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# Libyan Sanctions Update: The European Union, the United States, and Other Jurisdictions Expand and Clarify Sanctions Rules

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The European Union and other international jurisdictions have newly adopted or expanded economic sanctions against Libyan entities in response United Nations Security Council Resolution 1970 and developments in the ongoing Libyan conflict. Additionally, the U.S. Department of the Treasury's Office of Foreign Assets Controls (OFAC) has provided additional guidance regarding the implementation of the U.S. sanctions.

These developments follow the extensive sanctions adopted by the United States, the United Nations, and the European Union (EU) in late February 2011. (Click here to read O'Melveny's March 1, 2011 alert on the U.S., UN, and EU sanctions.)

***European Union Expands Economic Sanctions***

The European Union enacted its first set of restrictive measures on March 2, 2011 through Council Regulation (EU) No 204/2011 (the EU Regulation). These measures include, among others, a ban on the sale, supply, transfer or export of equipment that might be used for internal repression; a ban on the financing of military technology; and a ban on the provision of technical assistance and brokering services related to equipment that might be used for internal repression.

The EU Regulation freezes the economic resources belonging to, owned, held or controlled by members of the Qadhafi family and certain other natural and legal persons. The EU Regulation prohibits transactions that may directly or indirectly benefit these persons by preventing any funds or economic resources being made available to them and by barring any business dealings with these persons or any entities controlled by them.

Resolving a major uncertainty concerning the extent to which the EU measures would apply to Libyan state enterprises, on March 10, 2011, the EU expanded these restrictive measures through Council Regulation (EU) No 233/2011, which added one new individual and five new entities to the list of designated persons affected by the restrictions discussed above.

Among the most prominent entities targeted by the new EU restrictive measures is the Libyan Investment Authority (LIA), the country's well-known sovereign wealth fund that is a principal channel for Libya's overseas investments.

The new EU measures also prohibit business dealings with the following persons and entities (and any entities controlled by them):

- Mr. Mustafa Zarti – An Austrian citizen who holds multiple executive positions in private and Libyan entities, including vice chief executive of the LIA; board member of the National Oil Corporation; head executive of Tamoil; and vice chairman of First Energy Bank in Bahrain.
- The Central Bank of Libya
- Libya Africa Investment Portfolio
- Libyan Foreign Bank
- Libyan Housing and Infrastructure Board

Notably, the National Oil Company of Libya (NOC) is not yet listed by the EU, although the latest list includes Mr. Zarti, a NOC board member.

***Other Recent Sanctions against Libya***

In addition to the United States and the EU, a number of other jurisdictions have enacted specific economic sanctions in response to UN Resolution 1970 and the Libyan conflict:

Canada: On Sunday, February 20, the **Canadian** government imposed sanctions that included a freeze on assets belonging to Colonel Qadhafi, his family, the Libyan government and certain financial institutions. The Canadian sanctions also restrict dealings with the Libyan government, its institutions and agencies, including the Libyan Central Bank.

United Kingdom: On February 27, The United Kingdom adopted the Libya (Financial Sanctions) Order 2011 (S.I. 2011/548), which implements the requirements of the UN Resolution 1970 by imposing restrictions on the assets designated in Annex II to the UN Resolution, and entities owned or controlled by those designated persons. The Order requires that the funds, other financial assets and economic resources of Qadhafi and other designated persons, persons acting on their behalf or at their direction and entities owned or controlled by them be frozen. It also prohibits the provision of funds or other financial assets to a designated person or for his or her benefit, the provision of economic resources to or for the benefit of a designated person and the participation in activities that circumvent or facilitate the circumvention of provisions outlined in the Order.

Switzerland: **Switzerland** imposed sanctions (amended on March 3, 2011) targeting 29 Libyan individuals. The measures freeze the assets, property and resources that are under the control of those individuals and ban transfers of or the direct supply of cash or economic resources to those individuals either "directly or indirectly."

Austria: On March 1, 2011, the Austrian Central Bank reportedly approved an assets freeze targeting 26 Libyan nationals, including the “Qadhafi family and members of the security forces and army.”

### *U.S. Actions*

Since the promulgation of Executive Order 13566 which imposed the U.S. sanctions targeting Colonel Qadhafi’s regime, OFAC has issued three General Licenses permitting certain transactions without specific authorization from OFAC. These are:

- Libya General License No. 1, authorizing transactions with financial institutions owned by the government of Libya that are organized under the laws of a third country.
- Libya General License No. 2, which authorizes the provision of goods and services in the United States to the diplomatic missions of the Government of Libya to the United States and the United Nations, as well as payment for such goods and services, under certain conditions.
- Libya General License No. 3, which authorizes the provision of certain legal services to or on behalf of the Government of Libya, its agencies, instrumentalities, and controlled entities, provided that all receipts of payment of professional fees and reimbursement of incurred expenses must be specifically licensed.

In addition, on March 11 and March 15, 2011, OFAC expanded the list of specifically targeted individuals to include additional individuals and institutions. While the U.S. and EU lists overlap, the scope of the sanctions differ in that the U.S. provisions broadly include the Government of Libya, its agencies, instrumentalities and other controlled entities (in addition to listing specific individuals and institutions), while the EU sanctions name only specific individuals and the four institutions listed above.

OFAC has under consideration requests for specific licenses to address various circumstances involving transactions that were in process at the time sanctions were imposed, including, for example, shipments of Libyan crude oil or products that were already on the high seas and other transitional matters. It is possible that OFAC will issue more general licenses providing authorizations and guidance on issues of common concern.

*O'Melveny & Myers has significant depth of experience in the economic sanctions and export controls areas. Its lawyers are actively engaged in conducting internal investigations and transactional due diligence; responding to criminal and regulatory enforcement inquiries and proceedings; evaluating and implementing compliance programs; and providing prospective advice about economic sanctions and export control issues in international business transactions. Our clients include U.S. and international companies, among them Fortune 100 companies, the world's largest financial institutions, and diversified U.S. and offshore companies.*