

Iran Banking Roundtable – London 12 May

Summary

The Foreign Secretary and Secretary Kerry hosted a roundtable on Thursday 12 May in London with CEOs of major UK and EU banks. John Smith Acting Director OFAC, Business Secretary Sajid Javid and Lord Lamont the PM's Trade Envoy to Iran also attended. This was followed by a further session where banks compliance experts were able to question OFAC in more detail. Discussions were candid and the banks clearly set out what they needed from the US. Although OFAC set out their response to these concerns banks remained largely unconvinced. [Redacted]. An official level visit to Washington next week [Redacted].

Detail

1. [Redacted] US sanctions – these shouldn't be a barrier for UK business - and wanted to use this session to correct misconceptions that exist. [Redacted].
2. [Redacted] the regulatory environment had changed since 2012 and the large fines received by banks that State regulators had pursued were down to specific cases of fraud. They would not go after banks for making honest mistakes. [Redacted].
3. The key issues raised by banks and the US' response during both sessions included:
 - a) **Harmonisation of approach between Federal and State Regulators.** State regulators are outside the remit of the US federal government which creates an uncertainty of what approach State regulators will adopt. [Redacted] highlighted that no matter what messages were coming from OFAC the States themselves were not aligned with this messaging. New York was a particular problem. [Redacted] it would be rare for a State to take action on an international bank, in any case it would have to go through the federal system. [Redacted] stressed that States only took action previously on specific cases of fraud where banks deliberately hid information on Iran transactions that went through the US system. Compliance standards had moved on and it was unlikely to see that happen again.
 - b) **Extending protections offered to US persons under General License H to non-US companies** in order to allow banks to take decisions to insulate US persons from Iran related business. [Redacted] any person can be ring-fenced – even the CEO. The banks responded that because of new statutory requirements ring-fencing senior managers from strategic and operational decisions was not possible.
 - c) **Clarity on how to deal with entities that may be controlled by a listed entity.** How much due diligence is required to ensure entities like the IRGC do not own or control an entity in the transaction chain? [Redacted] (backed by others) noted how difficult a jurisdiction Iran was. There was no clarity on ownership or control. If banks and government could share information on entities of concern (as happens in the US system under the Patriot Act) then this would make identifying entities of concern easier. The Foreign Secretary asked whether a positive list would be appropriate. [Redacted].
 - d) **Enhanced OFAC guidance on correspondent banking expectations.** If a US bank threatens to cut off correspondent banking facilities to a UK bank who deals with Iran then that bank will need to consider whether it will receive greater benefit from maintaining its US correspondent account or continuing with the Iranian business. [Redacted] this shouldn't be a problem, US banks were not prohibited from having these relationships. [Redacted] highlighted that their US correspondent bank told them that

they would lose their relationship [Redacted] the best thing they can do is be open with the US bank detailing the transaction, due diligence and most importantly how the US bank will be protected.

- e) **Clarity on how the US will investigate disclosures made under SEC 219 reporting.** The Securities Exchange Act requires banks to publicly disclose any business activities relating to Iran. Currently each disclosure is subject to investigation and a report is filed with the President. This increases the reputational risk of banks. [Redacted] this was an issue for the banks and had ramifications. They were engaged with the SEC about it but there were limitations on what they could do given this is primary legislation.
 - f) **Providing a general licence to enable non-US entities to utilise US software,** i.e. cloud or outsourced computing services based in the US, that is used by banks in support of business operations which may involve Iran. OFAC said this was something they were aware of but before they could act they needed more granular detail of what systems banks used. He suggested [Redacted] draft a non-paper on this issue for OFAC to consider.
 - g) **The creation of a US general licence enabling U turn payments** i.e. transactions involving the transfer of funds from a non-US bank would be permitted to pass through a US financial institution before being transferred out to a second non-US bank. This point was also stressed by Lord Lamont as a key issue that would increase confidence. [Redacted].
 - h) **Deferred Prosecution Agreements.** Some banks were also under Deferred Prosecution Agreements (HSBC, Standard Chartered) which meant they were prohibited from taking on any Iran related business. [Redacted] if those banks who were under DPAs wanted to take on Iran related business they should discuss the terms of their DPA with the Department for Justice.
4. Although some banks [Redacted] were starting to do business in Iran this was only for existing clients and only on a case by case basis. [Redacted] said they had a number of clients who wanted to do business in Iran but they were unable to support given the overall complexity in monitoring the sanctions regime. Banks were global institutions with thousands of compliance employees around the world. [Redacted]. It was not realistic to expect people to navigate such a complex web of sanctions. Since banks operated globally US standards were regularly imposed across the whole of their operations. [Redacted].
5. [Redacted]. The US concluded that they understood there were concerns but stressed that all the issues raise complexities, but not barriers.

Next Steps

- [Redacted].
- There were industry wide issues and individual challenges. Charles Roxburgh, HMT committed to follow up with banks individually to identify and work through the challenges. HMT are also working with the [Redacted] to develop more granularity on the problems raised so that we can discuss in greater detail with the US.
- There is an E3/EEAS follow up discussion on OFAC guidance in Washington next week and we will have bilateral meetings with the US to push forward discussions on the issues raised by banks.
- [Redacted]