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## REGULATORY OVERVIEW

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### LAWS AND REGULATIONS IN HONG KONG

The following are the principal laws and regulations that govern our business operations in Hong Kong.

#### **Business Registration Ordinance**

The Business Registration Ordinance (Chapter 310 of the Laws of Hong Kong) requires every person who carries on a business in Hong Kong to apply for business registration within one month from the date of commencement of the business, and to display a valid business registration certificate at the place of business. Hence, in respect of our operation in Hong Kong, we are required to obtain business registration certificates.

#### **Import and Export Ordinance**

Pursuant to section 6A(2) of the Import and Export Ordinance (Chapter 60 of the Laws of Hong Kong), a person who imports or exports “strategic commodities” as defined under Schedule 1 of the Import and Export (Strategic Commodities) Regulations (the “**Regulations**”), except under and in accordance with an import or export licence, commits an offence and is liable:

- (a) on summary conviction to a fine and imprisonment; and
- (b) on conviction on indictment to a fine and imprisonment.

To ascertain whether items are “strategic commodities” as defined under the Regulations, one may lodge an import/export licence or pre-classification application enclosing all technical information and specifications of the goods with the Trade and Industry Department to determine if a licence is necessary.

#### **Telecommunications Ordinance**

Under section 8 of the Telecommunications Ordinance (Chapter 106 of the Laws of Hong Kong) (the “**Telecommunications Ordinance**”), a Radio Dealers Licence (Unrestricted) is required for dealing in the course of trade or business in apparatus or material for radiocommunications or in any component part of any such apparatus or in apparatus of any kind that generates and emits radio waves whether or not the apparatus is intended, or capable of being used, for radiocommunications.

Under the Radio Dealers Licence (Unrestricted), the licensee is permitted to deal in radiocommunications apparatus pursuant to section 9 of the Telecommunications Ordinance. A Radio Dealers Licence (Unrestricted) is generally valid for a period of 12 months, and is renewable on payment of the prescribed fee, at the discretion of the Office of the Communications Authority.

#### **Consumer Goods Safety Ordinance**

Manufacturers and suppliers of defective products in Hong Kong may be subject to liability for loss or any injury caused by such products. Pursuant to the Consumer Goods Safety Ordinance (Chapter 456 of the Laws of Hong Kong), manufacturers, importers and suppliers of consumer goods are required to comply with a general safety requirement and any approved standard that applies to such products. The general safety requirement for consumer goods is that the consumer goods are reasonably safe having regard to all of the circumstances. Where an approved standard applies to consumer goods, the consumer goods shall be taken as complying with the general safety requirement if they comply with the approved standard. The Consumer Goods Safety Ordinance imposes criminal penalties for breach of safety requirements. Any

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person who sells unsafe goods commits an offence and is liable to a fine of HK\$100,000 and an imprisonment of 1 year on first conviction, and HK\$500,000 and 2 years’ imprisonment on subsequent conviction.

Besides the imposition of criminal liability for unsafe products, the Consumer Goods Safety Ordinance empowers the Commissioner of Customs and Excise to serve a recall notice requiring the immediate withdrawal of any consumer goods, which the Commissioner of Customs and Excise believes to be unsafe or may have a significant risk to cause serious injury, from being supplied and the retrieval of those items already supplied.

### **Sale of Goods Ordinance**

In Hong Kong, contracts for the sale of goods are mainly governed by the Sale of Goods Ordinance (Chapter 26 of the Laws of Hong Kong). The safety and suitability requirements of the goods supplied are often treated as an implied term of the sale contract; and the ordinance governs the meaning of certain implied terms or conditions and warranties.

### **Control of Exemption Clauses Ordinance**

The Control of Exemption Clauses Ordinance (Chapter 71 of the Laws of Hong Kong) regulates civil liability and has an impact on the effectiveness of any terms in the contract which seeks to avoid liability for breach of contract, negligence or other types of breaches of duty. Both of these statutes seek to supplement the common law position and provide further protection to consumers or users as contracting parties.

### **Trade Marks Ordinance**

The Trade Marks Ordinance (Chapter 559 of the Laws of Hong Kong) (the “**Trade Marks Ordinance**”) provides for the registration of trademarks, the use of registered trademarks and connected matters. Hong Kong provides territorial protection for trademarks. Therefore, trademarks registered in other countries or regions are not automatically entitled to protection in Hong Kong. In order to enjoy protection by the Laws of Hong Kong, trademarks must be registered with the Trade Marks Registry of the Intellectual Property Department under the Trade Marks Ordinance and the Trade Marks Rules (Chapter 559A of the Laws of Hong Kong) (the “**Trade Marks Rules**”).

According to section 10 of the Trade Marks Ordinance, a registered trademark is a property right acquired through due registration under such ordinance. The owner of a registered trademark is entitled to the rights provided by the ordinance.

By virtue of section 14 of the Trade Marks Ordinance, the owner of a registered trademark is conferred exclusive rights in the trademark. The rights of the owner in respect of the registered trademark come into existence from the date of the registration of the trademark. According to section 48 of such ordinance, the registration date is the filing date of the application for registration.

Subject to the exceptions in section 19 to section 21 of the Trade Marks Ordinance, any use of the trademark by third parties without the consent of the owner is an infringement of the trademark. Conducts which amount to infringement of the registered trademark are further specified in section 18 of the same ordinance.

The owner of the registered trademark is entitled to remedies under the Trade Marks Ordinance once any infringement by third parties occurs, such as infringement proceedings provided for in section 23 and section 25 of the Trade Marks Ordinance.

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Trademarks which are not registered under the Trade Marks Ordinance and the Trade Marks Rules may still obtain protection by the common law action of passing off, which requires proof of the owner’s reputation in the unregistered trademark, the public being misled or likely to be misled by the defendant’s misrepresentation as to the ownership of the trademark, and that the owner has suffered or is likely to suffer damage as a result.

### Copyright Ordinance

The Copyright Ordinance (Chapter 528 of the Laws of Hong Kong) (the “**Copyright Ordinance**”) currently in force in Hong Kong has come into effect since 27 June 1997. The Copyright Ordinance provides comprehensive protection for recognised categories of literary, dramatic, musical and artistic works, as well as for films, television broadcasts and cable diffusion, and works made available to the public on the Internet, including copyrights works of computer programmes.

Under the Copyright Ordinance, the owner of the copyright in a work gives the copyright owner the exclusive right to, among other things, reproduce or issue copies of the work to the public. It is an infringement for a third party to commit those acts without the consent of or a licence from the copyright owner. If an infringement occurs, the copyright owner can bring an action seeking damages or an injunction to restrain the unauthorised copying.

### Regulations relating to Employment

A majority of our employees are located in Hong Kong. The main piece of legislation governing conditions of employment in Hong Kong is the Employment Ordinance (Chapter 57 of the Laws of Hong Kong) (the “**Employment Ordinance**”). It provides for various employment-related benefits and entitlements to employees. Pursuant to the Employment Ordinance, all employees covered, irrespective of their hours of work, are entitled to basic protections, including payment of wages, restrictions on wages deductions and the granting of statutory holidays. Employees who are employed under a continuous contract are further entitled to benefits such as rest days, paid annual leave, sickness allowance, severance payment and long service payment.

A no-fault, non-contributory employee compensation system for work injuries is established under the Employees’ Compensation Ordinance (Chapter 282 of the Laws of Hong Kong) (the “**Employees’ Compensation Ordinance**”). The Employees’ Compensation Ordinance in general applies to employees who are employed under a contract of service or apprenticeship. Employees, employed in Hong Kong by local employers, are also covered if they are injured while working outside Hong Kong. An employer is liable to pay compensation in respect of occupational diseases specified in the Employees’ Compensation Ordinance suffered by the employees; or in respect of injuries sustained by his employees as a result of an accident arising out of and in the course of employment.

## LAWS AND REGULATIONS IN THE U.S.

The following are the principal laws and regulations that govern our business operations in the U.S.

### Food and Drug Administration’s (the “FDA”) Regulations

The FDA regulates electronic products that emit radiation, and advises that all manufacturers of electronic products must comply with general requirements under the Code of Federal Regulations (“CFR”) 21 CFR 1000 through 1005. Manufacturers of electronic products must comply with the general requirements under CFR 21, including a requirement to notify the

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FDA of any defect in an electronic product and the procedures for doing so, as well as requirements to repair, replace, or refund the defective product and the attendant requirements for doing so.

Violations of these regulations could result in (i) FDA administrative actions such as recall or embargo of products, and together with the U.S. Customs Service, import alert, automatic detention and refusal of products; and (ii) actions through U.S. district courts such as injunction from shipping in interstate commerce or to require reporting and certification requirements, or monetary penalties for failure to report, failure to certify or failure to comply with standards.

### **Federal Communications Commission (the “FCC”) Regulations**

Under Title 47 of the CFR (the “**FCC Regulations**”), certain digital devices marketed in the U.S. must meet prescribed FCC technical standards, or certification or verification requirements, depending on the type and nature of the device.

A Class A digital device is defined under the FCC Regulations as a digital device that is marketed for use in a commercial, industrial or business environment, exclusive of a device which is marketed for use by the general public or is intended to be used in the home, and is subject to verification requirement. The verification procedure requires that tests be performed on the device to be authorised. These tests measure the levels of radio frequency energy that are radiated by the device into the open air or conducted by the device onto the power lines. After these tests are performed, a report must be produced showing the test procedure, the test results, and some additional information about the device including design drawings. Once the report is completed, the manufacturer (or importer for an imported device) is required to keep a copy of it on file as evidence that the device meets the technical standards. The manufacturer or importer must be able to produce this report on short notice on the request of the FCC. Once the report is on file, a compliance label and FCC ID label must be affixed to the device. Also, an information statement regarding the interference potential of the device and information about any special accessories needed to ensure FCC compliance must be included in its instruction manual. The manufacturer or importer is responsible for having the compliance label produced, and for having it affixed to each device that is marketed or imported. Verified devices must be uniquely identified. However, they may not be labelled with an FCC ID or in a manner that could be confused with an FCC ID. Once the report showing compliance is in the manufacturer’s or importer’s files, the compliance label has been attached to the device, and the information statement has been included in the instructions, marketing of the device may begin. There is no filing with the FCC required for verified equipment.

A Class B digital device is defined under the FCC Regulations as a digital device that is marketed for use in a residential environment notwithstanding use in commercial, business and industrial environments, and is subject to certification requirement. The certification procedure requires that tests be performed on the device to be authorised. These tests measure the levels of radio frequency energy that are radiated by the device into the open air or conducted by the device onto the power lines. After these tests are performed, a report must be produced showing the test procedure, the test results, and other additional information about the device including design drawings. Certified digital devices are required to have a compliance label and FCC ID label affixed to them. They also must have an information statement regarding the interference potential of the device and information about any special accessories needed to ensure FCC compliance included in their instruction manuals. The applicant for a grant of certification is responsible for having the compliance label and FCC ID label produced, and for having it affixed to each device that is marketed or imported.

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### LAWS AND REGULATIONS IN ISRAEL

The following are the principal laws and regulations that govern our business operations in Israel.

#### **Import and Export Ordinance (New Version), 1979**

Pursuant to the Import and Export Ordinance (New Version), 1979, the Minister of the Economy is authorised, *inter alia*, to issue orders regarding the prohibition or the regulation of the import of products in general or with regard to specific products.

Pursuant to clause 3(a) of the Import and Export Order (Engaging in Foreign Trade), 1982, only the types of persons or entities listed in clause 2 thereof will be entitled to engage in the import to and the export of goods from Israel. Where a foreign entity would wish to cause the import of products into Israel, it would need either to establish an Israeli entity of its own (namely a subsidiary), or to enter into an arrangement with a local entity, which would act as the importer of record and apply for any necessary import permits.

Pursuant to the third chapter of the Customs Order (New Version), any products imported to Israel are subject to the supervision of the Israeli Customs Authority, from the time such goods are imported until their delivery for consumption in Israel. Pursuant to the fourth chapter thereof, where the import of specific products is subject to restrictions or conditions, meaning that a permit is necessary for their import, the customs authorities are authorised to stop the import of such goods and not to release them unless appropriate permits are presented.

#### **Communications Law (Telecommunications and Broadcasting), 1982**

Products for which an import permit is required, the classification of products and the permit requirement are set out in the Free Import Order, 2014 (the "**Import Order**"). Under the Import Order, any communication equipment featuring wireless communication functions, and which includes terminal equipment intended to connect to a national communications network, will require a permit from the relevant body at the Ministry of Communications, under the Communications Law (Telecommunications and Broadcasting), 1982.

#### **Control of Commodities and Services Law, 1957**

Certain types of products which are considered to incorporate encryption technology require a Licence for Engagement in Encryption from the Ministry of Defence, in accordance with the Order for Control of Commodities and Services (Engagement in Encryption Items), 1974 (the "**Encryption Order**") and the Declaration of Control of Commodities and Services (Engagement in Encryption Items), 1998, both promulgated under the Control of Commodities and Services Law, 1957. The Encryption Order stipulates that no one shall deal in encryption items unless he or she has been licensed to do so by the Director of the Ministry of Defence and according to the terms of licence.

The Encryption Order was promulgated under the Order for Control of Commodities and Services, 1957 (the "**Commodities Order**"). Clause 39(b) of the Commodities Order states that the penalty for acting without licence in a matter which requires a licence thereunder will be three years imprisonment or a fine.

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### LAWS AND REGULATIONS IN MALAYSIA

The following are the principal laws and regulations that govern our business operations in Malaysia.

#### **The Communications and Multimedia Act 1998**

The Communications and Multimedia Act 1998 (the “**CMA 1998**”) came into force on 1 April 1999, setting out a new regulatory licensing framework for the communications and multimedia industries in Malaysia. The CMA 1998 generally provides that any person who provides network facilities, network services or application services must be licensed by the Malaysian Communications and Multimedia Commission.

No CMA 1998 licence is required from the Malaysian Communications and Multimedia Commission to import, distribute or sell wired and wireless routers in Malaysia.

#### **Communications and Multimedia (Technical Standards) Regulations 2000**

Notwithstanding the fact that no special CMA 1998 licences or permits are required to import, distribute or sell wired and wireless routers in Malaysia, there is requirement under Regulations 14 and 16 of the Communications and Multimedia (Technical Standards) Regulations 2000 to have such wired and wireless routers compliance approved and certified by a Malaysian registered certifying agency (“**SIRIM**”) before these products may be sold to, or used by, end customers in Malaysia.

Wired and wireless routers which are compliance approved and certified would bear SIRIM stickers.

The use of and/or possession of wired and wireless routers with a view to selling them without the necessary SIRIM compliance approval and certification (which is product specific) under Regulation 16 of the Communications and Multimedia (Technical Standards) Regulations 2000 constitutes an offence which is punishable upon conviction with either a fine not exceeding RM100,000 or a term of imprisonment of not more than 6 months or both.

#### **Customs Act 1967**

Section 31(1)(a) of the Customs Act 1967 (the “**CA 1967**”) provides that the Minister of Finance of Malaysia may prohibit the importation into Malaysia or any part thereof, either absolutely or conditionally, of any goods or class of goods. In this respect, the Minister of Finance of Malaysia has recently amended the Customs (Prohibition of Imports) Order 2012 (as amended by the Customs (Prohibition of Imports) (Amendment) (No. 4) Order 2015), subsidiary legislation of the CA 1967, such that effective from 1 October 2015, the importation of certain IT products including wired and wireless routers into Malaysia would only be possible if such IT products are accompanied by certificates of approval issued by SIRIM. A failure to comply with the requirements of Section 31(1) of the CA 1967 is an offence which is punishable with either a fine not exceeding RM10,000 or a term of imprisonment of not more than 5 years or both.

### LAWS AND REGULATIONS IN THE U.K.

The following are the principal laws and regulations that govern our business operations in the U.K.

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### Radio Equipment and Telecommunications Terminal Equipment Regulations

In the U.K., radio communications equipment is subject to the Radio Equipment and Telecommunications Terminal Equipment Regulations 2000 (SI 2000/730) as amended by (i) The Radio Equipment and Telecommunications Terminal Equipment (Amendment) Regulations 2003; and (ii) The Radio Equipment and Telecommunications Terminal Equipment (Amendment No.2) Regulations 2003 (the “**R&TTE Regulations**”) which implement the R&TTE Directive 1999/5/EC into English law. The R&TTE Regulations covers all equipment that uses the radio frequency spectrum, with certain exceptions, and includes networking products such as routers.

Generally, it is considered that the manufacturer of radio communications equipment must ensure that the equipment is designed to meet the essential requirements of the R&TTE Regulations. However, the obligations of compliance are placed on the “responsible person”, which is described as “the manufacturer of apparatus or his authorised representative within the community, or any other person who places the apparatus on the market”. This definition widens the responsibility to include other involved entities such as the importer, distributor and retailer of the radio equipment, who must also act with due care to ensure that they do not place non-compliant equipment on the market.

It is a requirement of the R&TTE Regulations that, at the time it is placed on the market, each piece of radio equipment:

- (i) has been tested with test reports made;
- (ii) meets the essential requirements, which includes requirements that radio equipment must meet electromagnetic compatibility requirements and must be constructed so that it uses the relevant part of the radio spectrum in a way that avoids harmful interference;
- (iii) has a full set of technical documentation, usually including test reports;
- (iv) has a Declaration of Conformity; and
- (v) has all of the required marking and labelling, including the ‘CE’ mark, and is accompanied by other required information.

### SANCTION LAWS

#### United States

U.S. sanctions generally apply primarily to “U.S. Persons”, which includes:

- (a) U.S. citizens and permanent resident aliens;
- (b) any entity of any kind organised under U.S. law and their non-U.S. branches; and
- (c) any individual or entity in the U.S.

The enabling statute for the relevant U.S. sanctions also establishes an offence for any person, including non-U.S. Persons, conspiring to violate, or causing, aiding or abetting a violation of sanctions. There is, therefore, a risk that non-U.S. Persons who engage in any business conducted with any U.S. Person, or with any person in the U.S., that involves activities

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prohibited for U.S. Persons under U.S. sanctions, could themselves be considered to have violated the sanctions. In addition, the “secondary” sanctions relating to Russia/Ukraine discussed below apply directly to non-U.S. Persons.

*U.S. Blocking Sanctions*

Each of the sanctions regimes below contain asset freeze provisions targeted against certain “Specially Designated Nationals” (the “**SDNs**”), which are included (with the exception of certain targeted governments) on the Specially Designated Nationals and Blocked Persons list. These provisions block all property and interests in property in the U.S. or in the possession of U.S. Persons which belong to SDNs or entities owned, directly or indirectly, 50% or more by an SDN or SDNs or persons/entities acting on their behalf (the “**U.S. Blocking Sanctions**”). OFAC also maintains a number of other lists which are consolidated into the “Consolidated Sanctions List”, which contains, *inter alia*, the parties designated by the Russian sectoral sanctions on the Sectoral Sanctions Identifications List (the “**SSI List**”).

*Côte D’Ivoire (Ivory Coast), Lebanon, Balkans, Belarus*

During the Track Record Period, sanctions in respect of these countries comprised U.S. Blocking Sanctions.

*Iraq*

During the Track Record Period, sanctions in respect of Iraq comprised:

- (a) U.S. Blocking Sanctions;
- (b) a provision, terminated in May 2014, prohibiting and voiding any attachment, judgment, decree, lien, execution, garnishment, or other judicial process with respect to:
  - (i) the Development Fund for Iraq;
  - (ii) all Iraqi petroleum and petroleum products, and interests therein (but only until title passes to the initial purchaser), and proceeds, obligations, or any financial instruments of any nature whatsoever arising from or related to the sale or marketing thereof, and interests therein, in which any non-U.S. country or national has any interest, that are in the U.S. or come within the U.S. or possession or control of U.S. persons; and
  - (iii) any accounts, assets, investments, or any other property of any kind owned by, belonging to, or held by the Central Bank of Iraq, or held, maintained, or otherwise controlled by any financial institution of any kind in the name of, on behalf of, or otherwise for the Central Bank of Iraq;

but not any final judgment arising out of a contractual obligation entered into by the Government of Iraq, including any agency or instrumentality thereof, after 30 June 2004;

- (c) a prohibition on trade in or transfer of ownership or possession of Iraqi cultural property or other items of archaeological, historical, cultural, rare scientific, and religious importance which were illegally removed from Iraq since 6 August 1990 (or where there is reasonable suspicion they were so removed).



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### *Myanmar (Burma)*

During the Track Record Period, sanctions in respect of Myanmar (Burma) comprised:

- (a) U.S. Blocking Sanctions;
- (b) a prohibition on the exportation or re-exportation of financial services to Burma, directly or indirectly, from the U.S. or by a U.S. Person (wherever located). In July 2012, this prohibition was made subject to a general licence permitting such exportation/re-exportation, with certain exceptions and in December 2015, a further general licence was issued authorising transactions ordinarily incident to an exports to or from Burma of goods, technology, or non-financial services, with certain exceptions;
- (c) a prohibition on the importation into the U.S. of any article that is a product of Burma. However, in July 2012, this prohibition was made subject to a general licence permitting such importation, except for: (i) transactions with persons subject to U.S. Blocking Sanctions under the Burma regime; and (ii) importation of jadeite or rubies mined or extracted from Burma, or articles of jewellery containing jadeite or rubies mined or extracted from Burma or any other activity prohibited by Section 3A of the Burmese Freedom and Democracy Act of 2003, as amended by the Tom Lantos Block Burmese JADE (Junta's Anti-Democratic Efforts) Act of 2008. In August 2013, the prohibition was revoked and replaced by a specific prohibition on importation into the U.S. of any jadeite or rubies mined or extracted from Burma and any articles of jewellery containing jadeite or rubies mined or extracted from Burma;
- (d) a prohibition on certain kinds of "new investment" in Burma by U.S. Persons, meaning certain activities entered into on or after 21 May 1997 relating to the economic development of resources in Burma. However, in July 2012, this prohibition was made subject to a general licence permitting such investment, except for: (i) new investment pursuant to an agreement, or pursuant to the exercise of rights under such an agreement, that is entered into with the Burmese Ministry of Defense, including the Office of Procurement; any state or non-state armed group (which includes the military); or any entity in which any of the foregoing own a 50% or greater interest; and (ii) transactions with any persons subject to U.S. Blocking Sanctions under the Burma regime;
- (e) a prohibition on U.S. Persons (wherever located) approving, financing, facilitating, or guaranteeing a transaction by a person who is a foreign person where the transaction would be prohibited if performed by a U.S. Person or within the U.S. (although in June 2014 this narrowed to facilitation of the prohibitions in (b) and (d) above); and
- (f) visa bans on certain individuals connected to the State Peace and Development Council, the Burmese military and the Union Solidarity and Development Association, and also blocking of these individuals' property and prohibition on financial transactions with them, although the blocking provisions and financial transactions prohibition were waived by the President in August 2013.

### *Russia/Ukraine*

During the Track Record Period, sanctions in respect of Russia/Ukraine comprised:

- (a) U.S. Blocking Sanctions;

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- (b) “sectoral sanctions”: prohibitions on the following activities by U.S. person or within the U.S.:
  - (i) all transactions in, provision of financing for, and other dealings in:
    - (A) new debt of longer than 90 days maturity (for new debt between 16 July 2014 and 11 September 2014) or 30 days maturity (for new debt on or after 12 September 2014) or equity of certain designated entities in the Russian financial services sector;
    - (B) new debt of longer than 90 days maturity of certain designated entities in the Russian energy sector;
    - (C) new debt of longer than 30 days maturity of certain designated entities in the Russia defence and related materiel sector; and
  - (ii) the provision, exportation, or re-exportation, directly or indirectly, of goods, services (except for financial services), or technology in support of exploration or production for deepwater, Arctic offshore, or shale projects that have the potential to produce oil in the Russian Federation, or in maritime area claimed by the Russian Federation and extending from its territory, and that involve certain designated entities.

In each case the prohibitions extend to entities owned, directly or indirectly, 50% or more by one or more of the designated entities;

- (c) certain prohibitions and restrictions in respect of Crimea:
  - (i) new investment in the Crimea by a U.S. Person;
  - (ii) the importation into the U.S., directly or indirectly, of any goods, services, or technology from the Crimea;
  - (iii) the exportation, re-exportation, sale, or supply, directly or indirectly, from the U.S., or by a U.S. Person of any goods, services, or technology to the Crimea; and
  - (iv) facilitation by U.S. persons of transactions by non-U.S. Persons that would breach these prohibitions if carried by a U.S. Person or within the U.S.;
- (d) “secondary” sanctions authorising the imposition of:
  - (i) various restrictive measures on:
    - (A) Rosoboronexport, any Russian entities which transfer or broker the transfer of military items to Syria, Georgia, Ukraine or Moldova or other countries specified by the U.S. government, or which knowingly manufacture/sell military items transferred to such countries, and any non-U.S. person who supports such Russian entities with respect to such activities;
    - (B) any non-U.S. Person who knowingly makes a significant investment in a “special Russian crude oil project”; and

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- (C) Gazprom, if the U.S. government determines that Gazprom is withholding significant natural gas supplies from member countries of NATO, or further withholds significant natural gas supplies from countries such as Ukraine, Georgia, or Moldova.

These restrictive measures include (among others) prohibitions on: the provision to Sanctioned Persons of military items, related services and “dual-use” items; any person dealing in any property subject to U.S. jurisdiction in which the Sanctioned Person has an interest; U.S. persons dealing in certain debt and equity of the Sanctioned Person; banking transactions subject to U.S. jurisdiction in which the Sanctioned Person has an interest; and

- (ii) prohibitions or restrictions on correspondent accounts or payable-through accounts in the U.S. for non-U.S. financial institutions which: (i) knowingly engage in significant transactions involving activities described in (d)(i) above for Sanctioned Persons; or (ii) has knowingly facilitated a significant financial transaction on behalf of any Russian person subject to U.S. Blocking Sanctions under the Russia/Ukraine regime.

### European Union

E.U. sanctions apply:

- (a) within the territory of the E.U. (including its airspace), which means *inter alia* they apply to non-E.U. citizens and companies to the extent of their presence or activity in the E.U.;
- (b) on board any aircraft or any vessel under the jurisdiction of an E.U. Member State;
- (c) to any person inside or outside the territory of the E.U. who is a national of an E.U. Member State;
- (d) to any legal person, entity or body inside or outside the territory of the E.U. that is incorporated or constituted under the laws of an E.U. Member State; and
- (e) to any legal person, entity or body in respect of any business done in whole or in part within the E.U.

The U.K. government may extend the application of specific E.U. sanctions to British Overseas Territories such as the Cayman Islands and the BVI.

Strictly speaking, E.U. sanctions extend outside the E.U. only by way of the actions of E.U. citizens and E.U. companies (and aircraft/vessels) (except to the extent of 2.1(a), 2.1(b) or 2.1(e) above). However, E.U. companies must not take actions through non-E.U. subsidiaries that could be seen as circumvention of E.U. sanctions.

#### *E.U. Financial Sanctions*

A number of the relevant E.U. sanctions regimes (as discussed below) contain provisions relating to financial sanctions (the “**E.U. Financial Sanctions**”) against certain designated individuals and entities (the “**Designated Persons**”) which include:

- (f) freezes on funds and economic resources belonging to, owned, held or controlled by Designated Persons; and

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- (g) prohibitions on making funds or economic resources available, directly or indirectly, to or for the benefit of Designated Persons.

It is effectively prohibited for persons required to comply with E.U. sanctions to trade with Designated Persons (subject to available exceptions or obtaining a licence).

### *Belarus*

During the Track Record Period, sanctions in respect of Belarus comprised:

- (a) E.U. Financial Sanctions;
- (b) a prohibition on the supply of arms and related material of all types to Belarus and also a prohibition on the supply of related brokering services, technical assistance or financing or financial assistance related to arms and related material of all types to or for use in Belarus;
- (c) a prohibition on the supply of certain specified equipment which might be used for internal repression to or for use Belarus and also a prohibition on the supply of technical assistance, brokering services or financing or financial assistance related to such equipment to or for use in Belarus; and
- (d) travel restrictions on certain persons.

### *Bosnia and Herzegovina*

During the Track Record Period, sanctions in respect of Bosnia and Herzegovina:

- (a) provided for the imposition of E.U. Financial Sanctions, although no persons have actually been designated; and
- (b) imposed travel restrictions on certain persons.

### *Côte D'Ivoire (Ivory Coast)*

During the Track Record Period, sanctions in respect of Côte D'Ivoire comprised:

- (a) E.U. Financial Sanctions;
- (b) a prohibition on the supply of arms and related material of all types (changed to “lethal” materiel in July 2014) to Côte D'Ivoire and also a prohibition on the supply of technical assistance or financing or financial assistance related to military activities to or for use in Côte D'Ivoire. The latter prohibition relating to technical assistance and financing/financial assistance was repealed in July 2012;
- (c) a prohibition on the supply of certain specified equipment which might be used for internal repression to or for use in Côte D'Ivoire and also a prohibition on the supply of technical assistance or financing or financial assistance related to such equipment to or for use in Côte D'Ivoire. The latter prohibition relating to technical assistance and financing/financial assistance was repealed in July 2012;
- (d) a prohibition on the direct or indirect import of all rough diamonds from Côte D'Ivoire to the E.U. (in accordance with U.N. Security Council Resolution 1643 (2005) (lifted in July 2014);

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- (e) a prohibition on purchasing, brokering or assisting in the issue of bonds or securities issued or guaranteed by the illegitimate government of Mr Laurent Gbagbo, as well as persons acting on its behalf or under its authority, or by entities owned or controlled by it;
- (f) a prohibition on providing loans, in any form, to the illegitimate government of Mr Laurent Gbagbo, as well as to persons acting on its behalf or under its authority, or by entities that it owns or controls; and
- (g) travel restrictions on certain persons.

### *Egypt*

During the Track Record Period, sanctions in respect of Egypt comprised E.U. Financial Sanctions, which are considered above.

### *Iraq*

During the Track Record Period, sanctions in respect of Iraq comprised:

- (a) E.U. Financial Sanctions;
- (b) a prohibition on the supply of arms and related material to Iraq (minimum E.U. Common Military List); and
- (c) certain prohibitions on importing into/exporting out of the E.U., and dealing in, certain Iraqi cultural items.

### *Lebanon*

During the Track Record Period, sanctions in respect of Lebanon comprised:

- (a) provisions for the imposition of E.U. Financial Sanctions, although no persons have actually been designated;
- (b) a prohibition on the supply of, and brokering services related to, arms and related materiel of all types (minimum E.U. Common Military List) to Lebanon and also a prohibition on the supply of technical assistance and financing or financial assistance related to military activities and to arms and related materiel of all types to or for use in Lebanon. The latter prohibition relating to technical assistance and financing/financial assistance was repealed in July 2012; and
- (c) travel restrictions on certain persons.

### *Myanmar (Burma)*

During the Track Record Period, sanctions in respect of Myanmar comprised:

- (a) a prohibition on the supply of, and brokering services related to, arms and related materiel of all types (minimum E.U. Common Military List) to Myanmar and also a prohibition on the supply of technical assistance or financing or financial assistance related to military activities and to arms and related materiel of all types to or for use in Myanmar; and

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- (b) a prohibition on the supply of certain specified equipment which might be used for internal repression to or for use in Myanmar and also a prohibition on the supply of technical assistance or financing or financial assistance related to such equipment to or for use in Myanmar.

### *Russia/Ukraine*

During the Track Record Period, E.U. sanctions in respect of Russia/Ukraine comprised:

- (a) E.U. Financial Sanctions;
- (b) a prohibition on the supply of, and brokering services related to, arms and related materiel of all types to Russia and the import, purchase or transport of arms and related materiel of all types from Russia, and a prohibition on provision of technical assistance and financing or financial assistance related to related to the goods and technology listed in the E.U. Common Military List;
- (c) a prohibition on the supply of “dual-use” items to Russia or for use in Russia where the items are or may be intended for military end-uses or end users, and a prohibition on related brokering services, technical assistance and financing or financial assistance. “Dual-use items” are those listed in Annex I to Regulation 428/2009. There is also a prohibition on supplies of dual-use items to certain designated Russian companies, with prohibitions on related brokering services, technical assistance and financing/financial assistance;
- (d) restrictions on supplies to Russia (including its Exclusive Economic Zone and Continental Shelf) or to any other state for use in Russia, of certain specified equipment for the oil and gas industry, together with related restrictions on brokering services, technical assistance and financing/financial assistance. There is a general prohibition on such supplies where they are for certain kinds of oil exploration and production projects in Russia;
- (e) prohibition on the following “associated services” that are necessary for the oil exploration and production projects described in (d) above: drilling; well testing; logging and completion services; supply of specialised floating vessels;
- (f) prohibition on directly or indirectly purchasing, selling, providing investment services for or assistance in the issuance of, or otherwise dealing with transferable securities and money-market instruments with a maturity exceeding 30 days issued after 12 September 2014 by certain designated entities in the Russian financial, defence and energy sectors and certain other entities related to them (for the entities in the financial sector there is also a prohibition regarding transferable securities and money-market instruments with a maturity exceeding 90 days issued between 1 August and 12 September 2014);
- (g) a prohibition on directly or indirectly making or being part of any arrangement to make new loans or credit with a maturity exceeding 30 days to any entity referred to in (f) above after 12 September 2014 (with certain exceptions);
- (h) restrictions on trade relating to Crimea and Sevastopol, including inter alia restrictions on imports into the E.U., various kinds of investments, and supplies and services for use in various economic sectors; and
- (i) travel restrictions on certain individuals.

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### United Nations

U.N. sanctions are imposed by the United Nations Security Council (the “**UNSC**”), usually acting under Chapter VII of the U.N. Charter (the “**U.N. Sanctions**”). Decisions of the UNSC bind members of the U.N. and override other obligations of U.N. member states.

The scope and extent of U.N. Sanctions regimes is determined through UNSC resolutions (the “**UNSCRs**”). During the Track Record Period, U.N. sanctions were in place against Côte d’Ivoire, Iraq and Lebanon. Each of these sanctions regimes is summarised below.

UNSCRs must be implemented by the national legislation of U.N. member states to be binding on private individuals and entities. The U.K. generally extends the application of U.N. sanctions to British Overseas Territories.

#### *U.N. Financial Sanctions*

Each of the regimes against Côte d’Ivoire, Iraq and Lebanon contains provisions relating to financial sanctions against certain designated individuals and entities, referred to as “designated persons” (the “**U.N. Financial Sanctions**”). These include freezes on funds and economic resources belonging to, owned, held or controlled by these designated persons and prohibitions on making any funds, financial assets or economic resources available to or for the benefit of designated persons. The U.N. publishes a Consolidated List of all individuals and entities currently subject to sanctions measures imposed by the Security Council under all U.N. sanctions regimes.

#### *Côte D’Ivoire (Ivory Coast)*

U.N. Sanctions on the Ivory Coast were imposed in 2004 by UNSCR 1572, in 2005 by UNSCR 1643 and in 2011 by UNSCR 1975. As at 1 January 2012, the sanctions encompassed the following restrictions:

- (a) U.N. Financial Sanctions;
- (b) travel restrictions on the above-mentioned persons;
- (c) arms embargo (partially lifted in April 2014); and
- (d) restrictions on the import of rough diamonds from the Ivory Coast, which were removed in April 2014 (UNSCR 2153).

#### *Iraq*

U.N. Sanctions on Iraq were first imposed in 1991 (by UNSCR 661). The sanctions currently in force were implemented through a series of three UNSCRs in 2003 and 2004 (UNSCR 1483, 1546 and 1518), and that regime has continued since.

During the Track Record Period, U.N. Sanctions relating to Iraq comprised:

- (a) U.N. Financial Sanctions against persons and entities designated by the U.N.; and
- (b) an arms embargo.

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### *Lebanon*

U.N. Sanctions on Lebanon were imposed in 2005 (UNSCR 1636 and 1644) and 2006 (UNSCR 1701) and have continued to be in force since their establishment. During the Track Record Period, they comprised:

- (a) U.N. Financial Sanctions;
- (b) travel restrictions on the above-mentioned persons;
- (c) an arms embargo on all arms transfers not authorised by Government of Lebanon or U.N. peacekeeping force; and
- (d) a prohibition on any technical training and assistance relating to the provision, manufacture, maintenance or use of the items listed in (c).

No individuals have been designated by the international independent commission established by the Lebanese government to be subject to the U.N. Financial Sanctions and travel restrictions.

### **Australia**

Australia has a 2-pronged approach to sanctions. It implements:

- (a) U.N. Sanctions which will typically be in line with those implemented by the United States; and
- (b) its own autonomous sanctions, which are punitive measures that the Australian Government chooses to take (as opposed to measures it is obliged to take by virtue of an UNSC resolution) as a foreign policy response to situations of international concern (the “**Autonomous Sanctions**”).

The contemporary practice of the UNSC is to impose highly targeted measures aimed at removing the circumstances that have led to a particular threat to, or breach of, international peace and security.

The type of sanction determines how it is implemented in Australia:

- (a) U.N. Sanctions are implemented through regulations made under the *Charter of the United Nations Act 1945* (Cth) (the “**U.N. Charter Act**”).
  - (i) Controls on trade of U.N. Sanctioned goods are implemented through the *Customs Act 1901* (Cth) (the “**Customs Act**”) and regulations made under the Customs Act.
  - (ii) Travel bans and restrictions on people, or classes of people, designated by the UNSC are implemented by the Migration Act 1958 and the Migration (United Nations Security Council Resolutions) Regulations 2007.



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- (b) Autonomous Sanctions are implemented under the Autonomous Sanctions Act 2011 (Cth) (the “**ASA**”) and the Autonomous Sanctions Regulations 2011 (the “**ASA Regulations**”).
  - (i) Controls on trade the subject of Autonomous Sanctions are implemented by the Customs Act.
  - (ii) Travel bans and restrictions on people, or classes of people, designated by the Minister for Foreign Affairs are implemented under the Migration Act and the *Migration Regulations 1994*.

The Department of Foreign Affairs and Trade (the “**DFAT**”) administers the Australian sanctions regime. DFAT’s website ([www.dfat.gov.au](http://www.dfat.gov.au)) details the countries currently subject to U.N. Sanctions or Autonomous Sanctions, and publishes DFAT’s Consolidated List which includes all entities and persons to which the U.N. Charter Act and the Autonomous Sanctions Act currently applies (i.e. designated persons or entities).

Australian sanctions have extraterritorial reach and apply to: (a) any person in Australia; (b) any Australian anywhere in the world; (c) companies incorporated overseas that are owned or controlled by Australians or persons in Australia; and (d) any person using an Australian flag or vessel or aircraft to transport goods or transact services subject to sanctions.

Contravening an Australian sanctions law is a serious criminal offence under the U.N. Charter Act and the ASA.

### *Ukraine*

In relation to Ukraine, Australia imposes Autonomous Sanctions. Since 2 September 2014, it is prohibited to directly or indirectly make an asset available to, or for the benefit of, a designated person or entity, or to use or deal with an asset owned or controlled by a designated person or entity.

### *Russia*

In relation to Russia, Australia has legislated an autonomous sanctions regime since 31 March 2015. This regime includes the following restrictions and prohibitions:

- (a) The direct or indirect supply, sale or transfer to Russia, for use in Russia, or for the benefit of Russia, of (i) arms or related materiel; and (ii) items suited to particular categories of exploration and production projects in Russia, including its Exclusive Economic Zone and Continental Shelf.
- (b) The export or provision of the following services:
  - (i) the provision to Russia, or to a person for use in Russia, of technical advice, assistance or training; financial assistance; a financial service; or another service, if it assists with, or is provided in relation to a military activity or the manufacture, maintenance or use of arms or related materiel;
  - (ii) the provision to Russia, or to a person, entity or body for use in Russia, of drilling, well-testing, logging and completion services, and the supply of specialised floating vessels, necessary for particular categories of exploration and production projects in Russia, including its Exclusive Economic Zone and Continental Shelf; and

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- (iii) the provision to a person of an investment service if it assists with, or is provided in relation to, a sanctioned commercial activity.
- (c) The import, purchase or transport of arms or related materiel for Russia if the goods originate in, or are exported from, Russia.
- (d) Restrictions apply to certain commercial activities including the following (except where certain exceptions apply):
  - (i) the direct or indirect purchase or sale of, or any other dealing with, bonds, equity, transferable securities, money market instruments or other similar financial instruments, if the financial instrument is issued by Russian state-owned banks, entities involved in military supplies and services, or entities selling or transporting crude oil and petroleum products, and has a maturity period exceeding 30 days; and
  - (ii) directly or indirectly making, or being part of any arrangement to make, loans or credit if the loan or credit is made by an entity specified in the Autonomous Sanctions (Russia, Crimea and Sevastopol) Specification 2015, and has a maturity period exceeding 30 days.

### *Lebanon*

In relation to Lebanon, Australia fully implements the UNSC sanctions regime.

### *Iraq*

Australia also fully implements the UNSC sanctions regime in relation to Iraq.

### *Myanmar (Burma)*

Australia imposes autonomous sanctions in relation to Myanmar, by restricting the provision of technical advice, assistance or training, financial assistance or services, or another service without a sanctions permit: (a) to any person if it assists with, or is provided in relation to the direct or indirect supply, sale or transfer of arms or related materiel to Myanmar, for use in Myanmar, or for the benefit of Myanmar; or (b) to Myanmar or to a person for use in Myanmar, if it assists with, or is provided in relation to, the manufacture, maintenance or use of arms or related material (rule 13, ASA Regulations).

The direct or indirect supply, sale or transfer to Myanmar, for use in Myanmar, or for the benefit of Myanmar, of arms or related materiel, is also prohibited (rule 12, ASA Regulations).