

Treasury
Customs and Excise Division

Sanctions Notice 38

European Union Sanctions

Syria



June 2011
(updated to 3 August 2017)



Isle of Man
Government

Reilts Ellan Vannin

About this Notice

This Notice draws attention in convenient form to measures designed to impose restrictive measures in respect of Syria.

This Notice provides guidance on aspects of the measures having effect in the Isle of Man, and should be read in conjunction with any order or regulations giving effect to those measures in the Island.

The Treasury has appointed its Customs and Excise Division to act for the purposes of enforcing sanctions measures. Accordingly, certain powers have been delegated by the Treasury to the Division.

Enquiries concerning this Notice should be addressed to the Sanctions Officer at—

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The Treasury
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This Notice is provided for information purposes only, and its contents should not be taken as a definitive statement of the law. You are advised to seek independent legal advice if you believe you are affected by anything contained in this Notice.

References to lists of persons and entities affected by the sanctions measures detailed in this Notice are to those lists contained in the relevant EU measures applied in the Island. The applied measures provide for such lists to be changed from time to time, as they are amended by the EU, and the latest consolidated lists may be found at - http://www.hm-treasury.gov.uk/fin_sanctions_index.htm

For further information on sanctions in general, including how to deal with false positives, or when sanctions are lifted or persons delisted, see Sanctions Notice 26.



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Sanctions Notice 32 deals with the granting of licences.

These Notices, and other information about sanctions and export and trade controls, may be found at -

<https://www.gov.im/categories/tax-vat-and-your-money/customs-and-excise/sanctions-and-export-control/>

Directions

The Customs and Excise Division, as agent for the Treasury, **directs** that any funds held for or on behalf of the individuals or entities named in the published lists having effect in the Island must not be made available, except under the authority of a licence in writing from the Treasury.

Any funds should be blocked or frozen and the details reported to the Division. All persons in business or a profession in the Island, including financial institutions, **must** check whether they maintain any account, or otherwise hold or control funds or economic resources, for individuals or entities included in the lists and, if so, they should freeze the account, funds or economic resources and report their findings to the Division.

Any person, entity or body with information that would facilitate compliance with the sanctions Regulation(s) **must** supply such information to the Division and co-operate in any verification of the information.

Introduction

1. On 9 May 2011 the EU had adopted Council Decision 2011/273/CFSP, which came into force in the EU on 9 May. This Decision provides for trade and financial sanctions against Syria.
2. ...
3. On 9 May 2011 the EU also adopted Council Regulation (EU) No. 442/2011. This Regulation came into force on 10 May 2011. Annex II to the EU Regulation listed persons subject to the asset freeze and economic sanctions.

The Regulation permitted the release of funds or economic resources in certain circumstances, and also listed, in Annex I, the equipment which might be used for internal repression and the supply etc of which was banned.

- 3A. ...
- 3B. ...

Effect in the Isle of Man

4. Some of the matters involving bans on the supply, export etc of certain goods have effect in the Island pursuant to Protocol 3, or are already covered by the Island's export control and trade control laws (see Notices 279 MAN and 279T MAN for more information on these controls).
5. On 27 May 2011 the European Union (Syria Sanctions) (Application) Order 2011 [SD 365/11] came into operation and this applied Council Regulation (EU) No. 442/2011, with modifications, in the Island. Consequently, with effect from 27 May 2011, the economic sanctions imposed by the Council Regulation had effect in the Island, within its airspace and aboard any Isle of Man aircraft or vessel, and to any person in the Island and any British Citizen normally resident here, to any legal person, entity or body incorporated or constituted under the laws of the Island, and to any business

done in whole or in part in the Island.

Also on 27 May 2011 the Syria Sanctions Regulations 2011 [SD 366/11] came into operation providing for offences and penalties for breaches of the Council Regulation, and providing powers to investigate suspected breaches etc.

6. The Export Control (Eritrea, Iran, Syria and Miscellaneous Amendments) (Application) Order 2011 [SD 501/11] applied the Export Control (Syria and Miscellaneous Amendments) Order 2011 [SI 2011/1304] in Island law from 20 June 2011. This provided for offences and penalties for certain breaches of Regulation 442/2011, such as trading in military goods or providing financial or technical assistance.
- 6A. On 3 September 2011 Council Regulation (EU) No. 878/2011 imposed a number of new measures, including a prohibition on the import into the EU of crude oil or petroleum products that originated in Syria or were exported from there. This import ban also applied in the Isle of Man from the same date.
- 6B. On 10 February 2012 Council Regulation (EU) No. 36/2012 ("the 2012 Regulation") and Council Implementing Regulation (EU) No. 55/2012 were applied in the Island by Order [SD 88/12].

EU Regulation 36/2012 repealed and replaced EU Regulation 442/2011 imposing *inter alia* additional restrictions on transfer of funds and the provision of financial services, together with prohibitions on -

- the sale, supply, transfer or export (directly or indirectly) of equipment that may be used for internal repression;
- the provision of technical assistance or brokering services relating to equipment that may be used for internal repression;
- the provision of finance or technical or financial assistance relating to military goods (including export credits, grants, loans etc);
- the sale, supply, transfer or export (directly or indirectly) of equipment, technology or software for surveillance - or the supply of technical or financial assistance, or brokering services related to such;
- the provision of any telecommunications monitoring or interception services;
- the import, purchase or transporting of crude oil and petroleum products originating in Syria, or providing financing or financial assistance related to such; and
- participation in infrastructure projects and financing certain enterprises.

EU Regulation 36/2012 included revised lists of persons and entities subject to a freezing of funds and economic resources, and EU Regulation 55/2012 added further names to those lists.

EU Regulation 36/2012 also gave effect to measures provided for in Decision

2013/255/CFSP, including a prohibition on the trade in cultural property and other items removed from Syria since 9 May 2011.

As of 10 February 2012 sanctions imposed in the Island were fully in line with those imposed in the UK and other Member States.

- 6C. Council Regulation (EU) No 168/2012 amended the 2012 Regulation and included a prohibition on -
- (a) the sale, supply, transfer or export, directly or indirectly, of gold, precious metals and diamonds (as listed in Annex VIII to Regulation (EU) No 36/2012; or
 - (b) the purchase, import or transport, directly or indirectly, of gold, precious metals or diamonds; or
 - (c) providing, directly or indirectly, technical assistance or brokering services, financing or financial assistance relating to the goods mentioned in (a) or (b) above,

to or from the Government of Syria, public bodies, corporations, agencies, the Central Bank of Syria - or any body, person or entity acting on their behalf, or at their direction, or controlled by them.

Regulation (EU) No 168/2012 also provided for an exemption for funds or economic resources transferred by or through the Central Bank of Syria in certain circumstances (such as in connection with a trade contract) if authorised by a competent authority in the EU (or the Treasury in the Isle of Man) and not benefiting directly or indirectly any listed person or entity.

- 6D. Council Regulation (EU) No. 509/2012 amended the 2012 Regulation and extended sanctions measures so as to include a prohibition or prior authorisation requirement on the sale, supply, transfer or export of goods and technology which might be used for internal repression, a ban on exports of luxury goods to Syria, and the provision of technical or financial assistance in connection with military and internal repression equipment.
- 6E. ...
- 6F. On 15 October 2012 the EU stepped up sanctions against Syria further, prohibiting the import of arms from Syria and any involvement in the transporting of Syrian arms. Any supply of financial services relating to Syrian arms exports (including insurance or reinsurance) was also prohibited, and EU citizens and companies were banned from involvement in Syrian military co-operation with third countries where this could benefit the regime. Syrian Arab Airlines's flights were denied access to EU airports - the airline was already subject to an asset freeze, and cargo flights into the EU were already banned.
- 6G. Council Regulation (EU) No. 867/2012 amended the 2012 Regulation and, *inter alia*, required -
- inspections of all vessels and aircraft bound for Syria if there are reasonable grounds to suspect any cargo contains material the export of which is prohibited

or requires authorisation;

- pre-arrival and pre-departure information for all goods exported to, or imported from, Syria.

It also provided for a derogation from financial sanctions in respect of transfers of funds for Syrian nationals pursuing educational or professional training or engaged in academic research in the EU (and including the Isle of Man).

6H. Council Regulation (EU) No 325/2013 amended the 2012 Regulation and provided that the prohibition on making funds or economic resources available did not apply in the case of -

- the addition to frozen accounts of payments due under judicial, administrative or arbitral decisions rendered in, or enforceable in, an EU Member State or the Island; or
- acts or transactions carried out in respect of Syrian Arab Airlines for the sole purpose of evacuating EU citizens and their family members from Syria (and this is to be construed as also applying to any Island person and their family, even if not EU citizens).

6J. Council Regulation (EU) No 697/2013 further amended the EU sanctions regime imposed under the 2012 Regulation, adding new grounds for licensing permitted derogations, subject to circumstances and conditions. These included -

- relaxing the prohibitions on the opening of bank accounts with Syrian credit or financial institutions, opening representative offices in Syria, or the establishment of branches or subsidiaries in Syria; and
- permitting certain prohibited transactions, including the import or purchase of Syrian oil,

if the activity involved is for the purpose of providing assistance to the civilian population.

Other amendments were made to the restrictions on the provision of military and dual-use goods.

This Council Regulation was applied in the Island by means of the European Union (Syria Sanctions) Order 2013 [SD 335/13], which also re-applied the 2012 Regulation and subsequent amendments. At the same time the European Union (Syria Sanctions) Regulations 2013 [SD 336/13] provided for licensing, information powers, offences and penalties.

6K. On 19 February 2014 applied Council Regulation (EU) No 1332/2013 of 13 December 2013 in Island law. The applied Regulation had amended the earlier Regulation 36/2012/EU. The amendment made by the new Regulation inserted a new Article 21c that allowed competent authorities to authorise transfers of funds or economic resources where the transfer is related to a payment due in connection with a specific trade contract for medical supplies, food, shelter, sanitation or hygiene for civilian use provided that the transfer is by or through the Commercial Bank of Syria. This new

Article applies to funds currently in the Island, and which arrived after the Commercial Bank of Syria was designated and which are frozen under Article 14. New funds may also be received into the Island for this specific purpose. The derogation did not apply to funds that had been held by the Commercial Bank of Syria and were frozen when the Bank was designated.

The amendments made to Regulation 36/2012/EU also -

- added a new licensing ground to Article 16, allowing for the release of frozen funds or economic resources (or making them available) after determining that they are necessary for evacuations from Syria;
- replaced the “humanitarian” licensing ground in Article 16(f), allowing for the release of certain frozen funds or economic resources after determining that they are necessary for humanitarian purposes, such as delivering or facilitating the delivery of assistance (including medical supplies, food, humanitarian workers) provided that the funds or economic resources are released to the UN for use in the delivery of assistance in Syria in accordance with the Syria Humanitarian Assistance Response Plan (SHARP); and
- inserted a new Article 16a, which states that authorisations under Article 16(f) before it was amended are not affected by its replacement (and that any authorisations made previously were to be considered withdrawn unless there had been a request for it to continue).

- 6L. On 12 February 2014, a further amendment was made to Council Regulation (EU) No 36/2012 (and made by means of Council Regulation (EU) No 124/2014) to add a further licensing ground. The new derogation allowed for the release of funds or economic resources to be used exclusively for payments to the Organisation for the Prohibition of Chemical Weapons (OPCW) relating to the verification and destruction of Syrian chemical weapons.
- 6M. On 21 March 2014, the European Union (Syria Sanctions) (Amendment) (No. 2) Order 2014 [SD 2014/0098] applied Council Regulation (EU) No 124/2014 in Island law.
- 6N. On 14 December 2014, the EU introduced a ban on the sale, supply, transfer or export of jet fuels and additives in or to Syria, or for use in Syria. Also prohibited was the provision of financing or financial assistance, including financial derivatives, insurance, reinsurance and brokering services to anyone in Syria or for use in Syria that related to the prohibition involving jet fuels and additives (Council Regulation (EU) No 1323/2014).

Regulation 1323/2014 was applied in the Island with effect from 19 December 2014, by means of the European Union (Syria Sanctions) (Amendment) (No. 3) Order 2014, with associated amendments also being made separately to the Syria sanctions regulations.

- 6O. On 30 May 2015, by means of Council Regulation (EU) No 2015/827, the EU amended Regulation 36/2012 and the terms of the prohibition on the trade in cultural property and other items removed from Syria since 9 May 2011.

This was because, on 12 February 2015, the UN Security Council had adopted UNSCR

2199 (2015), which *inter alia* had prohibited the trade in Syrian cultural property and other items illegally removed from Syria since 15 March 2011. On 28 May 2015 therefore, the EU Council adopted Decision (CFSP) 2015/837 in order to align Decision 2013/255/CFSP with UNSCR 2199. The amendment made by Regulation 2015/827 had the effect of prohibiting the trade in items illegally removed from Syria since 15 March 2011.

- 6P. On 5 June 2015, the European Union (Syria Sanctions) (Amendment) Order 2015 [SD 2015/0217] applied in Island law Council Regulation (EU) No 2015/827. At the same time the European Union (Syria Sanctions) (Amendment) Regulations 2015 [SD 2015/0218] made the necessary consequential amendments to the European Union (Syria Sanctions) Regulations 2013.
- 6Q. On 26 October 2015, the European Union (Syria Sanctions) (Amendment) (No. 2) Order 2015 [SD 2015/0353] applied Council Regulation (EU) No 2015/1828 in the Island, with corresponding amendment being made to the European Union (Syria Sanctions) Regulations 2013 by another statutory document [SD 2015/0354]. The amendment made by Regulation 2015/1828 was to modify the criteria for the listing of persons, entities and bodies under Regulation 36/2012.
- 6R. Council Regulation (EU) No 2016/2137 of 6 December 2016 amended Regulation 36/2012/EU to allow a derogation from sanctions for the purchase and transport of oil and petroleum products (and associated financing and financial assistance) by certain persons for the sole purpose of funding humanitarian relief to civilians in Syria. This Regulation was applied in Island law by means of the European Union (Syria Sanctions) (Amendment) Order 2017 [SD 2017/0071].

Definition of “funds” and “economic resources”

7. The 2012 Regulation defined “economic resources” to mean assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but which may be used to obtain funds, goods or services.
8. The 2012 Regulation defined “funds” to mean financial assets and benefits of every kind, including but not limited to—
- a. cash, cheques, claims on money, drafts, money orders and other payment instruments;
 - b. deposits with financial institutions or other entities, balances on accounts, debts and debt obligations;
 - c. publicly- and privately-traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives contracts;
 - d. interest, dividends or other income on or value accruing from or generated by assets;
 - e. credit, right of set-off, guarantees, performance bonds or other financial commitments;
 - f. letters of credit, bills of lading, bills of sale; and

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- g. documents evidencing an interest in funds or financial resources.

Frozen accounts

9. All funds and economic resources belonging to, owned, held or controlled by a listed person and which are held in the Island by banks, building societies, stockbrokers, accountants etc must be frozen and their details reported to the Sanctions Officer. No funds or economic resources may be made available, directly or indirectly, to a listed person or for their benefit without a licence issued by the Treasury. The only exemptions would be those specifically permitted by the 2012 Regulation (as amended).
10. In this context "freezing of funds" means preventing any move, transfer, alteration, use of, access to, or dealing with funds in any way that would result in any change in their volume, amount, location, ownership, possession, character, destination or other change that would enable the funds to be used, including portfolio management.
11. In this context "freezing of economic resources" means preventing their use to obtain funds, goods or services in any way, including, but not limited to, by selling, hiring or mortgaging them.
12. No payment or transfer may be made from a frozen account, including to another frozen account, without prior authorisation. This includes the deduction of fees or service charges for routine holding or maintenance of frozen accounts. Loans and other forms of credit should not be made available to designated persons.
13. The prohibitions in the 2012 Regulation do not apply to the addition to frozen accounts of interest or other earnings on those accounts, or payments due under contracts, agreements or obligations, that were concluded or arose before the date on which the person was included in the Annex to the Regulation, provided that any such interest, other earnings and payments are frozen in accordance with Article 4 of the Regulation.
14. The prohibition against making funds or economic resources available does not prevent financial or credit institutions from crediting frozen accounts where they receive funds transferred to the account of a designated person, provided that any additions to such accounts are also frozen. Financial or credit institutions are required to inform the Treasury of any such transactions without delay.
- 14A. The Treasury can serve a written notice on anyone to whom the measures apply, requiring them to furnish the Treasury with any information in their possession or control, or produce any document in their possession or control, for the owner of those funds shall furnish the Treasury with any information in their possession or control, or produce any document in their possession or control, for the purpose of allowing the Treasury to ensure compliance with, or detect evasion of, the sanctions.

Failure to furnish such information or documents without reasonable excuse is an offence. Providing false information to the Treasury is also an offence, as is providing false information for the purposes of obtaining a licence (or failing to comply with any condition of the licence).

Amendments to this Notice

15. New paragraphs 3A and 3B inserted on 28 June 2011.
16. New paragraph 6A re oil import ban added 5 September 2011.
17. New paragraph 6B inserted on 26 September 2011.
18. Paragraph 6B replaced 1 January 2012.
19. Paragraph 6B replaced again, with details of EU Regulations 36/2012 and 55/2012 on 13 February 2012.
20. New paragraph 6C added, and introduction on page 2 amended, 20 June 2012.
21. New paragraph 6D re Council Regulation (EU) No. 509/2012 inserted 26 June 2012.
22. New paragraph 6E inserted 9 July 2012.
23. New paragraph 6F inserted 17 October 2012.
24. New paragraph 6G re SD 674/12 inserted 23 October 2012.
25. New paragraph 6H inserted 10 May 2013.
26. New paragraph 6J re EU Regulation 697/2013 inserted 25 July 2013.
27. Paragraph 6J replaced, 12 August 2013.
28. Amendments made to take account of SD 335/13 and 336/13. Paragraphs 1, 3, 4, 6B to 6D, 6G, 6H, 6J, 7 to 9 and 13 amended. Paragraphs 2, 3A, 3B and 6E deleted.
29. New paragraph 6K (re Regulation 1332/2013/EU) and 6L (re Regulation 124/2014/EU) re new and amended licensing grounds inserted on 6 March 2014.
30. Paragraph 6L amended and paragraph 6M inserted to mention that Council Regulation (EU) No 124/2014 applied in Island law with effect from 21 March 2014.
31. New paragraph 6N inserted re Regulation (EU) No 1323/2014. 15 December 2014.
32. Paragraph 6N amended 22 December 2014 to mention application of EU Regulation 1323/2014 in the Island.
33. Paragraph 6B amended and new paragraph 6O inserted re the prohibition on the trade in cultural property and other items illegally removed from Syria, 3 June 2015.
34. New paragraph 6P re SD 2015/0217 and SD 2015/0218 inserted 5 June 2015.
35. New paragraph 6Q inserted re SD 2015/0353 and SD 2015/0354 and the application of Council Regulation (EU) No 2015/1828 on 6 November 2015.

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36. New "directions" substituted on page 4, and new paragraph 14A inserted, 25 November 2015.
 37. New paragraph 6R re EU Regulation 2016/2137 inserted 10 February 2017.
 38. Mention of Sanctions Notices 26 and 32 added on page 2/3, 10 March 2017.
 39. Amendments made to make clear that not only financial institutions are subject to reporting requirements of the sanctions, 3 August 2017.

Isle of Man Customs and Excise website

Amendments to these sanctions will be advised by means of news releases which will be published on the official Isle of Man Government website at <http://www.gov.im/>

The Isle of Man Customs and Excise website will contain details of all current sanctions, news releases, Sanctions Notices and links to relevant websites and lists at <http://www.gov.im/treasury/customs/>

New or amended versions of this Notice will also be provided on that website.

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