

Unofficial and not binding translation

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**STATUE PUBLICATION GAZETTE OF
ARUBA**

STATE DECREE containing General Administrative Orders of January 12, 2016 for the implementation of Articles 2 and 2a of the Sanctions Ordinance 2006 ("AB" [*Official Bulletin*] 2007 No. 24) (Sanctions State Decree Syria)

Issued on January 21, 2016

The acting Minister of Justice,

M.G. Eman

IN THE NAME OF THE KING!

THE GOVERNOR of Aruba,

Having taken into consideration:

- that, having regard to Regulation 36/2012 of the Council of the European Union of January 18, 2012, it is desirable to take restrictive measures against certain persons, entities and bodies from Syria;
- that it is also desirable to implement Implementing Decision 2011/782/CFSP of the Council of the European Union of December 1, 2011 concerning restrictive measures against Syria and repealing Decision 2011/273/CFSP, as well as Implementing Decision 2013/255/CFSP of the Council of the European Union of May 31, 2013 concerning restrictive measures against Syria;

Having regards to:

Articles 2 and 2a of the Sanctions Ordinance 2006 (AB 2007 No. 24);

Has decided:

§ 1. General

Article 1

In this State Decree, the following terms shall mean:

- Regulation No. 36/2012 : Regulation (UE) No. 36/2012 of the Council of the European Union of January 18, 2012 concerning restrictive measures in view of the situation in Syria and repealing Regulation (UE) No. 442/2011 and Annexes II and II bis thereto, including any subsequent amendments to those Annexes;
- Decision 2011/782 : Implementing Decision 2011/782/CFSP of the Council of the European Union of December 1, 2011 concerning restrictive measures against Syria and repealing Decision 2011/273/CFSP and Annexes I and II thereto, including any subsequent amendments to those Annexes;
- Decision 2013/255 : Implementing Decision 2013/255/CFSP of the Council of the European Union of May 31, 2013 concerning restrictive measures against Syria and Annexes I and II thereto, including

	any subsequent amendments to those Annexes;
freezing	: a prohibition to transfer, convert, relocate or make available;
correspondent banking relationship	: a correspondent banking relationship as referred to in Article 1, first paragraph, of the State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing (AB 2011 No. 28);
service	: an activity in connection with a fund or other asset;
service provider	: anyone who renders a service by virtue of his profession or business;
funds or other assets	: goods, acquired in any way, as meant in Article 1 of Book 3 of the Civil Code of Aruba, all documents and information carriers in whatever form or nature, which demonstrates whole or partial ownership of or entitlement to a good, and products and value accruals of a good;
credit institution	: a credit institution as referred to in Article 1, first paragraph, of the State Ordinance on the Supervision of the Credit System (AB 1998 No. 16);
Minister	: the Minister charged with financial matters;
Bank	: the Central Bank of Aruba;
Reporting Center	: the Reporting Center Unusual Transactions, referred to in Article 20, first paragraph, of the State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing (AB 2011 No. 28).

§ 2. The freezing of funds and other assets

Article 2

1. All funds or other assets in Aruba, which directly or indirectly belong to, are owned by, are in possession of or are controlled by a natural person, legal person or other entity listed in:
 - a. Annexes II and II bis to Regulation No. 36/2012;
 - b. Annexes I and II to Decision 2011/782, and
 - c. Annexes I and II to Decision 2013/255,shall be frozen.
2. The freezing, referred to in the first paragraph, shall equally apply to representatives of the natural persons, legal person or other entity referred to in that paragraph.
3. Notwithstanding the first paragraph, a designated person may be granted access to his frozen funds or assets for credit balances, financial assets or economic resources that:

- a. are necessary to cover expenses for the basic needs of the natural persons or legal persons, entities or bodies listed in Annexes II and II bis to Regulation No. 36/2012, Annexes I and II to Decision 2011/782 and Annexes I and II to Decision 2013/255, respectively, and the family members dependent on these natural persons, such as payments for food, rent or mortgage charges, medicines or medical treatments, taxes, insurance premiums and public utility services;
 - b. are exclusively intended for the payment of reasonable fees or the payment of costs incurred in connection with the provision of legal services;
 - c. are exclusively intended for the payment of fees or costs for only maintaining or managing frozen credit balances or economic resources, or
 - d. are necessary for the payment of extraordinary charges, provided the Minister has been given notice at least two weeks in advance of the reasons why he feels that specific permission should be granted.
4. Access to frozen funds or assets shall only be granted with the approval of the Minister.

Article 3

The Bank and the Reporting Center shall be charged with the digital publication of the prevailing texts of Annexes II and II bis to Regulation No. 36/2012, Annexes I and II to Decision 2011/782 and Annexes I and II to Decision 2013/255, respectively.

Article 4

1. It shall be prohibited for each and anyone to provide services or to perform acts that lead to it or can reasonably lead to it that a natural person, legal person or other entity listed in Annexes II and II bis to Regulation No. 36/2012, Annexes I and II to Decision 2011/782 and Annexes I and II to Decision 2013/255, respectively, gains access in any way to funds or other assets.
2. It shall be prohibited to participate intentionally or deliberately in activities of which the purpose or consequence is that the measures referred to in the first paragraph are directly or indirectly circumvented.

Article 5

1. Anyone having funds or other assets in his custody of a natural person, legal person or other entity listed in Annexes II and II bis to Regulation No. 36/2012, Annexes I and II to Decision 2011/782 and Annexes I and II to Decision 2013/255, respectively, shall take such measures that these funds and assets cannot be used, or that these funds and other assets cannot be transferred, converted, relocated or be made available.

2. If it concerns a service provider supervised by the Bank pursuant to a state ordinance, it shall immediately inform the Bank of the funds or other assets it has in its custody.
3. Service providers shall immediately inform the Reporting Center of all transactions intended or carried out by or on behalf of persons, entities and bodies listed in Annexes II and II bis to Regulation No. 36/2012, Annexes I and II to Decision 2011/782 and Annexes I and II to Decision 2013/255, respectively.

Article 6

If the freezing concerns property subject to registration as referred to in Article 10 of Book 3 of the Civil Code of Aruba, the keeper of the public register in question shall ensure that same be recorded in this public register.

§ 3. Restrictions on the financing of certain enterprises

Article 7

1. Service providers shall be prohibited:
 - a. from granting loans or credits to any persons, entities or bodies established in Syria;
 - b. from acquiring or extending participations in entities or bodies established in Syria;
 - c. from creating any joint ventures with entities or bodies established in Syria.
2. The prohibition referred to in the first paragraph, subparagraphs a through c, shall equally apply to all persons, entities or bodies established in Syria, which engage in:
 - a. the exploration, production or refining of petroleum;
 - b. the construction or installation of new infrastructure for the production of electricity.
3. It shall be prohibited to engage intentionally or deliberately in activities of which the purpose or consequence is that the measures referred to in the first and second paragraph are directly or indirectly circumvented.
4. It shall be prohibited to grant financing or provide financial assistance, directly or indirectly, to the Syrian persons, entities or bodies referred to in the first and second paragraph.

§ 4. Restrictions on the transfer of capital and on financial services

Article 8

1. A service provider shall be prohibited from entering into a service relating to the direct or indirect sale, supply, transfer or export to the Central Bank of Syria of new Syrian banknotes and coins, printed or minted in the European Union.

2. The prohibition mentioned in the first paragraph shall equally apply to the Bank.

Article 9

1. The following acts shall be prohibited for service providers:
 - a. to sell or purchase government bonds or public-guaranteed bonds issued after January 19, 2012, directly or indirectly, to or from any of the following bodies:
 1. Syria or the Syrian government, public bodies, corporations and agencies;
 2. a financial institution established in Syria;
 3. a natural person or legal person, entity or body acting on behalf of or at the direction of a legal person, entity or body as referred to in 1 or 2;
 4. a legal person, entity or body owned or controlled by a person, entity or body as referred to in 1, 2 or 3;
 - b. to provide brokerage services with regard to government bonds or public-guaranteed bonds issued after January 19, 2012 to a person, entity or body referred to in subparagraph a;
 - c. to assist a person, entity or body as referred to in subparagraph a, in order to issue government bonds or public-guaranteed bonds, by providing brokerage services, advertising or any other service with regard to these bonds.
2. It shall be prohibited to engage in activities of which the purpose or consequence is that the measures referred to in the first paragraph are directly or indirectly circumvented.

Article 10

1. It shall be prohibited for service providers:
 - a. to open a new bank account with any Syrian credit or financial institution;
 - b. to establish a new correspondent banking relationship with a credit or financial institution established in Syria;
 - c. to open a new representative office in Syria or to establish a branch or subsidiary in Syria;
 - d. to enter into a new joint venture with a credit or financial institution established in Syria;
 - e. to authorize the opening of a representative office or the establishment of a branch or subsidiary in Aruba of a credit or financial institution established in Syria;
 - f. to conclude agreements for or on behalf of a credit or financial institution established in Syria, pertaining to the opening of a representative office or the establishment of a branch or subsidiary in Aruba;
 - g. to acquire or extend a participation, or to acquire any other ownership interest in a credit or financial institution by a credit or financial institution established in Syria.

2. It shall be prohibited to engage in activities of which the purpose or consequence is that the measures referred to in the first paragraph are directly or indirectly circumvented.

Article 11

1. It shall be prohibited for service providers to offer contracts of insurance or reinsurance to:
 - a. Syria or the Syrian government, public bodies, corporations or agencies, or
 - b. a natural person or legal person, entity or body acting on behalf of or at the direction of a legal person, entity or body referred to in subparagraph a.
2. It shall be prohibited to engage in activities of which the purpose or consequence is that the measures referred to in the first paragraph are directly or indirectly circumvented.

§ 5. Final provision

Article 12

1. This State Decree shall become effective as of the day after the day of its publication in the Statute Publication Gazette of Aruba.
2. It may be cited as Sanctions State Decree Syria.

Given in Oranjestad, January 12, 2016
F.J. Refunjol

The Minister of Finance and Government Organization,
A.R. Bermudez

The Minister of Justice,
A.L. Dowers

The Minister of General Affairs, Science, Innovation and Sustainable
Development,
M.G. Eman

EXPLANATORY NOTES

General explanation

The violent repression and the violation of human rights of the Syrian population by the Syrian government have prompted the European Union to take sanctions against that country. The restrictive measures are laid down in Regulation (UE) No. 36/2012 of the Council of the European Union of January 18, 2012, Decision 2011/782/CFSP of December 1, 2011 and Decision 2013/255/CFSP of May 31, 2013 of the Council of the European Union.

The restrictive measures consist of an arms embargo, a ban on the supply of equipment that could be used for internal repression, travel restrictions and the freezing of funds and other assets of persons and entities responsible for the violent repression, a ban on the export of equipment for surveillance of telecommunications for use by the Syrian regime, a prohibition on the import or purchase of petroleum or petroleum products, a ban on the sale and supply to the Central Bank of Syria of new banknotes and coins, a prohibition on participation in certain infrastructure projects and investment in such projects, and additional restrictions on the transfer of funds and the provision of financial services.

The purpose of this State Decree containing General Administrative Orders is to implement UE Regulation No. 36/2012 and to implement UE Decisions 2011/782 and 2013/255 in Aruba.

Within the framework of the common foreign and security policy of the Kingdom, and with a view to the protection of the integrity and reputation of Aruba and its financial sector, the Government has decided, having regard to UE Regulation No. 36/2012, while making use of Articles 2 and 2a of the Sanctions Ordinance 2006, to take restrictive measures against natural persons, legal persons, entities and bodies. This State Decree is related to the freezing measures in § 2, in § 3 restrictions on the financing of certain enterprises (Article 7), and in § 4 restrictions on the transfer of capital and on financial services (Articles 8 through 11), as also laid down in Regulation (UE) No. 36/2012.

Explanatory notes on individual articles

Article 1

The first paragraph of this Article contains the definitions necessary for the application of this State Decree.

Article 2

Pursuant to this Article, the funds and other assets of persons and entities listed in Annexes II and II bis to Regulation No. 36/2012, Annexes I and II to Decision 2011/782 and Annexes I and II to Decision 2013/255, respectively, whom/which are held responsible for the violent repression against the civilian population in Syria, are frozen. To prevent the diversion of credit balances, reference is made to the UE Annexes and the Implementing Decisions against whom the freezing measures should be taken. An exemption from the freezing measures may be requested from the Minister charged with financial matters, in order to provide for the basic needs or to incur extraordinary expenses.

Article 3

Article 3 entrusts the Central Bank of Aruba (the Bank) and the Reporting Center Unusual Transactions (the Reporting Center) with the timely and digital publication via the website of the Bank, www.cbaruba.org, or via the website of the Reporting Center, www.fiu-aruba.com. Thus, the intended freezing measures can be implemented in an efficient and effective manner.

Article 4

Pursuant to this Article, the service providers are obligated not to provide services and not to perform acts that lead to it or could reasonably lead to it that a natural person, legal person or other entity listed in the Annexes to the UE Regulation and UE Decisions gains access in any way to the funds or other assets frozen pursuant to Article 2. This does not only concern services within the meaning of Article 1 of this State Decree, but also each actual act that leads to it that a fund or asset is brought under the control of a designated person.

Article 6

A freezing order may also relate to a property subject to registration, as this can also be an asset within the meaning of this State Decree. A property subject to registration is defined in Article 3.10 of the Civil Code of Aruba as a property for the transfer or creation of which an entry in the relevant public registers is necessary. In essence, it concerns immovable property, aircraft and vessels, and the restricted rights that can be created on such property. As freezing such an asset leads to it that the party entitled can no longer use it, it is desirable to make an entry thereof in the public records. Thus, it will be made clear to each and anyone that this property subject to registration has been frozen. This notably applies to the service providers that, by virtue of their position, engage in transactions concerning property subject to registration (such as civil-law notaries), and that have been designated for this purpose in the public registers.

In connection with the above, this Article imposes a duty of care on the keepers of the public registers - for immovable property and the restricted rights to be created on such property, being the registrar of mortgages, and for aircraft and vessels, being the keepers of the ship's registry or the aircraft register, respectively - to enter the freezing in the public register in question. The duty of care implies that the keepers of the public register itself should ascertain whether a property subject to registration has been frozen because of the listing of the party entitled on one of the asset-freezing lists. The best way for this is the consultation of these lists.

Article 7

This Article provides for the prohibition on the financing of certain enterprises, such as the exploration, production and refining of petroleum, and on investments in the construction or installation of new power plants. The term "exploration of petroleum" should be understood to be the exploration for, the extraction of and management of petroleum reserves, as well as the provision of services in the area of geology in connection with these reserves. "Refining" is understood to be the processing, conditioning or preparation of petroleum for the purpose of selling fuels to the final consumer. This Article corresponds to Article 13 of the UE Regulation.

Article 8

Article 8 provides for the ban on the supply to the Central Bank of Syria of new Syrian banknotes and coins that are printed or minted in the European Union and corresponds to Article 11 of the UE Regulation. The second paragraph also implies an obligation for the Central Bank of Aruba.

Article 9

Article 9 (see Article 24 of the UE Regulation) provides for a ban on the sale or purchase of Syrian government bonds or public-guaranteed bonds or financial institutions established in Syria. The ban also applies to brokerage services and assistance for these activities.

Article 10

Article 10 (see Article 25 of the UE Regulation) provides for a prohibition for service providers to open a new bank account with a Syrian credit or financial institution. It is also prohibited *inter alia* to establish a new correspondent banking relationship with a Syrian credit or financial institution, to open a new office in Syria, to establish a new joint venture with a Syrian credit or financial institution, to acquire or extend a participation or shares. For the term "Syrian credit institution", reference can be made to the definition of a "credit institution" as referred to in Article 1, first paragraph, of the State Ordinance on the Supervision of the Credit System (AB 1998 No. 16), and reference is also made to the Explanatory Notes to this concept. For the purposes of this State Decree, the Central Bank of Syria also falls under the concept of a credit institution, as well as branches and subsidiaries of credit or

financial institutions established in Syria. A “financial institution” is understood to be an enterprise other than a credit institution, such as insurance companies and insurers. Reference is made to the definition of a “financial service provider” as referred to in Article 1, first paragraph, of the State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing (AB 2011 No. 28). The second paragraph also prohibits circumventing these sanctions - - directly or indirectly.

Article 11

Article 11 (see Article 26 UE Regulation) contains a prohibition on offering insurance or reinsurance to the Syrian government, Syrian public bodies, corporations and agencies.

Finally, it is noted that the Government has decided not to hear the Advisory Council, as the purpose of the State Decree is the immediate implementation of an international decision. The possibility to do so is offered by Article 2, second paragraph, of the Sanctions Ordinance 2006.

The Minister of Finance and Government Organization,
[was signed:]

The Minister of Justice,
[was signed]

The Minister of General Affairs, Science, Innovation and Sustainable
Development,
[was signed]