

## Trade & Customs - USA

### OFAC eases rules for food exports to Iran and Sudan

Contributed by [Sidley Austin LLP](#)

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On October 12 2011 the Office of Foreign Assets Control (OFAC) issued a [final rule](#) authorising the export and re-export of food to Iran and Sudan. These changes come in the form of two new general licences under the Iranian Transactions Regulations and the Sudanese Sanctions Regulations. The licences replace a 2009 interim final rule that required agricultural and other commodity exporters to apply for specific licences on an annual basis. With immediate effect, US persons may export or re-export food to Iran and Sudan without applying for a specific licence. OFAC broadly defines the term 'food' to cover most items that are consumed by, and provide nutrition to, humans and animals. Product categories specifically enumerated in the two general licences include:

- vitamins and minerals;
- food additives and supplements;
- bottled drinking water;
- seeds used to produce food; and
- various bulk agricultural commodities (eg, durum wheat, various forms of rice and various kinds of oil, such as rapeseed oil).

The new general licences do not authorise the export or re-export of alcoholic beverages, cigarettes or gum. They also do not authorise the export of fertiliser or other non-consumable agricultural commodities. Against this backdrop, companies producing various remedies, supplements or cosmetic products should carefully review the new general licences to determine whether such items fall within OFAC's definition of food. Items eligible for export under the Trade Sanctions Reform and Export Enhancement Act of 2000 that do not qualify for the general licences will continue to require specific licences.

These general licences also exclude certain items and persons. The general licences do not authorise exports or re-exports of food intended for Iranian or Sudanese military or law enforcement agencies, or specially designated nationals. In addition, the following items are excluded:

- castor beans and castor bean seeds;
- raw eggs, fertilised eggs and dried egg albumin;
- live animals;
- rosary/jequirity peas;
- non-food grade gelatin powder; and
- peptones and their derivatives.

Finally, the new general licences do not permit the use of Iranian or Sudanese banks to provide financing for exports authorised by the new general licences. Suppliers whose customers wish to pay using documentary credits issued by Iranian or Sudanese banks must continue to apply for specific licences authorising such transactions. Otherwise, companies are limited to the payment terms authorised by general licence (ie, payment by cash in advance, sales on open account or financing by third-country financial institutions).

Financial institutions accustomed to requiring a specific licence number before processing payments for sales to Iran and Sudan should adjust their procedures to permit citation to the general licences as authorisation instead.

Exports of non-food agricultural commodities, medicines, medical devices, as well as food exports that do not meet the requirements of the general licences, continue to be subject to the specific licensing process that OFAC has administered for many years

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under the Trade Sanctions Reform and Export Enhancement Act.

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