

Sanctions Alert

A bi-monthly summary of sanctions news and events

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Upcoming Sanctions Events

Debevoise & Plimpton LLP Seminar: The Beginning of the End of Iran Sanctions? Analysis and Business Implications

On 29 September in London and 30 September in New York, Debevoise & Plimpton LLP is hosting seminars exploring the implications of recent developments concerning international economic sanctions against Iran. Both seminars will consider the scope of the new deal, Congress' and others' reactions, the likely course the deal will take over the coming months and years, and the implications for international business with interests in the region.

Registration for the seminars will start at 8:30 a.m. local time, with the seminars running from 9:00 a.m. to 10:00 a.m. local time.

To register for the 29th September seminar in London, [click here](#).

To register for the 30th Seminar in New York, [click here](#).

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Iran News

EU Sanctions Amended to Allow Iran to Carry Out Nuclear Sanctions Deal Obligations

The EU has amended its Iran sanctions regime to enable Iran carry out actions needed to meet its commitments under the Iran nuclear sanctions deal, memorialised in the June 2015 [Joint Comprehensive Plan of Action](#) (JCPOA) (see the [Debevoise Client Update](#) of 17 July 2015). These changes follow the UN Security Council's unanimous decision to adopt [Resolution 2231](#), endorsing the JCPOA and providing for its implementation (see [Issue 41 of the Sanctions Alert](#)).

Pursuant to [Council Regulation \(EU\) 2015/1327](#) amending [Council Regulation \(EU\) 267/2012](#) and [Council Decision \(CFSP\) 2015/1336](#) amending [Council Decision 2010/413/CFSP](#), the EU now permits the

provision of goods and services to Iran to enable Iran to meet certain terms of the JCPOA. These terms include modifying its Fordow nuclear facility, modernising the Arak nuclear facility and exporting Iran's enriched uranium above the permitted limit in exchange for natural uranium. The amendments further provide that EU Member States may now authorise, on a case-by-case basis, transfers and activities in so far as they are necessary for the execution of certain nuclear related actions in the JCPOA, required to prepare for implementation of the JCPOA more broadly, or determined by the UN Sanctions Committee to be consistent with the objectives of Resolution 2231.

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US Confirms Extension of Interim Iran Sanctions Relief

On 7 August, the US Treasury Department [issued](#) revised [Guidance](#), [Frequently Asked Questions](#) (FAQs) and a [Third Amended Statement of Licensing Policy](#), confirming that the period of limited, temporary sanctions relief afforded to Iran since January 2014 has been extended until the implementation day of the July 2015 JCPOA. The limited existing sanctions relief was provided under the November 2013 Joint Plan of

Action (JPOA) while nuclear talks with Iran were taking place. Under the JCPOA, the limited relief afforded under the JPOA will continue in effect until the JCPOA is implemented. Further sanctions relief will take effect on the implementation day of the JCPOA as described in the [Debevoise Client Update](#) of 17 July 2015

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EU Extends Grandfather Clause on Certain Iran Oil and Petroleum Contracts

Pursuant to [Council Regulation \(EU\) 2015/1328](#) amending [Council Regulation \(EU\) 267/2012](#) and [Council Decision \(CFSP\) 2015/1337](#) amending [Council Decision 2010/413/CFSP](#), the EU has extended an exemption from its asset freezing measures until 14 January 2016. Under the exemption, competent authorities of EU Member States have the power to

give permission, on a case-by-case basis, for obligations to reimburse to be met where payment is to persons or entities within the EU under contracts relating to the supply of Iranian crude oil and petroleum products concluded before 23 January 2012.

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EU Court Dismisses Application by NITC for Interim Relief

On 16 July 2015, in [Case T 207/15 R National Iranian Tanker Company v Council \[2015\]](#), the General Court dismissed the National Iranian Tanker Company's (NITC) application to suspend sanctions listing pending the conclusion of its application to annul its listing.

NITC's listing was first annulled by the General Court in July 2014. NITC was subsequently re-listed in February 2015 (see [Issue 35 of the Sanctions Alert](#)). NITC then applied to annul this re-listing. NITC argued that the factual allegations relied on in support of its re-listing were identical in substance to those on which its initial listing had been based and which the Court declared unlawful in July 2014. Although the

General Court found that there was a *prima facie* case for the Council of the EU to answer, the General Court determined that any future harm to NITC arising from the sanctions would be financial in nature. The General Court reasoned that suspending NITC's listing was not necessary to prevent "serious and irreparable harm" because, if the listing was subsequently annulled, NITC would be able to obtain financial compensation for any loss caused by its listing. As such, the balance of the parties' interests favoured the Council and the application for interim measures was dismissed.

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Russia and Ukraine News

English Court of Appeal Allows Divorce Payments Notwithstanding Sanctions

In [R v R \[2015\] EWCA Civ 796](#), the Court of Appeal dismissed an appeal by a Russian citizen against an English court order requiring him to pay an interim maintenance allowance to his UK- resident ex-wife by way of transfer to her Russian bank account.

The husband was a listed individual under the EU's Russia sanctions, pursuant to [Council Regulation \(EU\) 269/2014](#) (EU Regulation), as given effect in UK law by the [Ukraine \(European Union Financial Sanctions\) \(No.2\) Regulations 2014](#). The sanctions prohibit persons subject to EU jurisdiction from dealing with the husband's assets, or participating in his dealing with them, subject to certain exceptions.

Lord Pannick, representing the appellant, argued that, as the wife lived in the UK she would clearly need to remit the money to the UK once it had been transferred to her Russian bank account pursuant to the court order. He argued that the court order, inevitably leading to this series of transfers, was itself both "dealing with funds" and a circumvention because the object and effect of the court order was to prevent the funds from being frozen.

The Court of Appeal disagreed and held that there was no circumvention because the EU Regulation did not have the objective of preventing an English court

from ordering a Russian husband to make maintenance payments to his Russian ex-wife in Russia.

The three Lords Justices of Appeal based their decision on slightly different reasoning. Lady Justice Arden, in her leading judgment, held that the court order did not itself transfer funds and therefore could not amount to dealing with funds contrary to the UK Regulation. In her view, the order merely provided for the payment by the husband of monies to a Russian bank in Russia. Lord Justice Briggs stated that the payment, in Russia, of interim maintenance by a divorced Russian husband to his former wife was beyond the scope of the EU Regulation unless it was effected by conduct, or involved assets, within the EU. He further stated that it was not the purpose of the EU Regulation to regulate the making of court orders. In his view, even if the court took an "abnormal" route to achieving that objective, it would simply be taking a lawful route to a lawful objective and would thus be circumventing nothing.

This judgment indicates the English Court's reluctance to restrict its powers in light of the EU sanctions regime

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Report Considers Impact of EU Russia Sanctions on Financial Markets

The Financial Markets Law Committee (FMLC), a non-profit organisation that opines on financial markets law, has published a paper entitled [Issues of Legal Uncertainty Arising in the Context of EU Contract Sanctions](#). The paper focuses on legal uncertainty arising from the EU's Russia sanctions imposed by Council Regulation (EU) 833/2014, particularly the so-called "sectorial sanctions".

Specifically the report draws attention to issues of uncertainty relating to: (i) the prohibition relating to loans or credit; (ii) the meaning and scope of related entities and the scope of "transferable securities" and "money market instruments"; (iii) the impact on the derivatives market; (iv) financing and

financial assistance; (v) the rules on circumvention; and (vi) criminal and civil liability.

To address the legal uncertainty identified in the paper, the report proposes, amongst other things, that: (i) a centralised EU authority responsible for the issuance of licences and the interpretation of rules should be established; (ii) further guidance be provided with regard to certain provisions; and (iii) there be a stated presumption that sanctions measures do not prohibit the performance of obligations arising from contracts or agreements that pre-date the sanctions.

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EU News

Afghanistan: EU Amends Sanctions List

On 31 July, pursuant to [Council Implementing Regulation \(EU\) 2015/1322](#) implementing [Council Regulation \(EU\) 753/2011](#) and [Council Implementing Decision \(CFSP\) 2015/1332](#) implementing [Council Decision 2011/486/CFSP](#), the EU added Abdul Basir Noorzai, an individual alleged to be financing the

Taliban, and the entity Haji Basir and Zarjmil Company Hawala, a company owned by Abdul Basir Noorzai, to its sanctions list, and removed Sangeen Zadrán Sher Mohammad, reportedly deceased, from the list.

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Al-Qaeda: EU Amends Sanctions List

On 31 July, pursuant to [Commission Implementing Regulation \(EU\) 2015/1330](#) amending [Council Regulation \(EC\) 881/2002](#), the EU removed Aliaskhab

Alibulatovich Kebekov, reportedly deceased, from its Al-Qaeda sanctions list and added two pseudonyms for the listed individual Mohammed Al Ghabra.

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On 13 August, pursuant to [Commission Implementing Regulation \(EU\) 2015/1390](#) amending [Council Regulation \(EC\) 881/2002](#), the EU added The Army Of Emigrants And Supporters, an organisation affiliated

with Islamic State in Iraq and the Levant, to its Al-Qaeda sanctions list, and amended the details of existing listings for 7 individuals and 4 entities.

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Belarus: EU Removes Individuals from Sanctions List

On 31 July, pursuant to [Council Implementing Decision \(CFSP\) 2015/1335](#) implementing [Council Decision 2012/642/CFSP](#), 24 individuals were deleted

from the EU's Belarus sanctions list.

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Counter-Terrorism Listings: No Changes

The EU has reviewed its counter-terrorism sanctions listings under [Common Position 2001/931/CFSP](#) as it is periodically required to do. As a result of this review no changes to the regime have been made. The conclusion of the review was enacted on 31 July in [Council Implementing Regulation \(EU\) 2015/1325](#) implementing [Council Regulation \(EC\) 2580/2001](#) and repealing [Council Implementing Regulation \(EU\)](#)

[2015/513](#) and [Council Decision \(CFSP\) 2015/1334](#) amending [Common Position 2001/931/CFSP](#) and repealing [Council Decision \(CFSP\) 2015/521](#), pursuant to which the 10 individuals and 23 entities listed under the EU's counter-terrorism sanctions remain subject to asset freezes.

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Libya: EU Updates Listings of 20 Individuals and 16 Entities and Permits Certain Arms Sales

On 31 July, pursuant to [Council Implementing Regulation \(EU\) 2015/1323](#) implementing [Council Regulation \(EU\) 204/2011](#), the EU updated the information for 20 individuals and 16 entities listed under its Libya sanctions regime.

The EU also consolidated the sanctions imposed by [Council Decision 2011/137/CFSP](#), and a number of amending Council Decisions, into [Council Decision \(CFSP\) 2015/1333](#) and repealed the former Decision.

Also on the same date, pursuant to [Council Regulation \(EU\) 2015/1324](#) amending [Council Regulation \(EU\) 204/2011](#), the EU created an exception to its prohibition on arms trade with Libya, permitting the sale of military equipment approved by the UN sanctions committee on Libya to the Libyan government for security or disarmament assistance, provided it will not be used for internal repression.

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US News

Following Guilty Plea, OFAC Issues Finding of Violation to Schlumberger Subsidiary for Oil Services in Iran and Sudan

On 7 August, the US Treasury Department's Office of Foreign Assets Control (OFAC) [announced](#) that it issued a [Finding of Violation](#) to Schlumberger Oilfield Holdings, Ltd., a wholly owned subsidiary of Schlumberger Ltd. OFAC found that the Schlumberger unit knowingly and wilfully violated the sanctions laws between February 2004 and June 2010, by allowing U.S.-based personnel to approve capital expenditure requests from Iran and Sudan for new tools and other purchases, arrange for drilling equipment transfers from non-embargoed oilfield locations to Iran and Sudan, provide technical services to maintain drilling equipment in Iran and Sudan, and make business planning decisions concerning Iran and Sudan.

This involved the same violations for which Schlumberger Oilfield Holdings had pleaded guilty and agreed to pay a criminal fine of \$155,138,904 and a forfeiture of \$77,569,452 in March of this year. Because those penalties had already been imposed, OFAC closed its investigation with a finding of violation rather than an additional civil monetary penalty. The Justice Department [described](#) the \$155 million fine as the largest criminal fine ever imposed under the International Emergency Economic Powers Act (IEEPA), although several banks have paid substantially larger total amounts for IEEPA violations after forfeitures are included.

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Navigators Insurance Settles with OFAC for P&I Insurance of North Korean Flagged Vessels, Vessels Trading with Iran, Sudan, Cuba

On 6 August, OFAC [announced](#) that the US-based Navigators Insurance Company (Navigators) had agreed to pay \$271,815 to settle civil liability for apparent violations of multiple sanctions programs. From May 2008 to April 2011, according to OFAC, Navigators issued global protection and indemnity (P&I) insurance policies covering North Korean-flagged vessels, and also covered vessels that operated in Iran, Sudan and Cuba, some of which resulted in the payment of claims for activities in those countries. The transactions were voluntarily self-disclosed, and OFAC considered the case to be non-egregious.

OFAC calculated the base penalty for 48 apparent violations at \$755,042. For insurance of the North Korean flag vessels, OFAC calculated the base penalty by reference to the full amount of the premium collected plus the full amount of all claims paid. For the apparent violations involving Iran, Sudan and Cuba, OFAC's base penalty calculation was based solely on the amount of the claims paid, and did not include an amount representing the pro rata portion of the premium attributable to coverage in the embargoed countries.

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Two US Exporters Settle with OFAC for Transactions with Designated WMD Proliferators

On 5 August, OFAC [announced](#) that the US company Production Products, Inc. had agreed to pay \$78,750 to settle civil liability for apparent violations of the Weapons of Mass Destruction Proliferators Sanctions Regulations (the Regulations). From December 2009 to August 2010, according to OFAC, the company had shipped three duct fabrication machines to China National Precision Machinery Import and Export Corp., a specially designated national under the Regulations. The transactions were not self-disclosed, and OFAC considered the case to be non-egregious. OFAC determined that the statutory maximum penalty was \$1 million, the aggregate transaction amount was \$500,000, and the base penalty was \$250,000.

Separately, on 24 July, OFAC [announced](#) that the US company Great Plains Stainless Co. (GPS) had

agreed to pay \$214,000 to settle civil liability for apparent sanctions violations. From April 2009 to July 2009, according to OFAC, GPS sold goods that its Chinese vendor shipped using a vessel that was designated as blocked property under the Weapons of Mass Destruction Proliferators Sanctions Regulations. OFAC also alleged that GPS altered documents to hide that these transactions occurred. The transactions were not self-disclosed, and OFAC considered the case to be non-egregious even though it concluded that GPS had apparently acted wilfully with respect to some of the apparent violations. OFAC calculated the statutory maximum penalty as \$500,000 and the base penalty as \$340,000.

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OFAC Penalises US-Based Online Business Infrastructure Company for Contracting with Software Developers Based in Iran

On 29 July, OFAC [announced](#) that the US company Blue Robin, Inc. had been issued a penalty notice in the amount of \$82,260. From January 2009 to July 2010, according to OFAC, Blue Robin had worked with PersiaBME, an Iran-based software company, to develop Web-based systems and applications that were used to automate online business processes for Blue Robin's customers. The transactions were

voluntarily self-disclosed, and OFAC considered the case to be non-egregious. OFAC determined that the statutory maximum penalty was \$8,250,000, the transaction value was \$205,560, and the base penalty amount was \$102,825.

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US Designates Four Turkish Individuals, Thirteen Entities, Ten Vessels Under Syria Sanctions Regulations

On 3 August, OFAC [blocked](#) four individual Turkish nationals, seven companies located around the world, and seven vessels for providing energy assistance to the Assad regime in Syria and consequently extending the Syrian conflict. Generally, the companies, which are registered in and have operations in various countries around the world, are said to be controlled by and acting on behalf of Wael Abdulkarim and the Abdulkarim Group, which were previously blocked. The newly designated individuals are employees and managers of Milenyum Energy S.A., one of the

companies designated. The vessels are owned either by Milenyum or by Aqua Shipping Ltd., another designated company that is said to be a front for Milenyum.

At the same time, the US added to its Specially Designated Nationals list six Syrian government-owned entities and three vessels. These were already blocked by operation of law because they constitute property in which the Syrian government has an interest but were added to the list to communicate to the public that dealings with those entities are prohibited.

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US Blocks Two Qatari Individuals for Financing Al-Qaeda and Al-Nusrah

On 5 August, the US Treasury Department [designated](#) Sa'd bin Sa'd Muhammad Shariyan al-Ka'bi and 'Abd al-Latif Bin 'Abdallah Salih Muhammad al-Kawari as Specially Designated Global Terrorists for providing financing to al-Qaeda and its Syrian affiliate al-Nusrah Front. Al-Ka'bi is alleged to have raised funds

for al-Nusrah Front in Qatar and facilitated ransom payments on behalf of the group. Al-Kawari is alleged to have served as an al-Qaida security official and financing coordinator.

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US Designates 15 Mexican Businesses and 6 Mexican Individuals under the Kingpin Act

On 19 August, OFAC [designated](#) 15 Mexican businesses and six Mexican individuals as blocked under the Foreign Narcotics Kingpin Act, for providing financial support and services to the Los Cuinis Drug Trafficking Organization and its leader, Abigael Gonzalez Valencia. Valencia and the Los Cuinis

organisation had previously been [added](#) to the Kingpin list in the spring of this year.

The businesses and individuals are all alleged to be affiliated with either Los Cuinis or Valencia. The businesses include a luxury boutique hotel, real estate

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firms, two shopping centres and other businesses located in Jalisco state and elsewhere in Mexico. OFAC has issued a [chart](#) depicting the recent designees

as well as additional [identifying information](#).

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US Blocks Alleged Conflict Diamond Dealers and CAR Militia Leaders

On 21 August, the US Treasury Department [added](#) to the Specially Designated Nationals (SDN) list two diamond companies and three Central African Republic (CAR) militia leaders.

The blocked companies are BADICA, the CAR's largest diamond company, and its Belgian branch KARDIAM. The [Kimberley Process Certification Scheme](#) (KPCS), an international initiative designed to stem the flow of conflict diamonds, has prohibited the exportation of diamonds from the CAR since May 2013. According to the US government, BADICA has purchased conflict diamonds from the CAR militia Seleka and has smuggled them to KARDIAM in Belgium in violation of the KPCS.

The three designated individuals, Alfred Yekatom, Habib Soussou and Oumar Younous, are commanders in the Seleka and Anti-Balaka militia groups in the CAR. They were added to the SDN list for being leaders of groups that threaten the peace, security or stability of the CAR.

Also on 21 August, the US Treasury Department [removed](#) Levi Yakite, who is [reportedly deceased](#), from the SDN List. Yakite was a political coordinator for Anti-Balaka and was [designated](#) at the time President Obama signed the original executive order imposing sanctions related to the CAR.

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Related Developments in Anti-Money Laundering Initiatives

Financial Crimes Enforcement Network Issues Proposed Anti-Money Laundering Rules for Investment Advisers and Unregistered Investment Companies

On 25 August, the Financial Crimes Enforcement Network (FinCEN) [issued](#) a rule proposal to require certain investment advisers registered with the Securities and Exchange Commission (SEC) to establish and maintain anti-money laundering compliance programs and to file related reports with the government, including suspicious activity reports (SARs). This proposal, which is subject to public

comment, would designate investment advisers as financial institutions under the Bank Secrecy Act and generally seeks to bring adviser anti-money laundering requirements into line with those of other financial institutions. The SEC would have authority to examine advisers for compliance with the new requirements.

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