

Request of clarification and written Opinion

Play by the rules initiative

Subject : Iran

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 European Union 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,

Each EU Member State adopts different foreign policy towards IRAN and these policies are changing depending on several factors. But for all EU Member States breaches of prohibitions from Council Regulation (EC) No 428/2009 of 5 May 2009 (Dual Use), Council Regulation (EU) No 961/2010 applicable till 23/3/2012 and latest Regulation No.267/2012 which revoke 961/2010 Regulation and is effective from 24/3/2012 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 again Iran set out in those Regulations.

The United States has imposed restrictions on activities with Iran under various legal authorities since 1979: the Iran Sanctions Act (ISA) in 1996, the IFSR, issued in August 2010 by the Treasury Department, the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (CISADA), the National Defense Authorization Act for Fiscal Year 2012 (sec. 1245 d). Several amendments and reissue of these key acts has been increasingly extending the coverage, purpose and application of restrictions.

However recent escalate in international political and financial conditions towards IRAN are affecting broader the business community beyond the limits of sanction and regulations.

Many instances has been raised recently and put to our attention and a need of clarification upon agreed procedure, practices and common understanding was needed in the spirit of full cooperation 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.

All parties desire that all the activities must be carried in full compliance with laws, regulations.

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.

Parties believe that whoever acts accordingly and in full compliance to rules, laws, legislations, regulations, authorizations, should be not discriminated or disadvantaged / disparage with others, to achieve their legal, compliant and legitimate pursue of business activity.

EU entities wish to maintain maximum legal and ethical certainty within the EU and USA concerning the application and implementation of Sanction on IRAN, thus promoting a full international compliance culture.

Parties believe that the guiding principles of a sound export compliance policy should be reaffirmed: Transparency, Compliance, Accountability, Consistency and effectiveness (EIFEC EC1001OPS Standards).

BACKGROUND

The Ministry of Foreign Affairs of Italy (hereinafter “MAE”) is the the competent authority designated by the Republic of Italy, as EU Member State, referred to several articles of EC 267 COUNCIL REGULATION (EU) No 267/2012 of 23 March 2012 (hereinafter “**EC267**”) on restrictive measures against Iran, identified and listed in Annex X therein. MAE has the responsibility to coordinate several italian authorities (as better described in attachment 1) to implement the EC267 Regulation:

Ministry of Economy and Finance (hereinafter “MEF”) responsible for implementation and administration of international financial sanctions in effect in the Republic of Italy
Comitato di Sicurezza Finanziaria (Financial Security Committee) (hereinafter “CSF”)



monitors and implements the sanctions system and has the power to inquire and assess all informations related

Ministry of Economic Development (hereinafter “**MSE**”)

Agenzia delle Dogane / Custom Agency (hereinafter “**ITCustom**”)

EIFEC is an european independent organization with the mission to foster international security through promoting the European Export Compliance Framework. The Framework included the European Charter for Export Compliance - EC-CEC that describes the guiding principles and practices to promote an European culture of compliance with the rules and laws (Compliance) within the financial, economic, industrial, associative system of private and public sectors.

EIFEC aims to contribute by all appropriate steps to disseminate among the Organizations behaviors of excellence through proper management, transparency and audit of the activities performed in the production and transfer of goods and services.

Having regard to the Treaty on the Functioning of the European Union, the EU Council Decision 2010/413/CFSP of 26 July 2010 and Decision 2012/35/CFSP concerning restrictive measures against Iran and repealing Common Position 2007/140/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) have been issued.

Those restrictive measures comprise, in particular, additional restrictions on trade in dual-use goods and technology, as well as equipment which might be used for internal repression, restrictions on trade in key equipment and technology for, and restrictions on investment in the Iranian oil and gas industry, restrictions on Iranian investment in the uranium mining and nuclear industry, restrictions on transfers of funds to and from Iran, restrictions concerning the Iranian banking sector, restrictions on Iran's access to the insurance and bonds markets of the Union and restrictions on providing certain services to Iranian ships and cargo aircraft.

Decisions 2010/413/CFSP and 2012/35/CFSP also provide for additional categories of persons to be made subject to the freezing of funds and economic resources and for certain other technical amendments to existing measures.



Effective restrictions on Iranian investment in the Union require that measures be taken to prohibit natural or legal persons, entities and bodies subject to the jurisdiction of the Member States from enabling or authorizing such investment.

For the implementation of EC961 and EC267 Regulations and to create maximum legal certainty within the Union, the names and other relevant data concerning natural and legal persons, entities and bodies whose funds and economic resources must be frozen in accordance with the Regulation, are made public.

On 26 October 2010 the Council of the European Union in order to ensure that the measures provided in Decision 2010/413/CFSP of 26 July 2010 are effective has adopted the EC961 Regulation which is binding in its entirety and directly applicable in all EU Member States.

On 23 January 2012, the Council approved Decision 2012/35/CFSP providing for additional restrictive measures against the Islamic Republic of Iran ('Iran') as requested by the European Council on 9 December 2011.

EC961 has been revoked by the new EC267 Regulation which provides restriction on transfer of funds and on financial services as per art. 30, and payments are processed as follows:

- transfers due on transactions regarding foodstuffs, healthcare, medical equipment, or for humanitarian purposes shall be carried out without any prior authorization. The transfer shall be notified in advance in writing to the competent authorities of the Member States, as identified on the websites listed in Annex X, if above EUR 10 000 or equivalents;
- any other transfer below EUR 40 000 shall be carried out without any prior authorization. The transfer shall be notified in advance in writing to the competent authorities of the Member States, as identified on the websites listed in Annex X, if above EUR 10 000 or equivalent;
- any other transfer of or above EUR 40 000 or equivalent shall require a prior authorization of the competent authorities of the Member States, as identified on the websites listed in Annex X.

An Authorization Process (hereinafter “MEF/A and/or “MEF/B”) is in place in Italy and managed by MEF under advise of the Financial Security Committee (CSF) in coordination with all relevant authorities in charge of security and accordingly to art 30.4 of EC267: “..the competent authorities shall grant, under such terms and conditions as they deem appropriate, an authorisation for a transfer of funds having a value of EUR40000 or more, unless they have



reasonable grounds to determine that the transfer of funds for which the authorisation is requested could be in breach of any of the prohibitions or obligations in this Regulation....”

AS CONSEQUENCE

1. All EU financial institutions are subject to Regulation 267/2012. Article 30 imposes express notification and authorization obligations on the Payment Service Providers of the payer and payee.
2. The economic pressure on Iran are multiplying. Iran is virtually cut off from the international banking system and is increasingly trading through barter arrangements rather than hard currency exchange.
3. 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.

CONSIDERING THAT

1. 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.
2. This request is to state a clear understanding to promote the full compliance to US and EU regulations for the activities with Iran and provide the method for further understanding whereas the spirit of Transparency, Compliance, Accountability, Consistency and Effectiveness should guide and strengthen the mutual collaborative relationship
3. Therefore in order to allow people and organizations that are in accordance and compliance to EU Regulations to transact in verifiably and orderly way with Italy the “play by the rules” initiative should be adopted and agreed:



PURPOSE

1. Main 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 clarification.

Therefore

In light of the above, we request the relevant Office of European Commission to express a clarification and opinion if the Activities made by Five (5) Italian banks (hereinafter “ITABANKS”) in accordance with the procedure described hereunder are considered in compliance, hence legitimate, with the EU Regulations and successive amendments concerning restrictive measures against Iran.

This request refers only to transaction that does not involve any US party or US supply but is limited to EU transactions.

Payment Service Providers / financial institutions in Italy

1. ITABANKS, will have the possibility to maintain/ re activate or open a corresponding bank account to a maximum number of 5 NON EU LISTED/NON US SDN private reputable iranian banks (hereinafter “IRANBANKS”) (attachment n.2). The accounts will be at their head office in Italy.
2. ITABANKS may receive on these accounts funds and any other permitted financial instrument to be **used only for the payment** of:
 - I. Foodstuff (NON US) (art. 30a EC 267/2012)
 - II. healthcare, (NON US) (art. 30a EC 267/2012)
 - III. medical equipment (NON US) (art. 30a EC 267/2012)
 - IV. humanitarian purposes (art. 30a EC 267/2012)
 - V. European Origin Goods and services being authorized by the **Italian Ministry of Economy and Finance as regulated by** under EC267/2012 (The EU Council Regulation concerning restrictive measures against Iran).
 - VI. Payments which are allowed under EC267/2012 (The EU Council Regulation concerning restrictive measures against Iran) for of non US goods and services.



3. Payment may be made only to EU entities or any non US entities that have received the **Italian Ministry of Economy and Finance** authorization. No payments will be made to or from any denied/enlisted US SDN/EU party.
4. ITABANKS, complimentary, to enhance vigilance deriving from Regulation (EC) 1781/2006 of the European Parliament and of the Council of 15 November 2006 on information on the payer accompanying transfers of funds and from the implementation of Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing will accept to transact payments only for iranian payers/buyers 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 (which includes sanctions and money laundering enhanced checks) or any modification thereafter. IRABANKS will require that all iranian parties have subscribed the EU Transparency Code of Conduct and the EU Export Compliance Commitment. Transparency Code of Conduct and the EU Export Compliance Commitment.
5. Iranian parties will provide their ERN ID Number to ITABANKS to allow verification of validity and expiry date of their Registration/verification for any payment to be done.
6. 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 46 has been designated by the Sanctions Committee, the Security Council or by the EU Council, ITABANKS may pay, transfer, assign, service what is due.
7. 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 as per art. 2. herein. 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.



8. **The Italian Ministry of Economy and Finance will monitor the implementation and compliance of payments and authorizations to EU Regulations managed with these accounts .**



Brussels, 15 may 2012

Attachement 1

Administration responsible for coordinating the implementation of EC961 and EC267/2012 Regulation:

Ministry of Foreign Affairs (MAE)

Direzione Generale per la mondializzazione e le questioni globali – Ufficio II

Dgmo2@esteri.it

Competent authority as set forth in various Sections of Regulation EC267:

Ministero dello Sviluppo Economico /Ministry of Economic Development (MSE)

pietromaria.paolucci@sviluppoeconomico.gov.it; polcom4@sviluppoeconomico.gov.it

Competent authority as set forth in various Sections of Regulation EC267:

Ministero dell'Economia e delle Finanze / Ministry of Economy and Finance (MEF)

Comitato di sicurezza finanziaria (Financial Security Committee) (CSF)

csf@tesoro.it

[Indicazioni sul regime di autorizzazione e notifica disciplinato dall'art. 30](#)

[Allegato 1 Mod. A](#)

[Allegato 2 Mod. B](#)

[Appendice](#)

Competent authority as set forth in various Sections of Regulation EC267:

Unità di informazione Finanziaria (UIF)

Competent authority as set forth in various Sections of Regulation EC267 :

Agenzia delle Dogane

Direzione Centrale Accertamenti e Controlli

Dogane.accertamenti@agenziadogane.it

Competent authority as set forth in various Sections of Regulation EC267:

Ministero dell'Economia e delle Finanze – Comitato di sicurezza finanziaria (same email address as above)

Unità di informazione Finanziaria – Banca d'Italia

Largo Bastia, 35

00181- ROMA

source:

http://www.esteri.it/MAE/EN/Politica_Europea/Deroghe.htm

Attachement 2

Iranian banks : IRANBANKS

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