congressional reconsideration during which the President could not provide statutory sanctions relief. During this 10-day period, Congress can reconsider the joint resolution of disapproval and vote to override the veto, which will require a two-thirds vote in both chambers. If the override fails, the JCPOA will become effective.

Agreed UN, US, and EU Sanctions Relief

UN Sanctions Relief

On July 20, 2015, the UNSC adopted resolution 2231, which endorses the JCPOA. Consistent with the JCPOA, resolution 2231 provides that, effective as of Implementation Day, the UNSC will terminate all past UNSC resolutions relating to Iran's nuclear program⁴ (*i.e.*, provided that relevant conditions in relation to IAEA-verified implementation by Iran of agreed nuclear-related measures have been fulfilled).

Although past resolutions will be terminated, resolution 2231 confirms that specific UN-level restrictions will be simultaneously established in relation to Iran (*i.e.*, also on Implementation Day). Such specific restrictions—which will be in place for a specified duration (generally between 5 and 10 years after Adoption Day)—mainly involve UNSC pre-approval requirements before UN members participate in and permit certain activities relating to trade in certain military, nuclear-related or missile technology items (and related assistance and services), or certain related Iranian investment.⁵

³ The Act requires the President, within five days after reaching the agreement with Iran, to transmit certain materials to Congress, including:

- The text of the JCPOA and related materials and annexes;
- A related verification assessment report by the Secretary of State;
- A certification that the agreement includes the appropriate terms, conditions, and duration of the agreement's requirements concerning Iran's nuclear activities, and provisions to be waived, suspended, or otherwise reduced by the US and any other nation or entity, including the UN; and
- A certification that the agreement meets US non-proliferation objectives, does not jeopardize the common defense and security, provides a framework to ensure that Iran's nuclear activities will not constitute an unreasonable defense and security risk, and ensures that Iran's permitted nuclear activities will not be used to further any nuclear-related military or nuclear explosive purpose.

⁴ This includes UN Security Council resolutions 1696 (2006), 1737 (2006), 1747 (2007), 1803 (2008), 1835 (2008), 1929 (2010), and 2224 (2015).

⁵ Activities subject to UNSC pre-approval (provided certain conditions, including with respect to end-use verification, are fulfilled) under the specific UN restrictions relating to Iran broadly involve the following:

- the direct or indirect supply, sale, or transfer of certain specified nuclear-related items, materials, equipment, goods and technology, and any other items if the UN member determines that they could contribute to reprocessing or enrichment-related or heavy water-related activities inconsistent with the JCPOA—along with related technical assistance or training, financial assistance, investment, brokering or other services, and the transfer of financial resources or services;
- the acquisition by Iran of an interest in a commercial activity in another UN member involving uranium mining or production or use of certain specified nuclear materials and technology, and such investment in territories under their jurisdiction;

In addition, the specific temporary restrictions involve continued asset freezes on certain individuals and entities (and a travel ban in the case of individuals) which are either already listed or that will be designated by the UNSC in relation to any proliferation-sensitive nuclear activities undertaken contrary to Iran's commitments in the JCPOA or the development of nuclear weapon delivery systems.⁶ UN members are also called upon to continue to conduct cargo inspections if there are reasonable grounds to believe that the subject cargo contains items falling under the specific restrictions.

Importantly, the JCPOA states that if there is significant non-performance by Iran of its nuclear-related JCPOA commitments, then all previous UN sanctions could be reimposed. Indeed, resolution 2231 confirms that if such non-performance were to occur, the UNSC will need to vote to affirm that any previously terminated Iran-related UNSC resolutions should remain terminated—if not, these UNSC resolutions will be reinstated (and the specific restrictions outlined above terminated). In this regard, resolution 2231 specifies that any reinstated UN sanctions will not have retroactive effect on business conducted and contracts signed during the time UN sanctions were lifted, provided that relevant activities are consistent with the JCPOA.

US Sanctions Relief

Current US sanctions against Iran broadly fall into two categories. The first type—often referred to as “primary” sanctions—comprises the traditional sanctions generally applicable to transactions involving US persons, which restrict most activities involving US persons and Iran.⁷ The second type—often referred to as “secondary” sanctions—comprises measures the United States imposes against non-US persons for engaging in certain “sanctionable activity” involving Iran, which, as a result of the US sanctions architecture, primarily affects non-US persons. The US commitments related to sanctions relief under the JCPOA apply principally to these “secondary” sanctions. The contemplated “secondary” sanctions relief, which in practice will benefit non-US persons, consists of the lifting of the following sanctions on Implementation Day:

- **Financial Sector Measures:** Relief for persons that engage in certain financial activities involving Iran, including transactions with certain designated individuals and entities⁸ such as the Central Bank of Iran (CBI) and other specified Iranian financial institutions, the National Iranian Oil Company (NIOC), Naftiran Intertrade Company (NICO), National Iranian Tanker Company (NITC), and those identified as Government of Iran (GOI), Iranian Rial transactions, the provision of specialized financial messaging services to CBI and Iranian financial institutions, the provision to the GOI of US bank notes, and transactions related to the issuance of Iranian sovereign debt.
- **Insurance Sector Measures:** Relief for persons that provide underwriting services, insurance, or re-insurance in connection with activities consistent with the JCPOA, including activities related to the energy, shipping, and shipbuilding sectors of Iran.
- **Energy and Petrochemical Measures:** Relief for persons that engage in transactions involving Iran and petroleum, petroleum products (including refined petroleum products), petrochemical products or natural gas (including liquefied natural gas); provide goods or services used in connection with Iran's energy sector, the development of its petroleum resources, its domestic production of refined petroleum products and petrochemical products.

-
- the direct or indirect supply, sale, or transfer of certain specified missile technology items, materials, equipment, goods and technology, and any other items if the UN member determines that they could contribute to the development of nuclear weapon delivery systems—along with related technical assistance or training, financial assistance, investment, brokering or other services, or related acquisition by Iran of an interest in any commercial activity in another UN member or related to ballistic missile activities; and
 - the direct or indirect supply, sale, or transfer to, or for the use in or benefit of any battle tanks, armored combat vehicles, large caliber artillery systems, combat aircraft, attack helicopters, warships, missiles or missile systems or related materiel (including spare parts), along with related technical training, financial resources or services, advice, other services or assistance.

To be complete, certain exceptions will apply, such as when relevant equipment is for light water reactors. Exceptions also apply in relation to necessary Fordow facility modifications, Iran's export of certain enriched uranium in return for natural uranium, and Arak reactor modernization.

⁶ Certain exceptions apply to the asset freeze restrictions as well, such as when funds, financial assets or economic resources are necessary for basic expenses.

⁷ Currently, US primary sanctions prohibitions also apply against non-US entities owned or controlled by US persons.

⁸ These parties are set out in Attachment 3 to Annex II of the JCPOA.

- **Shipping, Shipbuilding, and Port Measures:** Relief for persons that engage in transactions with vessels used to transport crude oil, petroleum products (including refined petroleum products), petrochemical products or natural gas (including liquefied natural gas) to or from Iran; operate a port in Iran, engage in activities in connection with, the shipping and shipbuilding sectors of Iran or a port operator in Iran, and provision of vessels to Iran.
- **Gold and Precious Metal Measures:** Relief for persons that sell, supply, export or transfer, directly or indirectly, to or from Iran, gold and other precious metals, along with associated services.
- **Metals and Industrial Software Measures:** Relief for persons that provide, directly or indirectly, certain metals⁹ and software for integrating industrial processes, to or from Iran in connection with activities consistent with the JCPOA, including to the energy, petrochemical, shipping, and shipbuilding sectors of Iran, and Iranian ports, along with associated services.
- **Automotive Sector Measures:** Relief for persons that conduct or facilitate financial or other transactions for the sale, supply, or transfer to Iran of goods and services used in connection with the automotive sector of Iran.
- **Nuclear-related Measures:** Relief for persons engaged in activities involving Iran and equipment and technology controlled by multilateral nuclear control regimes, provided it is consistent with the nuclear activities contemplated in the JCPOA. Additionally, relief for persons participating in joint ventures relating to the mining, production, or transportation of uranium with Iranian parties. Relief from exclusion of Iranian citizens from higher education coursework in the US related to careers in nuclear science, nuclear engineering, or the energy sector of Iran.

The relief measures applicable to US persons on Implementation Day are far more limited. They include the following:

- **Foreign Subsidiaries of US Persons:** The US will license, on a case-by-case basis, non-US entities owned or controlled¹⁰ by US persons to engage in activities otherwise consistent with the JCPOA. Under the current primary sanctions regime, non-US entities owned or controlled by US persons are subject to the same prohibitions that apply to US persons. This new licensing policy could provide relief for such entities provided that their proposed activities are otherwise consistent with the JCPOA and US sanctions. The US government will need to provide guidance in the future as to the scope of this relief and how it will be implemented.
- **Commercial Aircraft and Parts:** The US will license the export, re-export, sale, lease, or transfer to Iran of commercial passenger aircraft, spare parts, and components for commercial passenger aircraft and the provision of associated services, including warranty, maintenance, and repair services and safety-related inspections, provided the items and services are exclusively for use with commercial passenger aviation.
- **Importation of Foodstuffs/Carpets:** The US will license the importation into the US of Iranian-origin carpets and foodstuffs, including pistachios and caviar.

Finally, under the JCPOA, the US has committed to delisting in stages certain parties from the various prohibited parties lists, including the List of Specially Designated Nationals and Blocked Persons (SDN List), Foreign Sanctions Evaders List (FSE List), and Non-SDN Iran Sanctions Act List (ISA List). This includes parties identified on Attachment 3 of Annex II of the JCPOA, such as NIOC, NITC, NICO, the Islamic Republic of Iran Shipping Lines (IRISL), and South Shipping Lines. The parties to be delisted are provided in two attachments to the JCPOA, corresponding to the timing of the removal of the designations. Parties identified in Attachment 3 will be delisted on Implementation Day, while a shorter list of parties identified in Attachment 4 will be delisted on what the JCPOA terms “Transition Day.” Transactions with these parties should not be prohibited provided that no other prohibition exists after the party is delisted. Because US primary sanctions

⁹ Graphite, raw or semifinished metals, such as aluminum, steel, and coal.

¹⁰ A non-US entity is owned or controlled by a US person if the US person: (i) holds a 50 percent or greater equity interest by vote or value in the entity; (ii) holds a majority of seats on the board of directors of the entity; or (iii) otherwise controls the actions, policies, or personnel decisions of the entity.

will remain in effect, however, transactions with a US person or having some other US nexus still will be prohibited if they also involve Iranian parties, even if those Iranian parties are not listed.

Overall, the sanctions relief offered to US persons under the JCPOA is limited. Most sanctions restricting US persons from engaging in activities involving Iran will remain in place under the JCPOA, even after it is fully implemented. This could leave US companies at a competitive disadvantage. This also means that non-US persons will not be able to involve US persons in activities related to Iran, such as the use of US financial institutions to process transactions authorized under the JCPOA.

EU Sanctions Relief

On July 20, 2015, the EU Council endorsed the JCPOA and committed to abide by its terms and to follow the agreed Implementation Plan (while fully supporting UNSC resolution 2231).¹¹ In the JCPOA, the EU has broadly agreed to gradually terminate all the provisions in Council Regulation 267/2012 and Council Decision 2010/413/CFSP—which outline all the EU sanctions in relation to Iran’s nuclear program.¹² A majority of such sanctions measures will be lifted during the initial round of sanctions relief on Implementation Day.

By contrast, the sanctions measures outlined in Council Regulation 359/2011 focusing on restrictions to address the human rights situation in Iran will not be lifted under the JCPOA and are therefore expected to remain in place.¹³ So there will still be an EU asset freeze list in relation to Iran after EU sanctions have been lifted under the JCPOA, for example, even if much shorter than at present. Also, this Regulation contains certain trade restrictions in relation to specified internal repression equipment and equipment, technology, or software which may be used for the monitoring or interception of internet or telephone communications. Finally, it is expected that the EU will implement the specific temporary restrictions imposed through the new UNSC resolution 2231, as explained above.

The scope and step-by-step approach for lifting of the EU sanctions is reasonably straightforward as all the relevant measures are contained in the same Council Regulation and Decision. We summarize applicable EU sanctions relief in accordance with the Implementation Plan below.

On Implementation Day (*i.e.*, involving IAEA-verified implementation by Iran of agreed nuclear-related measures), the following broad categories of EU sanctions against Iran will be lifted:

- Asset freezes with respect to certain specified parties in the banking, oil, gas, petrochemical, shipping, shipbuilding, transport, etc. sectors, including suspension of SWIFT-related restrictions for such parties (and suspension of related visa bans for individuals).¹⁴
- Measures imposed on the financial, banking, and insurance industries—including notification/authorization requirements in relation to Iran-related fund transfers; restrictions on banking activities involving Iranian banks (including correspondent banking relationships); (re-)insurance ban; restrictions on financial support for trade with Iran and grants, financial assistance and concessional loans to the GOI; and ban on GOI public-guaranteed bonds.
- Sanctions imposed on the oil, gas, and petrochemical sectors—including import bans, export bans in relation to key equipment, and financing and investment restrictions.

¹¹ See Council conclusions on the agreement on Iran’s nuclear programme, 20 July 2015 (available [here](#)).

¹² See Council Regulation (EU) No 267/2012 (as subsequently amended; the latest consolidated version is available [here](#)) and Council Decision 2010/413/CFSP (as subsequently amended; the latest consolidated version is available [here](#)).

¹³ See Council Regulation (EU) No 359/2011 (as subsequently amended; the latest consolidated version of this Regulation is available [here](#)). In addition to imposing an asset freeze on a list of individuals (plus the Iranian Cyber Police) deemed responsible for serious human rights violations in Iran, this Regulation also provides for a ban on the direct or indirect sale, supply, transfer or export, of specified internal repression equipment and equipment, technology or software which may be used for the monitoring or interception of internet or telephone communications (along with related financing, financial and technical assistance as well as brokering services).

¹⁴ These parties are set out in Attachment 1 to Annex II of the JCPOA, and include NIOC, NITC, NICO, IRISL entities, South Shipping Line Iran (SSL), CBI, Bank Melli, Bank Mellat, and Kala Naft, for example.

-
- Restrictions in relation to shipping, shipbuilding, and transport sectors—including in relation to export of key naval equipment and technology; design, construction, repair, flagging, and classification services for oil tankers and cargo vessels; and EU airport access of Iranian cargo flights.
 - Import and export bans in relation to gold, precious metals, and diamonds.
 - Measures in relation to Iranian denominated banknotes and minted coinage.

While these sanctions measures will not be fully lifted during the initial stage of sanctions relief, it is also expected that there will be some relaxation of measures in relation to trade in metals (graphite and raw or semi-finished metals) and industrial processing software, as well as certain sensitive goods listed in connection with nuclear proliferation-related measures. The extent of relief from these specific sanctions is not clearly set out in the JCPOA, so the exact changes are difficult to predict at this early stage.

On Transition Day (expected to occur up to 8 years from now), the following EU sanctions measures will be lifted under the JCPOA:

- Asset freezes with respect to certain specified parties related to proliferation-sensitive nuclear, arms, and ballistic missiles-related activities, with overall suspension or termination of SWIFT-related restrictions (and termination of certain visa bans for individuals).¹⁵
- Restrictions in relation to transport services, including customs declaration requirements, cargo inspection measures and ban on bunkering or ship supply services.
- Measures in relation to trade in metals (graphite and raw or semi-finished metals) and industrial processing software will be terminated.
- Arms embargo measures, and trade restrictions in relation to certain sensitive goods listed in connection to ballistic missiles-related measures.

Finally, any remaining EU sanctions provisions (such as in relation to trade restrictions on sensitive goods in connection to proliferation-sensitive nuclear activities) under Council Regulation 267/2012 and Council Decision 2010/413/CFSP will be terminated on what the JCPOA terms “UNSCR Termination Day.”

While the agreed final text of the JCPOA marks a turning point in the international community’s relationship with Iran, the UN, EU, and US sanctions remain in place at this time and will only be suspended or lifted gradually, and only once Iran’s implementation of nuclear-related commitments is verified by the IAEA. Companies considering engaging in business related to Iran should monitor future developments closely, and exercise caution to ensure compliance with all applicable sanctions.

¹⁵ These parties are set out in Attachment 2 to Annex II of the JCPOA and include the Islamic Revolutionary Guard Corps (IRGC) and Bank Saderat Iran, for example.

White & Case LLP
701 Thirteenth Street NW
Washington DC
20005-3807
United States
T +1 202 626 3600
USsanctions@whitecase.com

White & Case LLP
62 rue de la Loi Wetstraat 62
1040 Brussels
Belgium
T +32 2 219 16 20
EUsanctions@whitecase.com

In this publication, White & Case means the international legal practice comprising White & Case LLP, a New York State registered limited liability partnership, White & Case LLP, a limited liability partnership incorporated under English law and all other affiliated partnerships, companies and entities.

This publication is prepared for the general information of our clients and other interested persons. It is not, and does not attempt to be, comprehensive in nature. Due to the general nature of its content, it should not be regarded as legal advice.