

# Client Alert

## International Trade

17 October 2012

### New EU sanctions expanding Syria asset freeze and introducing new Iranian measures, including a ban on bank transfers and gas imports

#### I. Summary

On 15 October 2012, the Council of the European Union (EU) decided to expand its sanctions against both Iran and Syria.<sup>1</sup>

For Iran, EU sanctions have been broadened considerably to further target Iran's nuclear and ballistic programmes and related revenues of the Iranian government. Most importantly, the EU Council has replaced existing fund transfer monitoring mechanisms with a **ban on most EU bank transactions involving Iranian banks**, and introduced a **new ban on EU import, purchase and transport of Iranian natural gas** (along with related EU financing). Other new sanctions measures include a **broadened ban on EU supply of key equipment for the Iranian oil, gas and petrochemical industries**; a **new ban on EU sale, supply or transfer of certain materials** (including graphite and raw or semi-finished metals such as steel and aluminium) **and certain industrial processing software to Iran**, along with related technical or financial assistance; **further restrictions on bank transfers through the Central Bank of Iran and EU supply of Iranian trade financing**; and a **variety of new restrictions relating to Iranian use and construction of cargo vessels and oil tankers** (including a ban on EU sale, supply or transfer of key naval equipment and technology and related financial and technical assistance and a ban on provision of flagging and classification services). Further, **34 Iranian entities and one person have been added to the EU's list of designated parties** subject to an **asset freeze**.

The EU's sanctions against Syria have been reinforced with the designation of **another 28 persons and two entities as subject to the EU's asset freeze**, along with a **new ban on EU purchase, import or transport of arms and related materials** from or originating in Syria (along with related financing) and a **ban on EU airport access for Syrian Arab Airlines**.

#### II. Iran – Regulation 945/2012 and Decision 2012/635/CFSP: Considerable EU sanctions expansion, including a new ban on natural gas imports and bank transactions

Outlining these expanded sanctions against Iran, **Council Implementing Regulation 945/2012<sup>2</sup>** (amending Regulation 267/2012)<sup>3</sup> and **Decision**



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<sup>1</sup> Consistent with established EU sanctions principles, the new sanctions apply to the **EU territory** (including its airspace), to **nationals of EU Member States** (including those located outside the EU), and on board any **vessel or aircraft under Member State jurisdiction**. They also apply to **companies incorporated or doing business in whole or in part in a Member State**. Accordingly, non-EU companies could be covered depending on the particular circumstances under which they perform EU-related business activities and how they are connected to sanctions-restricted activities.

<sup>2</sup> [Council Implementing Regulation 945/2012](#) of 15 October 2012 implementing Regulation (EU) No 267/2012 concerning restrictive measures against Iran, [2012] OJ L 282/16.

**2012/635/CFSP**<sup>4</sup> (amending Decision 2010/413/CFSP)<sup>5</sup> were both published in the EU's Official Journal (OJ) and entered into force on **16 October 2012**. An implementing regulation specifying important details of the new sanctions elements is expected in the near future.

Recent Council Decision 2012/635/CFSP provides the general outline of the EU's new sanctions measures against Iran, as agreed between the EU Member States. These new sanctions measures, which result in a significant expansion of the EU's sanctions regime against Iran, are as follows:

- A **new ban on EU import, purchase and transport of Iranian natural gas**, along with related **direct or indirect EU financing or financial assistance** (including financial derivatives, insurance and re-insurance and related brokering services). The Decision explicitly provides that this ban does not affect the delivery of non-Iranian natural gas to the EU – presumably to give legal certainty when Iranian gas and non-Iranian gas have been comingled in a pipeline.
- Existing fund transfer monitoring mechanisms have been replaced by a **ban on all EU bank transactions involving Iranian and Iranian-owned banks** unless they have been authorised by (or below certain thresholds, notified to) a Member State authority – and authorisation can only be granted if they are within certain specified limited categories involving non-commercial, agricultural or humanitarian and related purposes, or other exempt transactions.
- A **new ban on EU involvement** (including technical and financial assistance) **in construction of new oil tankers for Iran or Iranian parties** as from 16 October 2012, as well as **flagging and classification services** to Iranian oil tankers and cargo vessels as of 15 January 2013; EU parties may now also **not supply vessels designed for transport or storage of oil and petrochemical products** to Iranian parties or to anyone for the transport or storage of Iranian oil and petrochemical products.
- Broadening of the **existing ban on EU sale, supply or transfer of key equipment for the Iranian oil, gas and petrochemical industries by introducing a deadline** (15 April 2013) for the execution of obligations under contracts concluded before 26 July 2010 or 16 October 2012.
- A **new prohibition on EU sale, supply or transfer to Iran of graphite and raw or semi-finished metals, such as aluminium and steel**, which are relevant to industries directly or indirectly controlled by the Iranian Revolutionary Guard Corps (IRGC) or to Iran's nuclear, military and ballistic missile programme, along with related **technical and financial assistance** (exempting execution of obligations under contracts concluded before 16 October 2012, or relevant ancillary contracts, until 15 April 2013).
- A **new ban on EU sale, supply or transfer of key naval equipment and technology** (regardless of whether such items originate in the EU) **for ship-building, maintenance or refit to Iran or Iranian enterprises** engaged in this sector (or the use of EU vessels or aircraft to do so), along with related **technical and financial assistance** (exempting execution of obligations under contracts concluded before 16 October 2012, or relevant ancillary contracts, until 15 February 2013).
- A **broadening of existing restrictions** on EU supply of medium- or long-term commitments to provide financial support for trade with Iran (including granting of export credits, guarantees or insurance) **to also include short-term trade financing**.
- A **new ban on EU sale, supply or transfer to Iran of software** (regardless of whether it originates in the EU) **for integrating industrial processes** which are relevant to industries directly or indirectly controlled by the IRGC or Iran's nuclear, military and ballistic missile programme, along with related **technical and financial assistance** (exempting execution of obligations under contracts concluded before 16 October 2012, or relevant ancillary contracts, until 15 January 2013).

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<sup>3</sup> [Council Regulation \(EU\) No 267/2012](#) of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation (EU) No 961/2010, [2012] OJ L 88/1 (the linked latest consolidated version does not reflect the changes introduced by [Regulation 708/2012](#) and [Regulation 709/2012](#) in addition to the amendments described in this alert).

<sup>4</sup> [Council Decision 2012/635/CFSP](#) of 15 October 2012 amending Decision 2010/413/CFSP concerning restrictive measures against Iran, [2012] OJ L 282/58.

<sup>5</sup> [Council Decision 2010/413/CFSP](#) of 26 July 2010 concerning restrictive measures against Iran and repealing Common Position 2007/140/CFSP, [2010] OJ L 195/39 (the linked latest consolidated version does not reflect the changes introduced by the amendments described in this alert).

- **Increased restrictions on bank transfers through the Central Bank of Iran** in relation to frozen funds.

As the Decision only outlines broad elements of the new Iran sanctions measures, **the Council must also adopt new implementing EU legislation specifying relevant details.** The Decision confirms that such detailed implementing legislation (e.g. lists of covered items) will be established for the trade bans on natural gas, graphite and raw or semi-finished materials, key naval items and industrial software. It can also be expected that this pending implementing legislation will provide further details for other new sanctions elements, such as the Iranian bank transaction ban. It is currently unknown when such an EU regulation will be adopted. Until then, Member State enforcement authorities are expected to take the position that EU companies must use “common sense” in ensuring compliance with the new sanctions measures described above.

With respect to the expanded asset freeze, Regulation 945/2012 designates another **34 Iranian entities** – including Iranian government ministries, banks and state-owned oil and gas companies (e.g. the **National Iranian Oil Company** and related entities and the **National Iranian Gas Company**) – which are considered to provide substantial financial support to the Iranian government. It also deletes ten persons and entities from the EU’s asset freeze list, while designating **one additional person** as a party whose assets will be considered frozen by the EU.

### III. Syria – Regulation 944/2012 and Decision 2012/634/CFSP: Expanded asset freeze, new arms trade ban and expanded EU airport access restrictions

Relevant **Council Implementing Regulation 944/2012**<sup>6</sup> (which amends Regulation 36/2012)<sup>7</sup> and **Decision 2012/634/CFSP**<sup>8</sup> (amending Decision 2011/782/CFSP)<sup>9</sup> were both published in the EU OJ on **16 October 2012** and entered into force on the same day.

Regulation 944/2012 adds **28 Syrian government officials and persons associated with the Syrian regime** to the EU’s list of designated parties subject to an **asset freeze**. It also amends information concerning certain government officials already included in the EU’s asset freeze list, and removes three persons from that list. Furthermore, the **two Syrian entities, Megatrade and Expert Partners**, deemed to be involved in trade of dual-use items for the Syrian government, are added to the EU’s asset freeze list.

As a result, as of 16 October 2012, **no funds or economic resources can be made available** – directly or indirectly – by any person falling under EU jurisdiction to these newly listed persons or entities. This new round of sanctions brings the total number of Syrian parties affected by the EU asset freeze to more than 180 persons and over 50 entities.

In addition, Decision 2012/634/CFSP introduces **a new EU ban on the purchase, import or transport of arms and related materials from or originating in Syria**, along with related **financing and financial assistance**. It also expands existing restrictions on EU access for Syrian cargo flights to include **a new ban on EU airport access for all flights operated by Syrian Arab Airlines** (which is already a designated party subject to the EU’s asset freeze). Exceptions are made for flights evacuating EU citizens and their family members from Syria.

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<sup>6</sup> [Council Implementing Regulation 944/2012](#) of 15 October 2012 implementing Article 32(1) of Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria, [2012] OJ L 282/9.

<sup>7</sup> [Council Regulation \(EU\) No 36/2012](#) of 18 January 2012 concerning restrictive measures in view of the situation in Syria and repealing Regulation (EU) No 442/2011, [2012] OJ L 16/1 (the linked latest consolidated version does not reflect the changes introduced by [Regulation 867/2012](#) – mainly implementing sanctions measures in relation to Syrian cargo inspections and asset freeze derogations for Syrian educational efforts in the EU – in addition to the amendments described in this alert).

<sup>8</sup> [Council Decision 2012/634/CFSP](#) of 15 October 2012 amending Decision 2011/782/CFSP concerning restrictive measures against Syria, [2012] OJ L 282/50.

<sup>9</sup> [Council Decision 2011/782/CFSP](#) of 1 December 2011 concerning restrictive measures against Syria and repealing Decision 2011/273/CFSP, [2011] OJ L 319/56 (the linked latest consolidated version does not reflect the changes introduced by the amendments described in this alert).