

# EUROPEAN UNION AND UNITED KINGDOM SANCTIONS UPDATE: MAY 2016

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## **Antitrust, Competition & Trade Regulation Alert**

By: Raminta Dereskeviciute, Alessandro Di Mario, Philip Torbøl

Below is a summary of developments since our previous update in March relating to European Union ("EU") sanctions on Iran, North Korea and other jurisdictions as well as highlights of recent changes with respect to the sanctions regime in the United Kingdom.

## **IRAN**

Most of the financial and nuclear-related sanctions imposed on Iran by the European Union were lifted on 16 January 2016 ("**Implementation Day**") which you can read more about [here](#).

On 26 April 2016 the UK Government updated its guidance on doing business with Iran. This document is maintained by the Foreign Office. The guidance provides a useful summary of key challenges to consider and sets out when obtaining a licence is a legal requirement prior to doing business in Iran. It should be noted that the EU has not yet produced its own guidance on dealing with Iran. The UK guidance can be viewed [here](#).

### **Human rights related sanctions extended for a year**

Sanctions relating to human rights and an embargo on military equipment remain in force, and have not been affected by the changes which came into force on Implementation Day. On 12 April 2016, the EU passed Implementing Regulation 2016/556 and Decision (CFSP) 2016/565, renewing asset freezes and travel bans against a number of Iranian persons and entities responsible for human rights violations for a year until 13 April 2017. The restrictive measures also ban exports to Iran of goods for internal repression and monitoring telecommunications and amend or delete the listings for 24 individuals.

### **Two Iranian Banks remain on EU sanctions lists**

The Central Bank of Iran ("**CBI**") remains subject to an asset freeze under the EU's sanctions regime in spite of having appealed to the General Court of the European Union (the "**General Court**") and Court of Justice of the European Union (the "**CJEU**") for an annulment.

Bank Saderat also remains subject to an asset freeze in spite of the CJEU upholding its challenge to the EU Council's decision to list it. It remains subject to a separate listing by a decision of the EU Council for violations of UN sanctions in 2009. This will apply until 22 October 2016.

## **NORTH KOREA**

## **EU adopts UN sanctions on North Korea**

We wrote about the recent United Nations Security Council Resolution 2270 in our March update which can be found [here](#). The EU has now implemented these UN restrictive measures in Decision 2016/476 and Regulation 2016/476.

The revised sanctions regime includes a number of bans and prohibitions, including an obligation on EU Member States to expel North Korean diplomats who attempt to evade sanctions or violate UN Security Council resolutions. Further, the restrictive measures introduce new prohibitions relating to mining and metals, shipping and banking.

The EU Council has also passed Regulation 2016/465 and Decision 2016/475, updating its list of restricted persons and entities. Notably, this has removed the entry imposing sanctions on the Korea National Insurance Company and instead places the Korea National Insurance Corporation on the list of restricted entities.

### **France considering unilateral sanctions on North Korea**

France is considering imposing its own sanctions regime on North Korea, in addition to the sanctions currently imposed by the EU. The Director-General of the Asia and Oceania directorate of France's Ministry of Foreign Affairs has suggested that such sanctions may be wider, subjecting more individuals to a travel ban, and stronger, with the intention of targeting the North Korean economy. France has been particularly vocal in calling for the EU to adopt even more stringent sanctions, following North Korea's testing of its ballistic missiles.

## **OTHER EU SANCTIONS**

### **Syria**

On 7 April 2016, the CJEU rejected the appeal for annulment of sanctions designation of Tarif Akhras, a Syrian businessman who has close ties to President Bashar al-Assad (Case C-193/15). The CJEU held that the Council was right to presume that Mr Akhras, as a prominent businessman in Syria benefitted from or supported the regime, unless he could prove otherwise. The CJEU ruled that the evidence against Mr Akhras was "sufficiently specific, precise and consistent" to justify finding that he had provided support to President Assad's regime and/or benefited from it.

### **Libya**

On 6 May 2016, the EU Council amended the listing entries for two individuals, Mutassim Qadhafi and Safia Farkash Al-Barassi, both of whom are subject to asset freezes and travel bans (Council Implementing Regulation (EU) 2016/690). It also banned a ship, the 'Distya Ameya', also known as the 'Kassos', from entering EU ports and from loading, transporting or discharging its cargo on EU territory.

### **Myanmar**

The EU has extended its arms embargo and human rights-related sanctions on Myanmar until 30 April 2017

(Decision (CFSP) 2016/627). Sanctions of varying kinds have been imposed on Myanmar consistently since 1991. Trade, financial and targeted sanctions were temporarily suspended for one year in May 2012, and were lifted entirely in April 2013 as a result of political reform. Now, only the arms embargo and human rights-related sanctions remain.

### **Central African Republic**

The EU Council has revised its sanctions regime affecting the Central African Republic ("**CAR**") (Regulation 2016/555 and Decision (CFSP) 2016/564). It has amended the designation criteria, which must be met to subject individuals and entities to targeted asset freezes and travel bans, to include only persons designated by the Council who have been involved with specific activities.

It has also amended and expanded the possible derogations which may be relied upon to bypass lawfully the restrictions imposed by the EU's arms embargo on the CAR.

### **Bosnia sanctions renewed for a year**

The EU has extended its existing sanctions regime on Bosnia and Herzegovina for one year, to 31 March 2017 (Decision 2016/477). The sanctions include asset freezes and a travel ban on individuals and associated entities deemed to be undermining the Dayton/Paris Agreement and the sovereign integrity of Bosnia, and threatening the state's national security.

### **The Panama Papers**

We have written previously about the Panama Papers, in particular about how companies and their compliance obligations may be affected. You can view that update [here](#). In addition to this, it now appears that the Panama Papers may result in EU sanctions being imposed in respect of places considered "non-cooperative".

The evidence revealed in the Panama Papers suggests that shell companies may have been used to commit fraud, to evade tax and to breach international sanctions regimes.

Pierre Moscovici, the EU's Commissioner for Economics and Financial Affairs, Taxation and Customs has suggested that the EU is contemplating implementing new sanctions regimes against tax havens which help individuals and entities to evade taxes and breach sanctions regimes.

### **Sanctions on persons connected with Al-Qaida and Islamic State in Iraq and the Levant ("ISIL")**

The EU Council has added five more individuals to the list of people subject to financial sanctions (Commission Implementing Regulation 2016/647). They are all listed as having been involved with ISIL. These include the 'head of religious compliance police' and the 'lead oil and gas division official'. This Regulation implements a decision of the UN Security Council.

## **FORTHCOMING CHANGES TO SANCTIONS REGIMES**

The EU Council is considering imposing targeted financial sanctions and travel bans on Macedonian individuals responsible for blocking or obstructing the 'Przino Agreement'. This agreement was reached last summer as a way of resolving the ongoing political turmoil in Macedonia.

Following the lifting of all sanctions on Cote d'Ivoire by the UN, the EU Council is soon likely to lift its sanctions regime as well. The Cote d'Ivoire has been subject to EU sanctions regimes since 2004 which included financial sanctions, an embargo on arms and equipment which could be used for internal repression, a ban on the import of diamonds, and travel bans.

## **UK SANCTIONS**

### **UK launches Office of Financial Sanctions Investigations ("OFSI")**

On 31 March 2016, the UK Government officially established the Office of Financial Sanctions Investigations ("OFSI"). The new authority, which has been compared with the US Government's sanctions-enforcement body, OFAC, is intended to increase awareness of sanctions regimes; to aid compliance; to detect breaches and take enforcement action where necessary; and generally to provide a professional service to businesses and individuals which may be affected by sanctions.

OFSI will be responsible for applying the new Policing and Crime Bill, which is currently awaiting its third reading in the House of Commons, following the Report Stage which occurred on 26 April 2016. We have written about the provisions of the Bill in more detail [here](#).

Shortly after being launched, OFSI published updated guidance on the operation of the financial sanctions framework in the UK. In particular, it sets out the process for obtaining an export licence and it provides a number of practical, worked examples of common scenarios which may be affected by sanctions regimes. This guidance can be viewed [here](#).

### **UK passes new Iran Sanctions Order**

Following the JCPOA, the UK has passed the Export Control (Iran Sanctions) Order 2016. The statutory instrument lays down the maximum sentence for breaches of the remaining sanctions on Iran to ten years' imprisonment and an unlimited fine. The Order is due to come into force on 16 May 2016.

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