

PUBLICATION

Inside U.S. Sanctions Against Libya

Authors: Robert C. Divine

March 10, 2011

The growing violence in Libya has lead to new sanctions against the Libyan government. President Barack Obama signed Executive Order 13566 Blocking Property and Prohibiting Certain Transactions Related to Libya (the Order), on Feb. 25, 2011, and it went into effect immediately at 8:00 p.m. EST that day.

The Order blocks all property interests and freezes all U.S.-based assets of the Libyan government, certain senior officials and others implicated in human rights abuses. These sanctions arise from the Libyan government's recent abuses toward protesters and come more than six years after the U.S. lifted the economic sanctions program against Libya when the Gadhafi government renounced terrorism.

Any company, person or entity with business or personal ties to Libya will need to ensure they are in compliance with the new limitations and restrictions set in place and that all company compliance programs are adequately updated in order to address the new measures.

Specifically, the Order states that U.S. persons are barred from transferring, paying, exporting, withdrawing or having other business dealings with any of the newly blocked Libyan entities. This includes 1) all related property and interests in the U.S. that have entered the U.S. after the sanctions went into effect; 2) all related property and interests that are currently in the possession or control of a U.S. person; and 3) all related property and interests that are located at any overseas branch of a blocked entity.

The blocked entities include the Government of Libya and a list of individual Libyan government officials, including general provisions that would include officials that are responsible for or complicit in the commission of human rights abuses related to the political repression in Libya, as well as those individuals or entities that might materially assist, sponsor or provide financial, logistical or technical support for those activities.

The Government of Libya includes its agencies, instrumentalities and controlled entities, as well as the Central Bank of Libya. Concurrently with the new sanctions, the U.S. Treasury Department's Office of Foreign Asset Controls (OFAC) issued a general license authorizing transactions with financial institutions that are organized under the laws of a country other than Libya, even if owned or controlled by the Government of Libya. Those financial institutions may continue to do business, but no other exceptions under the new sanctions are currently authorized.

As a result of the Executive Order, OFAC also added the following individuals onto OFAC's List of Specially Designated Nationals: Muammar Gadhafi (Head of State of Libya), Ayesha Gadhafi (Lieutenant General in the Libyan Army), Khamis Gadhafi (Muammar Gadhafi's son), Mutassim Gadhafi (National Security Advisor and Lieutenant Colonel in the Libyan Army) and Saif Al Islam Gadhafi (Muammar Gadhafi's son). Other designations and additions of names may follow as the conflict progresses and officials are identified as perpetuating human rights abuses related to political repression.

It is critical that U.S. persons who may be holding such blocked property report it to OFAC within 10 days of the Executive Order going into effect. Also, if an entity or person has ties to Libya and believes they may fall

under the new sanctions, it is important to consult legal counsel to ensure compliance. OFAC is also currently updating its regulations on Libya which will be on the OFAC website once available.

Generally, the U.S. government imposes sanctions programs against multiple countries and entities for a variety of reasons considered to be detrimental to the United States. While there are sanctions programs based on preventing certain illegal activities, the following is a general list of sanctions programs focused on countries or geographical regions: Balkans, Belarus, Burma, Cote d'Ivoire, Cuba, Democratic Republic of the Congo, Iran, Iraq, Former Liberian Regime of Charles Taylor, Lebanon, Libya, North Korea, Somalia, Sudan, Syria and Zimbabwe. Broad financial or trade related sanctions have been implemented against the following states: Burma, Cuba, Iran, North Korea and Syria.

There are many sanctions programs that do not include broad financial sanctions. Such programs can include but are not limited to prohibitions on transactions with specified persons or entities such as banks or governments. In order to ensure that you are not engaging in any prohibited transactions, feel free to contact your Baker Donelson attorney with any questions or for assistance in determining if your transaction is prohibited or requires a license.