

EU proposes amendments to Blocking Regulation in response to US withdrawal from JCPOA

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In response to the US withdrawal from the Joint Comprehensive Plan of Action (JCPOA), commonly known as the Iran Nuclear Deal, the European Commission published [proposed amendments](#) to the 1996 EU [Blocking Regulation](#) on 6 June 2018. The Commission has thus initiated the procedure of re-activating the Blocking Regulation to counteract the extraterritorial effect of the US sanctions that will be re-imposed after the lapse of the wind-down periods, as of 7 August 2018 and 5 November 2018, respectively. For more information regarding the background and consequences of the US withdrawal from the JCPOA for EU companies, and the EU's response, including the background of the EU Blocking Regulation, see our [Client Alert](#) of May 2018.

The amendments proposed by the Commission only affect the Annex to the 1996 Blocking Regulation that outlines the restrictive measures with extra-territorial effect targeted by the Regulation. The body of the Regulation so far remains intact.

The [proposed Annex](#) contains the following US laws, regulations and other legislative instruments imposing Iran-related sanctions:

- Iran Sanctions Act of 1996
- Iran Freedom and Counter-Proliferation Act of 2012
- National Defense Authorization Act for Fiscal Year 2012
- Iran Threat Reduction and Syria Human Rights Act of 2012
- Iranian Transactions and Sanctions Regulations

If neither the European Parliament nor the Council object to the proposed amendments, they will be adopted on 6 August 2018 and take effect on the day of their official publication. The amendments can also be adopted earlier if both institutions indicate their non-objection before 6 August 2018.

As we mentioned in our [Client Alert](#) of May 2018, the EU Blocking Regulation, once amended, will not effectively block the extraterritorial application of US sanctions. Instead, it will create a difficult compliance dilemma for European companies that will be caught between the prohibition on complying with US sanctions on the EU side, and the threat of US sanctions themselves on the US side. All practical considerations in connection with the US withdrawal from the JCPOA and re-activation of the Blocking Regulation explained in our [Client Alert](#) of May 2018 remain applicable in light of the proposed amendments.

As we also noted in our [Client Alert](#) of May 2018, the re-activation of the Blocking Regulation could be used by the EU as a

geopolitical instrument to negotiate with the US measures to mitigate EU companies' exposure to any re-imposed US secondary sanctions. As a possible step towards such negotiations, two days before the Commission published proposed amendments to the Blocking Regulation, the E3 Ministers (France, Germany and UK) and the EU High Representative signed a [joint letter](#) to the US Secretary of the Treasury and the US Secretary of State. In this letter, the Ministers request a number of exemptions from US Iran-related sanctions for EU companies, including foreign subsidiaries of US companies, and an extension and adaptation of the wind-down periods. It remains to be seen whether this attempt will yield fruitful results.

In the meantime, companies are advised to closely monitor developments, review current Iran-related transactions for potential exposure to US secondary sanctions, and tread carefully when considering any new Iran-related transactions.