

## **Financial Channels to Facilitate Humanitarian Trade with Iran and Related Due Diligence and Reporting Expectations**

The U.S. Government has levied unprecedented economic pressure to disrupt the Iranian regime's ability to covertly and illicitly access the international financial system to finance terrorism abroad, increase its domestic oppression, support the brutal Assad regime, procure ballistic missile technology, and broadly destabilize the Middle East. These U.S. government efforts are directed at the Iranian regime. They are not directed at the people of Iran, who themselves are victims of the regime's oppression, corruption, and economic mismanagement.

The United States maintains broad exceptions and authorizations for the sale of agricultural commodities, food, medicine, and medical devices to Iran by U.S. and non-U.S. persons, provided such transactions do not involve persons designated in connection with Iran's proliferation of weapons of mass destruction (WMD), or Iran's support for international terrorism. These exceptions and authorizations are clearly outlined by Treasury's Office of Foreign Assets Control (OFAC) in [Frequently Asked Questions \(FAQs\) regarding Iran sanctions, Guidance on Humanitarian Assistance and Related Exports to the Iranian People \(2013\)](#), and [Guidance on the Sale of Food, Agricultural Commodities, Medicine, and Medical Devices by Non-U.S. Persons to Iran \(2013\)](#).

Unfortunately, the U.S. government has seen the Iranian regime abuse the goodwill of the international community, including by using so-called humanitarian trade to evade sanctions and fund its malign activity. The U.S. government also knows that the regime and its proxies are looking for new ways to generate funds and launder money. In fact, we have grown increasingly concerned as we have uncovered Iranian and Iranian-proxy schemes to access illicitly the international financial system under the cover of seemingly humanitarian organizations or through shell companies or exchange houses.

Today, October 25, 2019, the U.S. Departments of the Treasury and State announced a new humanitarian mechanism to ensure unprecedented transparency into humanitarian trade with Iran. Given the Iranian regime's history of squandering its wealth on corruption and terrorism instead of supporting the Iranian people, we have developed a framework to guard against such theft and assist foreign governments and foreign financial institutions in establishing a payment mechanism to facilitate legitimate humanitarian exports to Iran. Through this mechanism, no revenue or payment of any kind will be transferred to Iran.

Importantly, this path restricts the Central Bank of Iran's (CBI) role in facilitating humanitarian trade, which is critical because the CBI and its senior officials have facilitated significant funds transfers to terrorist organizations. Iran's deceptive financial practices and its deficient anti-money laundering and countering the financing of terrorism (AML/CFT) regimes can make it extremely difficult to determine who is on the other end of an Iranian transaction. Our designation of CBI under Executive Order 13224 puts governments and financial institutions on notice that engaging in transactions with the CBI may make them complicit in the CBI's support of terrorism.

This mechanism, designed solely for the purpose of commercial exports of agricultural commodities, food, medicine, and medical devices to Iran, will provide unprecedented transparency into humanitarian trade to Iran and help ensure that humanitarian goods go to the Iranian people, and are not diverted by the Iranian regime to fund its nefarious purposes. To achieve this transparency, participating governments and financial institutions must commit to conducting enhanced due diligence to mitigate the higher risks associated with transactions involving Iran. Such stringency is merited given Iran's status as the largest state sponsor of terrorism, as well as its continued failure to implement key AML/CFT safeguards established by the Financial Action Task Force (FATF), the global standard-setting body for combating money laundering and the financing of terrorism and proliferation. The enhanced due diligence requirements are informed by appropriate FATF standards.

As set forth below in greater detail, this framework will enable foreign governments and foreign financial institutions to seek written confirmation from Treasury that the proposed financial channel will not be exposed to U.S. sanctions in exchange for foreign governments and financial institutions committing to provide to Treasury robust information on the use of this mechanism on a monthly basis.

If foreign governments or financial institutions detect any potential abuse of this mechanism by Iranian customers, or the involvement of designated individuals or entities, they will be required to immediately restrict any suspicious transactions and provide relevant information to Treasury.

This mechanism also can be used by U.S. persons and U.S.-owned or -controlled foreign entities, as well as other non-U.S. persons. Of course, U.S. persons and U.S.-owned or -controlled entities must still comply with existing requirements under the Trade Sanctions Reform and Export Enhancement Act of 2000 (TSRA) for humanitarian exports to Iran, as implemented through OFAC's regulations.

### **Enhanced Due Diligence and Reporting Expectations**

Provided that foreign financial institutions commit to implement stringent enhanced due diligence steps, the framework will enable them to seek written confirmation from Treasury that the proposed financial channel will not be exposed to U.S. sanctions

Host nation foreign financial institutions and their governments, as appropriate, will be expected to collect, maintain, and report to Treasury, with appropriate disclosure and use restrictions, a great deal of information on a monthly basis. Treasury will evaluate the information it receives in making any determination about whether the transactions continue to meet the stated due diligence and reporting expectations. Treasury will seek to protect information identified by the submitter, consistent with applicable laws and regulations.

The following is an illustrative list of documentation and information that Treasury and State may require depending on the nature of transactions:

1. The information used to identify the Iranian customers and to verify their identities and beneficial ownership;
  - a. For legal persons or arrangements, this would include the information used to identify and verify the existence of the entity or arrangement (company name, legal form and status, proof of incorporation, basic regulating powers, the registered address, list of directors, and principal place of business), and information sufficient to understand the nature of the Iranian customers' business, ownership, and control structure;
  - b. For legal persons, information sufficient to identify and verify the identities of the natural person(s) who are beneficial owners. For legal arrangements, information sufficient to identify and verify the identities of the natural person(s) who are the settlor, trustee(s), protector (if any), the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over the legal arrangements;
2. The information used by both the host nation's foreign financial institutions and any Iranian financial institution involved to understand the purpose and intended nature of the business relationship between the seller of the humanitarian goods and the Iranian customer;
3. Monthly statement balances with the value, currency, and balance date of any account of an Iranian financial institution held at the participating host nation's foreign financial institutions that is being used for humanitarian transactions, in .csv format;
4. A list of Iranian designated individuals or entities<sup>1</sup> with which the Iranian customers indicate they currently have business relationships;
5. Detailed information regarding the commercial elements and logistics of the transaction that would be transmitted between the seller of humanitarian goods and the customer in the normal course of financial messaging, which could include:
  - a. customer information, including the identities of all consignees and intermediaries involved in the transactions;
  - b. information about the Iranian customer and the seller of the humanitarian goods and the Iranian financial institution's payment order explanation or narrative linked to the contracts for the sale of humanitarian goods;

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<sup>1</sup> Persons designated on the List of Specially Designated Nationals and Blocked Persons under a program other than solely the Iranian Transactions and Sanctions Regulations (31 C.F.R. Part 560), and carrying a tag other than solely the "[IRAN]" tag.

- c. order transaction amount and currency;
  - d. date of transaction order;
  - e. names of all involved financial institutions;
  - f. bills of lading, airway bills and invoices, as well as other relevant documents that verify the export to and entry into Iran of the goods;
  - g. the beneficiary's identity; and
  - h. the beneficiary's bank.
6. A written commitment from any Iranian distributors involved in the transactions that they will not allow the goods to be sold or resold to Iranian designated individuals or entities and that the Iranian distributor will impose this obligation on downstream customers;
  7. Additional information obtained regularly throughout the course of the host nation foreign financial institutions' ongoing due diligence of the business relationship that is necessary to verify the consistency of the transaction with the purposes of the humanitarian channel, including host nation's foreign financial institutions' knowledge of the Iranian customers and their business and risk profiles;
  8. If, through the course of the host nation's foreign financial institutions' enhanced due diligence, Iranian customers are found to have attempted, or are suspected of, misuse of the humanitarian channel, the participating host nation's foreign financial institution will immediately restrict any suspicious transactions and provide relevant information to Treasury when permitted; and
  9. If a host nation foreign financial institution finds that an Iranian customer had previous ties (within five years) to U.S.-, U.N.-, or EU-designated entities or individuals, the host nation foreign financial institution will provide to Treasury detailed information regarding any changes to those ties, such as a change in beneficial ownership or control of the Iranian customer.

In certain circumstances, Treasury and State may require other information.

Interested foreign governments and foreign financial institutions should reach out to Treasury for more information or with any questions.