

# Babbé LLP April 2017 Sanctions Update

This note is for information purposes only and is not intended to be legal advice.

As usual, we highlight below some of the important changes made to sanctions regimes across Europe, the UK and USA which may impact upon Guernsey businesses.

**NB:** Pursuant to Bailiwick Ordinances (giving effect to EU Regulations) and Orders in Council (giving effect to UN Security Council Resolutions), amendments to the lists of designated individuals or entities are automatically effective in Guernsey without the need for further domestic legislation.

## AL-QAIDA/DA'ESH

Council Regulation (EC) 881/2002, imposing financial sanctions against the ISIL (Da'esh) and Al-Qaida organisations, has been amended. HM Treasury in turn issued the appropriate Sanctions Notices on [23 March 2017](#), [28 March 2017](#), [5 April 2017](#) and [6 April 2017](#). The full HM Treasury Consolidated List of Financial Sanctions Targets in respect of Al-Qaida & Da'esh can be viewed [HERE](#).

## BOSNIA & HERZEGOVINA

The EU Council has extended its sanctions on Bosnia & Herzegovina for 1 year, until 31 March 2018. The sanctions impose a travel ban and asset freeze on individuals and entities deemed to be undermining the sovereignty or territorial integrity of Bosnia, seriously threatening its security situation, or undermining the Dayton-Paris Peace Agreement. See [Council Decision 2017/607](#) amending Council Decision [2011/173/CFSP](#).

## IRAN

The EU has renewed its human rights sanctions on Iran until 13 April 2018. Amongst other things, the current sanctions impose an asset freeze on 82 individuals and 1 entity, as well as a ban on exports to Iran of equipment which might be used for internal repression or monitoring telecommunications. See [Implementing Regulation 2017/685](#) and [Decision 2017/689](#).

A further challenge to an EU decision to re-list an Iranian entity has been dismissed by the General Court of the EU. The Court now regularly upholds decisions to re-list entities on the basis that they provide support for the government of Iran, where the EU could not rely upon the original reasons given for their inclusion (typically that they support Iran's nuclear programme).

HM Treasury also issued the relevant [Sanctions Notice](#).

## LIBYA

The EU has renewed its sanctions on individuals said to be obstructing the implementation of the Libyan Political Agreement and the formation of a Government of National Accord in Libya. See [Decision 2017/621](#) amending [Decision 2015/1333](#) and HM Treasury's [Sanctions Notice](#) of 23 March 2017.

## RUSSIA

The EU has renewed its asset freezing measures and travel bans on people and entities said to be involved in undermining Ukraine's territorial integrity for a further 6 months, until 15 September 2017. See [Implementing Regulation 2017/437](#) and [Decision 2017/445](#).

Interestingly, on 28 March 2017, the European Court of Justice responded to a request from the UK High Court to interpret some of the EU's sanctions on Russia imposed in July 2014. The sanctions at issue included those imposing restrictions on some financial transactions and on the access of some Russian entities to EU capital markets. The questions were referred to the ECJ in the course of proceedings brought by Rosneft against the UK government and the FCA. The judgment asserts, amongst other things, that the sanctions were justified by the objective sought to be achieved. The ECJ stated that "insofar as that objective is, inter alia, to increase the costs to be borne by the Russian Federation for its actions to undermine Ukraine's territorial integrity, sovereignty and independence, the approach of targeting a major player in the oil sector, which is moreover predominantly owned by the Russian State, is consistent with that objective".

## SYRIA

The EU Council has imposed an asset freeze and travel ban on 4 high-ranking Syrian military officials, who allegedly played a role in the use of chemical weapons against the civilian population in Syria. See [Implementing Regulation \(EU\) 2017/480](#), [Implementing Decision 2017/485](#) and HM Treasury's [Sanctions Notice](#).

## YEMEN

The EU has updated the listings of 4 people listed on its sanctions against Yemen, implementing changes made by the UN. See [Implementing Regulation 2017/628](#) implementing [Regulation 1352/2014](#) and [Implementing Decision 2017/634](#) implementing [Decision 2014/932/CFSP](#).

It has also updated 2 listings under its ISIL & Al-Qaida sanctions. See [Implementing Regulation 2017/630](#) and [Implementing Regulation 2017/637](#) respectively amending [Regulation 881/2002](#). HM Treasury's current list of designated persons for Yemen is available [HERE](#).

## OTHER CHANGES

The following Council Regulations have also been amended:

- Council Regulation (EU) 753/2011, imposing financial sanctions against [AFGHANISTAN](#)
  - Council Regulation (EC) 1183/2005, imposing financial sanctions against the [DEMOCRATIC REPUBLIC OF CONGO](#)
  - Council Regulation (EU) 270/2011, imposing financial sanctions against [EGYPT](#)
  - Council Regulation (EC) 1210/2003, imposing financial sanctions against [IRAQ](#)
  - Council Regulation (EC) 329/2007, imposing financial sanctions against [NORTH KOREA \(DPRK\)](#). The EU has expanded its nuclear-proliferation sanctions, including prohibitions on investment to new sectors (namely conventional arms, metallurgy, and aerospace). See Regulation [2017/658](#) and Council Decisions [2017/666](#) and [2017/667](#)
  - Council Regulation (EU) 377/2012, imposing financial sanctions against [REPUBLIC OF GUINEA-BISSAU](#)
  - Council Regulation (EU) 356/2010, imposing financial sanctions against [SOMALIA](#)
  - Council Regulation (EU) 2015/735, imposing financial sanctions against [SOUTH SUDAN](#)
  - Council Regulation (EU) 747/2014, imposing financial sanctions against [SUDAN](#)
  - Council Regulation (EU) 208/2014, imposing financial sanctions against [UKRAINE](#)
- \* **The Consolidated United Nations Security Council Sanctions List can be viewed [HERE](#).**

## TERRORIST FINANCING

The ECJ has just given judgment in the LTTE case, [CASE C-158/14 A, B, C, D V MINISTER VAN BUITENLANDSE ZAKEN](#), whereby the ECJ held that actions by armed forces during periods of armed conflict can constitute terrorist offences / terrorist acts for the purposes of the EU's terrorist asset freezing regime.

Under the Terrorist Asset-Freezing etc. Act 2010, HM Treasury is required to report to Parliament quarterly on its operation of the UK's asset freezing regime. The Quarterly Report to Parliament for 1 July 2016 to 30 September 2016 can be viewed [HERE](#).

**NOTE:** Persons who are the subject of such designations are automatically designated persons for the purposes of the Terrorist Asset-Freezing (Bailiwick of Guernsey) Law, 2011 with immediate effect, and are therefore subject to the asset freeze and other prohibitions.

\* HM Treasury's current List of Designated Persons: Terrorism and Terrorist Financing can be viewed [HERE](#).

## IMPORTANT CHANGES TO UK LEGISLATION

On 1 April 2017, Part 8 of the Policing and Crime Act 2017 came into force, providing HM Treasury's Office of Financial Sanctions Implementation (OFSI) with the power to impose civil fines for breaches of financial or information sanctions. Pursuant to section 146 of the Act, OFSI has the power to impose penalties of up to either 50% of the value of the breach or £1million (whichever is highest). OFSI has published guidance and a response to its consultation which is available to view [HERE](#). HM Treasury's updated guidance on financial sanctions is available [HERE](#).

## POST-BREXIT SANCTIONS

The House of Lords EU External Affairs Sub-Committee is conducting an inquiry into UK sanctions policies following the UK's departure from the Europe Union. The inquiry will consider issues such as future co-operation between the EU and the UK on sanctions policy, how the current EU regime will be implemented into UK law and the consequences of a separate regime from the EU. To learn more about the inquiry visit [HERE](#). To contribute, contact Eva George, Clerk to the EU External Affairs Sub-Committee at georgee@parliament.uk or on +44 20 7219 6099.

## UNITED STATES SANCTIONS UPDATES

- OFAC has made various recent changes to its "Specially Designated Nationals" (SDNs) list, most recently on 7 April 2017, which can be viewed [HERE](#). The SDN List can be viewed in full [HERE](#).
- President Trump has renewed US sanctions on people and entities involved in malicious cyber-activities until 1 April 2018. The sanctions were expanded in scope at the end of 2016 following allegations of Russia's alleged cyber operations aimed at the U.S. election.
- OFAC has designated 2 people, Syria-based Muhammad Tamtomo and Syria/Iraq-based Muhammad Jedi, as Specially Designated Global Terrorists for allegedly providing financial and operational support to ISIL.

**Should you require any advice in relation to sanctions or other regulatory issues, please contact Babbé for assistance.**



Andrew Laws  
Tel: +44 1481 746106  
[a.laws@babwelegal.com](mailto:a.laws@babwelegal.com)



Tim Molton  
Tel: +44 1481 746193  
[t.molton@babwelegal.com](mailto:t.molton@babwelegal.com)