



Libya

Council Regulation (EU) No 965/2011

Central Bank of Libya, Libyan Arab Foreign Bank, Libyan Investment Authority and Libyan Africa Investment Portfolio

This Notice is issued in respect of the asset freezing measures directed against certain persons, entities and bodies in view of the situation in Libya. This Notice draws attention to Council Regulation (EU) No 965/2011, covers the asset freezing provisions only of the Regulation and should be read alongside the Regulation.

Introduction

1. On 16 September 2011, the United Nations Security Council adopted Resolution 2009 (2011) on Libya which, amongst other matters, modified the UN asset-freezing measures.
2. On 17 September 2011, the Treasury published a notice regarding Resolution 2009 (2011). The notice is available from the Financial Sanctions pages of the Treasury website at:
http://www.hm-treasury.gov.uk/d/fin_sanc_public_notice_libya170911.pdf
3. The European Union has implemented UN financial sanctions against Libya through Council Regulation (EU) No 204/2011 ["Regulation 204/2011"] of 2 March 2011. Regulation 204/2011 is directly applicable in the UK.

Council Regulation (EU) No 965/2011

4. On 28 September 2011, the Council of the European Union adopted Council Regulation (EU) No 965/2011 ["the Regulation"] which amends Regulation 204/2011 by, amongst other matters, modifying the asset freezing provisions in accordance with Resolution 2009 [2011].
5. The Regulation was published in the Official Journal of the European Union (O.J. L253, 29.9.2011, P.8) on 29 September 2011. The Regulation entered into force on 29 September 2011 and is directly applicable in the UK.
6. A copy of the Regulation can be obtained from the Financial Sanctions pages of the Treasury website: http://www.hm-treasury.gov.uk/d/fin_sanc_councilregulation_eu965_280911.pdf

7. References to the provisions of Regulation 204/2011 in the following paragraphs of this Notice are references to such provisions as replaced or amended by the Regulation.

Modified asset freezing provisions

8. The Regulation modifies the asset freeze in respect of the following four entities:

- Central Bank of Libya;
- Libyan Arab Foreign Bank (aka Libyan Foreign Bank);
- Libyan Investment Authority; and
- Libyan Africa Investment Portfolio

so that only funds, other financial assets and economic resources belonging to, owned, held or controlled, directly or indirectly by those entities as of 16 September 2011 that were held outside Libya on that date shall remain frozen.

9. In addition, the Regulation removes the prohibition on making funds or economic resources available, directly or indirectly, to or for the benefit of the four entities.

How the modified asset freeze works

10. The modified asset freeze means that funds, other financial assets and economic resources belonging to, owned, held or controlled, directly or indirectly by the four entities which are received or generated after 16 September 2011 are not subject to the asset freeze prohibitions and there is no prohibition on conducting new transactions with those entities. Funds not subject to the asset freeze can be used as directed by the entities, including to meet obligations that arose before 16 September 2011.

11. As from 16 September 2011, interest or other earnings on the frozen funds of the four entities, including dividends on shares, will not be frozen. However, any appreciation in value of frozen assets will remain frozen.

12. For example, where one of the four entities holds units in an investment fund, any future income distributions on the units, reflecting dividends and increase in value of the underlying shares will not be frozen. If the dividends are accumulated within the fund, leading to an increase in the value of the units, then the units themselves remain frozen.

13. There is no prohibition on dealing with the entities, including arranging new contracts with them. It is not prohibited to arrange new letters of credit with, or involving, the entities. Payments from the funds of the four entities frozen as at 16 September 2011 can only be made under licence from HM Treasury. So, for example, there is no prohibition on arranging

a new letter of credit with the Libyan Arab Foreign Bank, but if payment out under the letter of credit will come from frozen funds, a licence will be required to make the payment.

Consolidated List

14. The Treasury's Consolidated List of persons subject to financial sanctions in effect in the UK, which is maintained on the Treasury website, has been updated to reflect that the asset freeze on the four entities applies only to assets held frozen as at 16 September 2011. All other persons designated under the Libya restrictive measures remain subject to the full asset freeze prohibitions.

Additional exemptions

15. With regards to the funds, other financial assets and economic resources owned or controlled directly or indirectly by the four entities referred to in paragraph 8 that remain frozen, the Regulation, in accordance with Resolution 2009 (2011), provides for Member States to issue licences of exemption for:

- humanitarian needs;
- fuel, electricity and water for strictly civilian uses;
- resuming Libyan production and sale of hydrocarbons;
- establishing, operating, or strengthening institutions of civilian government and civilian public infrastructure; or
- facilitating the resumption of banking sector operations, including to support or facilitate international trade with Libya.

16. The existing grounds for authorising a release of frozen funds continue to apply in relation to the frozen funds of the four entities i.e. a licence could still be issued for basic expenses, or in respect of a payment due under a prior contract.

17. Existing licences issued by the Treasury involving any of the four entities remain valid.

Other information

18. Copies of all relevant Releases, EU Regulations, UNSC Resolutions and UK legislation can be obtained from the Libya regime page on the Financial Sanctions pages of the Treasury website: http://www.hm-treasury.gov.uk/fin_sanctions_libya.htm.

Enquiries

19. Non-media enquiries, reports and licence applications should be addressed to:

Asset Freezing Unit
HM Treasury
1 Horse Guards Road
London SW1A 2HQ
E-mail: AFU@hmtreasury.gsi.gov.uk

20. Media enquiries should be addressed to the Treasury Press Office on 020 7270 5238.

HM Treasury
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