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March First Half Developments

Overview

OFAC published another new rule on Iran and tightened the restrictions on banks doing business with entities in Iran or doing business with Iran. This is the most recent of a spate of rule making to isolate Iran. The March 18th New York Times ran an opinion piece that the sanctions are working and that Iran is moving toward the bargaining table in order to salvage the economy. The OFAC rules continue to redefine activities to reduce the possible scope of indirect activities with Iran. The Fed published a proposed rule on providing Reserve Bank services to Financial Market Utilities that was permitted as part of the Dodd-Frank Act.

OFAC Rule on Iranian Financial Sanctions Regulations

On March 15, 2013, OFAC published its final rule on amendments of its Iranian Financial Sanctions Regulations to reflect changes made by a new federal law on the Iranian threat. The rule adds the sale of agricultural commodities to Iran to the list of transactions exempt from the sanctions. The rule eliminates the distinction between foreign government-owned or -controlled financial institutions (other than central banks) and privately owned financial institutions with respect to the types of transactions that would subject them to sanctions. Both types of financial institutions are now subject to sanctions for any significant transactions knowingly conducted or facilitated with the Central Bank of Iran or other designated Iranian financial institutions, whether or not the transactions are for the sale or purchase of petroleum or petroleum products to or from Iran. The rule does some narrowing of the scope of the “significant reduction exception” to cover only certain financial transactions for bilateral trade between Iran and the significantly reducing country. The significant reduction exception is applicable to a qualifying bilateral trade transaction only if any funds owed to the country with primary jurisdiction over the foreign financial institution are paid to specified classes of payees and certain restrictions are placed on the funds owed to Iran in order to ensure that they remain in that country. See OFAC’s final rule at:

<http://www.gpo.gov/fdsys/pkg/FR-2013-03-15/html/2013-05766.htm>

Financial Market Utilities Fed Services

On March 4, 2013, the Fed published its proposed regulations on providing services to certain Financial Market Utilities. The services include wire transfers, settlement, and securities safekeeping, as well as services regarding currency and coin, check clearing and collection, and automated clearing house transactions. Dodd-Frank permits the Board of Governors of the Federal Reserve System (the "Board") to authorize a Federal Reserve Bank to establish and maintain an account for, and through the account provide certain financial services to, financial market utilities ("FMUs") that are designated as systemically important by the Financial Stability Oversight Council. A Reserve Bank to pay interest on the balances maintained by or on behalf of a designated FMU. See the proposed rules at:

<http://www.gpo.gov/fdsys/pkg/FR-2013-03-04/html/2013-04841.htm>

FinCEN to update FBAR

On March 5, 2013, FinCEN published notice that it is proposing to update the current TD F 90-22.1 report to standardize it with other BSA electronically filed reports and add the capability for a third party preparer to file the report should the owner of the foreign account wish to employ this option. The actual number of FBAR filings in calendar year 2012 was 780,000. See the proposal at:

<http://www.gpo.gov:80/fdsys/pkg/FR-2013-03-05/html/2013-04936.htm>

Continuation of the National Emergency with Iran

On March 14, 2013, the President published notice that the national emergency with Iran first declared in 1995 is continuing and the sanctions also first implemented in 1995 would be continued. There have been 11 separate instances where the President has added to the sanctions since the first sanctions were imposed. The national emergency is continued for one year. See the President's notice at:

<http://www.gpo.gov/fdsys/pkg/FR-2013-03-14/html/2013-06113.htm>

This advisory is a service of Connell & Andersen LLP for our clients and friends. It is not a full recitation of all developments. The descriptions are summaries of complex and detailed laws and regulations and may be incomplete or misleading. We invite any of our readers to contact us to discuss any items contained herein for further elaboration.