

傳閱通告

26 November 2018
西元2018年11月26日

Iranian trade after 4 November 2018

西元2018年11月4日後的涉及伊朗貿易

Our [29 May 2018](#) Circular 'US sanctions against Iran' outlined the potential repercussions for shipowners and insurers arising from the US Administration's decision to withdraw from the Joint Comprehensive Plan of Action (JCPOA) Agreement signed by China, France, Germany, Russia, the United Kingdom, the United States, the European Union (EU) and Iran.

本協會在[西元2018年5月29日](#)的通告“美國對伊朗的製裁”中概述了美國政府決定退出由中華人民共和國，法國，德國，俄羅斯，英國，美國，歐盟(EU)和伊朗所簽署的聯合全面行動計劃(JCPOA)協議後會對船東和保險公司可能造成的影響。

The US has now re-imposed sanctions on Iran that had been lifted or waived under the JCPOA, with the second and final wind down period coming to an end on 4 November 2018. The US has made it clear that it expects all non-US persons to comply with the secondary sanctions that it has re-imposed. The US and the EU now take divergent approaches, with the EU seeking to maintain the sanctions relief provided for by the JCPOA by, amongst other things, amending the annex to Council Regulation (EC) No 2271/96, otherwise known as the Blocking Regulation (see further Circular issued [8 August 2018](#)).

在第二次也是最後一次過渡期於西元2018年11月4日結束後，美國現在對於在JCPOA下曾被解除或放棄的對伊朗制裁措施，重新啟動制裁。美國已經明確表示希望所有非美國人遵守其重啟實施的二級制裁。美國和歐盟現在採取不同的做法，歐盟尋求的是維持JCPOA所規定的制裁，其中包括修改歐盟規則(EC)第2271/96號的附件，又稱為阻隔法規（詳情請見[西元2018年8月8日](#)發出的通告）。

There are reports that eight countries - China, India, Italy, Greece, Japan, South Korea, Taiwan, and Turkey - have or will be granted waivers from the US so that they may continue to be permitted to import limited amounts of Iranian crude oil. The waivers do not extend to any other commodities. Limited guidance in relation to these waivers, or Significant Reduction Exemptions (“SREs”), is provided by OFAC FAQ 642. It is further understood that countries holding SREs are being advised by the US Administration to import Iranian crude only on NITC or IRISL vessels, or on vessels registered in the country holding the SRE and only where those vessels are insured under a sovereign guarantee issued by the Government holding the SRE.

根據報導共有中國，印度，意大利，希臘，日本，韓國，台灣和土耳其等八個國家已經或將要獲得美國的豁免而被允許繼續進口伊朗原油但貨載量有設限。該豁免不適用於任何其他商品。美國海外資產控制辦公室(OFAC)所公布的“常見問題解答”中第642條提供了有關這些豁免或重大減少豁免(“SREs”)的有限度指導。另據了解，美國政府建議持有SREs的國家在進口伊朗原油時僅得以伊朗國家油輪公司(NITC)或伊朗國家航運公司(IRISL)的船舶或是船籍國為持有SRE之國家的船舶做為運油船，而且這些船舶必須是由持有SRE的國家政府簽發的主權擔保予以承保的船舶。

Following the end of the wind down period there may still be some limited trade with Iran that is possible for non- US persons to undertake without a significant risk of violating US secondary sanctions (for example, the carriage of certain agricultural commodities, consumer goods and foodstuffs, see OFAC FAQ 637). Members should be aware, however, that even if the trade does not appear to violate US sanctions, practical difficulties mean that, in non-sovereign guarantee cases, it is extremely unlikely that International Group Clubs will be in a position to make or receive payments, provide security or respond to any claims in the usual manner.

在過渡期結束後，非美國人仍可能與伊朗進行有限度的貿易而不至於面臨到違反美國二級制裁規定的重大風險（這些有限度的貿易例如運送若干農產品、消費品和食品，請見OFAC常見問題解答第637條）。但是，請各位會員注意，縱使這些貿易行為看似未違反美國的制裁規定，實務運用上的困難點在於，若是非主權擔保的情況，國際保賠協會集團很可能無法支付或接受付款，或以通常的方式提供擔保或回應任何索賠。

In circumstances where a Club does cover a claim with an Iranian nexus, there is also the potential for there to be significant reinsurance shortfalls. For the 2018/19 policy year, individual International Group (IG) Clubs retain the first USD10 million of liabilities arising from an incident. Between USD10 million and USD100 million, liabilities are shared between all 13 International Group Clubs (the Pool). If any of the 13 International Group Clubs is prohibited (by sanctions applicable to that Club) from contributing their share of any Pool claim, the individual Member will bear that shortfall in accordance with the applicable Club's rules.

縱使協會承保與伊朗有關之索賠，在這種情況下還是有可能存在重大的再保險短缺。對於西元2018/19保單年度而言，國際保賠協會集團(IG)中的各個協會對於每一事故所產生的責任必須自行負擔第一層1000萬美元以內的責任。而在1000萬美元以上至1億美元以內的責任，則由國際保賠協會集團的13個協會相互互分攤(the Pool)。惟若國際保賠協會集團的13個協會中的任何一個協會被禁止(因為該協會受制裁規定之拘束)分攤任何攤配索賠，則該各別會員將根據應予適用的協會承保規則來自行承擔保險短缺。

Liabilities above USD100 million fall within the International Group Excess Loss Reinsurance (GXL) programme. In respect of a claim which engages the GXL programme, any sanctions related shortfall which arises in relation to a liability for which the Club is not directly liable under an approved certificate or guarantee (so-called non- certificated liabilities), is not automatically re-pooled by the International Group Clubs and will be borne by the Member under the applicable Club's rules. It is material in this regard to note that as a consequence of the withdrawal of General Licence H (which applied to non-US domiciled affiliates and subsidiaries of US domiciled insurers and reinsurers), a significant minority of reinsurers will no longer be able to rely on License H to contribute to claims with an Iranian nexus.

超過1億美元的責任即屬國際集團超額損失再保險(GXL)計劃涵蓋的標的。若該索賠適用於GXL計劃，則在經許可之證書或擔保之下協會無須直接負責之責任(所謂的非證書責任)所致與制裁有關之保險短缺，並不會由國際保賠協會集團自動重新攤配並須由該各別會員自行承擔。需要注意的是，因為撤銷了通用許可H(該許可適用於美國境內保險人及再保險人之非美國境內附屬公司及子公司)，所以有顯著少數的再保險人將無法再仰賴許可證H對於與伊朗相關的索賠予以攤付。

Members are also reminded that most International Group Clubs have provisions in their rules excluding from cover any claims that arise from unlawful, improper or imprudent trading. In light of all the factors set out above, there may be circumstances where the relevant Club considers a particular trade to be imprudent or improper even if it does not risk the imposition of sanctions.

在此也提醒各位會員，國際保賠協會集團中大多數的協會在其承保規則中都有規定因非法，不正當或不謹慎的交易行為所生之任何索賠，為除外不保事項。鑑於上述所有因素，即使特定的交易行為沒有違反制裁的風險，在某些情況下相關協會仍會認為特定交易屬於不謹慎或不當交易行為。

If a Member does conduct Iranian trade, they are consequently advised to do so with great caution, carry out appropriate due diligence before entering into contracts and be aware of the challenges faced by insurers in providing cover and supporting their Members in these trades. The practical difficulties encountered by insurers are also likely to be faced by Members when it comes to, for example, making or receiving payments in relation to Iranian trade in view of the inability or unwillingness of banks to handle monetary transactions with even a remote nexus with Iran.

若會員從事涉及伊朗的貿易行為，則建議應謹慎行事，在簽訂契約前善盡適當的注意義務，並且必須明瞭保險人在這些貿易行為的情況下想要提供承保以及協助其會員時可能會面臨困難挑戰。保險人在實務上可能會遇到的困難情況，也可能發生在會員身上，舉例來說，在涉及伊朗貿易的場合如果需要付款或接受付款時，可能會因為銀行無法或不願意處理該金錢交易而產生困難，即使非直接的涉及伊朗貿易也是如此。

All clubs in the International Group have issued a similarly worded circular.

國際保賠協會集團中的協會皆有發布類似的公告

(譯註：英文原文若與中文翻譯有出入，或用語未正確翻譯或有疏忽漏譯，皆以英文原文為準。)