

# The Table Flip: Trump, the Iran Nuclear Deal, and American Business

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- A President Trump will have authority to reinstate sanctions lifted by the Iran Nuclear Deal as well as revoke certain authorizations provided for business with Iran.
- Several economic and geopolitical factors may cause Mr. Trump to reconsider or mitigate his approach to the Iran Nuclear Deal.
- Companies should prepare to respond quickly to any changes.

Maybe you've seen it before, the series of characters that represents upsetting the whole game, flipping the table:

(?????? ???)

These days, where words fail, we have emojis. And here they describe what a President Trump may do to the carefully planned Iran Nuclear Deal. One year after the implementation of the Iran Nuclear Deal (much discussed, at least in [our blog](#)), Mr. Trump will take office. At that time, we will see whether his campaign rhetoric against Iran becomes policy action or whether it will be tempered by geopolitical and business realities.

## Setting the Table: The Deal as it Stands

On January 16, 2016, the [Joint Comprehensive Plan of Action](#) (JCPOA or Iran Nuclear Deal), rolled back U.S. sanctions on non-U.S. countries for doing certain business with Iran. That sanctions reduction provided substantial opportunities for businesses around the world to enter a long-isolated market of 77 million Iranian consumers. In line with the policy increasing business with Iran, the U.S. also provided licenses for U.S. manufacturer Boeing to provide a fleet of new aircraft to Iran to

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modernize its civil aviation sector.

## Can It Be Flipped? The Powers of the New President

During the presidential campaign, Mr. Trump took a strong stance against the deal, repeatedly threatening to walk away from the agreement if elected.

- Just as President Obama used his executive authority to effectuate the Iran sanctions reduction, Mr. Trump will have authority to reinstate those measures. Obama issued presidential waivers, revoked executive orders, and removed parties from the Specially Designated Nationals (SDN) List. Once elected, Trump may re-impose many of the alphabet soup of statutes, waived by Obama. As this blog is already two acronyms and one emoji deep, we'll spare you the details, but many of the statutes simply may be imposed by presidential discretion or determination.
- Trump may also essentially reinstate the executive orders Obama revoked by simply issuing new executive orders. As an example, Mr. Trump could use an executive order to rescind General License H, which permits the foreign subsidiaries of U.S. companies to conduct transactions with Iran. Finally, Trump may designate parties to the SDN List via executive order.
- Trump may treat the Iran Nuclear Deal like a business contract he dislikes, enforcing the terms so strictly that the terms cannot be met or the other party walks away. If Iran fails to meet its commitments in the Nuclear Deal, the President may "snap back" the sanctions to their pre-2016 state. Trump would have little trouble invoking the snapback provision as, this past November, the International Atomic Energy Agency reported that Iran was already in violation of at least one term of the Deal. President Obama has not snapped back the sanctions, but Mr. Trump may take a stricter approach.
- Finally, as president, Mr. Trump may act to actually *increase* sanctions on Iran. According to a recent report, Trump's team is examining options to impose non-nuclear sanctions on Iran.

## The Big Spill: The Repercussions of Re-imposing Iran Sanctions

Although Trump may have authority to impose or re-impose sanctions, several outside influences may limit his actions. First, Mr. Trump is a business man who has promised American jobs under his administration. If Iran sanctions are reinstated, the licensed Boeing order would be effectively cancelled, which may hurt U.S. manufacturing employment. Additionally, revoking the authorization for U.S.-owned subsidiaries to do business in Iran could also injure American companies with a global presence. Second, the United States' withdrawal from the Iran Nuclear Deal could damage relations with European and Asian countries who favor business with Iran. Finally, withdrawal does not mean that the other countries subject to the Iran nuclear deal (Russia, China, Germany, Britain, and France) would reimpose their sanctions, giving those countries a distinct advantage over the United States in the potential growth-market in Iran.

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## The Others at the Table: How a Flip May Affect Your Business

The imposition of Iran sanctions would require companies to breach contracts and wind up current Iran business. However, even if Mr. Trump snaps sanctions back, OFAC guidance states the United States will not apply sanctions retroactively for transactions conducted prior to the snapback.

### Key takeaway

We believe it is likely that Mr. Trump will make some show of his anti-Iran leanings in his sanctions policy. However, potential repercussions may cause him to mitigate his approach. We recommend that companies have a clear understanding of their Iran-related conduct so they are well-positioned to act quickly should January 2017 bring as dramatic of a change for business in Iran as January 2016. The one certainty during a Trump presidency is that 2017 will be the year for your compliance department to shine.

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