

ROADMAP	
TITLE OF THE INITIATIVE	“Play by the rules” initiative :Iran
TYPE OF INITIATIVE	CWP <input checked="" type="checkbox"/> Non-CWP <input type="checkbox"/> Implementing act/Delegated act
EIFEC dpt – RESPONSIBLE UNIT	JUSTICE, COMPLIANCE
EXPECTED DATE OF ADOPTION	Month/Year: 1st half 2012
VERSION OF ROADMAP	No: 1 Last modification: Month/Year: 04/2012

This indicative roadmap is provided for information purposes only and is subject to change.
It does not prejudice the final decision of the EU/USA on whether this initiative will be pursued or on its final content and structure.

A. Context, problem definition
<p>(i) What is the context of the initiative? (ii) How does it relate to past and possible future initiatives, and to other EU/USA policies?</p>
<p>(i) Extensive trade and financial sanctions are in place against Iran as a result of United Nations (UN), European Union (EU) and USA sanctions and embargoes. The EU applies sanctions or restrictive measures in pursuit of the specific objectives of the Common Foreign and Security Policy Framework (CFSP) as set out in Article 11 of the Treaty on European Union.</p> <p>All EU financial institutions are subject to Reg. 961/2010 by virtue of Art. 39. Art. 21 imposes express notification and authorization obligations on the Payment Service Providers of the payer and payee.</p> <p>Each EU Member State adopts different foreign policy towards IRAN. But for all EU Member States breaches of certain prohibitions from Council Regulation (EC) No 428/2009 of 5 May 2009 (Dual Use), Council Regulation (EU) No 961/2010 and other Regulations are criminal offenses, in particular those relating to export of prohibited or unlicensed goods and services, the asset freezing measures, transfer of funds, dealing any person (Company, Organization or natural Person) listed in related Annexes and the additional restrictive measures against Iran set out in those Regulations.</p> <p>The restrictive measures apply directly or indirectly to Iranian owned or controlled entities or bodies.</p> <p>However recent escalation in international political and financial conditions towards IRAN are affecting broader the business community beyond the limits of sanction and regulations.</p> <p>These events are de facto affecting not only sanctioned goods or persons and organization but all Iranian people and even items which are essential to the livelihood as medicines, food, agricultural products are very difficult to deliver as the payments processes are almost blocked.</p> <p>Many instances has been raised recently and a need of clarification upon agreed procedure, practices and common understanding was needed in the spirit of full cooperation.</p> <p>Italy wish to maintain maximum legal and ethical certainty within the EU and USA concerning the implementation of Sanction on IRAN, thus promoting a full international compliance culture.</p> <p>All parties desire that all the activities must be carried in full compliance with laws, regulations and in the spirit of collaboration between allied countries as strategic response to threat of dual-use items being used for wrongful purposes and today challenge covering all activities of import and export of goods and/or services, tangible and intangible assets. In a globally integrated world, efficient Export Compliance and Control with laws is only possible with co-operation at an European and international level. All the parties involved expect this process to be transparent and to take place in compliance with the law, regulations as well as in due respect of ethical principles.</p> <p>(ii) Relates to the general collaborative relationship between allied countries.</p>
<p>What are the main problems which this initiative will address?</p>
<p>Who is compliant with the regulations and accepts to “play by rules” that EU and USA have laid down should not be de facto discriminated or discouraged but treated with equality to any other rights holders in our countries.</p> <p>Therefore in order to allow people and organizations that are in accordance and compliance to EU/USA Regulations to transact in verifiably and orderly way with Italy the initiative “play by the rules” will readdress the non compliant situation de facto created by misunderstanding between the actors where who wish to play by the rules cant play as almost no one wants to play.</p>

the recognition and promotion of the good of each individual is a specific duty for every person. The order of justice is not static but dynamic, because the very life of individuals and communities is in itself dynamic.

Who will be affected by it?

EU organization, Payment Service Providers, Not Listed US/EU SDN

- (i) Is EU/EIFEC level action justified on grounds of subsidiarity?
- (ii) Why can Member States not achieve the objectives of the proposed action sufficiently by themselves? (Necessity Test)
- (iii) Can the EU/EIFEC achieve the objectives better? (Test of EU Value Added)

(i) Yes

(ii) These objective is simply a clarification between two different jurisdictions which includes a non EU State (USA)

(iii) Only a common understanding between USA and the EU country can achieve in the spirit of Transparency, Compliance, Accountability, Consistency and Effectiveness that should guide and strengthen the mutual collaborative relationship

B. Objectives of the initiative

What are the main Initiative objectives?

Clarify and assess the correct procedures and compliance of policies applicable for EU subjects in Italy with special reference to Payment Service Providers (banks and financial institutions).
Ensure to maintain maximum legal and ethical certainty for organizations in Italy that will act accordingly to this Memorandum of Understanding.

Do the objectives imply developing EU/USA policy in new areas?

NO. is only assessment on situation and clarification on existing rules and regulation. A common understanding to allow people to work without fear in compliance with laws.

C. Options

- (i) What are the initiative options being considered?
- (ii) What legislative or 'soft law' instruments could be considered?
- (iii) How do the options respect the proportionality principle?

- (i) A proposed procedure is attached
- (ii) A Memorandum of Understanding
- (iii) Not applicable

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D. Initial assessment of impacts

What are the benefits and costs of each of the initiative options?

- I. The major benefit is the maintenance of maximum legal and ethical certainty for organizations in Italy that will act accordingly to this initiative.
- II. Encouraging people and organization to comply laws easing the way to do it is an act of justice.
- III. No cost are involved will derive from this initiative.

Could any or all of the options have significant impacts on (i) simplification, (ii) administrative burden and (iii) on relations with other countries, (iv) implementation arrangements? And (v) could any be difficult to transpose for certain Member States?

(i) equal (ii) equal (iii) will great improve the transparency level and cooperation level with USA on the subject.
(iv) no major impact. (v) no difficulties

(i) Will an IA be carried out for this initiative and/or possible follow-up initiatives? (ii) When will the IA work start? (iii) When will you set up the IA Steering Group and how often will it meet? (iv) What DGs will be invited?

Initiative Assessment (IA) is not necessary, as no new regulation will be put in place. Is just mutual clarification on practices

(i) Is any of options likely to have impacts on the EU budget above €5m?
(ii) If so, will this IA serve also as an ex-ante evaluation, as required by the Financial regulation? If not, provide information about the timing of the ex-ante evaluation.

(i) not applicable (ii) not applicable

E. Evidence base, planning of further work and consultation

On 26 July 2010, the EU Council approved Decision 2010/413/CFSP confirming the restrictive measures taken since 2007 and providing for additional restrictive measures against the Islamic Republic of Iran ('IRAN') in order to comply with UN Security Council Resolution 1929 (2010), as well as for accompanying measures as requested by the European Council in its Declaration of 17 June 2010.

1996 Iran Sanctions Act (ISA), caused differences of opinion between the United States and its European allies because it mandates U.S. imposition of sanctions on foreign firms to isolate Iran.

Submitting to BIS in the spirit of cooperating in expanding the Export Compliance Culture and practice globally for evaluation and assessment.

Level of confidentiality : to be set

Which stakeholders have been or will be consulted

BIS (DOC) and OFAC : USA and EIFEC as promoting “play by the rules”
Ministry of Foreign Affairs of Italy and Ministry of Economy and Finance
OFAC

PROPOSED procedure to be clarified/ assessed

- (i) Five (5) Italian banks (hereinafter “ITABANKS”), representative of different nature, status and national presence), will have the possibility to maintain or open a corresponding bank account to a maximum number of 5 NON EU LISTED /NON US SDN private reputable iranian banks (hereinafter “IRANBANKS”)
- (ii) ITABANKS may receive on these accounts funds and any other permitted financial instrument to be **used only for the payment of:**
 - a. Foodstuff
 - b. healthcare,
 - c. medical equipment
 - d. humanitarian purposes
 - e. Goods with authorization (MEF A and MEF B) of MEF - the Italian Ministry of Economy and Finance
 - f. Payments which are allowed under EC961/2010
- (iii) Payment may be made only to EU entities or any entities that have received the MEF authorization. No payments will be made to any denied party.
- (iv) ITABANKS will accept to transact only with iranian payers or intermediary (including any Payment Service Providers) that have registered in the EU Export Compliance Register (EU-ECR) and have passed successfully the verification/certification process accordingly to guidelines EU-C/ECO/IRAN/961-2010 or any modification thereafter. It is required that al iranian parties have subscribed the EU Transparency Code of Conduct and the EU Export Compliance Commitment.
- (v) Iranian parties will provide their ERN ID Number to ITABANKS to allow verification of validity and expiry date of their Registration/ verification at the EU-ECR for any payment to be done.
- (vi) In case any of the payer is enlisted in US SDN or in the Consolidated list of persons, groups and entities subject to EU financial sanctions, payments due under contracts, agreements or obligations that were concluded or arose before the date on which the person, entity or body referred to in Article 16 has been designated by the Sanctions Committee, the Security Council or by the EU Council, ITABANKS may pay, transfer, assign, service what is due.
- (vii) In case any of the IRANBANKS is enlisted in US SDN or in the Consolidated list of persons, groups and entities subject to EU financial sanctions, the funds deposited in the ITABANKS accounts can be used only for settlement of payments. The funds deposited cannot be transferred to any other bank or financial institution in favor of anyone if not the beneficiaries which have already received or applied for an authorization by MEF until the volume, amount is reduce to zero. Thereafter any further fund incoming may be frozen if the enlisting provide for.
- (viii) The Italian Ministry of Economy and Finance will monitor the implementation and compliance of payments and authorizations to EU Regulations.
- (ix) Activities made by ITABANKS in compliance with these foregoing are considered legal and in compliance with in the spirit and the letter of the laws. The American Authorities recognize, sic stantibus rebus, that, these activities, do not constitute a breach or infringement or a “ trigger” in violation of ISA (IRAN SANCTION ACT), IFSR, CISADA and any other applicable regulation by the US Government and ITABANKS shall be considered compliant to US regulations.

Iranian banks : IRANBANKS NOT US/EU SDN)

EN Bank

No.24 Esfandiyar Blvd. Valiasr Ave.

Tehran, Iran

Tel: +98-21-8233 0000

Karafarin Bank

No 97, Nahid St. Vali-Asr Ave,

Tehran, Iran Tel: +98-21-26215000-5 and +98-21-26214996-98

Parsian Bank

No.4, Zarafshan St., Farahzadi Blvd, Shahrak Ghods.

Tehran, Iran

Tel: +98-21-88362600-24

Pasargad Bank

No.430, Mirdamad Blvd.,

Tehran, Iran

Tel: +98-21-82890

Saman Bank

No1543. Tarkesh Dooz Al- Parkway-Valiasr St

Tehran, Iran

Tel: +982126210926-31