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Selective OFAC Guideline Relating to the Lifting of Certain U.S. Sanctions Under the Joint Comprehensive Plan of Action (JCPOA) on Implementation Day

C. FINANCIAL AND BANKING MEASURES

C. 1. Which financial and banking sanctions are relieved under the JCPOA?

Pursuant to U.S. commitments in sections 4.1 of Annex II and 17.1 of Annex V of the JCPOA, beginning on Implementation Day, secondary sanctions do not apply to non-U.S. persons who engage in:

- Financial and banking transactions with individuals and entities removed from the SDN List, FSE List, and/or NS-ISA List, as appropriate, on Implementation Day (including sanctions on the opening and maintenance of correspondent and payable-through accounts, investments, foreign exchange transactions, and letters of credit). Individuals and entities that were removed include the CBI and most other Iranian financial institutions, NIOC, NICO, NITC, and other specified individuals and entities identified by OFAC as the Government of Iran on the SDN List. For the full list of individuals and entities that were removed from SDN List, FSE List, and/or NS-ISA List on Implementation Day, see Attachment 3 to Annex II of the JCPOA;
- Transactions and other activity related to the Iranian rial;
- Provision of U.S. bank notes to the Government of Iran, including the provision of material support for such transactions;
- The purchase, subscription to, or facilitation of the issuance of Iranian sovereign debt, including governmental bonds; and
- The provision of financial messaging services to the CBI and other Iranian financial institutions removed from the SDN List on Implementation Day.

The U.S. commitments also include the lifting of bilateral trade limitations on CBI revenues held abroad, including limitations on their transfer, as set forth in section 1245(d) of the NDAA. As a result of the lifting of these sanctions, foreign financial Institutions [8]are able to

[8]A foreign financial institution is defined in section 561.308 of the Iranian Financial Sanctions Regulations, 31C.F.R. part 561 (IFSR), as any foreign entity that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent. It includes but is not limited to depository institutions, banks, savings banks, money service businesses, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, dealers in precious metals, stones, or jewels, and holding companies, affiliates, or subsidiaries of any of the foregoing. For purposes of the lifting of sanctions set out in sections 4.1.1-4.1.7 of Annex II and 17.1 of Annex V of the JCPOA, the effects of the sanctions lifting described for non-U.S financial institutions extend to the activities outside of U.S. jurisdiction of international financial institutions, including those identified in 22 U.S.C. § 262r(c)(2).

conduct transactions with respect to the CBI's previously restricted funds abroad unless such transactions involve persons that remain on the SDN List or conduct described in FAQ A.3.ii-iii.

U.S. persons continue to be generally prohibited under the ITSR from involvement in the activity described above. In addition, transactions related to the above-mentioned activity are prohibited from transiting the U.S. financial system. [01-16-2016]

C. 2. What sanctions on the CBI were lifted? What sanctions on the CBI remain?

As a general matter, non-U.S. persons, including foreign financial institutions, can engage in financial and banking transactions with the CBI beginning on Implementation Day without exposure to sanctions. U.S. persons, however, continue to be broadly prohibited from engaging in transactions or dealings with the Government of Iran and Iranian financial institutions, including the CBI, with the exception of transactions that are exempt from regulation or authorized by OFAC. In addition, unless an exemption or express OFAC authorization applies, U.S. persons must, pursuant to Executive Order 13599 and the ITSR, continue to block the property and interests in property of these persons. [01-16-2016]

C. 3. After Implementation Day, will foreign financial institutions be subject to sanctions for conducting or facilitating transactions with persons removed from the SDN List?

No. As set out in the JCPOA, foreign financial institutions are able to conduct or facilitate financial transactions with persons listed in Attachment 3 to Annex II of the JCPOA who have been removed from the SDN List, FSE List, and/or NS-ISA List, as appropriate, provided that such transactions do not involve persons on the SDN List or conduct described in FAQ A.3.ii-iii. This would include transactions by foreign financial institutions that have branches in the United States, provided that the branches in the United States are not directly or indirectly involved in the transactions. In addition, such transactions may not transit the U.S. financial system. [01-16-2016]

C. 4. Will foreign financial institutions be subject to sanctions for opening or maintaining correspondent accounts for Iranian financial institutions removed from the SDN List?

No. As set out in the JCPOA, foreign financial institutions will not be not subject to secondary sanctions for opening or maintaining correspondent accounts for Iranian financial institutions listed in Attachment 3 to Annex II of the JCPOA that have been removed from the SDN List, FSE List, and/or NS-ISA List, as appropriate, provided that such activity does not include conduct described in FAQ A.3.ii-iii, and provided further that the foreign financial institution does not conduct or facilitate, and is not otherwise involved in, specific transactions or banking

relationships with Iranian individuals and entities, including financial institutions, on the SDN List. Any transactions processed to or through the United States or that involve a U.S. person, directly or indirectly, continue to be prohibited unless they are exempt from regulation or authorized by OFAC. [01-16-2016]

C. 5. The JCPOA provides that the United States will lift secondary sanctions related to the provision of financial messaging services to the CBI and Iranian financial institutions set out in Attachment 3 to Annex II on Implementation Day. Does this mean that these Iranian banks can receive specialized financial messaging services from non-U.S. providers?

Yes. As detailed in section 4.1.6 of Annex II of the JCPOA, the United States will not impose sanctions on non-U.S. persons that provide specialized financial messaging services to, or enable or facilitate direct or indirect access to such services for, the CBI or Iranian financial institutions, with the exception of entities that remain or are placed on the SDN List (as of Implementation Day, Iranian financial institutions remaining on the SDN List are: Ansar Bank, Bank Saderat, Bank Saderat PLC, and Mehr Bank).

U.S. persons – including U.S. financial institutions – continue to be broadly prohibited from engaging in transactions involving Iran, including the provision of specialized financial messaging services to, or enabling or facilitating direct or indirect access to such services for, the CBI or Iranian financial institutions, unless the transactions are exempt from regulation or authorized by OFAC. In addition, *see* FAQ C.7 regarding prohibitions on clearing U.S. dollar transactions involving Iranian persons through the United States. [01-16-2016]

C. 6. Are U-turn transactions involving the United States allowed after Implementation Day?

No. After Implementation Day, U.S. persons continue to be prohibited from exporting goods, services (including financial services), or technology directly or indirectly to Iran. The so-called "U-turn general license," which allowed U.S. dollar clearing activities involving Iran prior to its revocation in November 2008, was not reinstated on Implementation Day, and U.S. financial institutions continue to be prohibited from clearing transactions involving Iran, with the exception of transactions that are exempt or authorized by a general or specific license issued pursuant to the ITSR. [01-16-2016]

C. 7. After Implementation Day, can foreign financial institutions, including foreign- incorporated subsidiaries of U.S. financial institutions, process transactions denominated in U.S. dollars or maintain U.S. dollar-denominated accounts on behalf of the Government of Iran or any person subject to the jurisdiction of the Government of Iran, such as NIOC or the CBI?

Yes. Foreign financial institutions, including foreign-incorporated subsidiaries of U.S. financial institutions, may process transactions denominated in U.S. dollars or maintain U.S. dollar-denominated accounts that involve Iran or persons ordinarily

resident in Iran, or in which there is an interest of a person whose property and interests in property are blocked solely pursuant to Executive Order 13599 and section 560.211 of the ITSR, including NIOC, the CBI, and other individuals and entities that meet the definition of the Government of Iran or an Iranian financial institution, provided that such transactions or account activities do not involve, directly or indirectly, the United States financial system or any United States person, and do not involve any person on the SDN List or conduct described in FAQ A.3.ii-iii. *See* section K of these FAQs for information on General License H, which authorizes U.S.-owned or -controlled foreign entities to engage in certain activities involving Iran.

However, even after Implementation Day, foreign financial institutions, including foreign-incorporated subsidiaries of U.S. financial institutions, need to continue to ensure they do not process U.S. dollar-denominated transactions involving Iran through the U.S financial system or otherwise involve U.S. financial institutions (including their foreign branches), given that U.S. persons continue to be prohibited from exporting goods, services (including financial services), or technology directly or indirectly to Iran, with the exception of transactions that are exempt or authorized by a general or specific license issued pursuant to the ITSR. U.S. persons continue to be prohibited from engaging in any transactions involving Iran, including in currencies other than the U.S. dollar, with the exception of transactions that are exempt or authorized by OFAC. [0116-2016; updated on 10-07-2016]

C. 8. The JCPOA provides that the United States will lift secondary sanctions on the provision of U.S. bank notes to the Government of Iran on Implementation Day. What does this entail?

As detailed in section 4.1.3 of Annex II of the JCPOA, beginning on Implementation Day, the provision of U.S. bank notes to the Government of Iran by non-U.S. persons is no longer sanctionable, provided that the transaction does not involve any person on the SDN List or conduct described in FAQ A.3.ii-iii. U.S. persons continue to be prohibited from directly or indirectly providing U.S. bank notes to the Government of Iran. In addition, transactions related to the above-mentioned activity continue to be prohibited from transiting the U.S. financial system. [01-16-2016]

C. 9. What are the due diligence expectations for U.S. financial institutions in investigating Iran-related transactions?

For purposes of overall sanctions compliance, Treasury expects that U.S. financial institutions will continue to implement a risk-based compliance program that tailors internal policies, procedures, and processes to appropriately mitigate their sanctions exposure.

For all OFAC sanctions programs – including the Iran sanctions program – a financial institution should ensure that it has the appropriate procedures in place to identify, escalate, interdict, and report transactions that are in violation of sanctions regulations. OFAC continues to provide industry-specific guidance on compliance policies and procedures on its website, and specific questions relating to Iran-related

transactions can be directed to the OFAC Hotline at 1-800-540-6322 or 202-622-2490. For more information regarding best practices in complying with the sanctions administered by OFAC, please *see* FAQ 116. [01-16-2016]

C. 10. After Implementation Day, are foreign financial institutions subject to sanctions for processing transactions involving activity for which sanctions have been lifted under the JCPOA?

No. Beginning on Implementation Day, foreign financial institutions are able to conduct or facilitate financial transactions in connection with activities for which sanctions have been lifted on Implementation Day, provided that the transactions do not involve persons on the SDN List and such activity does not include conduct described in FAQ A.3.ii-iii. Foreign financial institutions should continue to undertake their customary due diligence to ensure that they are not facilitating transactions that remain sanctionable. [01-16-2016]

C. 11. Will foreign financial institutions be exposed to sanctions for transacting with Iranian financial institutions if those Iranian financial institutions have banking relationships with Iranian persons on the SDN List?

Beginning on Implementation Day, non-U.S., non-Iranian financial institutions engaging in transactions with Iranian financial institutions (including the CBI) not appearing on the SDN List will not be exposed to sanctions as a result of those Iranian financial institutions engaging in transactions or banking relationships involving Iranian individuals or entities, including financial institutions, on the SDN List, provided that the non-U.S., non-Iranian financial institution does not conduct or facilitate, and is not otherwise involved in, those specific transactions or banking relationships with the individuals and entities on the SDN List.

For example, a European-headquartered bank that transacts with the CBI or any other non-designated Iranian financial institution is not subject to secondary sanctions – even if the CBI separately has banking relationships with individuals or entities on the SDN List– provided that the European bank is not involved with any of the CBI's transactions involving individuals or entities that remain on the SDN List. [01-16-2016]

C. 12. Would the issuance of credit cards by non-U.S. financial institutions to Iranian persons not on the SDN List be sanctionable?

No. The issuance of credit cards by non-U.S. financial institutions to non-SDN Iranian nationals would not be prohibited under OFAC sanctions regulations. Foreign financial institutions, however, should be aware that the ITSR prohibit the processing of payments involving Iran by U.S. persons in general, including by or through U.S. financial institutions, with the exception of transactions that are exempt or authorized by an applicable general or specific license issued pursuant to the ITSR. Moreover, there may be secondary sanctions implications to processing

credit card transactions if such transactions involve persons on the SDN List or conduct described in FAQ A.3.ii-iii. [01-16-2016]

C. 13. The JCPOA provides that the United States will lift secondary sanctions on the Iranian rial on Implementation Day. Does this mean that foreign financial institutions are able to buy and sell Iranian rials?

Yes. As detailed in section 4.1.2 of Annex II of the JCPOA, beginning on Implementation Day, it is no longer sanctionable for foreign financial institutions to conduct or facilitate any significant transaction related to the purchase or sale of Iranian rials (or a derivative, swap, future, forward, or other similar contract whose value is based on the exchange rate of the Iranian rial) or maintain funds or accounts outside of the territory of Iran denominated in the Iranian rial. [01-16-2016]

C. 14. What U.S. financial and banking measures with respect to Iran remain in place after Implementation Day?

After Implementation Day, the United States retains the authority to impose correspondent or payable-through account sanctions on foreign financial institutions that (1) knowingly facilitate significant financial transactions on behalf of any Iranian person included on the SDN List, pursuant to section 1247 of IFCA, or (2) facilitate or conduct significant financial transactions for persons that remain designated in connection with Iran's proliferation of WMD or their means of delivery or Iran's support for international terrorism, pursuant to section 104(c)(2)(E)(ii) of CISADA, as amended. Sanctions under section 104(c)(2)(E)(ii) of CISADA no longer apply to transactions with individuals and entities removed from the SDN List on Implementation Day (*see* FAQ I.6).

Further, even after Implementation Day, the prohibitions set forth in the ITSR remain in place, including the prohibition in section 560.204 of the ITSR on the exportation, re exportation, sale, or supply, directly or indirectly, from the United States, or by a U.S. person, wherever located, of any goods, technology, or services to Iran or the Government of Iran, with the exception of transactions that are exempt from regulation or authorized by OFAC (*see* FAQ M.9). Consequently, the clearing of U.S. dollar- or other currency-denominated transactions through the U.S. financial system or involving a U.S. person remain prohibited, unless the transactions are exempt from regulation or authorized by OFAC.

Finally, the JCPOA does not impact the November 2011 finding by the Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) that Iran is a Jurisdiction of Primary Money Laundering Concern. Pursuant to section 311 of the USA PATRIOT Act, the Department of the Treasury has the authority to require U.S. domestic financial institutions to take "special measures" with respect to jurisdictions, financial institutions, or international transactions of primary money laundering concern. The November 2011 finding is based upon multiple factors including activities outside the scope of the JCPOA and the related sanctions lifting.

See FAQ A.3 and section VII of the Guidance Document for an overview of key U.S. legal authorities that remain in place after Implementation Day. [01-16-2016]

C. 15. Can U.S. financial institutions transact with, including by opening or maintaining correspondent accounts for, non-U.S., non-Iranian financial institutions that maintain correspondent banking relationships with Iranian financial institutions that are not on the SDN List?

Yes. U.S. financial institutions can transact with, including by opening or maintaining correspondent accounts for, non-U.S., non-Iranian financial institutions that maintain correspondent banking relationships or otherwise transact with Iranian financial institutions that are not on the SDN List. It remains prohibited, however, for non-U.S. financial institutions to route transactions involving Iran to or through the U.S. financial system, or involve U.S. persons in such transactions, unless the transactions are exempt from regulation or authorized by OFAC. Non-U.S., non-Iranian financial institutions should have appropriate systems and controls to ensure that they do not route transactions involving Iran to or through the U.S. financial system unless the transactions are exempt from regulation or authorized by OFAC. [06-08-2016; updated on 10-07-2016]

C. 16. Can a non-U.S., non-Iranian entity (including a non-U.S., non-Iranian financial institution) engage in transactions with Iranian persons not on the SDN List even though one or more U.S. persons serve on that entity's Board of Directors or as senior managers (e.g., Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Chief Compliance Officer)? Must these U.S. persons be recused or "walled off" from the entity's Iran-related business?

The presence of one or more U.S. persons on the Board of Directors or serving as a senior manager of a non-U.S., non-Iranian entity does not necessarily preclude that entity from transacting with Iranian persons that are not on the SDN List. Unless authorized by OFAC, however, U.S. persons must be walled off or "ring-fenced" from Iran-related business because, with limited exceptions, U.S. persons continue to be broadly prohibited from engaging in or facilitating transactions or dealings with Iran or its government. The prohibitions on the exportation or re exportation of services to Iran and facilitation have been in place for decades, and are consistent with prohibitions applied across a range of U.S. sanctions programs administered by OFAC.

Non-U.S., non-Iranian entities establishing policies regarding how to wall off the U.S. persons from the institution's Iran-related business should consider instituting a blanket recusal policy (as opposed to case-by-case abstentions, which, depending on the facts and circumstances, could be considered a prohibited facilitation and/or export of services under the ITSR) for U.S. person directors, senior managers, and other employees with respect to Iran-related matters. The institution of a blanket recusal policy requiring that all U.S. person employees of a non-U.S., non-Iranian entity not be involved in Iran-related activities would not be considered prohibited activity under the ITSR. In instances where national laws prohibit the recusal of a U.S. person executive from the decision-making processes of his or her non-U.S. employer, including those involving Iran-related business, the executive or

employer should consult with their counsel and/or approach OFAC for additional guidance. [06-08-2016]

K. FOREIGN ENTITIES OWNED OR CONTROLLED BY U.S. PERSONS

K.1. The JCPOA provides for the licensing of non-U.S. entities that are owned or controlled by a U.S. person ("U.S.-owned or -controlled foreign entities") to engage in activities with Iran that are consistent with the JCPOA and U.S. law. How is this commitment being implemented?

The commitment to license U.S.-owned or -controlled foreign entities to engage in activities with Iran that are consistent with the JCPOA and U.S. law has been implemented through OFAC's issuance of General License H: Authorizing Certain Transactions Relating to Foreign Entities Owned or Controlled by a United States Person (GL H). GL H was published on OFAC's website on January 16, 2016. [01-16-2016]

K. 2. What is considered a U.S.-owned or -controlled foreign entity for purposes of the U.S. commitment under the JCPOA to license certain activities involving Iran?

An entity established or maintained outside the United States is "owned or controlled" by a U.S. person if the U.S. person: (1) holds a 50 percent or greater equity interest by vote or value in the entity; (2) holds a majority of seats on the board of directors of the entity; or (3) otherwise controls the actions, policies, or personnel decisions of the entity. *See* section 560.215 of the ITSR and FAQ K.17. [01-16-2016; updated on 06-08-2016]

K. 3. What activities can U.S.-owned or -controlled foreign entities undertake pursuant to GL H?

Pursuant to GL H , U.S.-owned or -controlled foreign entities are permitted to engage in transactions with the Government of Iran or any person subject to the jurisdiction of the Government of Iran that would otherwise be prohibited by section 560.215 of the ITSR (i.e., activities that would be prohibited pursuant to the ITSR if engaged in by a U.S. person or in the United States), *with the exception of* transactions specified in paragraph (c) of GL H. In particular, paragraph (c) provides that U.S.-owned or -controlled foreign entities engaging in transactions pursuant to GL H may not export or re export U.S.-origin goods to Iran without separate authorization from OFAC, as further described in FAQ K.13. The authorization provided under GL H is not limited to specific economic sectors or industries. [01-16-2016]

K. 4. For purposes of the U.S. commitment in section 5.1.2 of Annex II of the JCPOA, what activities are consistent with the JCPOA and applicable U.S. laws and regulations?

Activities by U.S.-owned or -controlled foreign entities that are within the scope of GL H will be deemed to be consistent with the JCPOA and the laws and regulations administered by OFAC. Individuals and entities acting pursuant to GL H remain responsible for complying with other applicable U.S. laws and regulations, including, for example, the Federal Food, Drug, and Cosmetic Act.

Transactions that are not authorized under GL H because they are inconsistent with the JCPOA and/or U.S. law include transactions involving: (1)The direct or indirect exportation or re exportation of goods, technology, or services from the United States (without separate authorization from OFAC); (2)Any transfer of funds to, from, or through the U.S. financial system; (3)Any individual or entity on the SDN List or any activity that would be prohibited by non-Iran sanctions administered by OFAC if engaged in by a U.S. person or in the United States; (4)Any individual or entity identified on the FSE List; (5)Any activity involving any item subject to the Export Administration Regulations (EAR) that is prohibited by, or requires a license under, part 744 of the EAR; or participation in any transaction with a person whose export privileges have been denied pursuant to part 764 or 766 of the EAR (without authorization from the Department of Commerce); (6)Any military, paramilitary, intelligence, or law enforcement entity of the Government of Iran, or any official, agent, or affiliate thereof; (7)Any activity that is sanctionable under Executive Order 12938 or 13382 (relating to Iran's proliferation of weapons of mass destruction and their means of delivery, including ballistic missiles); Executive Order 13224 (relating to international terrorism); Executive Order 13572 or 13582 (relating to Syria); Executive Order 13611 (relating to Yemen); or Executive Order 13553 or 13606, or section 2 or 3 of Executive Order 13628 (relating to Iran's commission of human rights abuses against its citizens); or (8)Any nuclear activity involving Iran that is subject to the JCPOA procurement channel and that has not been approved through that procurement channel process. [01-16-2016]

K. 5. Who could be held liable for transactions conducted by a U.S.-owned or -controlled foreign entity that are outside the scope of GL H?

A U.S. person will continue to be liable for civil penalties provided for in section 206(b) of the International Emergency Economic Powers Act if any foreign entity that it owns or controls engages in activity outside the scope of GL H or other relevant authorization provided by OFAC that would violate the prohibition set forth in section 560.215 of the ITSR. *See* section 560.701(a)(3) of the ITSR. [01-16-2016]

K. 6. What are U.S. persons permitted to do with respect to transactions undertaken pursuant to GL H?

GL H authorizes U.S. persons to engage in "activities related to the establishment or alteration of operating policies and procedures of a United States entity or a U.S.-owned or -controlled foreign entity" to the extent necessary to allow a U.S.-owned or -controlled foreign entity to engage in transactions with Iran that are authorized by GL H. This authorization in GL H is intended to cover the involvement of U.S. person board members, senior management, and employees of either a U.S. parent company or a U.S.-owned or -controlled foreign entity in the establishment or alteration of operating policies and procedures of the U.S. parent company or any of its owned or controlled foreign entities, to the extent necessary to allow any of the U.S.-owned or -controlled foreign entities to engage in transactions with Iran authorized under GL H. The authorization for U.S. persons is also intended to cover U.S. persons who may be hired as outside legal counsel or consultants to draft, alter, advise, or consult on such operating policies and procedures.

Under this provision of GL H, U.S. persons, including senior management of a U.S. parent company or its owned or controlled foreign entities, may be involved in the initial determination to engage in activities with Iran authorized by GL H, as well as the establishment or alteration of the necessary policies and procedures. However, GL H does not authorize U.S. person involvement in the ongoing Iran-related operations or decision making of its owned or controlled foreign entity engaging in activities with Iran authorized by GL H after these actions are taken. U.S. persons *may not* be involved in the Iran-related day-to-day operations of a U.S.-owned or -controlled foreign entity, including by approving, financing, facilitating, or guaranteeing any Iran-related transaction by the foreign entity. *See* sections 560.208 and 560.417 of the ITSR. [01-16-2016]

K. 7. Under GL H, are U.S. persons allowed to provide training on the new or revised policies and procedures?

Yes. GL H authorizes U.S. persons, including employees and outside legal counsel and consultants, to provide training, advice, and counseling on the new or revised operating policies and procedures, provided that these services are not provided to facilitate transactions in violation of U.S. law. For example, U.S. person employees of a U.S. parent company or a U.S.-owned or -controlled foreign entity are authorized to provide training on the new or revised operating policies and procedures to employees of a U.S.-owned or -controlled foreign entity covered by such policies. They are also authorized to provide training on the revised operating policies and procedures to employees of the U.S. parent company. [01-16-2016]

K. 8. What are U.S. persons who work in U.S.-owned or -controlled foreign entities permitted to do with respect to transactions undertaken pursuant to GL H?

U.S. persons working in U.S.-owned or -controlled foreign entities are authorized under GL H to engage in activities related to the establishment or alteration of corporate policies and procedures of the U.S. parent company of the U.S.-owned or

-controlled foreign entities, as well as corporate policies and procedures of the U.S.-owned or -controlled foreign entities, to the extent the establishment or alteration of such policies is necessary to allow the U.S.-owned or -controlled foreign entity to engage in transactions authorized under GL H. This authorization extends to the involvement of U.S. persons in the initial determination to engage in activities with Iran authorized by GL H; however, it does not extend to the involvement of U.S. persons in the Iran-related day-to-day operations of a U.S.-owned or -controlled foreign entity engaging in activities with Iran authorized by GL H (*see* FAQs K.6 and K.7). With the exception of the authorizations in GL H, U.S. persons remain prohibited from engaging in or facilitating transactions or dealings involving Iran that are not exempt from regulation or authorized by OFAC. [01-16-2016]

K. 14. Does GL H authorize a U.S. person to alter its policies and procedures, or the policies or procedures of its owned or controlled foreign entity, to allow the U.S.-owned or -controlled foreign entity to establish a physical presence inside Iran?

Yes. GL H authorizes a U.S. parent to alter its policies and procedures, and/or the policies and procedures of its owned or controlled foreign entity, to allow the U.S.-owned or -controlled foreign entity to establish a physical presence inside Iran. U.S.-owned or -controlled foreign entities, however, continue to be prohibited from the exportation, re exportation, sale, or supply, directly or indirectly, from the United States of any goods, technology, or services if the items are destined for Iran or the Government of Iran at the time they leave the United States (*see* FAQs K.13 and M.9). [06-08-2016]

K. 15. Are U.S.-owned or -controlled foreign entities considered U.S. persons?

No. The term *United States person* or *U.S. person*, as it is defined in section 560.314 of the ITSR, means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States. Although U.S.-owned or -controlled entities are subject to the prohibitions of the ITSR pursuant to section 560.215 (and eligible for the authorizations of GL H), they are not considered U.S. persons under the ITSR. [06-08-2016]

K. 16. Does GL H authorize U.S.-owned or -controlled foreign entities to engage in transactions with individuals and entities on the E.O. 13599 list?

Yes. GL H authorizes U.S.-owned or -controlled foreign entities to engage in transactions with individuals and entities on the E.O. 13599 List that are within the scope of the general license (*see* FAQ I.2 for additional information on the E.O. 13599 List). [06-08-2016]

K. 17. Does OFAC aggregate the interests of multiple U.S. persons in determining whether an entity established or maintained outside the United States is a U.S.-owned or -controlled foreign entity for purposes of GL H and section 560.215 of the ITSR?

Yes, with certain exceptions. As a general matter, an entity established or maintained outside the United States is considered owned or controlled by a U.S. person if, in the aggregate, one or more U.S. persons hold(s) a 50 percent or greater equity interest by vote or value in the entity or if one or more U.S. persons hold(s) a majority of seats on the board of directors of the entity. A determination as to whether one or more U.S. persons otherwise control(s) the actions, policies, or personnel decisions of a foreign entity is a fact-specific, case-by-case determination, but in making such a determination, OFAC would look to the aggregated ownership interests held, and indicia of control exercised, by all relevant U.S. persons.

In the specific case of companies organized under the laws of a country other than the United States that are publicly traded or where ownership interests are otherwise widely dispersed, OFAC would not regard such an entity to be owned or controlled by a U.S. person if U.S. persons, in the aggregate, passively hold more than 50 percent of the shares of such entity but no one U.S. person holds a controlling share in the company. However, such a company could still be considered a U.S.-owned or -controlled foreign entity to the extent one or more of the other criteria for ownership or control are met. [06-08-2016]

K. 18. In cases where multiple U.S. persons, in the aggregate, own or control a foreign entity, are U.S. persons authorized under GL H to amend the policies and procedures of stakeholding U.S. companies and the policies and procedures of the U.S.-owned or -controlled foreign entity?

Yes. In cases where U.S. persons, in the aggregate, own or control a foreign entity, U.S. persons are permitted to amend the policies and procedures of U.S. entities that own a portion of the U.S.-owned or -controlled foreign entity, as well as the policies and procedures of the U.S.-owned or -controlled foreign entity, to the extent necessary to allow the U.S.-owned or -controlled foreign entity to engage in transactions with Iran that are authorized under GL H (*see* FAQ K.6 for additional details on the extent to which U.S. persons can engage in altering policies and procedures related to transactions with Iran). [06-08-2016]

K. 19. Does GL H authorize a U.S. person to establish or alter the operating policies and procedures of a United States entity or a U.S.-owned or -controlled foreign entity more than once?

Yes. A U.S. person can undertake additional changes to such operating policies and procedures so long as the changes are not with respect to, or for the purpose of facilitating, any particular transaction(s) involving Iran by the U.S.-owned or –controlled foreign entity. [06-08-2016; updated on 10-07-2016]

K. 20. Must U.S. persons employed by or serving on the Board of Directors of a U.S.-owned or -controlled foreign entity be recused or "walled off" from all Iran-related business of that entity? Can U.S. person employees simply abstain from voting on Iran-related matters?

In general, unless authorized by OFAC, U.S. persons employed by or serving on the board of directors of a U.S.-owned or -controlled foreign entity (or any other foreign entity) must be recused or "walled off" from all Iran-related business of that entity, except for certain limited activities with respect to Iran that are authorized under section (a) of that GL (*see* FAQs K.8 and K.9).

U.S. persons are authorized under GL H to allow for such a recusal through the establishment or alteration of policies and procedures of their owned or controlled foreign entities. U.S.-owned or -controlled foreign entities (and other foreign entities) should consider instituting a blanket recusal policy (as opposed to case-by-case abstentions, which, depending on the facts and circumstances, could be considered a prohibited facilitation and/or export of services under the ITSR) for U.S. person directors, managers, and other employees with respect to Iran-related matters (*see* FAQ C.16). [06-08-2016]

K. 21. Must the U.S. parent company of a U.S.-owned or -controlled foreign entity engaging in transactions with Iran pursuant to GL H remove itself from all day-to-day operations of its owned or controlled foreign entity, or just those related to Iran?

If a U.S. parent company's owned or controlled foreign entity engages in transactions with Iran pursuant to GL H, and also conducts transactions with other non-sanctioned jurisdictions, the U.S. parent company and its board members, senior management, and employees may continue to be involved in the U.S.-owned or -controlled foreign entity's day-to-day operations with non-sanctioned jurisdictions. [06-08-2016]

K. 22. Can a U.S. person receive reports from its owned or controlled foreign entities that detail transactions conducted pursuant to GL H, including reporting on transactions that the U.S. person is required to disclose to the Securities and Exchange Commission?

Yes. A U.S. person may receive reports from its owned or controlled foreign entities that include details on transactions the foreign entity conducted with Iran pursuant to GL H. However, U.S. persons remain prohibited from engaging in Iran-related activities of U.S.-owned or -controlled foreign entities and cannot attempt to influence Iran-related business decisions of such entities based on such reports. [06-08-2016]

M. OTHER

M. 10. Is it sanctionable for non-U.S. persons to engage in transactions with an entity that is not on the SDN List, but that is minority owned, or that is controlled in whole or in part, by an Iranian or Iran-related person on the SDN List?

It is not necessarily sanctionable for a non-U.S. person to engage in transactions with an entity that is not on the SDN List but that is minority owned, or that is controlled in whole or in part, by an Iranian or Iran-related person on the SDN List. However, OFAC recommends exercising caution when engaging in transactions with such entities to ensure that such transactions do not involve Iranian or Iran-related persons on the SDN List (*see* FAQ A.6). [10-07-2016]

M. 12. Does OFAC expect non-U.S. financial institutions to conduct due diligence on their customer's Iranian customers?

OFAC considers the appropriate level of due diligence to depend on the financial institution's role in a transaction (*see* FAQ 116). While OFAC would consider it a best practice for a non-U.S. financial institution to perform due diligence on its own customers, OFAC does not expect a non-U.S. financial institution to repeat the due diligence its customers have performed on an Iranian customer unless the non-U.S. financial institution has reason to believe that those processes are insufficient. Non-U.S. financial institutions should consult with their local regulators regarding due diligence expectations in their domestic jurisdictions. [10-07-2016]