

Sanctions Alert

A monthly summary of sanctions news and events

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EU News

Belarus: EU renews Belarus sanctions

On 27 February 2017, the European Council adopted [Council Regulation \(EU\) 2017/331](#) (amending [Council Regulation \(EC\) 765/2006](#)) and [Council Decision \(CFSP\) 2017/350](#) (amending [Council Decision 2012/642/CFSP](#)), renewing the existing sanctions on Belarus for a period of one year, until 28 February 2018.

The sanctions include a travel ban and asset freeze on four people viewed as being connected with the disappearance of two opposition politicians, one businessman, and one journalist in 1999/2000, and an arms embargo. The EU lifted most of its sanctions on Belarus on [25 February 2016](#).

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Bosnia and Herzegovina: EU renews Bosnia and Herzegovina sanctions

On 29 March 2017, the European Council adopted [Council Decision \(CFSP\) 2017/607](#) (amending [Council Decision 2011/173/CFSP](#)), renewing the existing sanctions on Bosnia and Herzegovina (“Bosnia”) for a period of one year, until 31 March 2018.

The sanctions impose a travel ban and asset freeze on people and entities whose activities are viewed as

undermining the sovereignty and territorial integrity of Bosnia and who seriously threaten the security situation in Bosnia or undermine the [Dayton/Paris peace agreement](#).

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Democratic Republic of Congo: EU amends identifying information in DRC listings

On 6 February 2017, the European Council adopted [Council Implementing Regulation \(EU\) 2017/199](#) (amending [Council Regulation \(EC\) No. 1183/2005](#)) and [Council Implementing Decision \(CFSP\) 2017/203](#) (amending [Council Decision 2010/788/CFSP](#)), updating the identifying information of 21 persons and one entity subject to restrictive measures in connection with the arms embargo imposed against

the Democratic Republic of Congo (“DRC”) as a result of violations of international humanitarian law and human rights. The amendments follow changes made on [13](#) and [19 October 2016](#) by the UN Security Council Committee to the identifying information relating to the same persons and entity.

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Democratic Republic of Congo: EU informs DRC that it is prepared to impose new targeted sanctions

On 6 March 2017, the European Council published a [press release](#) stating that it was prepared to impose new targeted sanctions as a response to violations of human rights. The press release follows the refusal of President Joseph Kabila to stand down at the end of his term. The European Council also considered the serious human rights violations involving the unlawful

use of child soldiers in the Kasai region of DRC and the killing of civilians by DRC security forces. The European Council has invited the High Representative to initiate work on new measures targeting persons responsible for the human rights violations.

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Egypt: EU removes four individuals from asset freeze list

On 21 March 2017, the European Council adopted [Council Implementing Regulation \(EU\) No 2017/490](#) and [Council Implementing Regulation \(EU\) No 2017/491](#) (both amending [Council Regulation \(EU\) 270/2011](#)), removing four individuals from the EU's list of persons subject to asset freezes. The asset freeze list consists of individuals who are alleged to be responsible for the misappropriation of Egyptian state funds.

The individuals removed from the asset freeze list are Jaylane Shawkat Hosni Galal Eldin, Amir Mohamed Zohir Mohamed Wahed Garrana, Rachid Mohamed Rachid Hussein and Hania Mahmoud Abdel Rahman Fahmy. These individuals have been delisted as they no longer meet the criteria to be included on the asset freeze list.

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Iran: EU renews human rights sanctions

On 11 April 2017, the European Council adopted [Council Implementing Regulation \(EU\) 2017/685](#) (amending [Council Regulation \(EU\) 359/2011](#)) and [Council Decision \(CFSP\) 2017/689](#) (amending [Council Decision 2011/235/CFSP](#)) renewing the existing human rights related sanctions on Iran for a period of one year, until 13 April 2018.

The sanctions impose a travel ban, asset freeze and a ban on exports to Iran of equipment that might be used for internal repression. The sanctions apply to 82 individuals and one entity who are viewed as being connected with serious human rights violations in Iran.

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Iran: General Court dismisses relisting challenge; joined cases T-14/14 and T-87/14

On 17 February 2017, the General Court of the EU (the “General Court”) [dismissed](#) the challenges of Islamic Republic of Iran Shipping Lines (“IRISL”) and other Iranian entities associated with IRISL to their relisting on the EU’s Iran sanctions list after their initial listings had been [annulled](#) by the General Court in 2013.

IRISL, the Islamic Republic of Iran’s shipping company, was first listed on 26 July 2010 on the grounds that, *inter alia*, it had been involved in the “shipment of military-related cargo, including proscribed cargo from Iran.” The other entities were listed because they were owned or controlled by IRISL or acting on its behalf.

On 16 September 2013, the applicants’ listings in the annexes to [Council Decision 2010/413/CFSP](#) (“Decision 2010/413”) and [Council Regulation \(EU\) No 267/2012](#) (“Regulation 267/2012”) were annulled by the General Court, which ruled that the European Council had failed to establish that IRISL had provided support for Iran’s nuclear proliferation.

Despite the 2013 judgment, the European Council’s decision to relist IRISL and its associated entities on the EU’s Iran sanctions list has recently been upheld by the General Court. In making its decision, the General Court dismissed the applicants’ submissions

that [Council Decision 2013/497/CFSP](#) (amending Decision 2010/413) (“Decision 2013/497”) and [Council Regulation \(EU\) No. 971/2013](#) (amending Regulation 267/2012) (“Regulation 971/2013”), which purport to provide the new criteria on the basis of which the applicants’ names were re-entered on the EU’s Iran sanctions list, were unlawful and had the sole objective of circumventing the 16 September 2013 judgment.

The General Court held that Decision 2013/497 and Regulation 971/2013, which introduced new listing criteria specifically targeting IRISL and its affiliated companies, are proportionate to the overarching aim of restrictive measures against Iran, that is, to increase the pressure on Iran to end its proliferation-sensitive nuclear activities. Further, it was held that the criteria applied by the European Council in the acts annulled by the 16 September 2013 judgment must be distinguished from the new criteria on the basis of which the applicants’ names were relisted under Decision 2013/497 and Regulation 971/2013: “[C]ontrary to what is maintained by the applicants, in relying on a new, legally adopted, criterion justifying the imposition of restrictive measures against them, the European Council did not therefore circumvent that judgment.”

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Iran: EU delists multiple entities from Iran sanctions list

On 16 January 2017, in the wake of a number of decisions of the General Court and the European Court of Justice (the “ECJ”), and having reviewed its restrictive measures against Iran concerning

nuclear and ballistic missiles activities, the European Council adopted [Council Implementing Regulation \(EU\) 2017/77](#) (amending [Council Regulation \(EU\) No. 267/2012](#)) and [Council Decision \(CFSP\) 2017/83](#)

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(amending [Council Decision 2010/413/CFSP](#)), confirming the removal of various persons and entities from the EU's list of persons subject to asset freezes and/or restrictions on admission into EU Member States as a result of their association with Iran's proliferation-sensitive nuclear activities.

The entities and persons delisted include: Moallem Insurance Company, Petropars Operation

& Management Company, Petropars Resources Engineering Ltd, Iran Aluminium Company, Iran Liquefied Natural Gas Co., Hanseatic Trade Trust & Shipping (HTTS) GmbH, Naser Bateni, North Drilling Company, Good Luck Shipping Company LLC, Bank Mellat and Bank Saderat Iran.

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Iran: General Court dismisses challenge from Bank Tejarat to relist; Case T-346/15

On 14 March 2017, the General Court [dismissed](#) a challenge to an EU decision that relisted Bank Tejarat. Bank Tejarat had previously been successful in its challenge to an original sanctions designation.

Bank Tejarat has been subject to the EU's Iranian sanctions list since 2012 on the basis that it is a state owned bank that supported Iran's nuclear programme. This listing was annulled by a [judgment](#) from the General Court on 22 January 2015, which ruled that the European Council had not provided sufficient evidence to substantiate its claims against Bank Tejarat.

However, on 7 April 2015 the European Council adopted [Council Implementing Regulation \(EU\) 2015/549](#) (amending [Council Regulation \(EU\) No 267/2012](#)) and [Council Decision \(CFSP\) 2015/556](#)

(amending [Council Decision 2010/413/CFSP](#)), which relisted Bank Tejarat and subjected it to import and export bans on crude oil and other petroleum products, restrictions on financial services and an asset freeze covering the EU. This was on the basis that Bank Tejarat offered significant support to the Iranian government by offering financial services for oil and gas development and was consequently involved in the procurement of prohibited goods and technology.

The General Court held that the "objective of Decision 2010/413 and Regulation No 267/2012 is to prevent nuclear proliferation" in Iran, and that in the case of Bank Tejarat, "the difficulties caused to the applicant are not disproportionate to the ends sought".

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Iraq: EU delists three entities

On 10 January 2017, the European Council adopted [Commission Implementing Regulation \(EU\) 2017/44](#) (amending [Council Regulation \(EC\) No. 1210/2003](#)), removing (i) Medical City Establishment and (ii) State Company for Drugs and Medical Appliances from the EU's Iraq sanctions list. Further, on 1 February 2017, the European Council adopted [Commission Implementing Regulation \(EU\) 2017/184](#) (amending [Council Regulation \(EC\) No. 1210/2003](#)), removing Amanat Al-Asima from the EU's Iraq sanctions list. Amanat Al-Asima, Medical City Establishment and State Company for

Drugs and Medical Appliances were subject to limited asset freezes, which covered assets located outside Iraq which belonged to the former government of Saddam Hussein. This follows two decisions made by the UN Security Council Committee on [28 December 2016](#) and [26 January 2017](#) to remove the same entities from the UN's list of Iraqi persons and entities to which the freezing of funds and economic resources should apply.

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Libya: EU renews Libya sanctions

On 31 March 2017, the European Council adopted [Council Decision \(CFSP\) 2017/621](#) (amending [Council Decision \(CFSP\) 2015/1333](#)), renewing its sanctions for a further six months against three individuals who are viewed as obstructing the implementation of the Libyan Political Agreement and the formation

of the Government of National Accord in Libya. The sanctions involve a travel ban and asset freeze.

The individuals are Agila Saleh, Khalifa Ghweil and Nuri Abu Sahmain.

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Myanmar: EU renews Myanmar sanctions

On 25 April 2017, the European Council adopted [Council Decision \(CFSP\) 2017/734](#) (amending [Council Decision 2013/184/CFSP](#)), renewing the existing sanctions on Myanmar for a period of one year, until 30 April 2018.

The sanctions impose an embargo on the supply of arms and other material that might be used for internal repression within Myanmar.

The EU lifted its trade, financial and targeted sanctions on Myanmar on [22 April 2013](#).

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North Korea: EU delists five vessels

On 16 January 2017, the European Council adopted [Council Decision \(CFSP\) 2017/82](#) (amending [Council Decision \(CFSP\) 2016/849](#)) and [Commission Implementing Regulation \(EU\) 2017/80](#) (amending [Council Regulation \(EC\) No. 329/2007](#)), removing five vessels from the EU's list of entities and persons subject to restrictive measures. The vessels (and their IMO numbers) are Dawnlight (9110236), Ever Bright 88 (J Star) (8914934),

Gold Star 3 (benevolence) (8405402), Orion Star (Richocean) (9333589) and South Hill 5 (9138680). This mirrors the [17 December 2016](#) decision of the UN Security Council Committee that the five vessels are not controlled or operated by Ocean Maritime Management Company, Limited, the North Korean vessel owner and operator, and therefore should no longer be subject to asset freezes.

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Russia: EU foreign ministers insist on maintaining Russia sanctions

Following [reported statements](#) of Donald Trump on 27 January 2017 relating to Vladimir Putin and US-Russia relations, EU foreign ministers have reiterated their commitment to maintaining the EU's sanctions on Russia, emphasising the need for all parties to abide by the terms of the Minsk cease-fire agreement. Federica Mogherini, High Representative of the EU for

Foreign Affairs and Security Policy, [said](#): "I cannot say where the US administration stands on this, but I can say where the Europeans stand on this." Boris Johnson, UK Secretary of State for Foreign and Commonwealth Affairs, [said](#) that there was "no case for relaxation" of the EU's restrictive measures against Russia.

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Russia: EU renews targeted Russia sanctions

On 13 March 2017, the European Council adopted [Council Implementing Regulation \(EU\) 2017/437](#) (amending [Council Regulation \(EU\) No 269/2014](#)) and [Council Decision \(CFSP\) 2017/445](#) (amending [Council Decision 2014/145/CFSP](#)), renewing its asset freeze measures and travel bans on people and entities who are said to be connected to the undermining of Ukraine's territorial integrity.

The renewal is for a further six months, until 15 September 2017. The measures apply to 150 people and 37 entities.

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Russia: Annulment application of Almaz-Antey dismissed; Case T-255/15

On 25 January 2017, the General Court [decided](#) the second case challenging the legality of a Russian asset-freeze listing under [Council Regulation \(EU\) No. 269/2014](#), as amended by [Council Regulation \(EU\) No. 783/2014](#) (“Regulation 269/2014”), concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine.

Almaz-Antey, a Russian defence firm, was first listed on 30 July 2014 on the grounds that: (i) it is a Russian state-owned company; (ii) it manufactures anti-aircraft weaponry which it supplies to the Russian army; (iii) the Russian authorities have been providing heavy weaponry to separatists in Eastern Ukraine, contributing to the destabilisation of Ukraine; and (iv) as a state-owned entity, Almaz-Antey therefore contributes to the destabilisation of Ukraine.

The General Court dismissed Almaz-Antey’s challenge to the continued inclusion of its name in the annexes to [Council Decision 2014/145/CFSP](#), as amended by [Council Decision 2014/475/CFSP](#) (“Decision 2014/145”), and Regulation 269/2014, ruling that the European Council’s justification for the applicant’s listing did not infringe the principle of proportionality.

Almaz-Antey argued that restrictive measures should only be imposed on bodies or persons that are known to have, or at least very probably have, been involved

in the destabilisation of Ukraine and that, as such, the European Council, in justifying the continued listing of the applicant, had to demonstrate that Almaz-Antey had individually threatened or undermined directly the territorial integrity, sovereignty and independence of Ukraine.

Referring to the wording of Article 2(1)(b) of Decision 2014/145 and Article 3(1)(b) of Regulation 269/2014, as amended, the General Court held that the criterion set out under the applicable articles covers all entities which materially or financially “support” actions that may have been committed by third parties which undermine or threaten the territorial integrity, sovereignty and independence of Ukraine, and not merely entities which have been proven to be directly responsible for such actions.

As such, the General Court held, the fact that Almaz-Antey sells arms to the Russian Federation which itself supplies weapons to the separatists in Eastern Ukraine means that the applicant materially supports actions taken by the Russian Federation seeking to undermine or threaten the territorial integrity, sovereignty and independence of Ukraine and, therefore, justifies the European Council’s continued inclusion of Almaz-Antey on its Russia sanctions list.

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Russia: CJEU upholds EU's Russia sanctions in Rosneft judgment; Case C72/15

On 28 March 2017, the Court of Justice of the European Union (“CJEU”) issued its [judgment](#) upholding the validity of the EU’s Russia sanctions under [Council Decision 2014/512/CFSP](#), as amended (“Decision 2014/512”) and [Council Regulation \(EU\) No 833/2014](#), as amended (“Regulation 833/2014”). In doing so, the CJEU also clarified important issues, including the concept of “financial assistance” and the scope of the prohibition on the issuance of Global Depository Receipts (“GDR”).

The judgment was issued further to Rosneft, a Russian petroleum business, challenging the UK’s [Export Control \(Russia, Crimea and Sevastopol Sanctions\) Order 2014](#) (the “Export Control Order”), that gave effect to the EU’s sanctions against Russia. Rosneft sought interim relief in the High Court of England and Wales (the “High Court”) on 20 November 2014, and attempted to stay the implementation of the Export Control Order. Rosneft argued that provisions within Decision 2014/512 and Regulation 833/2014 were too vague and therefore in breach of European human rights principles, which requires criminal law to be clear and precise. The High Court dismissed Rosneft’s claim for interim relief, but considered there to be sufficient doubt to refer certain questions to the CJEU in a [judgment](#) on 9 September 2015.

In its submissions to the CJEU, Rosneft argued:

(i) certain provisions of Decision 2014/512 and Regulation 833/2014 were in breach of the EU-Russia Partnership Agreement; (ii) the European Council had failed to state reasons for imposing the sanctions; (iii) there was an infringement on Rosneft’s right to have full access to its file; (iv) the European Council had infringed upon its principle of equal treatment by targeting undertakings in certain parts of the oil sector; (v) the European Council had misused its powers;

(vi) there was a contradiction in wording between Decision 2014/512 and Regulation 833/2014; (vii) the sanctions imposed were disproportionate with respect to their declared objective and had a disproportionate effect on Rosneft’s fundamental rights; and (viii) certain provisions within Decision 2014/512 and Regulation 833/2014 were insufficiently clear and precise. The CJEU dismissed these arguments and upheld the validity of Decision 2014/512 and Regulation 833/2014. In its judgment the CJEU also provided guidance on two key concepts used in Regulation 833/2014:

(i) In interpreting the term “financial assistance”, the CJEU agreed with Rosneft that the restrictions on providing “financial assistance” under Article 4(3) of Regulation 833/2014 do not cover the mere processing of payment by a bank or other financial institution on behalf of another entity. In its reasoning, the CJEU considered this restriction to apply to measures “comparable to grants, loans and export credit insurance”, and which involve a party using its own resources, rather than acting as an intermediary “transmitting third party client funds to a particular recipient, without any commitment of that institution’s own resources”.

(ii) The CJEU also considered whether Article 5(2) of Regulation 833/2014 prohibits a restricted entity from issuing GDRs after 12 September 2014 which represent shares in existence before that date. In its reasoning, the CJEU noted that in accordance with Article 1(f) of Regulation 833/2014, “transferable securities” are defined as including GDRs in their own right. Therefore, the restriction in Article 5(2) of Regulation 833/2014 was interpreted to apply to all GDRs irrespective of the date of issuance of their underlying shares.

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Syria: EU adds military officials to Syria sanctions list

On 20 March 2017, the European Council adopted [Council Implementing Regulation \(EU\) 2017/480](#) and [Council Implementing Decision \(CFSP\) 2017/485](#), adding four high-ranking Syrian military officials to the list of persons and entities subject to an asset freeze and travel ban as a result of their alleged involvement in the use of chemical weapons against civilian populations.

The persons added to the Syria sanctions list are Ahmed Ballul, Saji' Darwish, Muhammed Ibrahim and Badi' Mu'alla. The Syria sanctions now apply to 239 people and 67 entities.

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Terrorist sanctions: EU makes series of amendments to terrorism-related listings

(i) On 20 February 2017, the European Commission adopted [Commission Implementing Regulation \(EU\) 2017/296](#) (amending [Council Regulation \(EC\) No. 881/2002](#)), which updates the identifying information of four individuals listed on the EU's list of persons and entities subject to certain restrictive measures as a result of their association with ISIL (Da'esh) and Al-Qaida organisations. The amendment, which mirrors the [15 February 2017 decision](#) of the UN Security Council Committee, affects the listings of: Sayf-Al Adl, Seifallah Ben Hassine, Abd Al-Rahman Bin 'Umayr Al-Nu'aymi and Abd Al-Rahman Khalaf 'Ubayd Juday'Al-Anizi.

(ii) On 8 February 2017, the European Commission adopted [Commission Implementing Regulation \(EU\) 2017/221](#) (amending [Council Regulation \(EC\) No. 881/2002](#)), which removes Gulbuddin Hekmatyar from its list of persons and entities subject to asset freezes as a result of their association with ISIL (Da'esh) and Al-Qaida organisations. This follows the [3 February 2017 decision](#) of the UN Security Council Committee to remove Hekmatyar from its list of persons, groups and entities to which freezing orders apply.

(iii) On 27 January 2017, the European Council adopted [Council Implementing Regulation \(EU\)](#)

[2017/150](#) (implementing [Council Regulation \(EC\) No. 2580/2001](#) and repealing [Council Implementing Regulation \(EU\) 2016/1127](#)) ("Regulation 2017/150") and [Council Decision \(CFSP\) 2017/154](#) (updating [Council Common Position 2001/931/CFSP](#) and repealing [Council Decision \(CFSP\) 2016/1136](#)), which update the list of persons and entities subject to restrictive measures as a result of their alleged involvement in terrorism around the world. The renewed list, which is annexed to Regulation 2017/150, contains 13 individuals and 22 groups and entities that remain subject to global-terrorism-related sanctions.

(iv) On 26 January 2017, the European Commission adopted [Commission Implementing Regulation \(EU\) 2017/142](#) (amending [Council Regulation No. 881/2002](#)), updating the identifying information of Malik Muhammad Ishaq on its list of persons and entities subject to asset freezes as a result of their association with ISIL (Da'esh) and Al-Qaida organisations. The amendment, which follows the [18 January 2017 decision](#) of the UN Security Council Committee to amend Ishaq's entry on its terrorist-related asset-freezing list, confirms that Ishaq was killed in Pakistan on 28 July 2015.

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Tunisia: EU renews sanctions until January 2018

On 27 January 2017, the European Council adopted [Council Implementing Regulation \(EU\) 2017/149](#) (amending [Council Regulation \(EU\) No. 101/2011](#)) and [Council Decision \(CFSP\) 2017/153](#) (amending [Council Decision 2011/72/CFSP](#)), the effect of which is (i) to extend the restrictive measures against 48 people viewed as “responsible for the misappropriation of Tunisian State funds” and those persons and entities associated with them, until 31 January 2018;

and (ii) to update the identifying information related to two listed individuals, Sirine Ben Ali and Mohamed Mabrouk.

These sanctions, which include asset freezes and a prohibition on providing funds to the listed persons, were first introduced on 31 January 2011 and have been renewed every year since 2011.

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Zimbabwe: EU renews listings until February 2018

On 17 February 2017, the European Council adopted [Council Regulation \(EU\) 2017/284](#) (amending [Council Regulation \(EC\) No. 314/2004](#)) and [Council Decision \(CFSP\) 2017/288](#) (amending [Decision 2011/101/CFSP](#)), which (i) extend the restrictive measures against Zimbabwe until 20 February 2018, and (ii) introduce a derogation from the ban on the sale, supply, transfer or

export of certain equipment which might be used for internal repression where the equipment is intended solely for use in Zimbabwe’s civilian mining and infrastructure projects.

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US News

Belarus: General license for transactions with specified Belarus companies is renewed

On 28 April 2017, the U.S. Treasury Department’s Office of Foreign Assets Control (“OFAC”) issued [Belarus General License 2B](#), extending through 30 October 2017 the authorisation for U.S. persons to deal with nine Specially Designated Nationals (“SDNs”) of Belarus and their subsidiaries. The general license does not release previously blocked property, and it requires U.S. persons to report to OFAC all

transactions over \$50,000 within the scope of the license. The nine specified entities are Belarusian Oil Trade House, Belneftekhim, Belneftekhim USA Inc., Belshina OAO, Grodno Azot OAO, Grodno Khimvolokno OAO, Lakokraska OAO, Naftan OAO, and Polotsk Steklovolokno OAO.

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Central African Republic: Two militia commanders are blocked

Abdoulaye Hissene and Maxime Mokom [were blocked](#) on 12 April 2017 under OFAC's Central African Republic sanctions programme. The individuals [are reported](#) to be militia commanders involved in

violence in the CAR, including a failed coup attempt in June 2016.

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Cuba: Anti-embargo activist settles claims of illegal travel

The Alliance for Responsible Cuba Policy Foundation and its president Albert A. Fox Jr. [agreed](#) to pay OFAC \$10,000 to settle civil liability for organising an unauthorised trip to Cuba by 20 individuals in September 2011. The settlement, announced on 12 January 2017, represents the first publicly announced penalty against an individual for Cuba travel in many years.

Fox, a businessman based in Tampa, Florida, is a long-time critic of the U.S. embargo of Cuba and founded the Alliance for Responsible Cuba Policy Foundation to promote engagement between the U.S. and Cuba. Before the settlement was reached, Fox's lawyer had [suggested](#) to the press that OFAC might be retaliating against Fox for his criticism of OFAC.

OFAC calculated the statutory maximum penalty as \$1.43 million and the base penalty under its guidelines as \$80,000, and it had originally proposed a penalty of \$100,000 in its pre-penalty notice. In agreeing to the \$10,000 settlement, OFAC cited as aggravating factors that the violations appeared to be wilful, as evidenced by the fact that OFAC had previously issued a cautionary letter to Fox for a similar trip, and appeared to involve knowing facilitation of unauthorised business travel by other individuals. As mitigating factors, OFAC noted that the travel caused minimal harm to sanctions objectives, that the investigation involved an individual acting in his personal capacity and a small non-profit entity, and that Fox and his organisation were of limited means.

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Export controls: Parcel forwarder pays \$10 million civil settlement for unlicensed exports

The U.S. Commerce Department's Bureau of Industry and Security ("BIS") [announced](#) that it had reached a civil settlement Access USA Shipping, LLC, of Sarasota, Florida, for violations of the Export Administration Regulations. Under the settlement, announced on 14 March 2017, Access USA agreed to a \$27 million

penalty, with \$17 million of the penalty suspended during a two-year probationary period.

Access USA is a mail and package forwarding service that provides a physical U.S. address for foreign customers. According to BIS, Access USA helped its customers circumvent export controls by concealing

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from manufacturers and distributors the fact that goods were being purchased for export. According to BIS, the items illegally shipped overseas included rifle scopes, night vision lenses and weapons parts,

including shipments to a sanctioned entity on the BIS Entity List.

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Export controls: Chinese national pleads guilty to illegal exports of carbon fibre

The U.S. Attorney's Office for the Southern District of New York [announced](#) that Fuyi "Frank" Sun, a Chinese national, pleaded guilty on 21 April 2017 to attempting to violate the International Economic Emergency Powers Act. As we reported in [Issue 48](#), Sun was arrested in April 2016 in New York, where he

was seeking to purchase high-grade carbon fibre for the Chinese military. Sun is due to be sentenced on 26 July 2017.

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Export controls: Ukrainian national arrested for exporting controlled items to Ukraine

The U.S. Attorney's Office for the Eastern District of New York [announced](#) the arrest of Volodymyr Nedoviz, a Ukrainian national who is a legal permanent resident of the United States, on 7 March 2017. Nedoviz is accused of conspiring to export rifle scopes and night vision equipment to Ukraine without a licence. According to the government's accusations, Nedoviz and his co-conspirators bought the equipment

by concealing that they were exporters, and they recruited, trained and paid U.S. individuals to export the equipment through various freight forwarding companies by misrepresenting the nature and value of the equipment.

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Iran: Sanctions imposed on missile proliferators, IRGC officials and human rights abusers

On 3 February 2017, the U.S. Treasury Department [announced](#) that it had added multiple companies and individuals to the SDN list for procuring technology or materials to support Iran's ballistic missile programme.

At the same time, the U.S. also designated under its counter-terrorism programme several individuals linked to Iran's Islamic Revolutionary Guard Corps-Qods Force ("IRGC-QF"). Separately, the

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Treasury Department [announced](#) that it had added the Tehran Prisons Organisation and its former director to the SDN list on 13 April 2017 in connection with human rights abuses in Teheran's notorious Evin Prison.

Among those [designated](#) under the non-proliferation sanctions are two China-based companies, Cosailing Business Trading Company and Ningbo New Century Import and Export Company, and three China-based individuals. They are accused of procuring dual-use goods and other materials for Iran's Shahid Hemmat Industrial Group. Also designated was Abdollah Asgarzadeh, an Iranian businessman who allegedly has been acquiring technology and materials for over a decade to support Iran's missile programmes, primarily through supporting Shahid Hemmat Industrial Group or the Aerospace Industries Organization. Both of those entities had previously been designated as proliferators of weapons of mass destruction.

Although the Iran nuclear deal, known as the Joint Comprehensive Plan of Action, removed nuclear-related sanctions on Iran with effect from January 2016, the U.S. has continued to maintain sanctions in connection with Iran's ballistic missile programme and Iran's support for Hizballah and other designated terrorist groups. We discussed the significance of these sanctions in our [client update](#) of 8 February 2017

titled *U.S. Sanctions on Iran: The Trump Administration's First Actions*.

The two individuals added to the terrorism list, Hasan Dehghan Ebrahimi and Ali Sharifi, were listed for acting on behalf of IRGC-QF in Lebanon, including facilitating cash transfers to Hizballah and procuring aviation spare parts for IRGC-QF. In addition, OFAC listed two individuals, Muhammad Abd-al-Amir Farhat and Yahya al-Hajj, who were said to be working with Ebrahimi to support Hizballah in Lebanon, along with three Lebanon-based companies owned by Farhat: Reem Pharmaceutical, Mirage for Engineering and Trading, and Mirage for Waste Management and Environmental Services.

The new [human rights designations](#) were targeted at the Tehran Prisons Organisation and its former director Sohrab Soleimani, now a senior official within Iran's State Prison Organisation. In a [press release](#), the U.S. Treasury Department focussed on an April 2014 incident in which guards and senior prison officials reportedly attacked and beat over 30 political prisoners and then placed some of them into solitary confinement without medical treatment. Soleimani was head of the Tehran Prisons Organisation at the time.

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Iran: OFAC updates general license for medical device exports

OFAC has issued an update to its [List of Medical Devices Requiring Specific Authorization](#) for export to Iran. According to OFAC's [announcement](#), the change was made to "update and clarify the scope" of the devices that may not be exported without a specific license.

The change, adopted on 2 February 2017, deleted from the list certain types of laboratory and imaging equipment. It also deleted a general reference to equipment referenced in certain provisions of the Export Administration Regulations, while adding back some specific examples of such equipment.

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Medical devices that are not included on the list may be exported to Iran under a general license, unless they are destined for military, intelligence or law enforcement purchasers, or to individuals or entities

that are blocked for reasons other than being owned or controlled by the government of Iran.

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Iran: Chinese telecoms manufacturer ZTE agrees to almost \$900 million in penalties in guilty plea to sanctions and export control violations

China-based manufacturer Zhongxing Telecommunications Equipment Corporation (“ZTE”) has agreed to plead guilty to criminal charges and pay nearly \$900 million to settle charges that it violated U.S. sanctions by incorporating controlled U.S.-made items into products exported to Iran. ZTE simultaneously agreed to a civil settlement with OFAC and BIS.

ZTE’s guilty plea was accepted by the U.S. District Court for the Northern District of Texas on 22 March 2017. Before the plea was accepted, however, the plea agreement was revised at the judge’s request to give the court an unusual role in supervising the monitor appointed to oversee ZTE’s compliance. The unusual monitorship arrangement is discussed in detail in the [April 2017 issue](#) of the Debevoise & Plimpton *FCPA Update*.

According to a U.S. Justice Department [press release](#) of 7 March 2017, ZTE violated U.S. export controls by acquiring U.S.-origin items and reexporting them to Iran, while taking steps to mask its involvement with the exports and mislead investigators. The illegally exported equipment was valued at approximately \$32 million, according to the Justice Department’s release, though OFAC’s [web notice](#) puts the total transaction value at approximately \$39.6 million.

ZTE agreed to plead guilty to one count of unlawful exports in violation of the International Emergency

Economic Powers Act, one count of obstruction of justice, and one count of making materially false statements to federal investigators, and to pay a criminal fine of approximately \$287 million and criminal forfeiture of approximately \$143 million. In addition, ZTE agreed to a [civil settlement](#) with OFAC under which it agreed to pay approximately \$101 million in civil penalties in addition to the criminal penalties. OFAC [treated](#) these exports as an egregious violation, found that they had not been voluntarily self-disclosed, and calculated both the statutory maximum and guideline base penalties as approximately \$106 million. Separately, BIS [announced](#) that it had entered into a [settlement agreement](#) with ZTE for unlawful exports to Iran and North Korea, under which ZTE agreed to pay \$661 million, with \$300 million suspended subject to compliance with export controls over the next seven years.

As we reported in [Issue 47](#), BIS added ZTE to its Entity List in March 2016, but two weeks later issued a temporary general licence allowing exports to ZTE in response to ZTE’s cooperation with the U.S. government’s investigation. Under the BIS settlement agreement, ZTE will be removed from the list.

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Iran: Taiwanese company violated sanctions by transacting with Iranian entity while in U.S. bankruptcy proceedings, OFAC finds

OFAC has [announced](#) that it issued a Finding of Violation (“FOV”) to B Whale Corporation, a company based in Taipei, Taiwan, finding that B Whale was a U.S. person by reason of being in bankruptcy proceedings in U.S. court at the time of a transaction with Iran. This appears to be the first time that OFAC has publicly taken the view that a foreign company becomes a U.S. person by reason of a U.S. bankruptcy filing.

OFAC concluded that B Whale was “present” in the United States by reason of the bankruptcy proceedings, and also that its property was subject to the sanctions regulations because it was under the jurisdiction of a U.S. bankruptcy court at the time. The relevant transaction was a ship-to-ship transfer of over 2 million barrels of condensate crude oil in 2013 to the *M/V B Whale*, a Liberian vessel, from an Iranian vessel that was on the SDN list at the time.

B Whale is a member of the TMT Group of shipping companies. Along with 23 affiliated companies,

B Whale filed a voluntary petition in 2013 in the U.S. Bankruptcy Court for the Southern District of Texas under Chapter 11 of the Bankruptcy Code. Under U.S. law, a foreign company may file for Chapter 11 reorganisation if it has assets in the United States.

In its announcement of 3 February 2017, OFAC noted that it considered several aggravating factors in its determination to issue an FOV, including that BWC concealed the ship-to-ship transfer of Iranian oil by leaving ship logs blank and switched off the vessel’s automatic identification system during the transfer. Mitigating factors included consideration of BWC’s lack of penalties over five years prior to the activity and that all of BWC’s assets have been liquidated in bankruptcy.

An FOV is an enforcement response that OFAC uses to publicly document a sanctions violation without imposing a civil monetary penalty.

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Iran: Executive of Turkish state-owned bank arrested in U.S. for alleged sanctions violations

Mehmet Hakan Atilla, the deputy manager of Türkiye Halk Bankası AS (“Halkbank”), was arrested in New York on 27 March 2017. Halkbank is one of Turkey’s largest state-owned banks.

The U.S. government has [alleged](#) that Atilla conspired with Turkish gold trader Reza Zarrab to conduct

transactions through the U.S. banking system on behalf of the government of Iran and other Iranian entities. As we reported in [Issue 47](#), Zarrab was arrested by U.S. officials in March 2016 and is awaiting trial in a federal court in New York.

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Iran: Indian oil equipment reseller settles with OFAC over reexports

Aban Offshore Limited, of Chennai, India, has agreed to pay OFAC a settlement of \$17,500 to settle allegations that it ordered oil drilling rig supplies from a U.S. vendor for reexport to an offshore oil rig in Iranian waters. The transaction took place in 2008, but Aban entered into tolling agreements with OFAC to extend the five-year limitation period.

According to OFAC's [announcement](#) of 12 January 2017, OFAC determined that the transaction was not voluntarily disclosed and was a non-egregious case. OFAC determined that the transaction value was \$10,127, the statutory maximum penalty was \$250,000

and that the base penalty under its guidelines was \$25,000. As aggravating circumstances, OFAC noted that Aban did not have an OFAC compliance program, failed to "exercise a minimal degree of caution" to avoid noncompliance, is a large and sophisticated company, and that the export assisted in the development of Iran's energy resources. As mitigating factors, OFAC cited Aban's absence of prior sanctions history, remedial action including establishing an OFAC compliance program, and substantial cooperation with OFAC.

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Iran: U.S. medical instrument company settles with OFAC for exports

United Medical Instruments ("UMI") has agreed to pay \$515,400 to settle potential civil liability for unlicensed exports to Iran. According to OFAC's [announcement](#), on at least 56 occasions, UMI sold medical imaging equipment to a company in the United Arab Emirates with actual knowledge or reason to know that the equipment was intended for reexport to Iran. OFAC calculated the aggregate value of the equipment to be \$2,493,597.

OFAC considered as a mitigating factor that the apparent violations resulted from the actions of a

single employee rather than enterprise-wide conduct, although it concluded that the violations were wilful and knowing and that UMI failed to effectively manage its compliance program. OFAC also considered, as mitigation, that UMI took remedial action, cooperated with OFAC's investigation, had no recent history of sanctions violations, is a small business, and is experiencing financial difficulties.

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Iran: Justice Department renews Clearstream Banking probe

The Justice Department is moving forward with an investigation of Iran-linked transactions by Clearstream Banking SA and its parent company, Deutsche Boerse AG, according to a report by [Bloomberg News](#). The investigation, by the U.S. Attorney's Office for the Southern District of New York, reportedly had stalled pending negotiations with Iran over its nuclear program.

Bloomberg reports that prosecutors are looking into whether Clearstream acted as a conduit between

Iran's central bank and a bank in the U.S. and whether Clearstream and Deutsche Boerse made false statements to U.S. regulators about the transactions.

In 2014, Clearstream settled with OFAC for other alleged Iran-related sanctions violations. We reported on the settlement in [Issue 11](#).

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Iran and Cuba: Bank settles with OFAC for banking and brokerage transactions

Toronto-Dominion Bank agreed to pay \$516,105 to settle potential civil liability for 167 voluntarily self-disclosed transactions involving Canada-based customers subject to sanctions under U.S. law. According to OFAC's [announcement](#) of the settlement, TD Bank processed transactions to or through the U.S. for a Canadian company owned by a Cuban company, 62 individual Cuban nationals living in Canada who had not been unblocked, and a Canadian sales agent for an SDN located in Iran.

OFAC found this to be a non-egregious case. Mitigating factors noted by OFAC included that managers did not appear to have actual knowledge that these transactions were taking place, TD Bank

was not the subject of prior enforcement actions in the last 5 years, many of the transactions involving the individual Cuban nationals were licensable, and the bank responded swiftly by changing its policies and procedures and cooperated fully with OFAC.

Separately, OFAC issued an FOV to Internaxx, a wholly owned subsidiary of TD Bank, for U.S. securities transactions with persons in Iran and Cuba. OFAC remarked that the FOV highlights the importance of ensuring compliance by foreign subsidiaries in high-risk industries, such as securities firms.

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Narcotics sanctions: General licenses for Panama's Balboa Bank expire, Soho Mall license extended

OFAC has not renewed the general licenses for U.S. persons to engage in transactions in connection with

the liquidations of Panama's Balboa Bank & Trust and its affiliate Balboa Securities Corp. Panamanian

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officials [reportedly](#) are continuing to seek a buyer for the bank, though the nonrenewal of the license may prevent U.S. persons from participating in any sale or other resolution. Meanwhile, OFAC [has extended](#) the term of the general license authorising certain transactions with merchants at Soho Mall Panama.

In 2016, OFAC blocked the property of Balboa Bank and Balboa Securities under the Foreign Narcotics Kingpin Designation Act, based on allegations that they were [laundering drug money](#) for members of Panama's Waked family. As a result, Panama seized the two entities and placed them in receivership. OFAC subsequently authorised U.S. persons to engage in certain transactions, for a limited time, related to the liquidation of the entities. The final versions of the

authorisations, Kingpin Act General Licenses 5C and 6C, expired on 7 April 2017 and were not renewed.

OFAC has extended the authorisation for certain transactions involving merchants at Soho Mall Panama. The entity that owns the mall was designated under the Kingpin Act because it is owned by the Waked organisation. The updated Soho Mall authorisation, Kingpin Act [General License 4G](#), was issued on 27 April 2017 and will expire on 15 June 2017 unless further extended. OFAC also has updated its [Frequently Asked Questions](#) to reflect the extended term of the general license.

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Narcotics sanctions: OFAC sanctions senior Venezuelan government official for drug trafficking

The Treasury Department [announced](#) on 13 February 2017 that OFAC had blocked the property of the recently appointed Executive Vice President of Venezuela, Tarek Zaidan El Aissami Maddah, under the Foreign Narcotics Kingpin Designation Act. The designation is based on allegations that El Aissami "facilitated, coordinated, and protected" narcotics traffickers operating in Venezuela.

The U.S. also blocked the property of Venezuelan national Samark José López Bello, said to be a "frontman" for El Aissami, along with [13 companies](#) owned or controlled by López in the British Virgin Islands, Panama, the UK, the U.S., and Venezuela, and listed as blocked property a U.S.-registered aircraft

owned by one of the companies. According to the U.S. government, López and his companies laundered money for El Aissami.

OFAC also released a [Frequently Asked Question](#) noting that the designation of an official of the Venezuelan government does not mean that the government itself is also blocked, but that U.S. persons dealing with the Venezuelan government should exercise caution to avoid dealings with a blocked person. In addition, OFAC released a [chart](#) depicting the designated individuals, companies and aircraft.

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Narcotics sanctions: Lebanese shipping magnate and Salvadoran hotelier are removed from list, Mexican property management companies and Peruvian shipper are added

Lebanon: OFAC [removed](#) the Lebanese shipping line owner Merhi Abou Merhi from its SDN list on 9 May 2017. Also deleted were companies owned by Abou Merhi, including shipping lines, real estate and hospitality ventures, as well as vessels owned by the shipping lines, a charity linked to Abou Merhi and associated individuals. Abou Merhi and his companies were originally listed in October 2015 based on [allegations](#) that they were laundering money for the Lebanese-Colombian drug trafficker Ayman Joumaa. In accordance with its usual practice, OFAC did not announce the reasons for the delistings.

El Salvador: José Adán Salazar Umaña, also known as “Chepe Diablo”, was [removed](#) from the sanctions list on 7 April 2017 after petitioning for reconsideration of his 2014 [designation](#) under the Kingpin Act. Salazar, who was reputed to be the leader of El Salvador’s Taxis cartel and owns hotels and other properties in El Salvador, [has been arrested](#) on drugs charges in that country. According to a U.S. embassy [press release](#), the delisting reflects OFAC’s conclusion that it has insufficient information to determine that Salazar “continues to play a significant role at the highest levels of international narcotics trafficking”. The embassy stressed that the delisting should not be regarded as a comment on the pending criminal charges.

Mexico: On 20 April 2017, OFAC [designated](#) two Mexican property management companies, Yorv Inmobiliaria and Grupo Segtac, S.A. de C.V., under the Foreign Narcotics Kingpin Designation Act (Kingpin Act). According to a U.S. Treasury Department [press release](#), the two companies were

established to circumvent the listings of two previously designated shopping centres linked to Abigail González Valencia, the leader of the Los Cuinis drug trafficking organisation. The two newly designated companies were allegedly used as a conduit to facilitate transactions between the designated entities and the legitimate Mexican economy.

Peru: OFAC designated Peruvian nationals Gino Dusan Padros Degregori and Guillermo Jean Pierre Zegarra Martínez under the Kingpin Act, along with [three companies](#) controlled by Padros, on 5 May 2017. According to a Treasury Department [press release](#), Padros has been involved in shipping large quantities of cocaine concealed in cargo containers from the Port of Callao, Peru, has ties to the Sinaloa Cartel and other Mexican drug trafficking groups operating in Peru, and is engaged in money laundering through the U.S. and Europe. Zegarra is allegedly involved in collecting and laundering money for Padros. The three designated businesses, all based in Lima, Peru, are R Inver Corp S.A.C., a real estate and construction company; G & M Autos S.A.C., an automobile repair shop; and SBK Import S.A.C., an importer of automobiles, boats, and heavy machinery. OFAC also released a [chart](#) depicting the individuals and companies designated.

Miscellaneous removals: On [23 February](#), [31 March](#) and [9 May](#) 2017, OFAC removed numerous individuals and companies in Colombia, Mexico, Lebanon and Slovenia from its counter-narcotics lists. In keeping with its usual practice, OFAC did not announce the reasons for the removals. In many cases, delistings occur because the listed individual or company has

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persuaded OFAC that there is no longer a basis for the listing. OFAC also may remove names from its lists when it determines that an individual is deceased, a

company is out of business, or a vessel or aircraft is no longer operational.

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North Korea: House approves broad secondary sanctions bill, measure moves to Senate

On 4 May 2017, the House of Representatives of the U.S. Congress approved by a vote of 419 to 1 proposed legislation imposing new sanctions on North Korea. The measure must also be adopted by the Senate before it is sent to President Trump for his signature.

If it becomes law, the bill, known as the [Korea Interdiction and Modernization of Sanctions Act](#), would require the imposition of sanctions on non-U.S. companies that purchase significant amounts of metals from North Korea or sell jet or rocket fuel to North Korea (other than in limited amounts for

civilian passenger aircraft). It also would authorise the imposition of sanctions on non-U.S. companies that violate UN-imposed sanctions or engage in a wide variety of other business transactions with North Korea, including money transfers, purchases of food and agricultural products, purchase of textiles, services to aircraft and vessels, telecommunications and data services, online gambling and other online business activities, the purchase of fishing rights, and others.

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North Korea: U.S. blocks property of coal company, 11 individuals

On 31 March 2017, OFAC blocked the property of Paeksol Trading Corporation, a company based in North Korea. According to a U.S. Treasury Department [press release](#), Paeksol may have assisted the North Korean government in exporting coal and iron to China in violation of United Nations Security Council [sanctions](#) and also may be associated with the North Korean military.

At the same time, OFAC blocked the property of [11 individuals](#) associated with North Korean entities.

Four of the individuals are identified as representatives of North Korean entities involved in weapons proliferation, and six are identified as representatives of previously blocked North Korean banks, and one is identified as a shipping representative of the North Korean government.

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Office of Foreign Assets Control: New explanation of list removal process published

OFAC has recently published new [questions and answers](#) on how individuals and companies may apply to be removed from OFAC's sanctions lists. The new guidance includes suggestions about what a petition for removal should contain, as well as a dedicated email address for submitting petitions. OFAC explains that it will endeavour to send an initial questionnaire to the applicant within 90 days of receiving the petition. It may then send follow-up questionnaires and conduct additional research before making a decision.

The new guidance also describes the process by which OFAC initially decides whether to list an individual or entity. The process includes information gathering from various sources, an investigation carried out by OFAC investigators, a documentation phase that includes the drafting of a formal evidentiary memorandum, and a final determination after consulting with other governmental agencies.

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Office of Foreign Assets Control: Maximum penalty amounts adjusted for inflation

The U.S. Department of the Treasury has issued [regulations](#) increasing its maximum civil penalty amounts to account for inflation. The Department is authorised by statute to make these adjustments from time to time. The increased amounts apply to sanctions violations that occur on or after 10 February 2017, the date on which the adjustments took effect.

As a result of these adjustments, the new maximum civil penalty under the International Emergency Economic Powers Act, which governs most of OFAC's sanctions programmes, is now \$289,238 or twice the transaction value, whichever is greater.

The maximum civil penalty under the Trading with the Enemy Act, which governs the Cuba sanctions, was increased to \$85,236. The Foreign Narcotics Kingpin Designation Act saw a maximum penalty increase to \$1,437,153. Under the Antiterrorism and Effective Death Penalty Act, which governs U.S. financial institutions' obligation to block assets of terrorism-list governments, the maximum penalty is now the greater of \$76,351 or twice the amount that the financial institution was required to block.

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Russia: OFAC authorises dealings with Russian Federal Security Service as regulator

OFAC has [authorised](#) U.S. persons to engage in transactions with the Russian Federal Security Service,

known as the FSB, in connection with its role as a regulator of information technology products in the

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Russian Federation. The FSB was first [added](#) to OFAC's SDN list on 29 December 2016 by [Executive Order](#), based on allegations that the FSB was involved in breaking into the Democratic Party's email servers to influence the 2016 U.S. elections.

The new authorisation was [adopted](#) on 2 February 2017 to address concerns that U.S. exporters need to be able to deal with the FSB in its regulatory capacity. According to [Reuters](#), U.S. officials have described the change as a "technical fix" in response to "direct complaints" from companies exporting consumer electronics to Russia.

The authorisation, known as [Cyber-Related General License No. 1](#), allows transactions with FSB related to permits "for the importation, distribution, or use

of information technology products in the Russian Federation," as well as transactions incident to FSB investigations or compliance with FSB rules. In a set of [Frequently Asked Questions](#) published on 8 February 2017, OFAC clarified that the new general license does not authorise the supply of goods or services to the FSB, but only authorises dealing with the FSB in its administrative or law enforcement capacity.

BIS subsequently made a [conforming change](#) to the entry for FSB on BIS's Entity List. The amendment clarifies that a separate licence from BIS is not needed for transactions authorised by OFAC's General License No. 1.

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Russia: U.S. Senators propose limiting President's authority to cut back sanctions

A bipartisan group of senators, led by Republican Lindsay Graham and Democrat Ben Cardin, has introduced proposed legislation which, if adopted, would set up a period of congressional oversight before the President can remove sanctions on Russia. Other initial sponsors of the [Russia Sanctions Review Act](#), introduced on 8 February 2017, included Republicans John McCain and Marco Rubio and Democrats Sherrod Brown and Claire McCaskill. A [companion bill](#) was later introduced in the House of Representatives. The new proposal is more modest in scope than the proposed [Countering Russian Hostilities Act](#), introduced in January 2017, which would impose broad new sanctions against Russia.

If adopted, the Russian Sanctions Review Act would require existing sanctions against Russia to remain in

effect and would allow relief from those sanctions only if the administration certifies to Congress that Russia has stopped undermining the government of Ukraine and has ceased cyber-attacks against the U.S. and allows Congress 120 days to review the proposed changes.

Although the bill's sponsors [denied](#) that it was meant as an attack on President Trump, the proposal comes amid perceptions that the Trump administration has moved U.S. foreign policy in a more pro-Russian direction. To become law, the bill would have to pass both the Senate and the House and would be subject to possible veto by President Trump. [Reuters](#) reports that the White House has declined to comment on the bill.

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Russia: Exxon application for proposed Rosneft deal is rejected

The Trump administration has rejected an application by U.S. oil company Exxon Mobil Corp. for a specific license to engage in a proposed future joint venture with Russian state-owned oil company PAO Rosneft. Unless licensed by OFAC, U.S. persons may not provide services (other than financial services) to the companies listed in [Directive 4](#) of the U.S. sectoral sanctions for deepwater, Arctic offshore or shale oil projects in Russia.

In a terse, one-sentence [statement](#), Secretary of the Treasury Steven Mnuchin announced that “In consultation with President Donald J. Trump, the Treasury Department will not be issuing waivers to

U.S. companies, including Exxon, authorizing drilling prohibited by current Russian sanctions.”

Although Exxon [submitted](#) its license application in 2015, [the press reported](#) in April of this year that Exxon was making a new push for the license. Exxon had previously obtained a specific license for limited activities under an existing contract, but some members of Congress [reacted with surprise](#) to the suggestion that Exxon thought it could receive approval for a new project. Secretary of State Rex Tillerson was Exxon’s CEO but has pledged to recuse himself from Exxon-related matters for two years.

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Russia: Texas man sentenced to over 11 years in prison for microelectronics exports to Russia

The U.S. Attorneys’ Office for the Eastern District of New York [announced](#) on 28 February 2017 that Alexander Posobilov has been sentenced to 11 years and 3 months in prison for exporting and conspiring to export controlled microelectronics to Russia in violation of U.S. export controls. As we reported in [Issue 44](#), Posobilov and two co-defendants were convicted in October 2015 after a jury trial, and five

other defendants pleaded guilty. Posobilov, a resident of Houston, Texas, was a senior manager of the now-defunct Houston-based company ARC Electronics, Inc. According to the Justice Department, ARC allegedly exported approximately \$50 million in sensitive electronics to Russia over a period of several years, including to Russian state-owned military agencies.

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Syria: U.S. blocks 271 individuals and one company linked to Assad’s chemical weapons programme

In response to the Syrian government’s sarin gas attack on the town of Khan Sheikhoun, Syria, the U.S. has added to its SDN list [271 individual employees](#) at

Syria’s Scientific Studies and Research Centre (SSRC). The SSRC is Syria’s government agency responsible for developing non-conventional weapons. The Treasury

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Department [press release](#) announcing the new listings states that the individual SSRC employees “have expertise in chemistry and related disciplines and/or have worked in support of SSRC’s chemical weapons program since at least 2012.” The individuals were added to the SDN list on 24 April 2017 under OFAC’s Syria sanctions regime, while the SSRC was previously listed under OFAC’s Non-Proliferation of Weapons of Mass Destruction (“NPWMD”) regime.

Metallic Manufacturing Factory, based in Syria, was separately designated under the NPWMD sanctions regime on 23 February 2017. According to a Treasury Department [press release](#), sanctions were imposed on the company for acting on or behalf of Mechanical Construction Factory, which was previously blocked for its activities in support of SSRC.

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Syria: Three individuals arrested for exporting aircraft parts to sanctioned airline

On 24 April 2017, the U.S. Department of Justice [announced](#) that it had arrested three individuals for wilfully exporting dual-use items from the U.S. to Syrian Arab Airlines, an entity blocked under OFAC’s Global Terrorism Sanctions Regulations. The three individuals are Ali Caby, residing in Bulgaria, and Arash Caby and Marjan Caby, both residing in Miami, Florida.

According to the Justice Department’s allegations, the three individuals managed AW-Tronics, a Miami-based export company with an office in Bulgaria, which exported aircraft parts and equipment to the Syrian airline. The indictment also names as defendants eight other individuals and Syrian Arab Airlines.

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Terrorist sanctions: OFAC targets individuals linked to al-Nusrah Front, Al-Qaida, al-Ashtar Brigade, ISIS and Hamas

Syria: [Two individuals](#) based in Syria, Iyad Nazmi Salih Khalil and Basam Ahmad al-Hasri, were designated on 23 February 2017 under OFAC’s Specially Designated Global Terrorism (“SDGT”) program. The individuals [are said](#) to be leaders of the designated terrorist organization al-Nusrah Front, which the U.S. government has designated as a terrorist organisation.

Kuwait: On 14 March 2017, OFAC designated [Muhammad Had al-Anzi](#), based in Kuwait, under its SDGT programme for [allegedly](#) providing logistical and financial support to al-Nusrah Front and Al-Qaida.

Bahrain: Following a recent increase in militant attacks in Bahrain, two Bahrain-based [individuals](#), Ahmad Hasan Yusuf and Alsayed Murtadha Majeed Ramadhan Alawi, were designated as SDGTs on 17 March 2017. According to a U.S. State Department [press release](#), they were designated for their roles in supporting the Bahrain-based al-Ashtar Brigade. Al-Ashtar Brigade is a designated terrorist organization that has claimed responsibility for several attacks in Bahrain.

Malaysia, Indonesia, Syria and Iraq: On 30 March 2017, OFAC designated as SDGTs two [individuals](#)

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located in Syria or Iraq. The two are [alleged](#) to be involved in recruitment and planning attacks in Indonesia and Malaysia on behalf of the terrorist group that the U.S. government now calls Islamic State in Iraq and Syria (“ISIS”) (also known as Islamic State in Iraq and the Levant, Islamic State or Da’esh). Muhammad Bahrun Naim Anggih Tamtomo, an Indonesian national based in Syria, is said to have provided financial and operational support for the January 2016 ISIS attacks in Jakarta, Indonesia. Muhammad Wannady Bin Mohamed Jedi, a Malaysian citizen based in Syria and Iraq, is said to have claimed responsibility on behalf of ISIS for a June 2016 grenade attack in a Malaysian nightclub.

UK, Trinidad, New Zealand, Sweden, Tunisia and Syria: Also on 30 March 2017, OFAC designated as SDGTs [five citizens](#) of Western countries, located in Syria and elsewhere, who are [alleged](#) to be providing material support to ISIS or Al Qaida. El Shafee Elsheikh, a UK citizen now located in Syria, allegedly is a member of an ISIS execution cell responsible for torturing and beheading hostages. Anjem Choudary, a UK citizen currently serving a prison sentence in the UK, was a recruiter from ISIS who has vowed to continue his activities from prison. Sami Bouras, a Swedish and Tunisian national, is said to be a member of Al-Qaida

involved with planning suicide attacks. Shane Dominic Crawford, a citizen of Trinidad and Tobago, and Mark John Taylor, a citizen of New Zealand, are said to be fighters for ISIS in Syria and acting as propagandists for ISIS.

Palestinian Territories: [Abu Anas al-Ghandour](#), a Palestinian national [said to be](#) a military commander for Hamas in Gaza, was designated as an SDGT on 6 April 2017 for his alleged involvement in terrorist attacks.

Libya and Algeria: OFAC designated three [individuals](#) as SDGTs on 13 April 2017 for providing support for activities of ISIS in Libya. Ali Ahmidah al-Safrani and Abd al Had Zarqun, based in Libya, [allegedly](#) provided financial support and helped facilitate various financial activities for ISIS in Libya, while Hamma Hamani, based in Algeria, allegedly supported ISIS weapon trafficking efforts in Libya.

Saudi Arabia and Syria: OFAC designated Mubarak Mohammed A Alotaibi as an SDGT on 27 April 2017. According to a U.S. State Department [press release](#), Alotaibi is the Syria-based deputy leader of an ISIS affiliate in Saudi Arabia.

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Transnational criminal organisation sanctions: Sanctions lifted on four former PacNet executives

OFAC has removed four former executives of PacNet affiliates from its SDN list. [According to OFAC](#), the delisted individuals, who are based in the UK and Ireland, were involved in management of PacNet’s European affiliates.

As we reported in [Issue 50](#), PacNet, a Canadian payment processor, was targeted for sanctions

under OFAC’s Transnational Criminal Organisations programme in September of last year. The sanctions were based on [allegations](#) of “knowingly processing payments on behalf of a wide range of mail fraud schemes that target victims in the United States and throughout the world.”

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The four individuals and some other members of management had been [added](#) to the SDN list in September 2016 along with PacNet itself and certain PacNet affiliates. Two of the four were delisted on [16 February 2017](#), while the other two were delisted on [6 April 2017](#). According to the [Wall Street Journal](#), an OFAC spokesperson confirmed that the two most

recently delisted individuals no longer work at PacNet. It appears likely that the two earlier delistings were based on similar reasons.

A number of other PacNet executives, as well as PacNet itself and related entities, remain blocked.

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Western Balkans: OFAC designates Bosnian Serb leader for undermining 1995 Dayton Accords

On 17 January 2017, OFAC designated Milorad Dodik, the president of Republika Srpska, as an SDN under its Western Balkans sanctions regime. Republika Srpska is one of the two autonomous entities that make up Bosnia and Herzegovina.

The U.S. sanctioned Dodik under its sanctions regime targeting individuals who obstruct the implementation of the 1995 Dayton Accords. The accords ended the civil war in Bosnia and Herzegovina following the breakup of Yugoslavia.

According to a U.S. Treasury Department [press release](#), the impetus for the designation of

Dodik was his defiance of the Constitutional Court of Bosnia and Herzegovina. In 2015, the Constitutional Court had declared unconstitutional a holiday in the Republika Srpska celebrating the 1992 breakaway of that entity from what was then the Republic of Bosnia and Herzegovina. Dodik and other leaders refused to comply with the court's judgment and orchestrated a September 2016 referendum confirming the holiday. The controversy has inflamed tensions in Bosnia and Herzegovina and is seen as a precursor to a [secession vote](#) in Republika Srpska, which Dodik has promised to hold by 2018.

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Zimbabwe: Two former government officials are delisted

OFAC [removed](#) Theophilus Pharaoh Gambe from its Specially Designated Nationals list on 27 March 2017 following Gambe's departure as chairman of Zimbabwe's Electoral Commission. Munacho Thomas Alvar Mutezo, formerly Zimbabwe's Minister of Water Resources and Infrastructural Development, was also [removed](#) from the list on 12 April 2017.

Gambe and Mutezo had been [designated](#) in November 2005 for undermining Zimbabwe's democratic processes. The recent delistings continue the pattern of removing sanctions from individuals who are no longer associated with Zimbabwe's government.

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UN News

Sudan: UN publishes implementation assistance notice

On 13 January, the UN Security Council Committee established under UN Resolution 1591 (2005) in connection with the conflict in Sudan published an [Implementation Assistance Notice](#), (the “Notice”) to assist States in implementing the travel ban in relation to the Sudan sanctions regime.

The Notice specifies that the obligation on States to prevent transit through their territory by listed individuals applies even where the relevant individual is carrying with him/her the necessary travel documents required by that State. However, the obligation does not require States to prevent the travelling of listed

individuals internal within the State of which that individual is a national.

Further, the Notice encourages States to (i) add the names of listed individuals to any watch lists that aim to prevent and detect illegal entries; (ii) cancel and refuse to issue any visas and entry permits for listed individuals; and (iii) submit, where available and pursuant to national legislation, photographs and other biometric data on listed individuals for inclusion in INTERPOL-UN Security Council Special Notices.

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Terrorist sanctions: UN security council removes one individual from 1988 committee sanctions list

On 16 February 2017, the UN Security Council Committee established under UN Resolution 1988 (2011) [removed](#) Ahmadullah from its list of persons subject to asset freezes, arms embargoes and travel bans.

Ahmadullah was first listed on 25 January 2001 and was designated as the Minister of Security (Intelligence) under the Taliban regime.

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Terrorist sanctions: UN security council removes individuals from ISIL (Da’eash) and Al-Qaida sanctions list

On 16 March 2017, the UN Security Council Committee [removed](#) Fahd Muhammad ‘Abd Al-‘Aziz Al-Khashiban from its ISIL (Da’eash) and Al-Qaida sanctions list. Al-Khashiban was first listed on 9 October 2007 as a result of his involvement in the financing of the Abu Sayyaf jihadist group.

On 8 April 2017, the UN Security Council Committee [removed](#) Khadafi Abubakar Janjalani from its ISIL (Da’eash) and Al-Qaida sanctions list. Janjalani was first listed on 22 December 2004.

On 28 April 2017, the UN Security Council Committee [removed](#) Fritz Martin Gelowicz and

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Dieman Abdulkadir Izzat from its ISIL (Da'eash) and Al-Qaida sanctions list. Gelowicz was first listed on 27 October 2008 as a result of his association with the Islamic Jihad Union. Abdulkadir Izzat was first listed on 6 December 2005.

On 1 May 2017, the UN Security Council [removed](#) Ata Abdoulaziz Rashid from its ISIL (Da'eash) and

Al-Qaida sanctions list. Rashid was first listed on 6 December 2005.

The ISIL (Da'eash) and Al-Qaida sanctions list subjects those listed to asset freezes, arms embargoes and travel bans.

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UK News

Iran: Withdrawal of Iran export guidance

On 22 March 2017, the UK's Export Control Organisation ("ECO") [withdrew its Iran List](#) following the lifting of EU sanctions on Iran as a result of the Joint Comprehensive Plan of Action nuclear deal agreed on 14 July 2015.

The Iran List was initially published by the ECO to assist exporters in deciding whether there was an end user concern regarding their goods, specifically

whether their exports might be diverted to a weapons of mass destruction programme.

Despite the withdrawal of the Iran List guidelines, exporters still have access to an end user advice service via the [SPIRE](#) export licensing system if there are concerns regarding the end users of their goods in Iran and other countries.

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Legality of EU sanctions: House of Lords report and government response

On 2 February 2017, the House of Lords EU Committee published an [inquiry](#) into the legality of the EU sanctions listing process. The inquiry sought to understand better (i) why the General Court and the ECJ were annulling EU sanctions listings, and (ii) what improvements might be made to the listing process.

The inquiry's recommendations include, *inter alia*:

1. The European Council should codify the standard of proof applicable to sanctions listings as soon as possible, as a means to increase

transparency in the process. The UK standard of proof, of "reasonable grounds for suspicion", is an appropriate test to be implemented.

2. Where individuals and companies are successful in having their original listings annulled by the General Court or ECJ on the grounds of a lack of evidence, the European Council should be reluctant to relist those parties on amended statements of reasons.

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3. The General Court and ECJ should develop a procedure allowing the European Council to adduce confidential evidence supporting sanctions listings.
4. The appointment of an EU sanctions ombudsman should be considered, in attempts to improve the transparency of the listing process. The role played by such an entity could be similar to that of the UN Ombudsperson for the Al Qaida Sanctions Committee.
5. Parliamentary scrutiny of EU sanctions could play a key role in improving the fairness of the sanctions listing process.
6. Post-Brexit, given its contribution to improving the sanctions process over recent years, the UK should continue to engage on EU sanctions issues. Domestic legislation allowing for this should be implemented.

On 6 April 2017, the UK government [responded](#) to the House of Lords inquiry. The UK government response includes:

1. Agreement that a “consistent legal test” applicable to sanctions listings is important. The UK government agreed that having “reasonable grounds for suspicion” is the appropriate test.
2. Disagreement that the European Council relisting individuals and companies after their listing has been annulled by the General Court or the ECJ makes the judgment of the court “inconsequential”. The UK government said that the European Council does not relist parties “without good reason”.

3. Disagreement that a new procedure should be implemented allowing the European Council to adduce confidential evidence. The UK government expressed concern that new rules would lack necessary safeguards, such as the ability for parties to withdraw their confidential material at any stage in the proceedings.
4. Disagreement that an EU sanctions ombudsman should be appointed. The UK government responded that an EU sanctions ombudsman would not be appropriate in an EU context given the substantial role the EU courts already play in maintaining proper standards of due process.
5. Agreement on the importance of parliamentary scrutiny on sanctions legislation. However, the UK government disagreed that “open-source” information should be provided to parliament as part of a routine scrutiny procedure for sanctions listings. The UK government considered redress through the UK and EU courts the “appropriate mechanism for upholding standards of due process”.
6. Agreement that the UK will continue to work closely with the EU Member States and play an “active role” in international sanctions programmes (on the 21 April 2017, the UK government published a white paper discussing post-Brexit UK domestic sanctions legislations. Please see [below](#)).

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Magnitsky Act: House of Commons pass “Magnitsky Amendment”

On 21 February 2017, the House of Commons voted unanimously in favour of a “Magnitsky Amendment” to the Criminal Finances Bill 2016-2017 (the “Bill”). The [amendment](#) expands the definition of “unlawful conduct” under Part 5 of the Proceeds of Crime Act 2002 so as to capture human rights violators. If the Bill is adopted by the House of Lords (and therefore becomes law), the UK government and courts will

be able to freeze the assets of human rights violators and those who profit from or materially assist in human rights violations.

The House of Commons vote follows in the wake of the US and Estonia recently having passed similar “Magnitsky-style” legislation (please see [Sanctions Alert 51](#)).

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Office of Financial Sanctions Implementation: New penalties for breaching financial sanctions

On 1 April 2017, Part 8 of the [Policing and Crime Act 2017](#) (“PCA”) came into force, which enables the Treasury’s Office of Financial Sanctions Implementation (“OFSI”) to impose civil fines for breaches of financial sanctions, and also increases the existing criminal penalties for such breaches.

The PCA allows OFSI to impose civil monetary penalties for each breach of financial sanctions of: (i) up to £1 million; or (ii) 50% of the estimated value of the funds related to the breach, whichever is the greater.

On the same day, OFSI published its final [guidance](#) on how it will calculate and apply these new civil fines. This guidance is substantively the same as the draft guidance published by OFSI as part of a consultation process in December 2016 (as described in our [client update](#) on OFSI civil fines).

The PCA also makes deferred prosecution agreements (“DPAs”) available for sanctions violations by corporate entities. DPAs were previously only available for a variety of other economic criminal offences.

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Post-Brexit sanctions: UK publishes post-Brexit white paper

On 21 April 2017, the Foreign and Commonwealth Office published a [white paper](#) to consult on what legal powers the UK government will need upon the UK's withdrawal from the EU to continue to be able to impose and implement sanctions.

The focus of the white paper is on the legal powers required to maintain sanctions as part of the UK's foreign policy. The white paper is not intended to consider policy issues, such as whether the UK should continue to align its sanctions policy with that of the EU.

The UK currently uses EU law to implement the majority of its EU and UN sanctions. New UK

sanctions law will be required to allow the UK to impose sanctions on other countries unilaterally or in co-ordination with other countries and is also necessary to maintain the EU and UN sanctions already in place.

The consultation will be open for comments until 23 June 2017. It is anticipated that a new bill outlining the UK's legal powers to impose sanctions will be put to parliament as soon as possible after the UK general election on 8 June 2017.

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Sanctions Alert

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