

To: Our Clients and Friends

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New Libyan Sanctions

Following on the heels of the Executive Order issued by President Obama on 25 February 2011 blocking property and prohibiting certain transactions relating to Libya, the UN Security Council unanimously adopted Resolution 1970 (2011) calling, among other things, for an asset freeze in respect all funds, financial assets and economic resources of Muammar Qadhafi and his children and entities owned or controlled by them, and a prohibition on making funds, assets or economic resources available to them. The United Kingdom promptly adopted an Order on 27 February 2011 giving effect to the UN Resolution.

The US Executive Order requires all property and interests in property of Colonel Qadhafi and his children and of the Libyan Government, its agencies, instrumentalities, controlled entities and the Central Bank of Libya that are or hereafter come within the United States or the possession or control of a US person to be blocked and otherwise prohibits any dealing in such property or property interests. Such provisions prohibit, among other things, any provision to such persons of funds, goods or services in which they have an interest. In addition, there is no provision permitting the continued provision of goods, services or funds in which they have an interest under contracts or licenses in effect prior to 25 February 2011. The US Executive Order goes beyond the UN Security Council Resolution in its application to the Libyan Government and controlled entities.

The UK Order applies to UK nationals and to bodies incorporated or constituted under the law of any part of the UK and their branches, wherever located. The freeze requirement and the prohibition on making available funds and economic resources to Colonel Qadhafi, his children and entities owned or controlled by them, applies not only to financial assets and economic benefits of any kind, but also to economic resources, which include assets of any kind, including goods, which may be used to obtain funds, goods and services. Exactly which entities are owned or controlled by Colonel Qadhafi or his family members may not always be clear, and their interests in assets of the State-owned Libyan Investment Authority may be implicated.

Finally, the Council of the European Union has adopted today a decision implementing the sanctions mandated by the UN Security Council, and imposing some additional restrictive measures, which will be published in the Official Journal shortly.

In the meantime, many international companies, banks and financial institutions have already been in “freeze” mode, including Swiss banks, which were ordered by the Swiss government to freeze assets of the Qadhafi family and others.

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