

19 January 2016

Lifting of Certain Sanctions under the Joint Comprehensive Plan of Action (JCPOA)

Further to our Stop Press of 18 January, this Circular advises Members of the current position on the insurance cover arrangements with the regard to the partial lifting of Iran sanctions under the Joint Comprehensive Plan of Action (JCPOA).

Lifting of EU and US Secondary Sanctions

'Implementation Day' under the JCPOA relating to the curtailment of Iranian nuclear activities was announced on Saturday 16 January 2016. This has triggered the general lifting of the EU sanctions, save where there are prior authorisation requirements in respect of certain materials, which have targeted amongst other things maritime trade with Iran together with the insurance of vessels engaged in such trade and the provision of insurance and reinsurance cover to Iranian vessels and entities.

At the same time there has been a partial lifting of US secondary sanctions measures and prohibitions i.e. measures and prohibitions on non-US persons and entities. Secondary sanctions will, however, continue to apply to non-US persons where, for example, they knowingly facilitate significant financial transactions with or provide material or certain other support to those Iranian or Iran-related persons that remain or are placed on the SDN List.

US Primary Sanctions

However, the US Administration has not repealed or relaxed certain primary US prohibitions on US entities engaging with Iranian businesses and persons. Prohibitions on US financial institutions, US Dollar transactions, and the provision of insurance by US insurers and reinsurers will remain in place. Despite the lifting of sanctions announced on Implementation Day, US persons will continue to be generally prohibited from exporting goods, services, or technology directly or indirectly to Iran, including extending insurance cover to, or paying claims involving, Iran, with the exception of transactions that are exempt or authorised by the Office of Foreign Assets Control (OFAC).

The effect of the continuation of US primary sanctions is wide ranging. For example it will not be possible for Members to engage in Iran trades or with Iranian entities in US dollars and many banks and financial institutions with US interests will either be unable to engage with Iran at all or to a

limited extent only. Specifically the continuation of US primary sanctions against Iran will continue to impact upon the ability of US insurers and reinsurers to provide cover to Iranian entities and for claims by Iranian entities or involving Iran trade. Tidewater, a port operating company on the SDN List that is designated by reason of being owned by Iran's Islamic Revolutionary Guard Corps (IRGC), remains on the SDN List (as well as the EU list) after Implementation Day, and transactions by US and non-US persons with Tidewater continue to be sanctionable. Members are therefore strongly advised to check the SDN list available on the website of the US Treasury's Office of Foreign Assets Control (OFAC), as well as the EU Consolidated List, and continue to apply due diligence protocols in respect of trade with Iranian interests.

Potential Impact of US Primary Sanctions on Group Cover and Reinsurance Arrangements

The International Group has repeatedly made it clear in its engagements with the US authorities (US Treasury and State Dept.) since 2010 that the primary US sanctions measures affecting US insurers and reinsurers are a significant concern to the Group, given the not insignificant US reinsurer participation on the Group General Excess of Loss programme. These concerns have recently been re-expressed to OFAC. The International Group Sanctions Sub-Committee has been considering the ramifications of the continuation of US primary sanctions, and their impact on the International Group's pooling and reinsurance arrangements. Currently all International Group Club rules provide that the risk of shortfalls in recoveries within the pool, or under the collective International Group reinsurances, remain with the Member and the subcommittee is actively looking at possible options to avoid, or mitigate, this risk to Members.

"Snap Back" Provisions

Both the EU and US have made it clear that in the event Iran were to renege on its commitments under the JCPOA, sanctions will promptly "snap back" into place. Members considering entering into contracts involving trading to or from Iran or involving Iranian entities are therefore advised to incorporate language into their contracts providing for termination at short notice in the event of sanctions being reintroduced.

All Clubs in the International Group have issued a similar circular.