



OFAC AUTHORIZES CERTAIN EXPORTS TO IRAN FOR PERSONAL COMMUNICATIONS

On May 30, 2013, the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC") issued new General License D to the Iranian Transactions and Sanctions Regulations ("ITSR"), authorizing the exportation to Iran of fee-based services incident to the exchange of personal communications over the Internet and certain fee-based software necessary to enable such services. It also authorizes, for the first time, the exportation of certain hardware and related services, as well as the exportation of consumer-grade Internet connectivity services and capacity incident to personal communications. General License D expands on the 2010 amendments to the ITSR, which authorized the exportation to Iran of no-cost services and software that are incident to the exchange of personal communications over the Internet.

1. New Authorizations

OFAC now authorizes the following types of transactions under the ITSR:

- ***Exports of fee-based services incident to the exchange of personal communications over the Internet.*** Such personal communications services might include instant messaging, chat and email, social networking, photo and video sharing, web browsing, and blogging.
- ***Exports of fee-based software necessary to enable such services.*** This software must be designated as EAR99 (a catch-all category for items not classified elsewhere—often low-technology consumer goods—that often do not require a license for exportation) by the U.S. Department of Commerce's Bureau of Industry and Security ("BIS") under the Export Administration Regulations ("EAR"), or be classified on the Commerce Control List under Export Control Classification Number 5D992.c.
- ***Exports of certain software and hardware that are subject to the EAR and incident to personal communications, as well as related services.*** This software or hardware and these services must fall within one of the specific categories and export-control classifications listed in General License D (and summarized in the table on page 3 of this update). Listed items include certain mobile phones, modems, routers, Wi-Fi access points, residential consumer receive-only satellite terminals, laptop and tablet computers, anti-virus and anti-tracking software, mobile operating systems, VPNs and proxy tools, and Secure Sockets Layers. Items that fall outside these specific categories and classifications are *not* authorized for export. A prospective exporter must therefore ensure proper classification, whether made through a well-informed self-classification process or through a classification request submitted to BIS.

- ***Exports of consumer-grade Internet connectivity services and capacity.*** These services or capacity include the provision, sale, or lease of capacity incident to personal communications on telecommunications transmission facilities, such as satellite or terrestrial networks. As noted below, this authorization does not cover new telecommunications infrastructure, nor does it cover the sale of capacity or services to telecommunications providers in Iran.
- ***Transfers of funds from Iran.*** U.S. depository institutions and U.S. registered brokers or dealers in securities may process transfers of funds from Iran to further an underlying transaction authorized by General License D. In the past, OFAC has been reluctant to confirm the applicability of other ITSR general licenses in order to reassure financial institutions. This could prove an even larger problem under General License D, which could affect a large volume of sales by U.S. and foreign entities.

2. Exports that Remain Prohibited Absent a Specific License

General License D states explicitly that the following types of transactions remain prohibited absent a specific license from OFAC:

- ***Exports of commercial-grade Internet connectivity services or transmission facilities.*** General License D does not authorize the export or reexport of commercial-grade Internet connectivity services or telecommunications facilities such as dedicated satellite links, undersea cables, or other dedicated lines with quality of service guarantees.
- ***Exports of commercial web-hosting or domain name registration services.*** The export of web-hosting services for purposes other than personal communications, including web-hosting for commercial endeavors, as well as the export of domain name registration services, remains prohibited.
- ***Exports to the Government of Iran.*** General License D does not authorize the exports described above if the exporter has knowledge or reason to know that the services, software, or hardware are intended for the Government of Iran.
- ***Exports to blocked persons.*** General License D does not authorize the export of the services, software, and hardware described above to any person whose property or interests in property are blocked pursuant to OFAC's regulations.

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For more information regarding Iran sanctions or W&G's sanctions and export controls practice, please contact **Kent Bressie** by telephone at +1 202 730 1337 or by e-mail at kbressie@wiltshiregrannis.com.

This client advisory is not intended to convey legal advice. It is circulated to W&G clients and friends as a convenience and is not intended to reflect or create an attorney-client relationship as to its subject matter.

**Software, Hardware, and Related Services Incident to Personal Communications
 Authorized for Export to Iran**

CATEGORY NUMBER	CATEGORY DESCRIPTION
1	Mobile phones (including but not limited to smartphones). Personal Digital Assistants (PDAs), Subscriber Identity Module (SIM) cards designated EAR99 or classified on the CCL under ECCN 5A992.c; drivers and connectivity software for such hardware designated EAR99 or classified under ECCN 5D992.c; and services necessary for the operation of such hardware and software.
2	Satellite phones and Broadband Global Area Network (BGAN) hardware designated EAR99 or classified under ECCN 5A992.c; demand drivers and connectivity software for such hardware designated EAR99 or classified under ECCN 5D992.c; and services necessary for the operation of such hardware and software.
3	Modems, network interface cards, radio equipment (including antennae), routers, switches, and WiFi access points, designed for 50 or fewer concurrent users, designated EAR99 or classified under ECCNs 5A992.C, 5A991.b.2, or 5A991.b.4; drivers, communications, and connectivity software for such hardware designated EAR99 or classified under ECCN5D992.c; and services necessary for the operation of such hardware and software.
4	Residential consumer satellite receive-only terminals, receiver equipment (including but not limited to antennae, receivers, set-top boxes and video decoders) designated EAR99 or classified under ECCNs 5A992.C, 5A991.b.2 or 5A991.b.4; drivers, communications, and connectivity software for such hardware designated EAR99 or classified under ECCN 5D992.C; and services necessary for the operation of such hardware and software.
5	Laptops, tablets, and personal computing devices, disk drives, data storage devices, computer peripherals, keyboards, and mice designated EAR99 or classified on the CCL under ECCNs 5A992.C, 5A991.b.2, 5A991.b.4 or 4A994.b; computer operating systems, and software required for effective consumer use of such hardware, including software updates and patches, designated EAR99 or classified under ECCN 5D992.c; and services necessary for the operation of such hardware and software.
6	Anti-virus and anti-malware software designated EAR99 or classified under ECCN 5D992.C, and services necessary for the operation of such software.
7	Anti-tracking software designated EAR99 or classified under ECCN 5D992.C, and services necessary for the operation of such software.
8	Mobile operating systems, online app stores, and related software designated EAR99 or classified under ECCN 5D992.C, and services necessary for the operation of such software.
9	Anti-censorship tools and related software designated EAR99 or classified under ECCN 5D992.C, and services necessary for the operation of such software.
10	Virtual Private Networks, proxy tools, and fee-based personal communications tools including voice, text, video, voice-over-IP telephony, video chat, and successor technologies, and communications and connectivity software required for effective consumer use designated EAR99 or classified under ECCN 5D992.C, and services necessary for the operation of such software.
11	Secure Sockets Layers (SSLs) designated EAR99 or classified under ECCN 5D992.C, and services necessary for the operation of such software.