

Sanctions Alert

A monthly summary of sanctions news and events

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Iran News

Adoption Day: US and EU Take Steps to Implement Iran Nuclear Deal

On 18 October 2015, referred to as “Adoption Day”, the Joint Comprehensive Plan of Action nuclear deal (the “JCPOA”) between Iran, the EU and the P5+1 (see [Issue 41 of the Sanctions Alert](#)) was formally adopted. Iran’s parliament approved the deal on 13 October 2015. The following day, Iran’s Guardian Council ratified the bill after finding it to be compliant with both religious law and the constitution.

Adoption Day marked the point at which Iran must begin to meet commitments such as dismantling proliferation-sensitive components of its nuclear facilities and reducing its uranium stockpiles, and the EU and US were obliged to publish relevant legislation and guidance. The next stage for the JCPOA is “Implementation Day”, on which, following verification from the International Atomic Energy Agency (the “IAEA”) that Iran has complied with its JCPOA obligations, the sanctions relief measures described in the JCPOA will take effect.

On Adoption Day, US President Barack Obama issued a [memorandum](#) to the relevant Cabinet secretaries directing them to take the necessary actions to implement the JCPOA, and the US Secretary of State John Kerry issued contingent [waivers](#) of certain secondary sanctions. Secretary Kerry [called](#) these actions “a critical first step in the process of ensuring that Iran’s nuclear program will be exclusively for peaceful purposes”.

In connection with the waivers, the US Treasury Department’s Office of Foreign Assets Control (“OFAC”) issued a set of answers to Frequently Asked Questions about Adoption Day. The new FAQs stress

that no changes will take effect until Implementation Day and that US persons will be prohibited from most transactions with Iran even after Implementation Day. OFAC also promised to issue further guidance about sanctions changes before Implementation Day.

The EU introduced legislation setting out changes to the existing sanctions on Iran and identifying the individuals and entities for delisting. The effect of the legislation will be to lift all nuclear-related EU economic and financial sanctions, and allow certain nuclear-related exports subject to licensing, as specified in the JCPOA.

The EU measures are contained in [Council Regulation \(EU\) 2015/1861](#), [Council Decision \(CFSP\) 2015/1863](#) and [Council Implementing Regulation \(EU\) 2015/1862](#). The EU High Representative Federica Mogherini and Iranian Foreign Minister Javad Zarif issued a [joint statement](#) explaining the Adoption Day process.

Foreign governments, companies and banks are already said to have been in talks with Iran ahead of Implementation Day, which is due to occur early next year. Japan and Iran are said to have reached an investment agreement due to come into force in 2016. This activity has led the US Government to issue a “demarche” reminding foreign governments that sanctions on Iran will remain in place until Implementation Day.

For more information on the steps taken by the US and EU to implement the JCPOA, please see the [Debevoise Client Update](#) of 28 October 2015.

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Switzerland to Ease Iran Sanctions

On 21 October 2015, the Federal Council of Switzerland followed the example of the EU and the US, announcing that it would also ease its

sanctions against Iran on Implementation Day. The announcement can be viewed here (link in French).

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CJEU Rejects First Islamic Investment Bank's Annulment Application

On 22 September 2015, the Court of Justice of the European Union (the "CJEU") rejected First Islamic Investment Bank's application to annul its listing in the EU's nuclear proliferation sanctions regime on Iran in [Case T-161/13 First Islamic Investment Bank Ltd v Council of the European Union](#). The Malaysian bank was first made subject to the asset freeze in 2012 for assisting designated entities to violate EU sanctions on Iran and providing financial support to the government of Iran. The EU's summary of reasons also stated that the bank was one of the companies in the "Sorinet Group" being used to channel Iranian oil-related payments. The Sorinet Group is owned and operated by Babak Zanjani, an individual sanctioned in 2012 for being a "key facilitator for Iranian oil deals and transferring oil-related money."

The CJEU found that the Council, in taking 19 months to respond to a request by the bank for information on its listing, had infringed the applicant's rights of defence. However, as in the recent Iranian Ministry of Energy case (see [Issue 43 of the Sanctions Alert](#)), the CJEU held that the delay did not justify annulment. The CJEU held that, although the Council had not presented sufficient evidence to prove all of the grounds for listing the bank, the established link to Babak Zanjani was sufficient to justify the decision to maintain the sanctions.

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OFAC Clarifies Secondary Sanctions for Non-US Suppliers to Iranian Diplomatic Missions in Third Countries

On 22 October 2015, OFAC issued a new [Frequently Asked Question](#) on the provision of goods and services by non-US persons to diplomatic missions of the Iranian government outside the United States. OFAC clarified that the provision of goods and services for the conduct

of official business and diplomatic missions of the Government of Iran would not ordinarily subject non-US companies to secondary sanctions. However, the transactions could be sanctionable if the recipient of the goods and services is on the Specially Designated

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Nationals (SDN) List for reasons other than being an Iranian government entity or financial institution designated solely under [Executive Order 13599](#). Additionally, unless licensed by OFAC, US persons and

US-owned and controlled foreign affiliates may not be involved in such transactions, and the transactions may not use the US financial system.

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Russia and Ukraine News

European Commission Updates Guidance on Russia sanctions

On 25 September 2015, the European Commission published an updated [Commission Guidance Note](#) on the application of restrictions imposed on the Russian financial sector pursuant to [Council Regulation \(EU\) No. 833/2014](#) as amended by Council Regulation (EU) No. 960/2014 and [Council Regulation \(EU\) No. 1290/2014](#) (“Regulation 833”).

Regulation 833 (see [Issue 32 of the Sanctions Alert](#)) limits access to EU capital markets and long-term loans for certain listed Russian State-owned financial institutions, defence industry companies and oil companies; restricts the provision of certain military and dual-use goods and related services; and restricts the supply of certain oil-industry related goods and services to Russia.

The guidance note, which is an updated and consolidated version of that originally published on 16 December 2014 (see [Issue 33 of the Sanctions Alert](#)), is written in the form of answers to questions that have been brought to the Commission’s attention. Among other things, it adds new clarifications on the scope of the loan restrictions (including that loans cannot be rolled over for longer than 30 days and pre-existing loans cannot be forgiven) and the status of promissory notes, bills of lading and depository receipts in relation to the capital markets restrictions.

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EU Publishes Space Industry-related Exceptions to Russia Sanctions

On 1 October 2015, pursuant to [Council Decision \(CFSP\) 2015/1764](#) amending [Council Decision 2014/512/CFSP](#) and [Council Regulation \(EU\) 2015/1797](#) amending Regulation 833, the EU amended its sanctions regime on Russia in order to restrict its effect on the European space industry.

The amended legislation permits trade in specific pyrotechnics necessary for the use of launchers operated by European launch service providers, or for launches carried out by European space programmes. Trade will also be allowed for the fuelling of satellites by European satellite manufacturers.

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EU Renews Ukraine-related Asset Freeze on One Individual

The EU has renewed an asset freeze and travel ban on Serhii Kliuiev, a Ukrainian businessman and brother of Ukraine's former head of presidential administration, Andrii Kliuiev. Both are subject to criminal proceedings by the Ukrainian authorities for involvement in the misappropriation of public funds or assets. The restrictive measures will apply until 6 March 2016.

The asset freeze and travel ban were renewed and amended by [Council Implementing Regulation 2015/1777](#) implementing [Council Regulation 208/2014](#) and [Council Decision \(CFSP\) 2015/1781](#) amending [Council Decision 2014/119/CFSP](#).

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EU News

Al-Qaeda: EU Amends Sanctions List

On 8 October 2015, pursuant to [Commission Implementing Regulation \(EU\) 2015/1815](#) amending [Council Regulation \(EC\) 881/2002](#), the EU added 18 individuals and two entities to its counter-terrorism sanctions list and delisted two individuals. The new listings include the four British individuals listed by the UN at the UK's request last month (see [Issue 43](#)

[of the Sanctions Alert](#)). The Regulation imposes financial sanctions against Al Qaeda, and the newly listed individuals and entities will now be subject to asset freezes. Further information on the new listings is provided in the [HM Treasury Financial Sanctions Notice](#) published on 9 October 2015.

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Belarus: EU Suspends Sanctions for Four Months

On 29 October 2015, the Council of the European Union announced that it had suspended sanctions against 170 individuals and three entities in Belarus until 29 February 2016. The decision came as a result of the release of political prisoners on 22 August 2015 and the presidential election on 11 October 2015, which the EU considered had been held in "a peaceful environment".

Existing EU sanctions on Belarus were imposed in response to serious human rights violations and the repression of civil society and democratic opposition in the country. The sanctions imposed travel bans and asset freezes on President Alexander Lukashenko, Belarusian officials and other individuals and entities identified as benefiting from or supporting the Lukashenko regime.

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The Council took the decision in order to encourage developments that would improve “EU-Belarus relations”. An arms embargo will remain in place, and there will be no suspension of the sanctions against four members of President Lukashenko’s security services suspected to be involved in the unresolved disappearances of political opponents. The Council stated that the EU will continue to monitor the situation in Belarus closely.

The measures will take effect on 31 October 2015, pursuant to [Council Implementing Regulation \(EU\) 2015/1949](#) implementing [Council Regulation \(EC\) 765/2006](#) and [Council Decision \(CFSP\) 2015/1957](#) amending [Council Decision 2012/642/CFSP](#).

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Belarus: CJEU Annuls Sanctions Against Belarusian Football Club

In two judgments delivered on 6 October 2015, the CJEU annulled the inclusion in the EU’s Belarus sanctions list of Yury Chyzh and companies linked with him in the Triple group, including the football club Dynamo-Minsk. Chyzh was originally added to the sanctions regime in March 2012 for providing financial support to the regime of President Lukashenko through his holding company Triple TAA,

of which Dynamo-Minsk is a subsidiary. In Cases [T-276/12 Chyzh and Others v Council of the European Union](#) and [T-275/12 FC Dynamo-Minsk v Council of the European Union](#), the General Court of the CJEU annulled the legislation imposing restrictive measures on Chyzh and the Triple group companies owing to a lack of evidence.

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Liberia: UN and EU Repeal Financial Sanctions

On 6 October 2015, following a [UN Security Council Resolution](#) which terminated financial sanctions against Liberia, the EU removed eight individuals and thirty entities from its Liberia sanctions list. The asset freezes and travel bans had been in place since as early as 2004, when they were introduced in response to alleged misappropriation of state assets by the former President Charles Taylor and his associates.

The UN Security Council has renewed its arms embargo on Liberia for a further nine months, recognising that the situation in Liberia continues to constitute a threat to peace and security in the region.

The EU sanctions have been lifted pursuant to [Council Regulation \(EU\) 2015/1776](#), repealing [Council Regulation 872/2004](#), and [Council Decision \(CFSP\) 2015/1782](#), repealing [Council Common Position 2004/487/CFSP](#) and amending [Council Common Position 2008/109/CFSP](#).

Further information on the identities of the delisted individuals and entities can be viewed [here](#).

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Syria: EU Widens Sanctions Regime

The EU has widened the criteria for including individuals and entities in its sanctions against Syria. The sanctions were put in place because of the violent repression of the civilian population in Syria pursued by the Syrian regime, and widespread and systematic violations of human rights and international humanitarian law. In expanding the criteria, the Council of the European Union noted that the Syrian regime had made repeated attempts to circumvent EU sanctions. The amended legislation identifies certain categories of persons which the EU deems to pose a significant risk.

The new categories are as follows: leading businesspersons operating in Syria; members of the

Assad and Makhoul families; Syrian Government Ministers, security and intelligence officers, and certain members of the Syrian Armed Forces in post since May 2011; members of militias affiliated with the Syrian regime; persons and entities operating in the chemical weapons proliferation sector; and associates of the above.

The amendments are contained in [Council Regulation \(EU\) 2015/1828](#) amending [Council Regulation \(EU\) 36/2012](#) and [Council Decision \(CFSP\) 2015/1836](#) amending [Council Decision 2013/255/CFSP](#).

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US News

OFAC Authorises All Transactions with Nine Selected Belarusian SDNs for Six Months

On 29 October 2015, OFAC issued [General License No. 2](#) under the Belarus Sanctions Regulations to authorise US persons to engage in all transactions with nine specified entities that were blocked under the Belarus sanctions regime, as well as entities that are deemed to be blocked because they are 50% or more owned by one or more of the specified entities. However, the licence only authorises transactions until 30 April 2016, and it does not unblock any previously blocked property.

The temporarily unblocked entities are mainly in the energy and industrial manufacturing fields. They are Belarusian Oil Trade House, Belneftekhim, Belneftekhim USA, Belshina, Grodno Azot, Grodno Khimvolokno, Lakokraska, Naftan, and

Polotsk Steklovolokno. By the terms of the licence, however, transactions with these entities exceeding \$10,000 must be reported within 15 days to the US State Department's Office of Eastern European Affairs. In addition, records of any transactions with those entities must be kept for at least five years.

The new US general licence coincides with the European Union's decision to suspend Belarus sanctions for four months, but unlike the recent EU decision, it applies only to the specified entities. Transactions involving other entities or individuals on the Specially Designated Nationals (SDN) List, or entities 50% or more owned by them, remain prohibited.

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Crédit Agricole Unit Agrees to \$787 million Settlement with US Agencies for Wire Transfer Violations

On 20 October 2015, OFAC [announced](#) that Crédit Agricole Corporate Investment Bank (“CACIB”) had agreed to pay a combined settlement of \$787,300,000 to US federal and state agencies for improperly processing wire transfers through the United States. The settlement includes a \$329,593,585 payment under a [settlement agreement](#) with OFAC and additional penalties and forfeitures under deferred-prosecution agreements announced by the [U.S. Department of Justice](#) and the [New York County District Attorney’s Office](#) and consent orders announced by the [Board of Governors of the Federal Reserve System](#) and the [New York State Department of Financial Services](#).

According to [OFAC’s allegations](#), from 2003 to 2008, CACIB knowingly used SWIFT “cover payment” messages and other practices to process wire transfers through banks in the United States while concealing the identity of the actual senders or beneficiaries of the transfers. As a result, 4,297 payments that apparently should have been blocked or rejected were processed through the US banking system. OFAC [found](#) that the apparent violations were not voluntarily self-disclosed and constituted an “egregious case”.

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OFAC Issues Finding of Violation, Without Accompanying Monetary Penalty, for Persian Carpet Payments

On 21 October 2015, OFAC [announced](#) that it had issued a finding of violation to BMO Harris Bank NA for violations of the Iranian Transactions and Sanctions Regulations. Under OFAC’s enforcement guidelines, a “finding of violation” is a formal determination of a violation of the sanctions regulations without an accompanying civil monetary penalty. According to OFAC, in early 2011, a predecessor institution to BMO Harris processed six transactions, totalling \$67,357, in early 2011 to an Iranian exporter of carpets. The predecessor bank had added the exporter to its “false hit” list in 2009 to prevent its sanctions interdiction software from alerting, because imports of Iranian carpets were authorised by an OFAC general licence

at the time. Although the general licence for trade in Iranian-origin carpets was revoked in 2010, the bank failed to remove the entity from its false hit list.

In deciding to issue a finding of violation, OFAC noted, among other things, that the predecessor bank may have been unaware of the risks of failing to properly review and update false hit lists, that the transactions were known to lower-level bank employees but not management employees, and that the bank took prompt remedial action and cooperated with OFAC’s investigation.

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OFAC Issues Guidance on “False Hit” Lists

On 21 October 2015, OFAC published [new guidance](#) on the use and maintenance of “false hit” lists.

False hit lists are lists of individuals or entities who have been flagged by sanctions screening systems but are determined after manual review not to present sanctions compliance problems. The lists are used to suppress repeated alerts generated by screening software.

OFAC recognised that false hit lists are a legitimate tool but cautioned banks and others to take steps to ensure the accuracy of such lists. The measures recommended by OFAC include (1) involving

compliance personnel in developing guidelines for the use and oversight of the lists, (2) ensuring that existing false hit lists do not override matches resulting from new additions to OFAC’s sanctions lists, (3) amending the false hit lists in response to updates to OFAC’s sanctions programmes, such as revocation of general licences, and (4) requiring that significant changes to customer information (such as changes in name, address or ownership) trigger appropriate review.

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OFAC Designates Honduran Bank and its Owners as Narcotics Traffickers, Authorises Dealings with Honduran Liquidators

On 7 October 2015, OFAC designated three Honduran businessmen — Jaime Rolando Rosenthal Oliva, his son Yani Benjamin Rosenthal Hidalgo, and his nephew Yankel Antonio Rosenthal Coello — under the Foreign Narcotics Kingpin Designation Act. According to OFAC’s press release, the Rosenthals provided money laundering and other services to support the illicit activities of various Central American drug traffickers and criminal organisations. The men were charged in an indictment in the Southern District of New York on 6 October 2015 for money laundering in violation of US laws.

The Rosenthal family’s banking arm, Banco Continental S.A., based in Honduras, became the first bank ever designated under the Kingpin Act. OFAC

also designated nine other entities controlled by the Rosenthals, with holdings in the insurance, real estate, agriculture, construction, tourism, and media businesses. Three of the designated businesses are located in the United States itself; the others are located in Honduras, Panama or the British Virgin Islands.

After OFAC blocked Banco Continental’s property, the Honduran government informed OFAC that it had placed the bank into liquidation. In response, OFAC issued a [statement](#) on 11 October 2015 clarifying that it would not impose sanctions on any non-US entities that participate in the bank’s liquidation so long as they do not seek to benefit any of the other designated individuals or entities. OFAC published a similar [statement](#) on 22 October 2015 regarding

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Honduran liquidation proceedings against Seguros Continental S.A., an insurance company controlled by the Rosenthal family.

On 21 October, OFAC published [General License No. 1](#) under the Foreign Narcotics Kingpin Sanctions Regulations authorising US persons to engage in transactions until 12 December 2015 in connection with Banco Continental's liquidation,

including bidding to acquire the bank's assets. The general licence does not authorise transactions with the other designated individuals or entities or the release of blocked property, and it is subject to the requirement that the transactions be reported to OFAC within 10 days after the liquidation and wind-down activities conclude.

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OFAC Blocks Companies and Individuals Linked to Narcotics Trafficking

On 15 October 2015, OFAC [designated](#) Chinese national Bo Peng, also known as Kevin Peng, and his company, Kaikai Technology Co. Ltd. under the Foreign Narcotics Kingpin Designation Act. According to OFAC, from 2011, Bo Peng has used Kaikai to distribute synthetic cannabinoids (sometimes called synthetic marijuana or other names) and cathinones (sometimes called bath salts) internationally. Peng was indicted in May 2015 by a grand jury in the US District Court for the Middle District of Florida on charges of importing and conspiring to import the controlled substances ethylone and methylone.

Also on 15 October 2015, OFAC [removed](#) nine individual Colombian nationals from its narcotics trafficking lists. While OFAC did not announce a reason for the delistings, a delisting of an individual usually reflects that OFAC has determined that the person either is deceased or is no longer engaged in the activity that was the basis for the listing.

On 1 October 2015, OFAC [designated](#) six individuals, 11 companies, and five vessels under the Kingpin Act for providing maritime shipping services in support of the drug trafficking and money laundering activities of Lebanese-Colombian national Ayman Saied Joumaa and his organisation. OFAC had previously designated the Joumaa organisation on 26 January 2011 under the Kingpin Act. These designations focus on Lebanese national Merhi Ali Abou Merhi, several of his top managers, and companies controlled by them. The designated companies, which include maritime companies, shopping malls, a gas station, and a real estate development company, are controlled by Merhi through the Abou Merhi Group, as are the designated vessels. The companies include entities in Lebanon, Germany, Jordan, Nigeria and Benin. The designated individuals include Lebanese and German nationals.

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US Blocks Additional Members of ISIL, Caucasus Emirates and the Taliban

On 29 September 2015, [OFAC](#) and the [US State Department](#) designated 30 leaders, financiers, supporters, and factions of Islamic State of Iraq and the Levant (ISIL, also known as ISIS, IS, or Daesh) as Specially Designated Global Terrorists (SDGTs). The individuals are nationals of a number of countries, including Libya, Syria, Saudi Arabia, Morocco, Yemen, Tunisia, the United Kingdom, Iraq, Indonesia, Pakistan, Bosnia, Russia, and Tajikistan. The designated factions are located in the Sinai Peninsula, Indonesia, and Iraq.

On 2 and 5 October 2015, the US [designated](#) three members of ISIL and one of the Caucasus Emirate as SDGTs. Aseel Muthana, a British national, travelled to Syria last year to join his brother in supporting and fighting for ISIL. Islam Seit-Umarovich Atabiyev, a Russian national, runs Russian language media operations for ISIL. He is heavily involved in ISIL's

governance operations and maintains a school in Syria to train young Syrian boys to become fighters for ISIL. Akhmed Chatayev is the commander of Yarmouk Battalion, a Chechen faction of ISIL and is active in ISIL recruiting. Zaurbek Guchayev, a Russian national, is responsible for coordinating and directing the Caucasus Emirate's activities in Syria.

On 20 October 2015, the US [designated](#) Pakistani national Torek Agha as an SDGT. Agha is a senior Taliban leader who is heavily involved in the Taliban's strategic planning, logistics, fundraising, and military bureaucracy. He previously directed the assassination of senior Afghan government officials using unidentified chemical powder.

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OFAC Fines US Travel Agency for Cuba Trips

On 27 October 2015, OFAC [announced](#) that Gil Tours Travel, Inc., based in Philadelphia, Pennsylvania, agreed to pay \$43,875 to settle potential liability for apparent violations of the Cuban Assets Control Regulations. From October 2009 to August 2010, OFAC alleged, Gil Tours provided services related to Cuba travel for

191 individuals without authorisation from OFAC. OFAC determined that Gil Tours did not voluntarily self-disclose the violations but substantially cooperated in OFAC's investigation.

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Three Convicted for Illegal Exports from US to Russia

On 26 October 2015, a jury in the US District Court of the Eastern District of New York [convicted](#) three former employees of Arc Electronics Inc. of Houston, Texas, on various counts stemming from the unauthorised export of \$30 million of export-controlled equipment to Russia. According to the US government, from October 2008 to October 2012, Arc Electronics and eleven employees operated a network designed to evade US export controls to export sensitive microchips and other electronics to, among others, Russian military

and intelligence agencies. The defendants will be sentenced at a later date. These convictions follow guilty pleas from five other Arc Electronics employees, including its co-founder Alexander Fishenko. As we reported in [the previous issue](#) of the Sanctions Alert, Fishenko pleaded guilty to being an unregistered agent of the Russian government in violation of the Foreign Agents Registration Act (“FARA”).

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Debevoise Client Update: U.S. Further Relaxes Cuba Sanctions

For more information on the relaxations and adjustments to the US embargo of Cuba, as described in [Issue 43 of the Sanctions Alert](#), please see the

Debevoise [client update](#) from 14 October 2015.

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UN News

UN Security Council Intends to Impose Libya Sanctions

In a [press release](#) issued on 17 October 2015, the UN Security Council stated that it was prepared to sanction those who threaten Libya’s peace, stability and security or who undermine the successful completion of Libya’s political transition towards forming a government of national accord under a political agreement presented to the UN on 8 October 2015. To date the UN has not introduced such sanctions.

EU sanctions currently in force against Libya impose restrictions on individuals and entities deemed

responsible for the violent repression in the country, specifically members of the Qadaffi family, and members of, and businesses and institutions associated with, the Qadaffi regime. These sanctions are set out in [Council Decision 2011/137/CFSP](#) and [Council Regulation \(EU\) No. 204/2011](#).

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UK News

Export Control Organisation Updates and Amends OGELs

On 8 October 2015, the Export Control Organisation (the “ECO”) issued [Notice to Exporters 2015/25](#) amending 23 Open General Export Licences (“OGELs”) for military or dual-use goods and revoking one. OGELs are pre published licences usually limited to low-risk destinations. The changes include clarifying

Ministry of Defence security requirements and adding South Sudan and South Korea as authorised destinations on certain OGELs. The new licences came into force on 19 October 2015.

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UN Adds British Individual to Sanctions List

On 30 September 2015 the UN sanctioned a fifth British individual said to be a terrorist fighter with ISIL. The individual is Aseel Muthana, the brother of Nasser Muthana, who was one of four British individuals listed at the request of the UK government

last month (see [Issue 43 of the Sanctions Alert](#)). The updated sanctions list can be viewed [here](#).

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Sanctions Alert

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