

President Trump's Iran-Related Memo and Key Takeaways

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On February 4, 2025, President Donald Trump issued his second National Security Presidential Memorandum (NSM-2)^[1] ^[2], enacting “maximum pressure on the Iranian regime.” While Iran is already subject to robust and comprehensive U.S. economic sanctions and embargos, NSM-2 focuses on denying Iran nuclear weapons and intercontinental ballistic missiles, countering Iran’s development of weapons, and disrupting those who act on behalf of Iran (including Iran’s “surrogates” and “terror proxy groups”).

Given Iran is already subject to robust U.S. economic sanctions and export control restrictions such that even *non-U.S. persons* doing business with Iran may be subject to harsh penalties, NSM-2 appears to be more of a policy stance at first blush rather than a significantly impactful order for those already subject to U.S. economic sanctions jurisdiction. That said, NSM-2 requires additional actions from Treasury, State, and the Attorney General that will likely increase enforcement of Iran-related sanctions, could negatively affect humanitarian aid to the country, and potentially require heightened security from banks already enforcing Iran-related security measures. Already, since NSM-2 was issued, the U.S. Office of Foreign Assets Control (“OFAC”) and the U.S. State Department have imposed sanctions on more than 30, largely non-US, persons and vessels for their role in selling and transporting Iranian petroleum-related products. Additionally, OFAC issued sanctions on entities located in Hong Kong and China for their role in bolstering the Iranian unmanned aerial vehicle (“UAV”) and missile programs.

This alert delves into the main priorities and mandates under NSM-2, and provides key takeaways from legal, regulatory compliance, and practical perspectives.

A GLOBAL ISOLATION CAMPAIGN CALLING FOR INTERNATIONAL PRESSURE ON IRAN

NSM-2 establishes a general policy focused on the global isolation of Iran through international pressure. More specifically, NSM-2 mandates that the Secretary of State “lead a diplomatic campaign to isolate Iran throughout the world, including within international organizations, including the denial of freedom of movement or safe haven to the IRGC or any terror proxy of Iran wherever such may operate outside Iran’s borders.” NSM-2 also directs that the United States permanent representative to the United Nations (the “UN Representative”) work with allies to “complete the snapback” of international sanctions and restrictions on Iran, hold Iran accountable for its breach of the Nuclear Non-Proliferation Treaty, and regularly convene the United Nations Security Council to highlight the myriad threats posed by Iran to international peace and security. NSM-2 also requires Treasury maintain

countermeasures against Iran at the Financial Action Task Force (FATF), and that Treasury evaluate beneficial ownership thresholds to ensure sanctions deny Iran all possible illicit revenue, including determining whether financial institutions should adopt a KYC standard for Iran-related transactions to further prevent sanctions evasion.

Implications and Key Takeaways

The U.S. will likely be successful in getting some of its international allies and working groups to increase pressure on Iran, but not if the U.S. itself continues down a path of global isolation. With respect to international matters, since NSM-2, FATF has indeed reaffirmed its commitment to countermeasures against Iran, and announced changes to the FATF Standards to adopt a “risk-based approach” aimed at counteracting Iranian terrorist financing.^[3] Namely, FATF has called on countries on its “black list,” which is comprised of jurisdictions it believes to be high-risk, to apply enhanced due diligence and counter-intelligence measures to their international financing systems.^[4] But the U.S. could lose leverage with foreign allies if it continues to strain its relations.

On the home front, addressing KYC for Iran-related transactions signals there may be a disconnect or misunderstanding surrounding current practices, given many banks do not conduct transactions with Iran based on their risk appetites and the severe penalties and strict liability regime of OFAC. At the same time, President Trump’s Administration has expressed concern with de-banking or de-risking of customers, and it is unclear how these two priorities would square with each other (*i.e.*, having a potential heightened diligence standard to even better detect Iranian ownership, paired with a simultaneous notion/expectation that banks have to bank more and exit less on the basis of identified risk). Regardless, if a new threshold was established such that banks were required to re-review all customer beneficial owner information they had already obtained, it would require a significant amount of time, money, and human resources. Thus, financial institutions should be on the lookout for updates surrounding this topic.

REVIEWING OFAC LICENSES, AUTHORIZATION, AND WAIVERS PROVIDING RELIEF TO IRAN FOR POTENTIAL MODIFICATION AND/OR RECISSION

Despite Iran being subject to robust, comprehensive sanctions which prohibit virtually all activity involving Iran absent license or exception, NSM-2 calls for an even stricter regime by mandating Treasury review general licenses, frequently asked questions, and other guidance that provides “Iran or any of its terror proxies any degree of economic or financial relief.” It likewise mandates State to modify and rescind sanctions waivers providing economic relief.

Implications and Key Takeaways

Notably, the authority granted to the president under the International Emergency Economic Powers Act (IEEPA) **does not** include the authority to regulate or prohibit, directly or indirectly—donations by U.S. Persons of articles such as food, clothing, and medicine, intended to be used to relieve human suffering, unless an exception applies, such as where the President determines that such donations “would seriously impair his ability to deal with any national emergency declared...” That said, President Trump did make such a claim recently, specifically in his executive order imposing sanctions against the International Criminal Court Chief Prosecutor.^[5] It is possible the same could be attempted here, though we expect that a rescission of the general licenses and authorizations governing humanitarian aid would be met with legal challenges and pushback from the international community.

AN AGGRESSIVE ENFORCEMENT POSTURE RE IRAN SANCTIONS AND EXPORT CONTROL VIOLATIONS, FOCUSED ON IRANIAN-ORIGIN OIL AND SANCTIONS EVASION

NSM-2 mandates that Treasury and Commerce conduct robust and continuous sanctions enforcement campaigns and export control enforcement campaigns with respect to Iran. The sanctions enforcement-related mandates appear to be focused on Iranian-origin oil and the use of financial institutions both in detecting Iranian ownership and facilitating Iran sanctions evasion. More specifically, NSM-2 requires the Secretary of State to “drive Iran’s export of oil to zero, including to the People’s Republic of China” and take immediate steps to ensure the Gulf countries are not used as sanctions evasion transshipment points. As a part of this aggressive campaign, Treasury is required to issue updated guidance to all relevant business sectors, including shipping, insurance, and port operators, about the risks to any person that knowingly violates United States sanctions with respect to Iran. Likewise, the Attorney

General (“AG”) is required to pursue all available legal steps to impound illicit Iranian oil cargoes. Finally, State is mandated to ensure the Iraqi financial system is not utilized by Iran for sanctions evasion or circumvention.

Implications and Key Takeaways

U.S. Persons are already broadly prohibited under U.S. economic sanctions from engaging in virtually any activity involving Iranian-origin oil absent a license or exception. Even prior to NSM-2, Treasury had issued several guidance documents/notices relating to Iranian-origin oil prohibitions including for the shipping industry that contained red flags for sanctions evasion. Likewise, prior to NSM-2, DOJ had begun using its civil seizure authorities in cases involving Iranian-origin oil. That said, we expect enforcement in these areas to increase, as we expect them to increase in the export controls space. Given sanctions violations are strict liability offenses, extra precaution related to risk exposure would be prudent.

We also expect to see an increase in sanctions designations for foreign persons that are doing business with Iran, particularly in the oil and maritime space, those engaged in sanctions evasion, and those involved in Iran’s defense/missile programs. In fact, since issuing NSM-2, Treasury and State have already issued dozens of sanctions designations relating to (1) Iranian oil exports via the Iranian Oil Terminals Company and other persons, including Iran’s Minister of Petroleum, Mohsen Paknejad, related to the National Iranian Oil Company (NIOC); (2) oil brokers outside of Iran, mostly purchasing from NIOC or its related entities; (3) non-U.S. flagged tankers involved in ship-to-ship transfers of Iranian origin oil; (4) vessels and non-Iranian entities considered to be a forbidden network of shipping facilitators covertly transporting Iranian oil; and (5) Iran’s UAV procurement network.^[6]

AN AGGRESSIVE PROSECUTION POSTURE RE IRAN AND ITS PROXIES

NSM-2 requires the Attorney General to pursue all available legal steps to prosecute Iran and its proxies’ “financial and logistical networks, operatives, or front groups inside the United States” and prosecute, indict, and extradite to the U.S. their leaders that have harmed, killed, or captured Americans. It also requires the Attorney General to investigate and prosecute efforts by the Iranian government to, e.g., obtain sensitive information, compromise the United States’ security or critical infrastructure, obtain material support to terrorism, and threaten harm and infringe upon First Amendment-protected speech, including efforts designed to sow anti-Semitism. When it comes to Iran’s “terror proxy” groups, President Trump specifically mentions Iran’s aiding of “Hezbollah, Hamas, the Houthis, the Taliban, al-Qa’ida, and other terrorist networks.” He further states that “Iran bears responsibility for the horrific Hamas massacres committed on October 7, 2023, and bears responsibility for continued Houthi attacks against the United States Navy, allied navies, and international commercial shipping in the Red Sea.”

Implications and Key Takeaways

The likely outcome of this provision will be the increase in DOJ criminal and civil cases against Iran and its proxies (including Hamas, Hezbollah, and the Houthis), and their networks, operatives, and front groups *inside the United States*. The current legal landscape surrounding the provision of criminal “material support” to terrorism is quite barren as the cases are few and far between, but the language is broad. Given the President’s denouncement of college campus protests this past Spring, and his reference to protesting college students as allied with Hamas in his January 29 Executive Order on Additional Measures to Combat Anti-Semitism,^[7] we expect the legal landscape surrounding criminal material support – in particular where it involves First Amendment-protected speech – to significantly develop in the years to come.

Law Clerk Jasmine Bovia also contributed to this blog post.

[1] Along with Executive Orders, presidents may also issue Executive Memoranda. Both are directives produced by the President and are very similar, but Memoranda are not required to be printed in the *Federal Register*, nor are they required to cite legal authority. See Library of Congress, *Executive Order, Proclamation, or Executive Memorandum?*, guides.loc.gov., <https://guides.loc.gov/executive-orders/order-proclamation-memorandum>

[2] The first of President Trump’s National Security Memoranda, on Organization of the National Security Council and Subcommittees, can be found [here](#).

[3] See Financial Action Task Force, *Outcomes FATF Plenary, 19-21 February 2025*, fatf-gafi.org, <https://www.fatf-gafi.org/en/publications/Fatfgeneral/outcomes-fatf-plenary-february-2025.html>

[4] See Financial Action Task Force, *High-Risk Jurisdictions subject to a Call for Action - 21 February 2025*, fatf-gafi.org, <https://www.fatf-gafi.org/en/publications/High-risk-and-other-monitored-jurisdictions/Call-for-action-february-2025.html>

[5] See Exec. Order No. 14203 (2025).

[6] Press Release, U.S. Department of Treasury, Treasury Imposes Additional Sanctions on Iran’s Shadow Fleet as Part of Maximum Pressure Campaign (February 24, 2025), <https://home.treasury.gov/news/press-releases/sb0026> ; Press Release, U.S. Department of Treasury, Treasury Sanctions Iranian Oil Minister, Shadow Fleet Operators (March 13, 2025), <https://home.treasury.gov/news/press-releases/sb0049>

[7] See Exec. Order No. 14188 (2025).

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