

US Persons in Iran: Between Reality and the Sanctions

DC Chapter of the
Iranian American Bar
Association

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Doing Business In Iran: ITR-Driven Considerations

- Who is a US Person?
- What do rules allow US Persons to do in Iran?
- What is reality?
- Is there a solution?

US Persons Defined

Person subject to the jurisdiction of the United States:

“Any person wheresoever located who is a citizen or resident of the United States.”

Sec. 535.329

US Persons in Iran: Governing Principle

- OFAC Regulations are consistent across all programs:
- That which is not specifically allowed is prohibited.
- Inquiry is, what is allowed?

Allowable Activities: US Persons in Iran

- US persons may not deal in goods or services of Iranian origin or owned or controlled by the GOI, except:
 - (1) Storage/maintenance in third countries
 - (2) Exportation of Iranian-origin household/personal effects from the US incident to the relocation of US persons outside US; and
 - (3) Purchase for personal use/consumption in Iran of Iranian-origin goods or services.

Sec. 560.206

Allowable Activities: US Persons in Iran - Traveler

- All transactions ordinarily incident to travel to or from Iran:
 - Import of accompanied baggage for personal use,
 - Payment of maintenance and living expenses,
 - Acquisition of goods or services for personal use.

560.210(d)

Authorized Travel

“US/IO Traveler”

- U.S. employees/contractors for one of 6 International Organizations may engage in transactions for official business in or involving Iran:
 - leasing office space.
 - purchasing Iranian-origin goods necessary to carry out official business (funds transfers to and from Iran may not involve debits or credits on books of a US FI.)
 - No exception for exportation of goods/technology listed on the CCL

Sec. 560.539

Permissible Payments

US FIs may handle funds transfers through intermediary third-country banks to or from Iran or for the direct or indirect benefit of the GOI or a person in Iran for

- Noncommercial family remittance;
- Exportation to Iran or importation from Iran of information and informational materials;
- Travel-related remittance;
- Payment for the shipment of a donation of articles to relieve human suffering; or
- Transaction authorized by OFAC through a specific or general license

Prohibition on Investing

- Investing
 - US persons prohibited from making any new investments in Iran or in property (including entities) owned or controlled by the GOI, including commitments of funds or other assets or loans or any other extensions of credit.
 - US persons may continue to charge fees and accrue interest on existing Iranian loans, but must obtain a specific license to reschedule or otherwise extend the maturities of existing loans.

US Persons in Iran: Impact of Sanctions

- May live and spend money to live in Iran.
- Travel exception not intended to allow lease or mortgage payments (contrast with IO employee license).
- Impact on US bank account.
- May not perform services in Iran.
- May not export or import anything (because providing service in Iran), except family remittances.

US Persons in Iran: Reality

- US/EU Citizens and Permanent Residents are living and working in Iran.
- Violating sanctions by
 - Performing services.
 - Exporting and dealing in Iranian goods.
 - Holding Iranian bank accounts in sanctioned banks.
 - Commercial remittances.

US Persons in/out Iran: Remittances

- Problem reflects vibrancy of Iranian Diaspora.
- Large demand for funds transfers to and from Iran among family members.
- Noncommercial remittances allowed, but required intermediary banks in EU, elsewhere, reluctant to perform role, holding funds, very high fees, etc.
- OFAC should address these issues.

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