

Sanctions Alert

A monthly summary of sanctions news and events

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Iran News

SWIFT Re-Opens for Iranian Banks

On 18 February 2016, the Society for Worldwide Interbank Financial Telecommunication (“SWIFT”), a global provider of secure financial messaging services, said that following the implementation of the [Joint Comprehensive Plan Of Action](#) (the “JCPOA”) in January, some Iranian banks that were no longer sanctioned had been reconnected to SWIFT, and certain other banks were applying to be reconnected. Iranian banks were originally disconnected from the

SWIFT system in March 2012, as a result of the escalation of EU sanctions against Iran. Those Iranian banks that remain subject to EU sanctions will not be reconnected to SWIFT.

For further details of the implementation of the JCPOA, please see [Issue 46](#) of the Debevoise Sanctions Alert.

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New Zealand and Pakistan Ease Iran sanctions

New Zealand has relaxed most of its sanctions against Iran, in line with the sanctions changes implemented by the UN pursuant to the JCPOA. The New Zealand Government [stated](#) that companies trading with Iran would no longer need to register with the Ministry of Foreign Affairs and Trade. Some restrictive measures remain in force, such as restrictions on trade in nuclear-related material and ballistic missile-related technology.

The Government of Pakistan [has lifted](#) Pakistan’s sanctions on Iran pursuant to the JCPOA-related UN sanctions changes.

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Swiss Government Implements Iran De-Listings

Switzerland has de-listed Bank Sepah from its sanctions against Iran. This de-listing follows the UN Security Council (“UNSC”) decision to de-list the Bank from the UN sanctions list and the EU’s de-listing of the Bank, as reported in [Issue 46](#) of the Debevoise Sanctions Alert.

Switzerland has also [de-listed](#) Hanseatic Trade Trust & Shipping (“HTTS”) and its managing director,

Naser Bateni, following the EU’s decision to de-list HTTS in October 2015, and has de-listed three entities associated with the Islamic Republic of Iran Shipping Lines (“IRISL”).

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Bank Mellat's ECJ Challenge Upheld

In a [judgment](#) of 18 February 2016, the European Court of Justice ("ECJ") upheld the judgment of the General Court of the European Union (the "General Court") of 29 January 2013 in [Bank Mellat v Council \(T-496/10, EU:T:39\)](#), that Bank Mellat had been unlawfully included in the EU's sanctions list since 2010.

The EU had listed Bank Mellat because it had supported Iran's nuclear and ballistic missile programmes by providing designated entities with

banking services and because it was the parent of First East Export Bank plc ("FEE"), a UN-designated entity. The ECJ, like the General Court before it, ruled that the EU's reasons were too vague and lacked "individual, specific and concrete" reasons. The ECJ also held that Bank Mellat's alleged connection to FEE was unsubstantiated and that in any event FEE's UN listing would not in itself be sufficient to justify Bank Mellat's designation.

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Formerly Listed Individual's Claim for Damages Against EU Dismissed

The General Court has dismissed Mahmoud Jannatian's claim against the Council of the European Union (the "EU Council") for subjecting him to an asset freeze and travel ban as part of the EU's sanctions against Iran since 2008 because he was Deputy Head of the Atomic Energy Organisation of Iran ("AEOI"). Jannatian had been de-listed in June 2015 (for further details please see [Issue 40](#) of the Debevoise Sanctions Alert).

This judgment highlights several important principles relating to EU asset freezes. First, damages

for a wrongful listing may be available if there has been a breach of EU law of sufficient severity. Second, the de-listing of an individual could provide sufficient reparation for non-material damage suffered. Finally, specific evidence is necessary to prove actual damage arising from incorrect listing: merely being prevented from making bank transfers in one's own name did not in itself constitute compensable damage.

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US Authorises Contingent Contracts for Exports of Aircraft and Parts

On 24 March 2016, the US Treasury Department issued [Iran General License I](#), which authorises US persons to negotiate and enter into contracts for

export of commercial passenger aircraft or parts, as long as the contracts are expressly contingent on obtaining a specific licence for the export. Under a [licencing policy](#)

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adopted in connection with implementation of the [Joint Comprehensive Plan of Action](#), the US considers authorising such exports on a case-by-case basis. Under a longstanding US Treasury Department's Office of Foreign Asset Control ("OFAC") interpretation, however, entering into a contract for trade with Iran is prohibited even if the contract is contingent on future

authorisation from OFAC. The new general licence creates an exception to this rule for contracts that fall within the scope of OFAC's licencing policy for aircraft and aircraft parts.

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Central Figure in Turkish Bribery Scandal Arrested on Iran Sanctions Charges in US

Turkish-Iranian gold trader Reza Zarrab, also known as Rıza Sarraf, was arrested in Miami on 19 March 2016 on charges that he had assisted Iranian entities in evading US sanctions. Zarrab was the central figure in an alleged bribery scandal that roiled the government of then-Prime Minister (now President) Tayyip Erdoğan in 2013.

According to a [press release](#) by the US Attorney's Office for the Southern District of New York, Zarrab and two Iranian nationals charged with him, Camelia Jamshidy and Hossein Najafzadeh, engaged in a scheme over the course of several years to conduct financial transactions for the benefit of Iran, Iranian banks and other Iranian entities. The US has charged that the defendants operated a network of companies designed to conceal from US banks, the US government and

others in the US that the transactions involved Iran. They have been charged with conspiracy to violate US sanctions on Iran, to launder money, to defraud the United States, and to commit bank fraud. Zarrab's co-defendants remain at large.

Zarrab [had been arrested](#) in Turkey in 2013 on charges of bribing Turkish cabinet ministers, but the charges were dropped before trial, following [actions by the Erdoğan government](#) against the Turkish prosecutors who had originally brought the charges. US Attorney Preet Bharara [reportedly](#) has become something of a celebrity among Erdoğan opponents in Turkey as a result of his prosecution of Zarrab, drawing hundreds of thousands of new followers on Twitter.

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US Finds MasterCard Failed to Report Blocked Property of Iranian Banks

On 16 March 2016, OFAC issued a finding of violation against MasterCard International, Inc. for failure to report accounts in which Bank Melli and Bank Saderat had an interest. A finding of violation

is a formal determination that the regulations were violated but does not impose a monetary penalty. According to OFAC's [enforcement release](#), MasterCard had appropriately restricted the accounts in 1995

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based on the US sanctions imposed against Iran in that year, but it failed to file a blocked-property report with OFAC when the two banks were later added to the Specially Designated Nationals (SDN) list in 2007. While Bank Melli was recently removed from the SDN list, Bank Saderat remains on the list.

OFAC found that MasterCard had no actual knowledge of the conduct that led to the violation, but that MasterCard had reason to know of it. MasterCard voluntarily self-disclosed the violation to OFAC.

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New York Exporter Arrested for Alleged Illegal Exports to Iran

Erdal Kuyumcu, a US citizen living in Woodside in the New York City borough of Queens, was arrested on 1 March 2016 on charges of illegally exporting goods from the United States to Iran via Turkey. According to a [press release](#) issued by the US Attorney's Office, Kuyumcu is the chief executive officer of a company known as Global Metallurgy LLC. Kuyumcu is accused of conspiring to export over half a ton of cobalt-nickel

metallic powder from the US to Iran through an intermediary in Turkey, and actually exporting that substance to Iran on two occasions. According to the government, the exported substance is a specialised metallic powder used in aerospace, missile production and nuclear applications.

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US Lists UK and UAE Businessmen and Companies Linked to Mahan Air

On 24 March 2016, the United States [blocked the property](#) of two UK citizens, two UK companies, and two UAE companies linked to procuring financing and parts for Iran's Mahan Air. Mahan Air has been designated as a Specially Designated Global Terrorist entity since October 2011.

The newly listed individuals and entities were Jeffrey John James Ashfield of Cranbrook, Kent, and his company Aviation Capital Solutions; John Edward

Meadows of Bexhill-on-Sea and his company Aircraft, Avionics, Parts & Support Ltd.; and the UAE companies Grandeur General Trading FZE and HSI Trading FZE. As reported in [Sanctions Alert Issue 46](#), Meadows and Ashfield had previously been denied US export privileges for their on-going transactions in support of Mahan Air.

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Russia and Ukraine News

US and EU Warn Underwriters to Stay Away from Proposed Russian Eurobonds

On 5 February 2016, the finance ministry of Russia reportedly invited 23 banks, including major banks in the United States, Western Europe, China, Japan and Canada, to submit proposals for organising the placement of Russian sovereign bonds on international capital markets. The deal [has been reported](#) to involve the placement of \$3 billion in Eurobonds.

Following the announcement, the US Departments of State and Treasury [reportedly](#) urged US banks not to bid on the Russian bond deal as it could undermine US sanctions on Russia. While current sanctions do not prohibit US banks from dealing in Russian sovereign debt, the US has sought to persuade US banks that it doing so would involve risks and could undermine US sanctions. These warnings have left many banks hesitant to pursue the Russian bond deal.

On 14 March 2016, [the Financial Times reported](#) that EU officials also have privately warned EU banks about the proposed Russian bond deal. The EU officials have cautioned banks that the bond deal could be used to circumvent sanctions by funding Russian banks that are barred from raising capital themselves, and urged any banks that might participate in the deal to impose heightened safeguards to ensure that the funds would not be used to circumvent sanctions.

[The last time](#) Russia issued foreign bonds was in 2013, before the US and EU imposed Ukraine-related sanctions against Russia.

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EU Renews Russia and Ukraine Sanctions

The EU has renewed asset freezes against individuals considered to have been involved with events in Crimea and Eastern Ukraine until 6 March 2017. It has also de-listed one individual. These changes have been implemented through [Implementing Regulation 2016/311](#) implementing [Regulation 208/2014](#) and [Decision 2016/318](#) amending [Decision 2014/119/CFSP](#).

In addition, asset freezes and travel bans on 146 Russians and pro-Russia separatists and 37 entities that

were listed for “undermining the territorial integrity or stability of Ukraine” were [renewed](#) until 15 September 2016. The new measures also de-list three people who have died and amend the stated reasons for the listings of 46 people and 11 entities. These measures were introduced by [Implementing Regulation 2016/353](#) amending [Regulation 269/2014](#) and [Decision 2016/359](#) amending [Decision 2014/145/CFSP](#).

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EU listing of Five Ukrainian Individuals Annulled

The General Court of the European Union [has annulled](#) the listing on the EU sanctions lists of five individuals, listed because they were the subjects of preliminary investigations into the misappropriation of Ukrainian State funds and their illegal transfer outside Ukraine. However, as with the Andriy Portnov listing challenge (described in [Issue 45](#) of the Debevoise Sanctions Alert), these individuals were found to have been listed solely on the basis of a letter from the Ukrainian Prosecutor General which did not, according

to the court, contain sufficient detail. The individuals included: (1) two former Prime Ministers of Ukraine, Mykola Azarov and Sergej Arbuzov; (2) Mr Azarov's son, Oleksii Azarov; (3) Sergiy Klyuyev, the former Head of Administration of the President of Ukraine; and (4) Edward Stavvyskyi, the former Minister for Energy and the Coal Industry of Ukraine.

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North Korea News

UN Imposes New Sanctions on North Korea

The UNSC has adopted [Resolution 2270](#), involving new sanctions against North Korea in relation to North Korea's nuclear programme. The resolution expresses "gravest concern" at "the nuclear test conducted by the Democratic People's Republic of Korea ... on 6 January 2016" (see [Issue 46](#) of the Debevoise Sanctions Alert) and condemns North Korea's "launch of 7 February 2016, which used ballistic missile technology". Following the adoption of the resolution, a number of UN members have updated their domestic sanctions regulations to implement the new ban.

The new sanctions include rules on the inspection of goods in and out of North Korea, export and import restrictions on certain luxury items and export restrictions on certain precious metals. New measures have been introduced in respect of activities relating to North Korean banks and 16 individuals and 12 entities are subject to travel bans and asset freezes. These UN measures are similar to sanctions already imposed by the EU and the US. They represent a strengthening of UN sanctions against North Korea.

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US Imposes New Sanctions Blocking Property of North Korean Government, Targeting Key Industries and Authorising Secondary Sanctions

On 16 March 2016, President Obama issued a [new executive order](#) to implement both the [North Korea Sanctions and Policy Enhancement Act of 2016](#), which was adopted on 18 February 2016, and [UN Security Council Resolution 2270](#), adopted on 2 March 2016. The US legislation and the UN resolution are discussed elsewhere in this issue.

The new executive order blocks the property of the government and ruling party of North Korea, which means that US persons may not deal with them, and their property in the US or in the possession of US persons must be frozen and not transferred. Because of the so-called “50% rule”, any entity 50% or more owned (directly or indirectly) by the North Korean government or Worker’s Party also is blocked, even if it does not appear on any list of blocked persons.

The order also prohibits exports of US-origin goods, services, technology or software to North Korea; prohibits US persons from making new investments in North Korea; and prohibits US persons from approving, facilitating, guaranteeing or financing transactions by others that are prohibited to US persons. Unlicensed exports of most US-origin items subject to the Export Administration Regulations were already prohibited; the new order expands the prohibition to encompass the provision of services, including financial services, among other things. Imports of North Korean-origin goods to the US are already prohibited under a previous executive order.

Finally, the order creates a number of new categories in relation to which the US Secretary of the Treasury is authorised to designate individuals or entities as

blocked. The categories include those who participate in the following activities with respect to North Korea or on behalf of its government or ruling party: (1) operating in certain North Korean industries, including transportation, mining, energy, or financial services; (2) the supply of metal, graphite, coal, or software to or for the benefit of the government or party, including its missile program; (3) human rights abuses; (4) exportation of workers from North Korea; (5) undermining cybersecurity; or (6) censorship. The Treasury Secretary also may block the property of individuals or entities who provide material assistance or support to a blocked person; who are owned or controlled by, or who have acted on behalf of, a blocked person; or who have attempted to engage in any of the activities described.

In effect, some of these provisions authorise so-called “secondary sanctions” on third-country nationals who engage in certain dealings with North Korea. For example, a third-country company that exports metal, graphite, coal or software to North Korea may be designated as blocked, even though it is not an agent of North Korea and was acting in its own commercial interest.

Transactions for official business of the US government and the United Nations are exempted from the executive order. Additionally, OFAC has issued nine general licences authorising certain transactions involving North Korea’s mission to the UN, certain legal services, service charges by institutions holding blocked accounts, non-commercial personal remittances, certain NGO activities, diplomatic and

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consular funds transfers, telecommunications and mail, intellectual property, and emergency medical services.

At the same time as the executive order was released, several North Korean entities were designated as blocked under these provisions. In addition, two North Korean individuals and North Korean-owned vessels were blocked under previously issued executive orders.

This is in addition to a group of North Korean government officials and entities who [had been blocked](#) on 2 March for their ties to North Korea's missile program. Complete lists of the individuals and entities designated on [2 March](#) and [16 March](#) are available on OFAC's website.

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US Congress Adopts North Korea Secondary Sanctions Law

On 18 February 2016, President Obama signed into law the [North Korea Sanctions and Policy Enhancement Act of 2016](#). That law authorises "menu-based" secondary sanctions against third-country companies engaging in certain dealings with North Korea. These sanctions are in addition to the measures that the President adopted under the 16 March 2016 executive order discussed above.

The sanctionable activities under the Act include knowingly engaging in exports, financial transactions or certain other transactions involving weapons of mass destruction, luxury goods, money laundering, counterfeiting, narcotics trafficking, censorship, serious human rights abuses, or computer sabotage; knowingly providing material assistance to an individual or entity subject to UN Security Council sanctions; or assisting bribery of or embezzlement by North Korean government officials.

All of these actions are already prohibited for US persons, and many of them are prohibited in other

countries that have implemented UN sanctions, but the new law authorises secondary sanctions on third-country nationals who engage in these activities. In addition to the US President's general authority to designate individuals or entities as blocked, the "menu" of sanctions that the President may choose to impose includes: (1) for financial institutions, a prohibition of or restrictions on maintaining correspondent accounts in the United States; (2) a ban on foreign-exchange transactions involving the US banking system; (3) a ban on any payments involving the US banking system; (4) debarment from contracting with the US government; (5) denial of US visas or entry into the US, including to corporate officers and the principal shareholder of a company that has been sanctioned; and (6) seizure and forfeiture of vessels and aircraft used to facilitate prohibited transactions, if they come within US jurisdiction.

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EU Implements UN Sanctions

The EU has extended its existing North Korea sanctions by adding the 16 individuals and 12 entities subject to travel bans and asset freezes under UN [resolution 2270 \(2016\)](#) to its lists of individuals and entities subject to such measures. The additional listings were made by [Implementing Regulation 2016/315](#) amending [Regulation 329/2007](#) and [Decision 2016/319](#) amending [Decision 213/183/CFSP](#).

EU sanctions against North Korea were introduced in 2006 and were extended in 2009 and 2012. The EU sanctions include an arms embargo, restrictions on trading luxury goods and precious metals, shipping restrictions and the application of asset freezes to certain individuals and entities. As noted [above](#), the UN has also recently introduced new sanctions against North Korea.

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Japan Increases North Korea Sanctions

Japan has [reinstated and increased sanctions](#) against North Korea lifted in 2014. The sanctions include: (1) travel restrictions for North Koreans and for foreign engineers who have visited North Korea; (2) a prohibition of remittances to North Korea;

(3) a ban on North Korean vessels docked in North Korea from using Japanese ports; and (4) asset freezes against North Korean individuals and entities.

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South Korea Shuts Down Kaesong Industrial Park, Imposes New Sanctions

South Korea has [closed down](#) the Kaesong industrial complex, a joint venture between North and South. South Korea has also imposed new sanctions on North Korea. These new sanctions include an asset freeze on 38 people and 24 entities in North Korea that allegedly are responsible for or assisted with North Korea's development of weapons of mass destruction. Two individuals and six entities outside North Korea are also

subject to an asset freeze as they are deemed to have indirectly assisted North Korea in the development of such weapons. The new South Korean measures also prohibit doing business with those individuals and entities now listed.

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EU News

EU Extends Tunisia Asset Freeze

The EU Council [has extended](#) until 31 January 2017 the freeze on the assets of 48 individuals deemed responsible for misappropriating state funds in Tunisia or associated with those responsible. The sanctions were originally brought in on 31 January 2011 and have been renewed annually.

The extension is made by [Council Implementing Regulation \(EU\) 2016/111](#) implementing [Council Regulation \(EU\) 101/2011](#) and [Council Decision \(CFSP\) 2016/119](#) amending [Council Decision 2011/72/CFSP](#).

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Most EU Sanctions Against Belarus Lifted

The EU Council [has lifted](#) asset freezes against Belarus President Alexander Lukashenko, 169 other individuals and three defence companies who were deemed to have ties with the Belarusian government.

However, the arms embargo on Belarus has been extended by one year. Asset freezes and travel bans have also been extended for one year against four individuals: (1) Vladimir Naumov, former Minister of Interior and former Head of the President's Security Service; (2) Dmitri Pavlichenko, former Head of the Special Response Group at the Ministry of Interior; (3) Viktor Sheiman, Head of the Management Department of the President's Administration

and former Secretary of the Security Council; and (4) Iury Sivakov, former Minister of Interior, Minister of Tourism and Sports and former Deputy Head of the Presidential Administration. These four individuals were listed because of their connections in relation to the disappearance of two opposition politicians, a businessman and a journalist.

The renewal is made by [Council Implementing Regulation \(EU\) 2016/276](#) implementing [Council Regulation \(EC\) 765/2006](#) and [Council Decision \(CFSP\) 2016/280](#) amending [Council Decision 2012/642/CFSP](#).

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EU Sanctions Against Zimbabwe Extended

The EU Council [has extended](#) EU restrictive measures against Zimbabwe until 20 February 2017, following the annual review of such measures.

Zimbabwean president Robert Mugabe, his wife Grace Mugabe and Zimbabwe Defence Industries will remain subject to asset freezes. The suspension

of measures against five members of Zimbabwe's security apparatus will be kept in place. The EU has also removed from the list 78 individuals and eight entities whose listings had previously been suspended. The arms embargo remains in place against Zimbabwe.

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The EU Council's decision is given effect by [Council Regulation \(EU\) 2016/214](#) amending [Council Regulation \(EC\) 314/2004](#) and

[Council Decision \(CFSP\) 2016/220](#) amending Council Decision 2011/101/CFSP.

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House of Lords Committee Reports Success on EU's Russia, Iran Sanctions

The House of Lords EU Committee has published a [report](#) on increasing the efficacy of the EU's foreign and security strategy. The report states that "two recent notable successes" include "economic sanctions on Moscow", which "convincingly deterred further Russian aggression in the eastern neighbourhood", and "the actions of the EU and its Member States were critical in securing a nuclear deal with Iran." In relation to Syria, the report says, "The EU will be essential in order to deliver a credible sanctions package, should that prove necessary."

The report also provides a summary of the evidence of various witnesses in relation to EU sanctions strategies, with a particular emphasis on Russian sanctions. Certain witnesses criticised the EU's Russian sanctions, suggesting that sanctions had allowed Russia to shift its economy to become "less dependent on Europe for 'trade, financing, technology and everything else in their economy'".

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US News

In Advance of Obama's Cuba Visit, US Authorises U-turn Payments, Loosens Restrictions on Banking, Travel, Shipping and Other Activities

On 16 March 2016, in advance of President Obama's visit to the island, the US took further steps to relax its embargo on Cuba. The changes were implemented through [amendments](#) to the Cuban Assets Control Regulations by OFAC and [amendments](#) to the Export Administration Regulations administered by the Commerce Department's Bureau of Industry and

Security (BIS). OFAC also updated its list of [frequently asked questions](#) on the Cuba sanctions programme to reflect these changes, and the Treasury Department issued a [fact sheet](#) summarising the changes.

Financial transactions. The amendments to the Cuban Assets Control Regulations include a package of general licences intended to facilitate US-dollar

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transactions with Cuba, including an authorisation for US financial institutions to conduct “U-turn” transactions involving Cuba. A U-turn transaction is a transfer that both originates and ends outside the United States, where neither the originator nor the beneficiary is a person subject to US jurisdiction. This means, in particular, that third-country nationals (other than those owned or controlled by US persons) should be able to make US-dollar transfers involving Cuba without the transfers being blocked or rejected as they pass through the US banking system. The amendments also authorise US banks to process US-dollar monetary instruments presented indirectly by Cuban financial institutions, and to open accounts for Cuban nationals located in Cuba to facilitate transactions authorised under the embargo regulations. However, Cuban financial institutions still may not open correspondent accounts in the United States.

Travel. The general licence for “people-to-people” educational travel to Cuba has been expanded to allow individual as well as group travel. However, because of the statutory ban on tourist travel to Cuba, the travel must involve a full-time schedule of educational activities involving contact with the Cuban people, and an individual traveller must keep records of those activities for at least five years. For group travel with a US-based organisation, travellers may continue to rely on the organisation to keep the records. OFAC has provided in the regulations a number of examples to illustrate what types of activities are or are not permitted. Also, for the first time, OFAC has lifted the largely unenforced rule that US individuals may not purchase Cuban-origin goods for their personal consumption in third countries. The goods, however, may not be brought from the third country back to the US. Under a previous amendment, authorised travellers to Cuba are allowed to bring back to the US up to \$400 in goods for personal use, of which no more than \$100 can be alcohol or tobacco.

Business or physical presence in Cuba. OFAC’s authorisation for US companies to maintain a business presence in Cuba has been expanded to include exporters of authorised goods; providers of mail, parcel or cargo services; and providers of travel or carrier services, such as airlines; and entities engaged in certain humanitarian, educational or research activities. However, the authorisation for travel service providers does not permit operation of hotels or other lodging services in Cuba. BIS has adopted a conforming amendment to allow the export of items for use in connection with the newly expanded categories of authorised physical presence.

Shipping. BIS has expanded its licence exception governing the temporary sojourn of vessels in Cuba. Vessels carrying US-origin cargo are now permitted to stop in a Cuban port on their way to non-US destinations. The cargo may not, however, enter Cuban commerce or be transferred to another vessel while in Cuba.

Cuban private enterprise and the Cuban people. OFAC has authorised the importation to the US of all types of Cuban-origin software; previously, only mobile phone apps could be imported. This general licence apparently is intended to provide opportunities to Cuban individuals to be paid to code software for export. BIS has amended its licencing policies to allow case-by-case consideration of US exports to Cuba that are meant to facilitate exports from Cuba of items manufactured by private enterprise in Cuba. BIS, however, will continue to deny exports that primarily facilitate profit-making activities of the Cuban state. OFAC also has authorised certain grants and awards to Cuban nationals, such as scholarships. Cuban nationals lawfully present in the US may now be paid a salary for work that is within the scope of their visas. Both BIS and OFAC also made some minor technical corrections to their regulations.

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US Bars Use of Visa Waiver Programme by Dual Citizens of Iran, Iraq, Syria and Sudan and Recent Visitors to Those Countries

Under the Visa Waiver Program (VWP), citizens or nationals of 38 countries, including most countries in Western Europe, may travel to the United States without a visa for short-term business or tourist travel, upon obtaining approval under the Electronic System for Travel Authorization (ESTA). [The Visa Waiver Program Improvement and Terrorist Travel Prevention Act of 2015](#), which [took effect on 21 January 2016](#), makes ineligible for the VWP any individual who holds dual nationality in Iran, Iraq, Syria or Sudan or who has travelled to one of those four countries in the previous five years. Any existing ESTA issued to those individuals will be revoked, and they now must go through the much more cumbersome and time-consuming process of applying for a visa at a US embassy or consulate.

The new law does not apply to individuals who travelled to the designated countries only for diplomatic or military purposes in the service of a VWP country. It also does not apply to citizens of Canada, who are covered by a different programme. The law also authorises waivers of ineligibility on a case-by-case basis, and the Department of Homeland Security [has said](#) it will consider waivers for individuals who travelled to the designated countries as journalists for reporting purposes or on official business for international or regional organisations, sub-national governments or humanitarian NGOs, or who travelled for legitimate business purposes to Iran after 14 July 2015 or to Iraq at any time. Waivers are considered [at the time the traveller applies for an ESTA](#).

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US Imposes, Then Suspends, Export Ban on Chinese Mobile Phone Manufacturer ZTE

On 8 March 2016, BIS [added](#) to its entity list Chinese company ZTE Corporation (Zhongxing Telecommunications Equipment) and three of its affiliates: ZTE Kangxun Telecommunications Ltd., Beijing 8-Star, and ZTE Parsian. ZTE Corporation is a major global supplier of telecommunications and network equipment and reportedly one of the world's largest suppliers of mobile phones.

The newly added listings specified that a licence would be required for exports to ZTE and its named affiliates of all items subject to the Export Administration Regulations, which includes virtually

all goods, software and technology of US origin. The listings also stated that any license request would be subject to a presumption of denial. According to BIS's [announcement](#) of the new restrictions, these restrictions were imposed on ZTE because it had developed a scheme to violate US export control laws by using a series of shell or front companies to re-export controlled items to sanctioned countries without authorisation.

The export restrictions imposed on ZTE, however, were soon suspended. In response to a request from ZTE to remove or modify its listing, BIS issued a

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renewable [temporary general licence](#) on 24 March 2016, expiring 30 June 2016, that suspends the effect of the recent restrictions for ZTE Corporation and ZTE Kangzun Telecommunications Ltd. According to BIS's [announcement](#), the decision to issue a temporary general licence took into account certain commitments that ZTE made to the US government.

These commitments [reportedly](#) include an agreement to implement internal trade-compliance controls and to make full disclosure to the US government of dealings with Iran and North Korea. US officials [have said](#) that the renewal of the licence will depend on ZTE's compliance with these commitments.

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Barclays Pays \$2.5 Million Settlement for Alleged Transactions with Zimbabwean Entities Blocked Under "50% Rule"

On 8 February 2016, OFAC announced that Barclay's Bank has agreed to pay \$2,485,890 to settle allegations that it had caused its New York branch and other US financial institutions to process payments on behalf of corporate customers of its Zimbabwean affiliate that were 50% or more owned by persons on the Specially Designated Nationals list. Under OFAC's rules, any entity that is 50% or more owned by a blocked person is automatically deemed to be blocked. According to OFAC's [enforcement release](#), there were 159 relevant

transactions totalling approximately \$3,375,617, the base penalty amount under OFAC's guidelines was \$5,029,000, the apparent violations were non-egregious, and they were not voluntarily self-disclosed. OFAC attributed the apparent violations to the bank's failure to implement an adequate system to capture and screen information about the beneficial owners of its corporate customers.

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Halliburton Pays \$300K Settlement for Alleged Assistance to Project with 5% Cuban Ownership

On 25 February 2016, OFAC announced that two Halliburton affiliates had agreed to pay \$304,706 for providing goods and services to a consortium conducting oil and gas exploration in Cabinda, Angola, in 2011. The Cuban state-owned enterprise Cuba Petr leo had a 5% interest in the block. OFAC's [enforcement release](#) states that Halliburton knew or should have known of Cuba Petr leo's interest and acted with reckless disregard of the sanctions

by failing to conduct due diligence as to the identity of its customer. OFAC found the transaction to be non-egregious and voluntarily self-disclosed, and it calculated the total transaction value as \$1,189,752, and the base penalty amount as \$423,202.

Under the Cuban Assets Control Regulations, an entity is deemed to be a Cuban national if Cuba or a Cuban national owns a "substantial part" of its

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equity or debt. The settlement in this case should not necessarily be read as a determination that a 5% stake is “substantial,” however, because Cuba Petróleo appeared to have a direct participation interest in the oil and gas

concession and its production rather than shares in a corporation or similar entity.

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Geosciences Company CGG Pays \$600K to Settle Allegations of Providing Goods and Services to Vessels in Cuban Waters

On 22 February 2016, OFAC announced that CGG Services SA, a company headquartered in France that provides geosciences equipment and services, had agreed to pay \$614,250 to settle civil liability of itself and its affiliates for unauthorised transactions with vessels operating in Cuban waters. According to OFAC’s [enforcement release](#), the alleged violations consisted of exports of spare parts and other goods to

vessels operating in Cuban waters, as well as processing data from a seismic survey conducted in Cuban waters. OFAC determined that the transaction amount was \$2,340,000, the base penalty amount under its guidelines was \$975,000, and the transactions were non-egregious and had not been voluntarily self-disclosed.

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Additional Individuals and Entities Designated Under Various Sanctions and Export-Control Regimes

On 24 March 2016, the US [listed](#) Shahid Nuri Industries and Shahid Movahed Industries as subordinate entities of Shahid Hemmat Industrial Group, an entity that has been listed as a proliferator of weapons of mass destruction for its role in Iran’s ballistic missile programme. At the same time it updated its listing of the Islamic Revolutionary Guard Corps to include additional subgroups and, as reported [above](#), added two individuals and four entities linked to Mahan Air, which is a Specially Designated Global Terrorist (“SDGT”) entity.

On 22 March 2016, the US [added](#) an individual named Santoso, who also goes by the name Abu Warda (among others), to its SDGT list. Although no reason was

given for the designation, Santoso is [reported](#) to be a leader of Mujahidin Indonesia Timur, or East Indonesia Mujahidin Group, which the US [designated](#) as a terrorist group in 2015.

On 10 March 2016, OFAC [blocked](#) Abdullah Nowbahar and Abdul Saboor, two Afghan individuals, as SDGTs. According to a State Department [press release](#), the two men are explosives experts for the Afghan insurgent group Hezb-e-Islami Gulbuddin.

On 9 March 2016, OFAC blocked Tanzanian national Ali Khatib Haji Hassan (also known as “Shkuba”) and his organisation under the Foreign Narcotics Kingpin Designation Act. According to a Treasury Department [press release](#), Hassan and his organisation are significant

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foreign narcotics traffickers who have smuggled multi-ton shipments of heroin and cocaine to Africa, Europe, Asia, and North America.

On 9 March 2016, OFAC removed the Sudanese cement manufacturer Atbara Cement Company Limited from its list of Specially Designated Nationals of Sudan. OFAC did not state a reason for the [deletion](#), but reports suggest that the company was formerly owned by the Government of Sudan and is now privately owned.

On 8 March 2016, OFAC blocked the Lord's Resistance Army ("LRA") and its founder, Joseph Kony, under the Central African Republic ("CAR") sanctions regime. According to a Treasury Department [press release](#), this action was taken to implement the designation of Kony and the LRA under UN Security Council Resolution 2262, which is discussed [elsewhere in this issue](#). Kony's property had already been blocked, as he was designated as a SDGT in 2008.

On 8 March 2016, OFAC [blocked](#) Chemplex Corporation Limited and Zimbabwe Fertiliser Company as Specially Designated Nationals of Zimbabwe. The two companies are designated as linked to Industrial Development Company of Zimbabwe Ltd., which was one of several Zimbabwean state-owned corporations that were [blocked in 2008](#).

On 1 March 2016, BIS [added](#) several UAE-based companies to its Entity List for allegedly procuring items for supply to designated terrorist organisations. At the same time, BIS deleted a number of other entities that had petitioned for deletion.

On 16 February 2016, OFAC blocked José Roberto Orellana and Dany Balmore Romero García under its Transnational Criminal Organization program. The two are [accused](#) of orchestrating assassination campaigns on behalf of the Central American organisation known as MS-13.

On 11 February 2016, OFAC blocked as SDGTs several individuals alleged to have provided material support to Islamic State in Iraq and the Levant (ISIL). According to the Treasury Department's [press release](#), the designations were announced in anticipation of the first joint session of the Financial Action Task Force and the Global Coalition to Counter ISIL Finance Group, which took place on 14 February 2016 in Paris.

On 10 February 2016, OFAC blocked Nayf Salam Muhammad Ujaym al-Hababi, who is [alleged](#) to be an al-Qaida official in Afghanistan, as an SDGT.

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UN News

UN Adds Joseph Kony and Lord's Resistance Army to Central African Republic Sanctions List

On 7 March 2016, the UN Security Council Committee concerning the CAR imposed sanctions on [Joseph Kony](#) and his organisation known as the [Lord's Resistance Army](#). The grounds for listing included undermining the peace and stability of the CAR, human rights violations and the use of

child soldiers. Kony and the LRA, which formerly operated in Uganda, gained attention in the West several years ago because of the controversial documentary *Kony 2012*.

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UK News

UK Government Introduces Bill to Strengthen Enforcement of Sanctions

The UK Government has presented the [Policing and Crime Bill](#) (the "Bill") to the UK Parliament. If the Bill is introduced as UK legislation, those convicted of sanctions breaches could be subject to harsher prison sentences. The Bill's introduction as legislation would also allow the Treasury to impose civil fines for breach of sanctions.

Sections 89 and 90 of the Bill extend the available prison sentence for the majority of sanctions breaches,

on summary conviction, from 6 to 12 months, and on conviction on indictment from 2 to 7 years. Further, if the Treasury is satisfied on the balance of probabilities that a sanctions breach has occurred, it may, under section 91, impose a fine of the greater of £1 million and 50% of the estimated value of the funds or resources in question. This is the first time civil liability has been considered for sanctions breaches.

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Challenge Against Inclusion in UN Al-Qaeda List Rejected

The Supreme Court has rejected a challenge by Hani El Sayed Sabaei Youssef, listed on the UN's Al-Qaeda Resolution 1267 asset freeze, against the Foreign Office's agreement with his listing through its actions in the UNSC. Yousseff had argued that information

received by UNSC members in making their decision had been obtained as a result of torture.

The Supreme Court [held](#) that there was no obligation to investigate whether other states were relying on

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torture methods to obtain evidence. It also held that Youssef was lawfully subject to EU sanctions implementing the UNSC listing, by means of [Council Regulation \(EC\) No 881/2002](#). The Court

took into account the recommendation of the UN Ombudsman for the Al-Qaeda Sanctions Committee that the listing should stay in place.

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Home Secretary Accepts Sikh Youth Federation's Application for De-Proscription

The Home Secretary, Theresa May, has concluded that the Sikh Youth Federation ("ISYF") should be taken off the [list of organisations proscribed](#) under the UK [Terrorism Act 2000](#), and has laid before Parliament an order for ISYF's removal from the list, as there

is insufficient evidence that the ISYF is concerned in terrorism. The ISYF was proscribed in March 2001. It applied for de-proscription to the Proscribed Organisations Appeal Commission last year.

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UK Extends JCPOA to Overseas Territories

On 18 March 2016, [The Iran \(Sanctions\) \(Overseas Territories\) Order 2016](#) came into force, giving effect to the JCPOA in the UK's overseas territories and revoking the 2012 Overseas Territories order on Iran sanctions. This means that the sanctions relaxations that were applied by the EU are now applicable in the following territories: Anguilla, British Antarctic Territory, British Indian Ocean Territory, the Cayman Islands, the

Falklands Islands, Montserrat, the Pitcairn, Henderson, Ducie and Oeno Islands, St Helena, Ascension and Tristan Da Cunha, South Georgia and the South Sandwich Islands, the Sovereign Base Areas of Akrotiri and Dhekelia in Cyprus, the Turks and Caicos Islands and the British Virgin Islands.

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Other News

Switzerland Mirrors EU's Lifting of Belarus Sanctions

Switzerland has [lifted sanctions](#) against Belarus, except for travel bans and asset freezes against four individuals. This lifting of sanctions exactly follows the actions of the EU Council, as discussed [above](#).

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Sanctions Alert

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