

传阅通告

26 November 2018
西元2018年11月26日

Iranian trade after 4 November 2018

西元2018年11月4日後的涉及伊朗贸易

Our [29 May 2018](#) Circular 'US sanctions against Iran' outlined the potential repercussions for shipowners and insurers arising from the US Administration's decision to withdraw from the Joint Comprehensive Plan of Action (JCPOA) Agreement signed by China, France, Germany, Russia, the United Kingdom, the United States, the European Union (EU) and Iran.

本协会在[西元2018年5月29日](#)的通告“美国对伊朗的制裁”中概述了美国政府决定退出由中华人民共和国，法国，德国，俄罗斯，英国，美国，欧盟(EU)和伊朗所签署的联合全面行动计划(JCPOA)协议後会对船东和保险公司可能造成的影响。

The US has now re-imposed sanctions on Iran that had been lifted or waived under the JCPOA, with the second and final wind down period coming to an end on 4 November 2018. The US has made it clear that it expects all non-US persons to comply with the secondary sanctions that it has re-imposed. The US and the EU now take divergent approaches, with the EU seeking to maintain the sanctions relief provided for by the JCPOA by, amongst other things, amending the annex to Council Regulation (EC) No 2271/96, otherwise known as the Blocking Regulation (see further Circular issued [8 August 2018](#)).

在第二次也是最後一次过渡期於西元2018年11月4日结束後，美国现在对於在JCPOA下曾被解除或放弃的对伊朗制裁措施，重新启动制裁。美国已经明确表示希望所有非美国人遵守其重启实施的二级制裁。美国和欧盟现在采取不同的做法，欧盟寻求的是维持JCPOA所规定的制裁，其中包括修改欧盟规则(EC)第2271/96号的附件，又称为阻隔法规（详情请见[西元2018年8月8日](#)发出的通告）。

There are reports that eight countries - China, India, Italy, Greece, Japan, South Korea, Taiwan, and Turkey - have or will be granted waivers from the US so that they may continue to be permitted to import limited amounts of Iranian crude oil. The waivers do not extend to any other commodities. Limited guidance in relation to these waivers, or Significant Reduction Exemptions ("SREs"), is provided by OFAC FAQ 642. It is further understood that countries holding SREs are being advised by the US Administration to import Iranian crude only on NITC or IRISL vessels, or on vessels registered in the country holding the SRE and only where those vessels are insured under a sovereign guarantee issued by the Government holding the SRE.

根据报导共有中国，印度，意大利，希腊，日本，韩国，台湾和土耳其等八个国家已经或将要获得美国的豁免而被允许继续进口伊朗原油但货载量有设限。该豁免不适用于任何其他商品。美国海外资产控制办公室(OFAC)所公布的“常见问题解答”中第642条提供了有关这些豁免或重大减少豁免("SREs")的有限度指导。另据了解，美国政府建议持有SREs的国家在进口伊朗原油时仅得以伊朗国家油轮公司(NITC)或伊朗国家航运公司(IRISL)的船舶或是船籍国为持有SRE之国家的船舶做为运油船，而且这些船舶必须是由持有SRE的国家政府签发的主权担保予以承保的船舶。

Following the end of the wind down period there may still be some limited trade with Iran that is possible for non- US persons to undertake without a significant risk of violating US secondary sanctions (for example, the carriage of certain agricultural commodities, consumer goods and foodstuffs, see OFAC FAQ 637). Members should be aware, however, that even if the trade does not appear to violate US sanctions, practical difficulties mean that, in non-sovereign guarantee cases, it is extremely unlikely that International Group Clubs will be in a position to make or receive payments, provide security or respond to any claims in the usual manner.

在过渡期结束后，非美国人仍可能与伊朗进行有限度的贸易而不至于面临到违反美国二级制裁规定的重大风险（这些有限度的贸易例如运送若干农产品、消费品和食品，请见OFAC常见问题解答第637条）。但是，请各位会员注意，纵使这些贸易行为看似未违反美国的制裁规定，实务运用上的困难在于，若是非主权担保的情况，国际保赔协会集团很可能无法支付或接受付款，或以通常的方式提供担保或回应任何索赔。

In circumstances where a Club does cover a claim with an Iranian nexus, there is also the potential for there to be significant reinsurance shortfalls. For the 2018/19 policy year, individual International Group (IG) Clubs retain the first USD10 million of liabilities arising from an incident. Between USD10 million and USD100 million, liabilities are shared between all 13 International Group Clubs (the Pool). If any of the 13 International Group Clubs is prohibited (by sanctions applicable to that Club) from contributing their share of any Pool claim, the individual Member will bear that shortfall in accordance with the applicable Club's rules.

纵使协会承保与伊朗有关之索赔，在这种情况下还是有可能存在重大的再保险短缺。对于西元2018/19保单年度而言，国际保赔协会集团(IG)中的各个协会对于每一事故所产生的责任必须自行承担第一层1000万美元以内的责任。而在1000万美元以上至1亿美元以内的责任，则由国际保赔协会集团的13个协会相互分摊(the Pool)。惟若国际保赔协会集团的13个协会中的任何一个协会被禁止(因为该协会受制裁规定之拘束)分摊任何摊配索赔，则该各别会员将根据应予适用的协会承保规则来自行承担保险短缺。

Liabilities above USD100 million fall within the International Group Excess Loss Reinsurance (GXL) programme. In respect of a claim which engages the GXL programme, any sanctions related shortfall which arises in relation to a liability for which the Club is not directly liable under an approved certificate or guarantee (so-called non- certificated liabilities), is not automatically re-pooled by the International Group Clubs and will be borne by the Member under the applicable Club's rules. It is material in this regard to note that as a consequence of the withdrawal of General Licence H (which applied to non-US domiciled affiliates and subsidiaries of US domiciled insurers and reinsurers), a significant minority of reinsurers will no longer be able to rely on License H to contribute to claims with an Iranian nexus.

超过1亿美元的责任即属国际集团超额损失再保险(GXL)计划涵盖的标的。若该索赔适用于GXL计划，则在经许可之证书或担保之下协会无须直接负责之责任(所谓的非证书责任)所致与制裁有关之保险短缺，并不会由国际保赔协会集团自动重新摊配并须由该各别会员自行承担。需要注意的是，因为撤销了通用许可H(该许可适用于美国境内保险人及再保险人之非美国境内附属公司及子公司)，所以有显著少数的再保险人将无法再仰赖许可证H对于与伊朗相关的索赔予以摊付。

Members are also reminded that most International Group Clubs have provisions in their rules excluding from cover any claims that arise from unlawful, improper or imprudent trading. In light of all the factors set out above, there may be circumstances where the relevant Club considers a particular trade to be imprudent or improper even if it does not risk the imposition of sanctions.

在此也提醒各位会员，国际保赔协会集团中大多数的协会在其承保规则中都有规定因非法，不正当或不谨慎的交易行为所生之任何索赔，为除外不保事项。鉴于上述所有因素，即使特定的交易行为没有违反制裁的风险，在某些情况下相关协会仍会认为特定交易属于不谨慎或不当交易行为。

If a Member does conduct Iranian trade, they are consequently advised to do so with great caution, carry out appropriate due diligence before entering into contracts and be aware of the challenges faced by insurers in providing cover and supporting their Members in these trades. The practical difficulties encountered by insurers are also likely to be faced by Members when it comes to, for example, making or receiving payments in relation to Iranian trade in view of the inability or unwillingness of banks to handle monetary transactions with even a remote nexus with Iran.

若会员从事涉及伊朗的贸易行为，则建议应谨慎行事，在签订契约前善尽适当的注意义务，并且必须明了保险人在这些贸易行为的情况下想要提供承保以及协助其会员时可能会面临困难挑战。保险人在实务上可能会遇到的困难情况，也可能发生在会员身上，举例来说，在涉及伊朗贸易的场合如果需要付款或接受付款时，可能会因为银行无法或不愿意处理该金钱交易而产生困难，即使非直接的涉及伊朗贸易也是如此。

All clubs in the International Group have issued a similarly worded circular.

国际保赔协会集团中的协会皆有发布类似的公告

(译注：英文原文若与中文翻译有出入，或用语未正确翻译或有疏忽漏译，皆以英文原文为准。)