

CIRCULAR REF: 2014/023

**CIRCULATED TO ALL MEMBERS, BROKERS AND DIRECTORS
ATTENTION INSURANCE DEPT**

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MJS/PO**

IRAN SANCTIONS CIRCULAR ON THE EXTENSION OF SANCTIONS RELIEF UNDER THE JOINT PLAN OF ACTION

This Circular should be read in conjunction with [Circular 2014/008](#) published on 28 January 2014 regarding the temporary relief of EU and US sanctions measures relating principally to transportation and insurance of petrochemical cargoes from Iran and Iranian crude to NDAA¹ waiver countries.

By way of background, on 24 November 2013, China, France, Germany, the Russian Federation, the United Kingdom and the United States (the P5+1) reached an agreement with Iran on its nuclear programme and jointly published a Joint Plan of Action (JPOA) which included the implementation of a temporary suspension of certain transportation and insurance prohibitions measures for a period of six months with effect from 20 January 2014.

Timing

The six month temporary suspension period expired on 20 July 2014. Subject to the parties to the JPOA meeting certain conditions, it has been agreed that a further period of temporary suspension of prohibition measures will apply until 24 November 2014. The United States has issued FAQs and Guidance through the Office of Foreign Assets Control and Department for State. The European Union has issued Council Decision 2014/480/CFSP of 21 July 2014, but it has not amended implementing Regulation 2014/42/EU so this Regulation remains in force in its original form extended beyond 20 July 2014 to 24 November 2014. It should also be noted that the temporary suspension of prohibitions may be withdrawn and the prohibitions reinstated with immediate effect if the commitments and undertakings on the part of Iran in the JPOA are not fulfilled.

General issues to note

In reviewing the extension of the sanctions suspension measures discussed briefly below, two important points in relation to these measures should be borne in mind by shipowners and Clubs;

¹ US National Defence and Authorisation Act waivers are granted by the US Administration to countries who have demonstrated a significant reduction in imports of Iranian oil. The most recent list of waiver countries is limited to India, China, Japan, South Korea, Taiwan and Turkey

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(i) Period of Suspension of Current Measures

It is important to note that the extension of the suspension of sanctions measures is for a defined period until 24 November 2014. To the extent that shipowners wish to take advantage of the extension period and enter into transportation contracts, they are advised to ensure that all transactions under any contract/s will be fully executed by 24 November 2014 at the very latest.

(ii) Transactions with Designated Entities

The extension of the suspension of sanctions will not provide relief from the current prohibitions concerning transactions with US and/or EU designated persons or entities (identified on lists published by OFAC, the EU and HMT in the UK²)

What is the practical effect of the extension of the Joint Plan of Action on Insurance for Owners and Clubs?

The wider position as regards insurance cover during the period up to 24 November 2014 is different in the US and EU.

US

Following earlier engagement with the Group, the US Department for State has now confirmed that "Insurance payments for claims arising from incidents that occur during the JPoA period and/or the extended JPoA period may be paid after 24 November 2014, so long as the underlying transactions and activities conform to all other aspects of the sanctions remaining in place and the terms of the sanctions relief provided by the JPoA. Insurance and reinsurance companies should contact the USG directly with any enquiries. US persons and US-owned or -controlled foreign entities remain prohibited from participating in the provision of insurance or reinsurance services to or for the benefit of Iran or sanctioned entities, including with respect to all elements of the sanctions relief provided pursuant to the JPoA, unless specifically authorized by OFAC".

US participants on the Group's reinsurance contract may therefore continue to be prohibited from participation in the event of a claim or claims triggering their involvement.

Members should be aware that the Club's cover excludes liabilities and losses to the extent that such liabilities and losses are not recoverable from reinsurers by reason of sanctions, and that a possible shortfall of this kind is therefore a risk for the Member's own account.

EU

At the time of writing, the European Union has not made the same or a similar concession to that of the US, and it may be prohibited for EU regulated, incorporated or domiciled insurers to pay claims after 24 November 2014.

The International Group has voiced concerns with the European Commission regarding the lack of provision permitting insurers to respond to liabilities incurred during the suspension period but which were not pursued or paid until after the suspension period. The IG will continue efforts to engage the European Commission with a view to aligning European Union policy with the US and further updates will be provided if the situation changes.

However, in the absence of satisfactory clarification by EU member states on this fundamental issue, Clubs are in no better position than they were prior to the US clarification.

² EU: http://eeas.europa.eu/cfsp/sanctions/consol-list/index_en.htm

UK: <https://www.gov.uk/government/publications/financial-sanctions-consolidated-list-of-targets>

US: <http://sdnsearch.ofac.treas.gov/>

At this point, all Clubs in the International Group will therefore continue to warn their Members that cover for claims arising during the extended JPoA period could be adversely affected by reinsurance shortfalls or by inability to make payments after 24 November.

Members should also be mindful that, notwithstanding the JPoA period, the ability of Clubs to respond to any incident arising from trading to Iran, including the provision of security, remains limited, not least by the reluctance of banks and other service providers to be involved in business related to Iran.

All Clubs in the International Group of P&I Clubs have issued similar circulars.

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