



STOP PRESS: Libyan Funds Released \$1.5bn unfrozen, but sanctions remain in force

26 August 2011

Yesterday (Thursday 25 August 2011) the UN Security Council unfroze \$1.5bn of Libyan assets formerly held by the Gaddafi regime, to be used by the UN for humanitarian efforts. The funds were unfrozen after an agreement was reached between the United States and South Africa to remove references to the rebel-led National Transitional Council (NTC) from the release request to the UN Security Council's Sanctions Committee, referring instead to "relevant authorities".

However, the sanctions against Libya remain in place, with the \$1.5bn released a small fraction of the assets that remain frozen in the US (\$37bn), the UK (£12bn) and Germany (€7.3bn). It is estimated that up to \$110bn is frozen in accounts worldwide. The situation can best be described as fluid, and is likely to remain so as the government of Libya moves towards stability, increased recognition and ultimately elections.

It is also possible that sanctions may remain in place against former members of the Gaddafi regime and associated entities, as is the case with Iraq and the former Yugoslav republics, where sanctions are still in operation against members of the Hussein and Milosevic governments, their family members and entities associated with them. Companies should continue to exercise caution when dealing with transactions involving Libyan entities.

\$88.3m Settlement for Sanctions Infringements

In other news, US bank JP Morgan Chase has agreed to settle with the US government after a series of sanctions infringements over transactions involving Cuba, Iran and Sudan. These breaches included processing wire transfers for Cuban nationals, making a \$2.9m loan to a bank with ties to IRISL, the Iranian state shipping line, and failing to co-operate with an investigation into a wire transfer to Sudan.

This action is indicative of the increasing willingness of governments to pursue contraventions of sanctions, and the need for companies not only to be proactive on the discovery of a potential sanctions breach, but also to institute internal procedures to ensure that such a breach does not occur in future.

It is worth noting that EU Regulation 2271/96 renders decisions of courts, tribunals or administrative authorities located outside the Community in respect of specified laws unenforceable, thereby offering some protection to EU entities. This regulation currently applies only to certain US legislation, specifically the Cuban Liberty and Democratic Solidarity Act of 1996 and the Iran and Libya Sanctions Act of 1996. The Regulation also makes it an offence to comply with the specified legislation, unless non-compliance would be seriously damaging to an EU entity's interests or those of the Community. If damage would result, authorization to not comply with the Regulation will be granted by the EU. The Regulation would provide some protection from the decisions of US authorities made against an EU entity that was (for example) trading with Cuba.

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