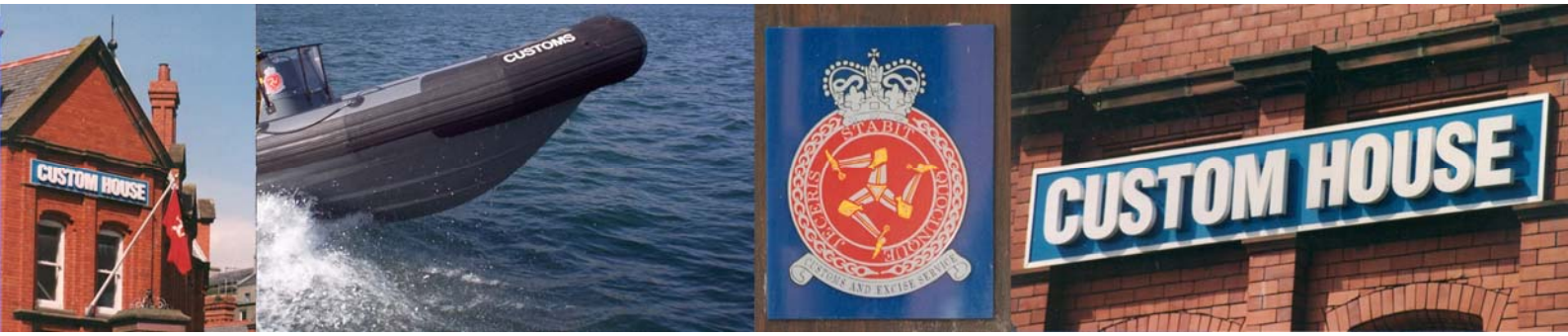
Treasury
Customs and Excise Division

Sanctions Notice 34

European Union Sanctions

Tunisia



March 2011
(updated to 3 August 2017)

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 Tunisia.

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 purpose 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 address given below and marked for the attention of the Sanctions Officer.

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

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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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 31 January 2011 the Council of the European Union decided to adopt restrictive measures against persons held responsible for misappropriation of state funds in Tunisia.

1A. The relevant sanctions legislation allows that 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 al offence, as is providing false information for the purposes of obtaining a licence (or failing to comply with any condition of the licence).

EU sanctions imposed

2. Consequently, on 31 January 2011 the EU adopted Council Decision (EU) No. 2011/72/CFSP which provided that all funds and economic resources belonging to, owned, held or controlled by persons responsible for misappropriation of state funds, and natural and legal persons or entities associated with them, should be frozen. An Annex to the Decision listed those affected by the restrictions. The Annex only listed—

- Mr Zine el-Abidine Ben Hamda Ben Ali; and
- his wife, Mrs Leila Bent Mohammed Trabelsi.

3. At the same time as publishing the Council Decision the EU also published a Notice advising those affected by the restrictive measures how they might appeal. The Notice said that such appeals to—

The Council of the European Union
General Secretariat
Rue de la Loi/Wetstraat 175
1048 Bruxelles/Brussels
Belgique/Belge

The Notice also drew attention of those affected to the option of challenging the effect of the Council Decision before the General Court of the European Union.

4. Council Decision 2011/72/CFSP did not have any direct effect in the Isle of Man.

5. The addition of interest or other payments to frozen accounts was permitted by the 2011 Council Decision.

The Council Decision amended the earlier decision, and added many new names to the list of those affected by its restrictive measures.

The Council Regulation also placed restrictive measures on persons, entities and bodies alleged to be responsible for the misappropriation of state assets. Annex 1 to this new Regulation listed a number of persons subject to its restrictions.

6. Article 2 of Regulation 101/2011/EU provided that all funds and economic resources belonging to, owned, held or controlled by listed persons ("designated persons") should be frozen; and no funds or economic resources should be made available to them, directly or indirectly. It prohibited any participation, knowingly and intentionally, in activities the object or effect of which was, directly or indirectly, to circumvent the restrictions.

7. Council Regulation 101/2011/EU was given effect in the Island by order and the applied Regulation took effect in the Isle of Man from 4 March 2011.

7A. On 26 November 2012, the EU adopted Council Regulation (EU) No 1100/2012 which provided for the release of frozen funds under certain defined circumstances, and also allowed for their release where necessary for the purpose of assisting in the recovery of misappropriated assets. This Regulation was applied by order in the Island on 14 December 2012.

Funds and economic resources

8. For the purpose of the applied Council Regulation, "funds" means financial assets and benefits of every kind, including (but not limited to)—

- cash, cheques, claims on money, drafts, money orders and other payment instruments;

- deposits with financial institutions or other entities, balances on accounts, debts and debt obligations;

- publicly- and privately-traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivative contracts;

- interest, dividends or other income or on value accruing from or generated by assets;

- credit, right of set-off, guarantees, performance bonds or other financial commitments;

- letters of credit, bills of lading, bills of sale;

- documents evidencing an interest in funds or financial resources.

"Economic resources" means 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.

Frozen accounts

9. All funds and economic resources belonging to, held or controlled by designated persons held by banks, building societies, stockbrokers, accountants etc must be frozen. No funds or economic resources may be made available to a designated person unless permitted by a licence from the Treasury, except that the following are permitted—

   - adding to frozen accounts of interest or other earnings;

   - adding to frozen accounts payments due under contracts, agreements or obligations that arose or were concluded before the date on which the person was subject to sanctions in the Island;

   - adding to frozen accounts transfers from other sources.

10. Financial and credit institutions must notify the Sanctions Officer immediately if they have a frozen account, and if they receive transfers from other sources into frozen accounts.

Licences

11. The Treasury may licence the release or the making available of funds or economic resources where—

   - necessary for the basic needs of designated persons and their immediate family (including payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums and public utility charges);

   - exclusively for reasonable professional fees or the reimbursement of expenses incurred in connection with the provision of legal services;

- exclusively for payment of fees or service charges for the routine holding or maintenance of frozen funds or economic resources;
- for extraordinary expenses;
- exclusively to satisfy claims secured by a lien or judgment established prior to the date that the person involved became a designated person - but only if not for the benefit of a designated person and not contrary to public policy.

Amendments to this Notice

4 December 2012	New paragraph 7A re Regulation 1100/2012 added.
17 December 2012	Paragraph 7A amended to mention application of Regulation 1100/2012 in the Island from 14 December 2012.
25 November 2015	New "directions" substituted on page 3, and new paragraph 1A re information powers inserted.
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.

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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