

# EU SANCTIONS

## Status of EU Sanctions against Iran, Libya and Syria

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The past year has seen the continued importance and effect of arms embargoes and economic sanctions imposed by the EU, the US and the UN against a number of States. In this article we provide an update on the status of restrictive measures imposed by the EU against Iran, Libya and Syria.

Tensions between Western powers, and in certain instances the League of Arab States, on the one hand and Iran and Syria on the other remain high. Meanwhile, whilst the fall of the Qaddafi regime in Libya has resulted in the end of significant hostilities in the country, companies and investors should be aware that certain EU sanctions against the country remain in effect.

### **Iran**

On 24 March 2012, the new Council Regulation (EC) 267/2012 ("Regulation 267/2012") came into force, replacing Regulation 961/2010, and implementing the EU Council's Decision 2012/35/CFSP. This new Regulation 267/2012 serves as the main source of authority with respect to most of the EU's restrictions and sanctions on trading with Iran. It is effective in all EU Member States and applies to all legal and natural persons subject to the jurisdiction of these Member States.

The subject matter of Regulation 267/2012 is broad and any company considering its application to its current or future trading and commercial activities with Iran will need to proceed cautiously. Regulation 267/2012 includes continuing prohibitions on the sale, transfer, brokering or financing of the following equipment, resources and technology.

- Military equipment and technology (falling under the Common Military List).
- Software designed for information security (per the list at Annex I of Regulation 267/2012).
- Nuclear reactors and related equipment, materials processing equipment, various electronics components, sensors and lasers, and navigational, avionic and propulsion systems (per the list at Annexes I and II of Regulation 267/2012).
- Equipment and technology used for the exploration, production, refining and/or liquefaction of oil or gas products (per the list at Annex VI of Regulation 267/2012). This prohibition is subject to certain exclusions at Article 10 of the Regulation.
- Importing oil, petroleum products or petrochemicals in to the EU if such products originated or are exported from Iran (per the lists at Annexes IV and V of the Regulation 267/2012). This prohibition is subject to certain exclusions at Article 12 of the Regulation.
- To sell or purchase a variety of metals and diamonds (per the lists at Annexes II and VII of Regulation 267/2012).

- Investing in or with, or providing financing to, any Iranian persons or entities where such persons or entities engage in manufacturing or other activities related to the above prohibitions.

As with earlier sanctions against Iran, under Article 23 of Regulation 267/2012, the assets and economic resources of persons specified in the Annexes of the Regulation shall be frozen. It is prohibited to deal with or make any funds or resources available to such persons. Separately, Article 30 of Regulation 267/2012 imposes strict guidelines and possible limitations on the transfer of funds to and from an Iranian person, body or entity.

However, in certain circumstances, specific items or categories from the above list that would be presumed to be prohibited may be traded with Iranian entities if such items fall within certain specific exceptions (see, for example, Articles 6, 7, 10, 12 and 21 among others), or where such items are listed under Annex 3 of Regulation 267/2012 and an authorisation is obtained from the competent authority in the EU Member State.

It is significant to note that the scope of prohibitions set out at Article 11 Regulation 267/2012 on the import, purchase, transport or financing of Iranian crude oil or petroleum products will increase from 1 July 2012. Article 12 of this Regulation provides derogations from the prohibition at Article 11, but these derogations will expire as of 1 July 2012, meaning that as from 1 July 2012:

- trade contracts entered into before 23 January 2012 shall be prohibited from execution; and
- the provision of third party liability insurance and environmental liability insurance and reinsurance for Iranian crude oil and petroleum products shall be prohibited.

A copy of Regulation 267/2012 can be found [here](#). However, the reader will note that subsequent amendments to the Regulation may not all be consolidated in the original Regulation itself, the contents of any amendment should therefore be confirmed by looking at the separate amending Regulations themselves. A list of amendments can be found [here](#).

## **Syria**

In May 2011, shortly following the Syrian government's violent reprisals to civilian protests in the country in 2011, the EU enacted sanctions against Syria by imposing asset freezes on designated persons, entities and bodies, and restrictions on the provision of economic resources to such persons (the then Council Regulation (EC) 442/2011).

With the situation in Syria deteriorating, the EU has significantly increased the scope of sanctions in place through the enactment of the new Council Regulation (EC) 36/2012 ("Regulation 36/2012") on 19 January 2012 (repealing and replacing Regulation 442/2011). On 15 May 2012, the EU moved to freeze the assets of additional Syrian persons and entities by bringing into force Regulation 410/2012 which amends the list of persons and entities whose assets are frozen at Annex II of Regulation 36/2012.

The range of items, categories and activities prohibited in the new Regulation 36/2012 closely resembles the prohibitions placed on Iran. Restrictions and prohibitions have been placed on the sale, transfer, brokering or financing of, among others, the following kinds of equipment, resources and technology.

- Equipment that might be used for internal repression (per the list at Annex I of Regulation 36/2012) or that is listed in the Common Military List.

- Software designed for information security which might be used for the monitoring of telephone or internet communications (per the list at Annex V of Regulation 36/2012).
- Such equipment and technology used for the exploration, production, refining and/or liquefaction of oil or gas products (per the list at Annex VI of Regulation 36/2012). This prohibition is subject to certain exclusions at Article 10 of the Regulation.
- Importing oil, petroleum products or petrochemicals in to the EU if such products originated or are exported from Syria. This prohibition is subject to certain exclusions at Article 7 of Regulation 36/2012.
- Investing in or with, or providing financing to, any Syrian persons or entities where such persons or entities engage in manufacturing or other activities related to the above prohibitions.
- Such equipment and technology (per Annex VII of Regulation 36/2012) for the construction or installation of new power plants for electricity production.
- Restrictions on the provision of financial services by credit and financial institutions to engage in activities with Syrian financial institutions or to provide insurance or re-insurance to private or public entities.

As was noted with respect to the Iranian sanctions, it may be possible in certain circumstances for companies to obtain derogations from the effect of the sanctions from the competent authorities in their Member State or where Regulation 36/2012 provides an automatic derogation (e.g., where an agreement for prohibited goods was signed on a date excluded from the effect of the Regulation).

A copy of Regulation 36/2012 can be found [here](#). However, the reader will note that subsequent amendments to the Regulation may not all be consolidated in the original Regulation itself, any amendment should therefore be confirmed by looking at the separate amending Regulations themselves. A list of amendments can be found [here](#).

## **Libya**

On 23 October 2011, following several months of intense fighting, the National Transitional Council (“NTC”), the opposition to Colonel Qaddafi’s regime, declared the liberation of Libya and the official end of the war in Libya. The end of the war has not meant an end to all fighting and continuing danger in the country. Low-level insurgencies by former Qaddafi loyalists still continue to fight the NTC in remote parts of Libya.

Despite the end of major hostilities in Libya, companies should be aware that EU sanctions are still in force. The EU sanctions regime against Libya was principally regulated by Council Regulation (EC) 204/2011 (“Regulation 204/2011”). Regulation 204/2011 has been amended numerous times to modify the list of persons and entities affected by asset freezes. The following categories of prohibitions remain in effect at the present date:

- the direct or indirect trading or participation in the provision of equipment that may be used for internal repression or that is listed in the Common Military List (subject to derogations set out in Regulation 204/2011 that may be obtained from the competent authorities in the EU Member State);
- the assets of a number of significant Libyan persons and entities (at Annexes II and III) remain frozen (subject to possible derogations under Regulation 204/2011 that may be

obtained from the competent authorities in the EU Member State that permit certain limited releases of frozen assets in specific circumstances).

Since the end of significant hostilities in Libya in the fall of 2011, the EU has moved to gradually ease the scope of sanctions against Libya. The most significant actions taken in this direction include:

- The removal on 2 September 2011 of the freeze placed on the assets of 28 Libyan entities including, most significantly, the main port authorities and a number of oil companies and banks (Regulation 872/2011).
- On 22 December 2011, Regulation 1360/2011 amended Regulation 204/2011 by removing the names of the Central Bank of Libya and the Libyan Arab Foreign Bank from the list of entities subject to asset freezes. However, it should be noted that the Libyan Investment Authority and the Libyan Africa Investment Portfolio remain on the list of Libyan institutions whose assets remain frozen.
- The amendments to Regulation 204/2011 to provide the opportunity to seek derogations from the competent authorities in the EU Member States of restrictions and prohibitions in the Regulation, in particular on the freeing of the frozen assets of Libyan persons and organisations in specific circumstances.

A copy of Regulation 204/2011 can be found [here](#). However, the reader will note that subsequent amendments to the Regulation may not all be consolidated in the original Regulation itself, any amendment should therefore be confirmed by looking at the separate amending Regulations themselves. A list of amendments can be found [here](#).

### **General Sanctions Notice**

This sanction update concerns only EU sanctions. Individual EU Member States may have unique sanction regimes. In addition, the impact of US sanctions should be considered.

There is no expiry date on the current sanctions regimes. The sanctions regimes will continue to exist until the EU repeals the Regulations. Persons and entities named in Annexes to the Regulations, and with whom trading activity is either limited or wholly prohibited, must be reviewed by the EU at least every 12 months. The EU's failure to review any such Annex does not mean that that Annex expires automatically or that those persons or entities are automatically removed from the Annexes.

Sanctions regimes are rarely repealed in one single instance. These are usually amended gradually by the removal over time of prohibitions over categories of trade and the removal of persons and entities from Annexes of prohibited persons. It is therefore essential for companies to continually monitor changes in the UN, EU and US sanctions regimes to ensure their continued compliance.

For further information or advice regarding any concerns you have on the potential effect of any sanction regimes discussed here then please contact:

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