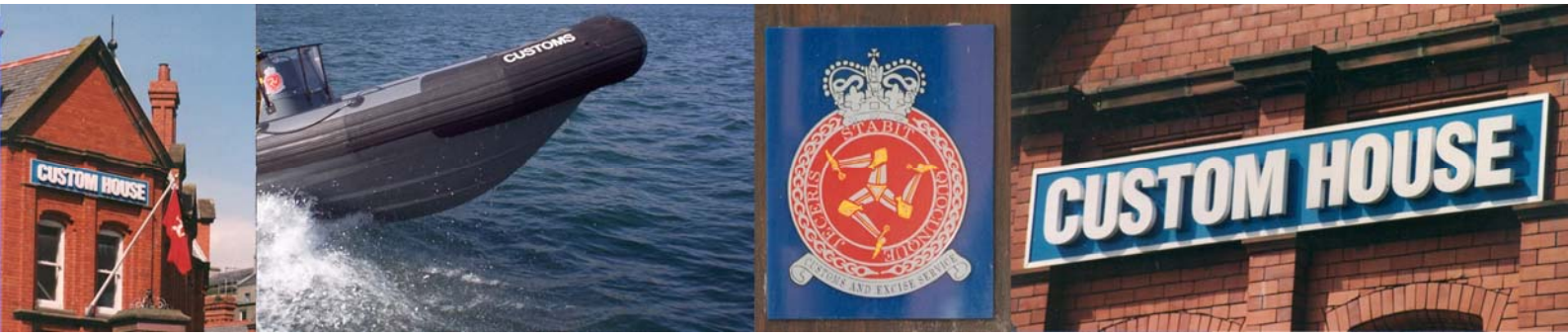
Treasury
Customs and Excise Division

Sanctions Notice 36

European Union Sanctions

Egypt



April 2011
(updated to 3 April 2018)

Isle of Man
Government
Reiltys Ellan Vannin

About this Notice

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

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—

The Sanctions Officer
The Treasury
Customs and Excise Division
PO Box 6, Custom House, North Quay
Douglas, Isle of Man, IM99 1AG

Tel: (01624) 648138
Fax: (01624) 661725
Email: customs@gov.im
Website: www.gov.im/treasury/customs

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.

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.

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/

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Direction

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 Financial Intelligence Unit.

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 Financial Intelligence Unit.

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

Reports of accounts and amounts frozen should be made using THEMIS; however, if you do not have access to this reporting system, you should use the appropriate form on the FIU website.

Financial Intelligence Unit contact details

Financial Intelligence Unit
PO Box 51
Douglas
Isle of Man
IM99 2TD

Telephone: +44 1624 686000
Email: fiu@gov.im

Introduction

1. On 21 March 2011 the EU adopted Council Regulation (EU) No. 270/2011 which imposed certain restrictive measures on certain persons identified as being responsible for the misappropriation of Egyptian State funds under the former Mubarak regime, and persons, entities and bodies associated with those persons. This Regulation entered into force on 22 March 2011.

2. At the same time the EU also adopted Council Decision 2011/172/CFSP with the same purpose.

Contents of Council Regulation 270/2011

3. The Regulation imposed—

    a. a freeze on the funds and economic resources belonging to, owned, held or

controlled by designated persons, and persons, entities or bodies associated with them;

b. a ban on providing said persons, entities or bodies with any funds or economic resources, whether directly or indirectly;

c. a prohibition on involvement, knowingly and intentionally, in activities the object or effect of which were to circumvent the above measures.

4. The Council Regulation did allow for the release of funds etc in certain limited circumstances, when duly authorised by the competent authorities. It also allowed the addition to any frozen funds etc any interest or payments due under contracts or other agreements etc dating from before the start of the sanctions measures - but any such addition had to also be frozen.

5. The Council Regulation included in its Annex I a list of those persons subject to its restrictions.

Effects in the Isle of Man

6. The measures imposed by Council Regulation 270/2011 fell outside those matters which would have had direct effect in the Isle of Man under the terms of Protocol 3. Therefore they did not have immediate effect in the Island.

7. However, on 4 April 2011, the European Union (Egypt Sanctions Measures) (Application) Order 2011 [SD 231/11] came into operation. This applied Council Regulation 270/2011 in Island law and therefore, from that date, the sanctions imposed by the Regulation took effect in the Island.

8. Furthermore, on 4 April 2011, the Egyptian Sanctions Regulations 2011 also came into operation. These provided for offences, penalties, licensing and information powers in respect of the measures contained in the Council Regulation.

9. The Council Regulation applies in the Island, including within its airspace, on board any aircraft or vessel under Isle of Man jurisdiction, to any person in the Island, and any British citizen normally resident in the Island, to any legal person, entity or body incorporated or constituted under the laws of the Island (such as a Manx-registered company), and to any business done in whole or in part in the Island. Please also note that the Council Regulation, due to its effect in UK law, would also have effect in respect of British citizens.

10. The persons subject to the restrictions contained in the Council Regulation will be notified by news release published by Customs and Excise and which will be available via the Isle of Man Government website at www.gov.im

10A. The Treasury or any other person authorised by the Treasury, such as the Financial Intelligence Unit can serve a written notice on anyone to whom the measures apply, requiring them to furnish them 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 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).

Definition of "funds" and "economic resources"

11. For the purposes of the Regulation "funds" means 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 derivative 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;

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

12. Economic resources means assets of every kind, whether tangible or intangible, movable or immovable, (such as goods, property, or rights) which are not funds themselves but can be used to obtain funds, goods or services.

Frozen accounts

13. All funds and economic resources belonging to, owned, held or controlled by designated persons which are held by banks, building societies, stockbrokers, accountants, etc must be frozen. No funds or economic resources may be made available, directly or indirectly to, or for the benefit of designated persons unless licensed by the Treasury in accordance with the Regulation. The only exemptions to these prohibitions are those permitted under the Regulation.

14. 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.

15. 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.

16. 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.

17. The prohibitions in the 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 2(1) of the Regulation.

18. 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.

19. On 26 November 2012 the EU adopted Council Regulation (EU) No. 1099/2012 which allowed for the release of frozen assets to satisfy claims which were the subject of judicial or administrative decisions pre-dating the inclusion of the person involved in the list of those subject to sanctions in Annex I to Regulation 270/2011. This Regulation was applied in Island law by order on 14 December 2012.

Amendments to this Notice

4 December 2012	New paragraph 19 re Regulation 1099/2012 added.
17 December 2012	Amended paragraph 19 inserted re application in Island of Regulation 1099/2012.
25 November 2015	New “directions” substituted on page 3; and new paragraph 10A re information powers inserted.
15 March 2016	Definition of economic resources in paragraph 12 replaced.
10 March 2017	Mention of Sanctions Notices 26 and 32 added on page 2.
3 August 2017	Amendments made to make clear that not only financial institutions are subject to reporting requirements of the sanctions.
23 March 2018	List of names removed following substantial amendment.
3 April 2018	Various amendments to make clear that reporting of frozen accounts or breaches of sanctions must be made to the Financial Intelligence Unit.

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