

## Trade & Customs - USA

Treasury issues guidance on economic sanctions against Sudan and Libya

Contributed by [Sidley Austin LLP](#)

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[Sudan](#)  
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The US Treasury Department's Office of Foreign Assets Control (OFAC) recently issued guidance concerning US economic sanctions against Sudan and Libya. This guidance is intended to help companies and non-profit organisations with ties to these countries to maximise available opportunities while still complying with US law.

[Sudan](#)

On April 12 2011 OFAC issued [guidance](#) concerning the application of US economic sanctions to the new state expected to be formed on July 9 2011 as a result of Southern Sudan's secession from the Republic of Sudan. OFAC's guidance precedes formal regulatory changes that are expected in the coming months.

The United States currently imposes comprehensive sanctions against Sudan, including a trade embargo. However, since October 2007, these sanctions have been limited to Northern Sudan. Southern Sudan, as well as certain specified areas of Northern Sudan (largely corresponding to the locations of refugee camps), were excluded from the scope of the sanctions to reflect US foreign policy concerning these areas. Nonetheless, certain restrictions on the activities of US persons in these areas remained in place to account for their close proximity to, and continued interdependence with, Northern Sudan.

OFAC has clarified, that upon the creation of the Republic of South Sudan, the operation of US economic sanctions will remain effectively unchanged. Northern Sudan will continue to be sanctioned and the state formed by Southern Sudan will continue to be free from sanctions. However, the legal status of Southern Sudan will change. This area will no longer be exempted from the sanctions applicable to Northern Sudan; rather, it will cease to be directly subject to the sanctions at all.

The impact of this subtle change in legal status is likely to be minimal. For example, entities currently doing business in Southern Sudan must cite the regulation exempting Southern Sudan from sanctions to process related payment transactions through the US financial system. Such citations will become obsolete in July 2011.

Importantly, this change in legal status will not loosen the existing restrictions on certain activities of US persons in Southern Sudan which relate to Northern Sudan. US persons will continue to be prohibited from dealing in the property and interests in property of the government of Sudan (as opposed to the government of the Republic of South Sudan), and from performing services that benefit the government of Sudan. US persons will also continue to be prohibited from participating in exports or imports from the new state that transit through Northern Sudan (subject to certain existing exceptions).

In addition, US persons will continue to be prohibited from engaging in transactions relating to the petroleum or petrochemical industry in Northern Sudan. OFAC noted that this restriction could affect business activities in Southern Sudan if a revenue-sharing arrangement is established whereby the government of the new state makes payments to the government of Sudan from the sale of Southern Sudanese petroleum.

[Libya](#)

On February 25 2011, the United States imposed economic sanctions against Libya in response to the growing violence there. These sanctions blocked the property and interests in property of the Libyan government, certain senior officials and others implicated in human rights abuses. According to OFAC, at least \$30 billion in Libyan assets has been blocked as a result of these sanctions.

Authors

[Lisa Crosby](#)



[Robert Torresen](#)



Since the initial imposition of the sanctions, OFAC has issued a series of general licences authorising US persons to engage in certain activities otherwise prohibited by the sanctions. These general licences permit the following activities:

- **General Licence 1** authorises transactions with financial institutions, owned or controlled by the government of Libya, that are organised under the laws of a country other than Libya. OFAC amended this general licence to make clear that transactions involving these financial institutions are authorised only to the extent that they do not involve persons whose property and interests in property are blocked by the new sanctions.
- **General Licence 2** authorises the provision of goods or services in the United States, and the payment for such goods or services, to the diplomatic missions of the government of Libya to the United States, the United Nations and mission employees (subject to certain conditions). However, US financial institutions are still required to obtain specific licences to operate accounts for, or extend credit to, the diplomatic missions of the government of Libya to the United States and the United Nations.
- **General Licence 3** authorises the provision of certain legal services to the government of Libya and others whose property and interests in property are blocked pursuant to the sanctions against Libya.
- **General Licence 4** authorises the continued normal operations of any investment fund that is organised, located, managed or administered in the United States in which the government of Libya, and any others whose property and interests in property are blocked pursuant to the sanctions against Libya, have both a non-controlling and a minority interest (subject to certain conditions). Reports must be submitted on a monthly basis providing an accounting of the value of the Libyan interest in the investment fund, as well as an explanation of any change from the previous report.

OFAC officials have announced that the agency expects to promulgate regulations to implement the new Libya sanctions shortly. Such regulations should further clarify the scope and operation of these new sanctions.

*For further information on this topic please contact [Robert Torresen](#) or [Lisa Crosby](#) at Sidley Austin LLP by telephone (+1 202 736 8000), fax (+1 202 736 8711) or email ([rtorresen@sidley.com](mailto:rtorresen@sidley.com) or [lcrosby@sidley.com](mailto:lcrosby@sidley.com)).*

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