

## EU Implements Latest Iran Sanctions

On December 21, 2012, the Council of the European Union adopted Council Regulation No 1263/2012, which amends Regulation (EU) No 267/2012 (“Regulation 1263/2012”)<sup>1</sup>. Regulation 1263/2012 gives effect to the measures provided for in Council Decision 2012/635/CFSP of October 15, 2012 concerning additional restrictive measures against Iran (“Decision 2012/635”).<sup>2</sup> Also on December 21, 2012, the Council adopted Council Decision 2012/829/CFSP amending Decision 2010/413, which concerns the freezing of funds and economic resources (“Decision 2012/829”).<sup>3</sup> This decision was immediately implemented by Council Implementing Regulation (EU) No 1264/2012 (“Regulation 1264/2012”).<sup>4</sup>

### I. NATURAL GAS

In October 2012 and through Decision 2012/635 the Council prohibited the import, purchase or transport of Iranian natural gas. The recent Regulation 1263/2012 makes this prohibition binding upon individuals and determines the specific products covered by the prohibition and clarifies that swapping Iranian natural gas is also illegal. However, contracts satisfied by the use of a pipeline without an inlet point to facilitate the purchase or increase the export of natural gas originating from Iran will not be affected by this prohibition.<sup>5</sup> Regulation 1263/2012 lays down the rules applicable to existing contracts, in particular, the right to take delivery and make payments under existing contracts until April 15, 2013. The

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<sup>1</sup> Council Regulation (EU) No 1263/2012 of December 21, 2012 amending Regulation (EU) No 267/2012 concerning restrictive measures against Iran ([OJ 2012 L 356/34](#)).

<sup>2</sup> Council Decision 2012/635/CFSP of October 15, 2012 amending Decision 2010/413/CFSP concerning restrictive measures against Iran ([OJ 2012 L 282/58](#)). In this regard, further information can be found in our alert memoranda dated October 19, 2012 ([http://www.cgsh.com/sanctions\\_against\\_iran\\_council\\_decision\\_15102012/](http://www.cgsh.com/sanctions_against_iran_council_decision_15102012/)).

<sup>3</sup> Council Decision 2012/829/CFSP of 21 December 2012 amending Decision 2010/413/CFSP concerning restrictive measures against Iran ([OJ 2012 L 356/71](#)).

<sup>4</sup> Council Implementing Regulation (EU) No 1264/2012 of December 21, 2012 implementing Regulation (EU) No 267/2012 concerning restrictive measures against Iran ([OJ 2012 L 356/55](#)).

<sup>5</sup> Recital 3 of Regulation 1263/2012.

existing sanctions are further strengthened by the introduction of a prohibition against selling, supplying, transferring or exporting key equipment or technology for the Iranian oil, natural gas and petrochemical sectors. Member States may grant certain derogations in order to avoid environmental damage or risks to the health or safety of workers.

## **II. GRAPHITE AND RAW OR SEMI-FINISHED METALS**

Decision 2012/635 introduced several new export bans, notably as regards selling, supplying or transferring to Iran, graphite and raw or semi-finished metals, such as aluminum and steel. Regulation 1263/2012 makes such bans binding on individuals and further defines the scope of several of such export bans and as regards these products that are used in industries controlled by the Islamic Revolutionary Guard Corps or in Iran's nuclear, military or ballistic programs. The regulation also prohibits the provision of related technical assistance, training, financing, or financial assistance for the sale, supply or transfer of these products.<sup>6</sup>

## **III. FINANCIAL INSTITUTIONS**

Through Decision 2012/635 the Council prohibited in October 2012 certain transactions between EU and Iranian banks and financial institutions. Regulation 1263/2012 makes this prohibition binding upon private parties and provides further technical details concerning the limitations imposed on transactions involving Iranian financial institutions and stipulates that they require prior approval from Member State authorities.<sup>7</sup>

Council Decision 2012/829 requires EU financial institutions to be especially vigilant in their activities with Iranian banks and other financial institutions and to report suspicious activities related to proliferation financing to the authorities. In addition, Council Decision 2012/829 amended the list of persons and entities subject to restrictive measures<sup>8</sup>. The amendments include the addition of one person and 18 entities, and the delisting of two entities. The changes to the list of sanctioned entities were immediately implemented and made binding upon individuals by Regulation 1264/2012.

## **IV. SHIPPING INDUSTRY**

In October 2012 through Decision 2012/635 the Council imposed new measures targeted at Iran's shipping industry. Regulation 1263/2012 makes the new measures binding upon private parties and clarifies the exact scope of these measures which prohibit the sale,

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<sup>6</sup> See Art. 15(a), 15(b), 15(c) of Regulation 267/2012, as amended by Regulation 1263/2012.

<sup>7</sup> See Art. 23, 25, 26, 30, 31 of Regulation 267/2012, as amended by Regulation 1263/2012.

<sup>8</sup> See Annex II to Decision 2010/413/CFSP.

supply or transfer of key equipment or technology for ship-building, maintenance or refit, to Iran or to Iranian or Iranian-owned enterprises. The provision of technical assistance, training, financing or financial assistance with regard to these items is also prohibited.<sup>9</sup> Regulation 1263/2012 also stipulates that certain services in respect of Iranian oil tankers and cargo vessels, as well as regarding the ban on supplying vessels designed for the transport or storage of oil to Iran, fall within the scope of the prohibition.<sup>10</sup>

**V. DUAL USE ITEMS AND ENTERPRISE RESOURCE SOFTWARE**

Regulation 1263/2012 specifies that certain dual-use items or technologies relevant to industries controlled by the Islamic Revolutionary Guard Corps or for Iran's nuclear program are now included in the export prohibition for dual-use items and technologies.<sup>11</sup> Moreover, it prohibits to sell, supply, transfer or export certain Enterprise Resource Software that is potentially relevant for industries controlled by the Iranian Revolution Guards or for Iran's nuclear military or ballistic missile program,<sup>12</sup> and to provide related support services.

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If you have any questions, please feel free to contact any of your regular contacts at the firm or any of our partners and counsel listed on our website at <http://www.clearygottlieb.com>.

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<sup>9</sup> Decision 2012/635 includes an exemption provided for the supply of equipment and technology to a non-Iranian-owned or controlled vessel that is forced, under force majeure, into an Iranian port or Iranian territorial waters. This exemption was implemented in Art. 10a of Regulation 267/2012, as amended by Regulation 1263/2012.

<sup>10</sup> Art. 37(b) of Regulation 267/2012, as amended by Regulation 1263/2012.

<sup>11</sup> Recital 4f Regulation 1263/2012 and Art 2(2) and (2a) of Regulation 267/2012 as amended by Regulation 1263/2012.

<sup>12</sup> Articles 10d and 10e of Regulation 267/2012 as amended by Regulation 1263/2012.

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