

IRAN SANCTIONS ECONOMIC RIGHTS TOOLKIT

A LEGAL GUIDE FOR IRANIAN AMERICANS,
IRANIAN STUDENTS AND THEIR ADVOCATES



iranian alliances across borders



NATIONAL LAWYERS GUILD

THE LAW OFFICE OF SAMIRA AFZALI

YOUR RIGHTS AT THE BANK AND OTHER FINANCIAL INSTITUTIONS

This toolkit explains your basic rights. It is not a substitute for legal advice. If you believe that your rights have been violated, you should contact an attorney.

In recent years, the US government has intensified its sanctions programs against Iran and increased enforcement on financial transactions between the US and Iran. The enforcement of the economic sanctions regime rests with the US Department of Treasury's Office of Foreign Assets Control ("OFAC").

As a result of increased surveillance by the US government for potentially illegal transactions between Iran and the US, financial institutions including banks, lending institutions, e-commerce companies and retail stores are becoming more reluctant to do business with Iranians, including Iranian Americans with US citizenship, Iranians with lawful permanent residence in the US, and Iranian noncitizens living in the US. Because of this, the economic sanctions are disproportionately affecting ordinary Iranians and noncitizens in the US and creating significant financial obstacles for Iranian students who rely on remittances from their family members in Iran.

While there are reports of Iranian noncitizens in the US affected by the Iran sanctions, Iranian Americans are also seeing their economic rights compromised because of the sanctions. Due to a combination of fear and distrust of coming forward with their cases, there are only anecdotal reports of Iranian Americans who have experienced bank account closures, PayPal account closures and other types of blocked accounts. At present, it is unclear how many Iranian Americans have had difficulty with their accounts due to OFAC regulations.

And in the past couple of years, there are cases of financial institutions erroneously targeting account holders. In large part, financial institutions and corporations are misapplying or misinterpreting the OFAC regulations. Since OFAC does not currently hold corporations and financial institutions accountable for misapplying or misinterpreting the law, banks and other corporate entities have no incentive to correctly interpret OFAC regulations. Rather, they choose to not do business with Iranians concerned that they may potentially violate the law.

"OFAC regulations" and the "Iranian Transactions and Sanctions Regulations (ITSR)" are used interchangeably in this toolkit. The regulations are officially known as the Iranian Transactions and Sanctions Regulations as of October 2012. Under the regulations, a "US person" means a US citizen of Iranian origin as well as an Iranian non-citizen in the US. (Section 560.314). "Iranian" means the territory of Iran, any area that the Iranian Government has some control over or gains a benefit from. "Iranian" also refers to something or someone "pertaining to Iran." (Section 560.303).

This fact sheet is intended to help you advocate your case when you confront a bank, a lending company or any corporate entity that claims you have violated OFAC regulations or the Iran sanctions. While this fact sheet does not substitute legal advice, this fact sheet provides practical suggestions for you to advocate for your economic rights.

Q. As Iranian Americans or Iranian noncitizens, shouldn't we put up with some extra screening due to the Iran sanctions?

A. It is never legal to discriminate against a person because of their ethnicity or national origin. It is not legal for a bank to refuse service to an Iranian American simply because of their national origin. If you are told that you have been denied service because of your ethnic background, your national origin, or because a bank responds that they "are not allowed to do business with Iranians" these statements are considered to be discrimination under the law. If you believe that you are being discriminated against because of your Iranian identity, remain calm, ask the bank representative for his or her name, and write down the branch location, and the date and time of the incident. You should report the matter to the branch manager immediately. Follow-up with your local and state anti-discrimination agencies as well, and you can also report the issue with the Consumer Protection Bureau. In some states there are very strong laws against discrimination in banks against a person because of their national origin.

Q. I'm Iranian and not a US citizen. Does this mean that I cannot open a bank account in the US?

A. Under Section 560.314, a US person is defined as "any [US] citizens, permanent resident alien, entity organized under the law of the [US] . . . **or any person in the [US].**" OFAC regulations do not necessarily state that an Iranian national is absolutely banned from opening a bank account in the US. However, the Iranian national must demonstrate that she or he is considered to be a "US person." Moreover, if you are in the US on a valid visa, then you are allowed to hold a bank account for your personal use and use your account for transactions related to the visa. For example, if an Iranian non-citizen is studying in the US and has a valid student visa, then he or she would be considered a US person. As a student, you are allowed to open and maintain a bank account in order to pay for your studies, your school and living expenses and other expenses related to being a student in the US.

Q. I'm a US Citizen of Iranian origin. I recently went to Iran and discovered that my bank account was blocked. The bank refuses to unblock the account. What can I do?

A. The answer to this question depends on the basis for blocking your account. If you transferred funds from abroad to an account in the US, and were in Iran at the time of the transaction, then you should consult with an attorney. However, if you only checked your bank account online and this led to your account being blocked, then you can take these steps. First, you can contact the bank immediately (via email in order to have a written record of your communication with the bank) and explain to them that under the ITSR, you are a US person (and specify that you are a US citizen). Under the same regulations, any transactions that are incidental to travel are allowed. If the bank refuses to unblock your account after this step, some banks will unblock your account if you go to a local branch after you return from your trip to Iran.

Q. I have a PayPal account. While I was in Iran, I used my PayPal account to pay a bill in the US. My PayPal account was immediately blocked. What can I do?

A. Under the ITSR, a US citizen or an Iranian noncitizen with lawful status in the US who is traveling to Iran is allowed to make payments in any country for living expenses, and for the purchase of goods or services as long as the purchase is for personal use. An Iranian American or Iranian noncitizen is also allowed to pay for travel arrangements of a personal nature from Iran.

Q. I am an Iranian international student on a valid F-1 visa. My visa has expired. The bank has closed my bank account because my visa expired. If my visa has expired, does this mean I cannot maintain a bank account in the US?

A. According to the US State Department, an international student who is a *full-time student* may stay in the US to complete his or her studies even after his or her visa has expired. The requirements are: (1) you must be a full-time student, and (2) you are completing your studies as indicated on your I-20, or (3) if you have optional practice training (also known as "OPT") status, and are completing your authorized practical training. You can dispute the bank's decision and explain to the bank that under the ITSR maintaining a bank account for your personal use is authorized because you are continuing to meet the terms and conditions of your non-immigrant visa.

Q. I am an Iranian international student in the US and I bring cash with me from Iran to pay for my school related expenses. Recently, my bank closed my account because they claimed my cash deposits violate OFAC regulations. Since I am not able to transfer funds from Iran to the US, what can I do?

A. We highly advise you to consult with an attorney. Typically, the bank may ask you to complete a form to explain the source of your funds and the purpose of these funds in the US. But the reality is that many Iranian students bring cash with them from Iran to pay their tuition, school expenses and living expenses. If your bank closes your account, you can argue that under the ITSR you are now considered to be a US person because you are in the US and are studying here. Also, you can explain that as part of your visa requirement, you have demonstrated to the US Department of Homeland Security and the US State Department that you can cover your expenses. OFAC regulations authorize financial transactions that are for personal use and related activities authorized by your visa status. You should also keep in mind that bringing cash from Iran must be declared upon arrival to the US.

Q. I am an Iranian noncitizen on a valid visa and my student loan application with a private company was denied. The lending company said that they are not allowed to approve loan applications for students from Iran. Is this true?

A. International students are not eligible for federal loans. However, students can apply for private loans with private lending companies. Keep in mind that private lenders are not required by law to provide a student with a loan. Still, a private lender must give you a reason for rejecting your application. If the loan is denied because of OFAC regulations, you can argue the following. The ITSR authorizes banks, lending companies and other financial institutions to collect repayments from Iranians in Iran. OFAC regulations do not directly state that lending companies are allowed to approve loans for Iranian students in the US; however, if the regulations expressly authorize lending institutions to receive repayment from Iranian students then it is reasonable to conclude that lending institutions are also permitted to approve student loan applications for students. Furthermore, an Iranian student in the US who is studying on a valid visa is considered to be a US person under the rules.

Q. I recently had a problem with my account (bank, PayPal, or any e-commerce account) and the company asked me to sign an affidavit. Should I consult an attorney before I submit this form?

A. It is highly advised that you consult an attorney before signing an affidavit concerning your account. While banks are asking you to complete this form to cover their own risk and liability vis-à-vis the US government, you want to make sure that you are not signing an affidavit that can potentially incriminate you. You should read the affidavit carefully, and ask a lawyer to review the facts of your case and the affidavit. Both US citizens and Iranian noncitizens are reporting that they've been asked to complete an affidavit after their accounts have been blocked. Also, retain a copy of the affidavit for your records and always mail or email any correspondence to keep a written record.

Q. Recently, the US government announced that it was lifting sanctions on laptops and phones. Can you please explain the practical outcomes of this policy?

A. On May 30, 2013 the US Department of Treasury, in consultation with the US State Department, announced that the US would allow the flow of goods and services incidental to personal communication between the US and Iran (or by US persons and Iranians) for the benefit of ordinary Iranians. The intent behind this policy announcement is to promote open communication among ordinary Iranians in Iran and to open channels of communication with the outside world. In order to provide personal communication technology to ordinary Iranians, a US person must apply for a General License D with OFAC. For more information on how to obtain a General License, you may call OFAC's Licensing Division's direct line at (202) 622-2480.

The announcement permits the exportation or re-exportation of services, hardware and software related to an ordinary Iranian's personal use. The kinds of technology authorized under the regulation include mobile phones, satellite phones, modems and other hardware used for internet connectivity, equipment for satellite televisions, computers, tablets, as well as anti-virus, anti-tracking and anti-censorship tools and software. In addition to authorizing the exportation of personal communication goods and software, OFAC is also authorizing fee-based services originating from the US or by US persons to ordinary Iranians in Iran over the Internet to allow Iranians to access social media websites, email and chat services, instant messaging services, photos/ movie sharing and posting websites, blogs and web browsers. The announcement still restricts individuals and entities associated with the Iranian regime from providing communication technology to Iran.

ONE IRANIAN STUDENT'S STORY

MARYAM A., PHD STUDENT ACCEPTED TO DENTAL SCHOOL IN CONNECTICUT

In Iran, I always wanted to come to the US to become an orthodontist and I dreamed of coming to the US because it ranks number one in science and technology. In Iran, I was ranked #26 out of 500,000 applicants to study in medical sciences. As an international student in the US, I have pursued a PhD in dentistry and I planned on going to dental school afterwards. This year, I was accepted to one of the best dental programs in the US. In order to pay for my expenses, I applied for a student loan with Discover on January 5, 2013. A couple of weeks after applying, my co-signer was approved. In March 2013, Discover denied my application and told me that they are unable to approve my application because of OFAC regulations against Iran. After the denial, I decided to apply for student loans with other lenders. But, if I am not approved for a loan it will be almost impossible for me to study in the US. And after being rejected the first time, my co-signer is unwilling to help me with future applications. I don't understand why my application was denied because when I called OFAC, the representative told me that the lending company is allowed to approve student loan applications for Iranians. But Discover refused to accept my explanation based on my conversation with OFAC. I feel like I have been discriminated against because of my national origin, and Discover has no legal reason to support their denial. This experiences has left me feeling like regardless of my qualifications and my potential, I don't have an equal chance to study in the US compared to other international students. I have always wanted to be a dentist to serve people and improve the quality of life for my patients. My intentions are peaceful and serve a humanitarian purpose, yet they are being banned by the sanctions.

TIPS

IF YOU ARE BEING DISCRIMINATED AGAINST BECAUSE OF YOUR NATIONAL ORIGIN

1. Stay calm and professional to fully understand what the bank representative (or other personnel) is telling you about your account. If you are told that your nationality is the basis for the bank's decision, record the person's name, their statement and the time and date of the incident. There is no need to argue. If you are very upset, wait and come back later to speak with a supervisor.
2. Report the incident to the branch manager or the person in charge. Explain to them that they cannot discriminate against you based on your national origin. If the branch manager gives an explanation, write his statement down. Remember to get the branch manager's name as well.
3. Being Iranian is not a crime. The Iran sanctions do not ban Iranian Americans and Iranians from financial activity in the US. The Iran sanctions were designed to prevent illegal transactions that benefit the government of Iran. This is an important distinction.
4. If you are unable to resolve the issue, report it to your local and state anti-discrimination agency. You may live in a state where there are laws that protect individuals who are discriminated at banks based on their national origin.
5. We also encourage you to report any discriminatory actions by banks or other financial institutions to the US Department of Justice's Civil Rights Division. If more Iranian Americans report this problem, we will have an official tracking of this problem and it will support community based efforts to push the Department of Justice to investigate this problem. We also encourage you to report the problem to OFAC and let them know that banks and financial institutions are misapplying the law. OFAC needs to hear from the community.
6. Share your story with us! By sharing your story, this will help advocacy efforts to support Iranian Americans and Iranian students unfairly affected by the sanctions. You can contact Samira Afzali at samira@afzalilaw.com or call at 612-756-9529. You don't have to give your full name. We just want to know what is happening to ordinary Iranian Americans and Iranians living in the US.

