

## **OFAC Names the Commercial Bank of Syria, the Syrian Lebanese Commercial Bank and Syriatel as Specially Designated Nationals; Additional Sanctions Against Syria Expected**

August 11, 2011

On August 10, 2011, the Office of Foreign Assets Control, US Department of the Treasury (OFAC) named the Commercial Bank of Syria, its subsidiary the Syrian Lebanese Commercial Bank, and Syriatel, Syria's largest mobile phone company, as Specially Designated Nationals (SDNs) under three separate executive orders. With these designations, all property and assets of these entities in the United States or under the control of US persons,[1] including overseas branches, are frozen. US persons are prohibited from engaging in any transaction, including payments, transfers, exports withdrawals or other dealings, in which these SDNs have an interest.

### *Commercial Bank of Syria and the Syrian Lebanese Commercial Bank*

OFAC designated the Commercial Bank of Syria (CBS) and its Lebanese subsidiary under the authority of Executive Order (EO) 13382 (June 29, 2005), which is aimed at disrupting the activities of weapons of mass destruction (WMD) proliferators and their sources of support. CBS controls a large proportion of the banking sector in Syria, as well as most public contracts.

As a Treasury Department press release explained, the CBS provided financial services, including account management and trade financing, to Syria's Scientific Studies and Research Center, which is alleged to oversee Syria's missile production and unconventional weapons facilities. The bank also reportedly provided financial services to Tanchon, the main financial agent for the Korea Mining Development Corporation (KOMID). KOMID is believed to be North Korea's primary arms exporter, dealing in conventional weapons and ballistic missile technology. SSRC and Tanchon were themselves designated under the same EO, in 2007 and 2005 respectively. Treasury also alleged that CBS Bank dealt with a number of SDN Iranian banks—including Bank Melli, Bank Saderat and the Export Development Bank—which are also designated for WMD-related dealings under EO 13382. The Syrian Lebanese Commercial Bank was designated because it is owned or controlled by the Commercial Bank of Syria.

This week's action is not the first time the Treasury Department has sanctioned the CBS. In 2006, Treasury identified the bank as an institution of primary money laundering concern pursuant to Section 311 of the USA Patriot Act. This designation prohibits US banks and their foreign subsidiaries from maintaining correspondent accounts with the CBS and requires banks to undertake due diligence to detect attempts by CBS to circumvent the restriction. With the OFAC designation, the Treasury's Financial Crimes Enforcement Network (FinCEN) issued an advisory to US financial institutions. The advisory warns that the CBS maintains dollar dominated accounts at banks in Europe, the Middle East and Asia, and that it might attempt to circumvent the sanctions through "nested account" activities, a practice whereby it could use a domestic correspondent account of a third party to obscure its ownership or interest in a foreign correspondent account.

### *Syriatel*

OFAC also named Syriatel, Syria's largest mobile phone operator, as an SDN. The basis for this designation was Executive Order 13460 (Feb. 13, 2008), which targets persons contributing to

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corruption and misuse of public authority in Syria. OFAC identified Syriatel as blocked property owned or controlled by Rami Makhluaf, a close associate of the Syrian regime, who was himself designated under EO 13460. Syriatel was also designated for being owned or controlled by Al Mashreq Investment Fund, which was designated under Executive Order 13572 (Apr. 29, 2011), authorizing sanctions on persons involved in human rights abuses in Syria. Al Mashreq Investment Fund is Syriatel's largest shareholder, and also is owned or controlled by Makhluaf. This designation could potentially raise some issues for US persons who are Syriatel subscribers or who provide telecommunications services to the company.

### *Observations*

OFAC's designations occur amidst a significant push in Congress for heightened sanctions on the Syrian regime in response to its crackdown against protests in the country. On August 2, 2011, Senators Gillibrand, Kirk and Lieberman introduced the Syria Sanctions Act of 2011 (S. 1472), which among other measures would impose sanctions on entities investing in the country's petroleum industry. Other Syria sanctions legislation was introduced in the House of Representatives in June.

Although it appears relatively unlikely that such legislation would be enacted before the end of the year, there remains significant scope for enhanced sanctions against Syria under current law. An August 5, 2011 letter signed by a bipartisan group of more than 220 Representatives, including the Chair and Ranking Member of the House Foreign Relations Committee, requested that the Administration impose additional sanctions under the Syria Accountability & Lebanese Sovereignty Restoration Act (SALSRA) of 2003. The letter specifically requested prohibiting US businesses from operating in Syria and blocking any transactions in which the government of Syria has an interest. It also asked the Administration to fully enforce the Iran, North Korea and Syria Nonproliferation Act (P.L. 109-353), which allows for sanctions against entities assisting these countries in their proliferation efforts. If the United States continues to ratchet up sanctions, it seems more likely than not that it will be under these or other existing authorities, such as the executive orders.

There is currently no comprehensive embargo on Syria as there is against Iran, Sudan and Cuba. Current US sanctions involve a ban on exports and re-exports of items subject to the Export Administration Regulations to Syria (including foreign-produced items containing 10% or more US-origin content), denial of overflight and landing rights to Syrian aircraft, a restriction on any financial transaction with the Government of Syria where that transaction may relate to terrorist activity in the United States, and targeted sanctions under a number of executive orders against various Syrian entities. Prohibiting US businesses from operating in Syria and preventing dealings in property in which the entirety of the Government of Syria has an interest would come very close to a comprehensive embargo. Already, the designation of one of Syria's largest banks would preclude a substantial amount of transactions in the country, since there are likely few financial institutions offering necessary business services in the country.

OFAC's designation of CBS is consistent with the agency's emphasis on sanctioning the financial institutions that provide vital support to entities of concern. It is also in keeping with the administration's strategy of targeted sanctions against persons and entities affiliated with the regime. As Robert Ford, the US Ambassador to Syria, said at a recent Senate hearing, "we have really worked in the United States government and with our partners to target sanctions against specific companies and against specific individuals that are involved in the repression, without targeting the broader Syrian economy

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and making the people of Syria suffer.”

Of course, the scope and pace of new sanctions will be tied to events on the ground. If conditions worsen for the civilian population, the Administration and US allies will be under increasing pressure to broaden the scope and impact of its sanctions regime. As a sign of the increasingly frayed state of US/Syria relations, many expect President Obama to publicly state for the first time that President Assad must step down, a move that will serve to harden the US position and make additional sanctions more likely.

The European Union has also imposed sanctions against a number of Syrian entities. Given that most companies doing business the country’s energy sector now are European or Canadian, a tightening of sanctions by those countries could have more impact than US sanctions alone. Naturally such sanctions could also affect subsidiaries of US companies. Additional sanctions are currently under discussion between the United States, the European Union, and other concerned states.

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We will continue to keep you apprised of developments regarding sanctions against Syria. If you have questions about this advisory or related sanctions questions, please contact Ed Krauland at 202-429-8083, Meredith Rathbone at 202-429-6437, Rich Verma at 202-429-6452, Jack Hayes at 202-429-6491, or Michael Lieberman at 202-429-8064 in our Washington, DC office, or David Lorello at +44 20 7367 8007 in our London office.

[1] The underlying executive orders and regulations define “US person” as: (1) an entity incorporated in the United States, including its overseas branches (but not foreign subsidiaries or joint ventures); (2) a US citizen or US permanent resident, wherever located; or (3) person physically located in the United States.