

Alert 11-213



Sanctions Update: Libya and Syria

This is an update on sanctions imposed against Libya and Syria. Attached to this briefing is an updated table of sanctions targets.

Libya – EU sanctions

In our client alert of 20 June 2011, we reported that the sanctions targets designated by the EU (at Annex III to Council Regulation (EU) No 204/2011) included six port authorities.

These port authorities, together with 22 other entities, have now been removed from the Annex by Regulation (EU) No. 872/2011 with effect from 2 September 2011. The basis for these removals is that the National Transitional Council has affirmed its control over these entities. As of today, there remain 27 entities and 39 individuals targeted and so it is not the case that all sanctions have been lifted.

Syria – US sanctions

On 18 August 2011, the White House adopted its harshest trade sanctions to date against Syria, responding to ongoing reports of government-backed violence and human rights violations in that country. President Obama's latest executive order blocks all assets of the Syrian government, and bars dealings by US persons with the Syrian state. Previously, under a series of orders issued in April and May, only the Assad family and certain key officials, supporters and entities were subject to asset blocking. Under this new order, however, all government agencies, instrumentalities, and controlled entities (including state-run businesses) are barred from any US dealings, and all of their assets within US jurisdiction are frozen.

The executive order also bars the following:

New investment in Syria by a United States person, wherever located.

Exportation, reexportation, sale, or supply from the United States, or by a United States person, of any services to Syria. (Export of goods from the US to Syria are already severely restricted and require individual licensing under the Syria Accountability and Lebanese Sovereignty Restoration Act of 2003.)

Importation into the United States of petroleum or petroleum products of Syrian origin.

Any transaction or dealing by a United States person, wherever located, including purchasing, selling, transporting, swapping, brokering, approving, financing, facilitating, or guaranteeing, in or related to petroleum or petroleum products of Syrian origin. The following Syrian energy companies have been added to the US Specially Designated Nations ("SDN") list of blocked parties: General Petroleum Corp.; Syrian Co. for Oil Transport; Syrian Gas Co.; Syrian Petroleum Co.; and Sytrol.

Any approval, financing, facilitation, or guarantee by a United States person, wherever located, of a transaction by a foreign person where the transaction by that foreign person would be prohibited by this section if performed by a United States person or within the United States.

The US Treasury has provided only a handful of narrow, limited exemptions from these new restrictions. These include general licenses covering certain account fees, personal remittances, legal services and online communications. Apparently noting the impact of social media in revolutions in Egypt and elsewhere, The Treasury has expressly authorized services related to instant messaging, chat and email, social networking, sharing of photos and movies, web browsing and blogging, provided that such services are publicly available at no cost to the user.

This latest round of sanctions comes on top of a range of more targeted sanctions aimed at top Syrian leaders and the banking and aviation sectors. As with earlier rounds of sanctions, compliance is required of all "U.S. persons", defined as any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States. In addition, non-US persons may face penalties for conspiring or participating in schemes to evade US embargo requirements (for

example, through money laundering, smuggling or other schemes involving US assets or interests).

Finally, the executive order provides that if any person (US or not) is found to have "*materially assisted, sponsored, or provided financial, material or technological support for, or goods or services in support of*" the Government of Syria or to have acted "*for or on behalf of, directly or indirectly*" the Government of Syria, then that person could also face their property being blocked by the US.

Syria – EU Sanctions

Sanctions against the Syrian regime have been strengthened by the coming into force of Regulation (EU) No 878/2011 on 3 September 2011. The new Regulation, which amends the existing Regulation (EU) No 442/2011, adds further entities and individuals to the list of designated persons. It applies: (a) *within the territory of the Union, including its airspace*; (b) *on board any aircraft or any vessel under the jurisdiction of a Member State*; (c) *to any person inside or outside the territory of the Union who is a national of a Member State*; (d) *to any legal person, entity or body which is incorporated or constituted under the law of a Member State*; (e) *to any legal person, entity or body in respect of any business done in whole or in part within the Union*.

Whilst it does not add the Syrian energy companies General Petroleum Corp., Syrian Co. for Oil Transport, Syrian Gas Co., Syrian Petroleum Co., and Sytrol which, as above, have been targeted by the US, the ability to deal with these companies is compromised by the prohibitions set out below. As before, it is also important to consider whether an entity can be said to be owned or controlled by a designated person.

The Regulation prohibits:

- (a) the importing of crude oil or "petroleum products" (as defined) into the EU if they either originated in Syria or have been exported from Syria;
- (b) the purchase of crude oil or petroleum products which are located in or which originated in Syria;
- (c) the transport of crude oil or petroleum products if they originated in Syria or are being exported from Syria to any other country (i.e. not just to the EU but anywhere).

The Regulation further prohibits direct or indirect financing or financial assistance, including financial derivatives, as well as insurance and re-insurance, "relating" to the above prohibitions. Whether or not an EU insurer, for example, is still able to insure the transport of crude oil from Syria by a non-EU entity, to a non EU country, is, on the wording of the Regulation, open to debate.

There are limited exemptions in respect of (1) the execution on or before 15 November 2011 of obligations arising out of contracts concluded prior to 2 September 2011 where the prior notification requirements are complied with and (2) the purchase of crude oil / petroleum products exported prior to 2 September 2011 or where the export was under an existing obligation and fell under the first exemption.

The petroleum products caught are set out in what becomes Annex IV to the original Regulation, (EU) No 442/2011.

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