

## ECONOMIC SANCTIONS UPDATE

# United States Sanctions Against Syria

**August 31, 2011**

Through an Executive Order issued by President Obama on August 17, 2011 (the “Executive Order”), the United States imposed new and additional economic sanctions with respect to Syria on August 18, 2011. The new sanctions block the property of the Government of Syria (and its agencies, instrumentalities, and controlled entities) and they prohibit certain trade transactions with or involving Syria. U.S. sanctions against Syria in existence prior to August 18, which prohibit the exportation and re-exportation of U.S. origin products to Syria and which target certain Syrian entities and individuals, remain in force.

*United States persons* and the transactions of non-United States persons that have a nexus or connection to a United States person or to the United States must comply with the provisions of the Executive Order.

### **A Summary of the Prohibitions and Requirements of US Economic Sanctions With Respect to Syria**

#### ***Freezing the Property and Assets of Syrian Sanctions Targets***

Under the U.S. economic sanctions against Syria, the property and all interests in property of the Government of Syria and certain designated Syrian entities and individuals (collectively, “Syrian Sanctions Targets”) are blocked (frozen).

A non-exhaustive list of Syrian Sanctions Targets appears on OFAC’s List of SDNs and Blocked Persons, which is available on the U.S. Treasury Department’s Office of Foreign Assets Control (OFAC)’s website. The universe of Syrian Sanctions Targets on OFAC’s List of SDNs and Blocked Persons is not exhaustive because there are many entities that fall within the definition of the “Government of Syria” that cannot be individually listed. Just because an entity is not on the OFAC List does not mean that sanctions prohibitions do not apply.

Under the Executive Order, a person controlled (in fact) by or acting for or on behalf of a Syrian Sanctions Target is a Syrian Sanctions Target. What constitutes “control” in any given case is fact-sensitive and depends on the facts and circumstances of each case. Ownership of 50% or more constitutes control.

The following are some Syrian Sanctions Targets:

- GENERAL PETROLEUM CORPORATION;
- SYRIAN COMPANY FOR OIL TRANSPORT (a.k.a. SYRIAN CRUDE OIL TRANSPORTATION COMPANY; a.k.a. "SCOT"; a.k.a. "SCOTRACO");
- SYRIAN GAS COMPANY;
- SYRIAN PETROLEUM COMPANY
- SYTROL

***Prohibited Transactions with Syrian Sanctions Targets***

In addition to requiring the blocking of and prohibiting financial resources from being made available to Syrian Sanctions Targets, the Executive Order also prohibits United States persons from performing contracts and engaging in other transactions with or involving Syrian Sanctions Targets. The Executive Order does not prohibit permissible or certain trade with Syria (see below on prohibited trade) as long as such trade does not involve any Syrian Sanctions Targets.

***Prohibited Trade and Transactions with respect to Syria***

The following activities and transactions with respect to Syria are prohibited under the Executive Order:

- a.** new investment in Syria by United States persons;
- b.** the exportation, re-exportation, sale, or supply from the United States or by a United States person of any services to Syria;
- c.** the importation into the United States of petroleum or petroleum products of Syrian origin;
- d.** any transaction or dealing by a United States person related to petroleum or petroleum products of Syrian origin;
- e.** any approval, financing, support, or facilitation of a transaction by a United States person of a transaction by a non-United States person if the transaction by the non-United States person would be prohibited if performed by a United States person or in the United States – essentially, this means a United States person cannot help a non-United States person do anything that a United States person is prohibited from doing.

### ***Exceptions and Authorizations***

The U.S. Treasury's Office of Foreign Assets Control (OFAC), the agency that administers and enforces U.S. economic sanctions, may authorize transactions that are otherwise prohibited by the Executive Order. OFAC has issued licenses authorizing, for example, certain diplomatic services, the exportation of certain legal services, and personal remittances to and from Syria. Other transactions and activities may be authorized by OFAC through specific licenses.

### ***Application of Prohibitions & Compliance***

Compliance with the current U.S. sanctions with respect to Syria can be achieved by due diligence and, *inter alia*:

- Freezing relevant assets and other property (including stopping performance under affected contracts). **Example:** The sanctions prohibit insurance companies from providing coverage to a member that is a Syrian Sanctions Target, or for a vessel that is chartered out to or chartered in from a Syrian Sanctions Target. **Example:** The blocking by a U.S. bank of a payment (by a European company located in Europe) through the U.S. financial system destined for a bank or company that is a Syrian Sanctions Target.
- Refraining from engaging in prohibited transactions with or involving Syrian Sanctions Targets. **Example:** The sanctions prohibit U.S. insurers from making a payment to a Syrian governmental entity (such as a port authority in Syria) on behalf of a member/assured.
- Refraining from exporting insurance services to a member or assured while the member or a covered vessel is in Syria. **Example:** Absent an OFAC license, the sanctions prohibit U.S. insurers from coming to the assistance of, paying a claim to, or issuing security for a member/assured if the incident in question arises in Syria.
- Refraining from providing other services to Syria. **Example:** Refraining from operating personal bank accounts for private individuals who normally reside in Syria. **Example:** The provision of legal services to persons in Syria is prohibited under the Executive Order, but is authorized under an OFAC general license.
- Refraining from providing, for **example**, insurance coverage to a member/assured (that is not a Syrian Sanctions Target) transporting petroleum or petroleum products from Syria. However, for **example**, a U.S. insurer is not prohibited from providing coverage to a member/assured (that is not a Syrian Sanctions Target) transporting cotton or other agricultural commodities from

Syria. Payments under such coverage may be prohibited if made (directly or indirectly) to a Syrian Sanctions Target that is a claimant under an insurance policy.

- Refraining from facilitating a non-U.S. person's trade with Syria. **Example:** A U.S. bank's processing of a letter of credit or payments for the exportation of crude oil from Syria would run afoul of the prohibitions on facilitation. **Example:** A U.S. company's approval of the extension of a loan to a Syrian company by the U.S. company's foreign subsidiary would run afoul of the facilitation as well as the new investment prohibition.
- Refraining from exporting and/or reexporting U.S.-origin products to Syria.
- The importation of services from Syria is not prohibited.

To ensure complete compliance with U.S. sanctions against Syria, all dealings and transactions with or involving Syria or Syrian entities should be screened against applicable prohibitions and requirements and carefully scrutinized.

### Answers to Questions and Further Guidance

Lawyers of The Eren Law Firm will continue to very closely monitor the interpretation and implementation of the Executive Order by OFAC, and advise clients on compliance with the prohibitions and requirements of the U.S. economic sanctions against Syria.

For more information or questions regarding the subjects covered in this *Economic Sanctions Update*, please contact:

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