

ANTI-MONEY LAUNDERING

UK sanctions regime

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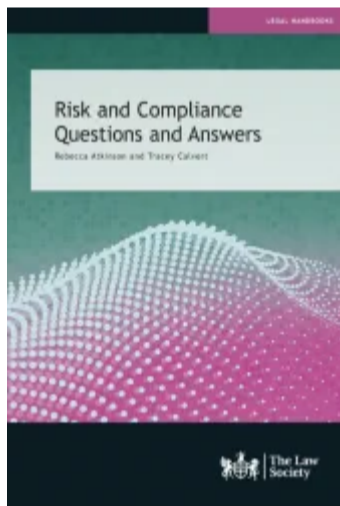
This guide to the UK sanctions regime sets out information on the criminal offences under the regime, how to carry out a risk assessment, the sanctions lists and your reporting obligations.

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Sanctions on Russia

With the UK government imposing a tranche of [sanctions on Russia](#) in response to the situation in Ukraine, make sure you're up to date with UK sanctions obligations.

[Review the current sanctions on Russia](#)

The UK sanctions regime

The [UK sanctions regime](#) can apply to persons and entities where the UK government has:

- imposed sanctions unilaterally
- implemented sanctions imposed by the United Nations (UN)

The [Sanctions and Anti-Money Laundering Act 2018](#) provides the main legal basis for the UK to impose, update and lift sanctions.

Some sanctions measures apply through other legislation, such as the [Immigration Act 1971](#), the [Export Control Order 2008](#) and the [Terrorist Asset-Freezing etc. Act 2010](#).

The sanctions regime imposes serious and extensive restrictions on dealing with people who are listed. Under the legislation they're referred to as "designated persons".

The law restricts you from:

- receiving payment from or making funds available to persons on the sanctions list
- dealing with their economic resources
- making even legitimate payments to those persons

Criminal offences under the sanctions regime

[The Terrorist Asset Freezing etc. Act 2010](#) created a series of criminal offences. It prohibits:

- dealing with the funds of designated persons
- making funds, financial services or economic resources available, directly or indirectly, for the benefit of designated persons

Additionally, you must not knowingly and intentionally participate in activities that would directly or indirectly circumvent these financial restrictions or enable or facilitate the commission of any of the above offences.

A [consolidated list of designated persons](#) is available on GOV.UK.

You can act for someone who's on the sanctions list, but you must have a licence from the Office of Financial Sanctions Implementation (OFSI) in advance of engaging in any dealing with funds or economic resources, including being paid your fees or any funds on account.

Where a specific licence is needed, OFSI strongly encourages firms to apply for a licence in advance of providing substantive legal services, in order to have certainty as to the fees that will be recoverable.

If a general licence applies to your work you should make sure you comply with any conditions under that licence.

Doing a sanctions risk assessment

When you carry out your firm's [anti-money laundering \(AML\) risk assessment](#), you should consider how likely it is that your clients may be on the sanctions lists.

It's difficult to categorise the clients that may need to be checked simply by their nationality or country of residence.

UK nationals and UK residents can be on the sanctions lists, so you may still be at risk even if you only act for local clients.

The regimes list can help you assess risk but bear in mind there may be some retainers where it's not immediately apparent that a person or entity may have some connection to a relevant regime.

You cannot limit your risk assessment to the work regulated under the Money Laundering Regulations 2017.

Examples of unregulated work that the sanctions regime may affect include:

- payment of personal injuries settlements
- property settlements following a divorce

You'd also need a licence from OFSI to use legal aid payments for the benefit of a person on the list.

[Read more about doing risk assessments](#)

Checking clients against sanctions lists

You may apply a risk-based approach to setting up a system that checks your clients against the sanctions lists.

Factors that may increase the risk of a person being on the sanctions list, and so increase the reason for checking the list, include:

- clients or transactions with links to jurisdictions subject to sanctions, even if the clients are based locally
- clients or transactions involving [politically exposed persons \(PEPs\)](#) from jurisdictions subject to sanctions
- clients or transactions involving complex corporate structures in jurisdictions with high terrorist financing risks
- clients who seem unable to receive funds or send funds from a bank account in their name, for no good reason

If your firm has a low general risk of working for clients on the sanctions list, but individual clients have higher risks, you can [check directly against HM Treasury's consolidated list](#) by pressing Ctrl+F to do an in-page search.

If a client comes up as a possible sanctions match, you should review all the client identity information you hold against the sanctions list, to make sure you do not have a false positive identification.

The UK sanctions list includes information on:

- name
- date of birth
- nationality
- passport or identity card numbers
- last known address

If your firm has a higher risk of dealing with clients on the sanctions list, you may want to use an e-verifier. These services incorporate the sanctions list into the databases they use to check identity information.

If you have a high risk of dealing with clients on the sanctions list, you should also have processes in place to help you find out whether key beneficial owners, or the intended recipient of funds from a transaction you're undertaking, are subject to the restrictions.

Sanctions and high-risk jurisdiction lists

You can check individual clients against the sanctions lists.

There are also lists of regimes to which financial sanctions have been applied that may provide some assistance in assessing the risk.

Selected sanctions lists

[UK – HM Treasury's consolidated list](#)

[UK financial sanctions targets by regime](#)

[EU sanctions list](#)

[EU regimes sanctions list](#)

[UN sanctions list](#)

[US sanctions lists](#)

High-risk jurisdictions lists

[UK high-risk third countries for AML purposes](#)

[Financial Action Task Force \(FATF\) high-risk and other monitored jurisdictions](#)

[Transparency International corruption perceptions index](#)

[Transparency International corruption by territory page](#)

The 'control' test: *NBT v Mints*

We've published a joint note with the Bar Council on the sanctions 'control' test in light of the Court of Appeal judgment in [NBT v Mints \[2023\] EWCA Civ 1132](#).

The note was prepared before the High Court's judgment in [Litasco SA v Der Mond Oil and Gas Africa SA \[2023\] EWHC 2866 \(Comm\)](#) and the publication of the government [guidance on ownership and control: public officials and control](#).

These provide some additional guidance relevant to the assessment of control issues, although the substantial uncertainty highlighted in the joint note still remains.

With the Bar Council, we are actively engaging with OFSI and other stakeholders and have offered our assistance in developing a framework that provides greater certainty and clarity.

[Download our sanctions 'control' test note \(PDF 168 KB\)](#).

Acting for a client on the sanctions list

If you decide you still want to act, you'll need to have for a licence from OFSI in advance of engaging in any dealing with funds or economic resources.

You must:

- consider whether the work you have been asked to do is permissible from a sanctions perspective
- in respect of your fees, consider whether a General Licence applies and, if not, contact OFSI to get a licence to deal with the funds
- consider whether you have a suspicion of money laundering or terrorist financing which requires a [suspicious activity report to the National Crime Agency \(NCA\)](#).

The last point is important because the sanctions regime applies in addition to reporting obligations under anti-money laundering and counter-terrorist financing legislation, including the 2011 regulations. For example you'll need to consider whether to apply enhanced [due diligence measures](#) when dealing with [a person or entity from a high-risk third country](#).

There may be circumstances where a report to the NCA is not required. For example, a person on the sanctions list may be suspected of terrorist involvement but may not have received a benefit from, or been involved in, raising funds for those activities.

The transaction they may be asking you to undertake could have no involvement with their alleged terrorist activities, for example a divorce or personal injury claim.

Even where you're satisfied you do not need to make a report to the NCA you must not deal with the resources of the designated person without OFSI's approval.

You can discuss the person's sanctioned status with them without being concerned about [tipping off](#), as the sanctions list is public information.

[Apply for a licence from OFSI](#)

OFSI

OFSI has the power to grant licences exempting certain transactions from the financial restrictions. It considers requests on a case-by-case basis, to make sure there's no risk of funds being diverted to terrorism.

It has also issued general licences that govern certain situations, such as the use of legal aid payments.

OFSI reporting

You must contact OFSI even if you decide not to act for a person you know, or have reasonable cause to suspect, is a designated person.

These changes were introduced by the [European Union Financial Sanctions \(Amendment of Information Provisions\) Regulations 2017](#).

The requirements apply to all practices, not just those regulated for AML purposes.

Under the requirements, an independent legal professional is defined as "a firm or sole practitioner who by way of business provides legal or notarial services to other persons, when providing such services".

You're required to make a report to OFSI if, because of information that has come to you in the course of your practice, you know, or have reasonable cause to suspect, that someone:

- has committed an offence under the financial sanctions and asset freezing regimes or
- is a designated person listed in [OFSI's consolidated list of financial sanctions targets](#)

If you fail to notify OFSI, you're committing a criminal offence. However, the obligation only applies in respect of information received by relevant businesses on or after 8 August 2017.

What you must report

You must provide:

- the information or other matter on which your knowledge or suspicion is based
- any information you hold about the relevant person by which they can be identified
- (where relevant) the nature and amount of funds or economic resources you hold for the relevant person

[Find out more about how to make a report to OFSI](#)

[Sign up for OFSI e-alerts](#)

Legal professional privilege

You do not have to report privileged information.

However, you'll need to state clearly whether privilege applies and what information it applies to. Blanket statements of privilege could be challenged.

Sanctions on Russia

This sanctions regime is aimed at encouraging Russia to cease actions destabilising, undermining, or threatening the territorial integrity, sovereignty or independence of Ukraine.

The [Russia \(Sanctions\) \(EU Exit\) Regulations 2019](#) came fully into force on 31 December 2020. The regulations are intended to ensure that sanctions relating to Russia continue to operate effectively.

The regulations have been amended multiple times.

Make sure you are considering the most up-to-date version: [the Russia \(Sanctions\) \(EU Exit\) \(Amendment\) \(No. 3\) Regulations 2023](#).

The amendments came into force on 30 June 2023.

Concerns with the Russia (Sanctions) (Amendment) (No. 3) Regulations 2023

Chapter 6B of Part 5 of the regulations was amended to introduce a ban on direct or indirect provision of legal services to sanctioned Russian individuals and businesses.

Exemptions to the ban include:

- provision of legal services to discharge or comply with UK statutory or regulatory obligations
- provision of legal advice on whether an act or a proposed act complies with the regulations

We had concerns these sanctions would stop lawyers from advising clients on how to comply with the regime – making it more likely that breaches will happen.

International companies rely on the global expertise of UK lawyers to ensure they are not infringing on sanctions and operate within the law.

[We raised these concerns with the UK government](#) to ensure lawyers can advise clients on how to comply and help businesses divest from Russia.

The Department for Business and Trade granted a [general licence for legal advisory services on 11 August 2023](#).

It permits the direct or indirect provision of certain legal advisory services otherwise prohibited by the regulations.

Our expert working group has been working closely with the Ministry of Justice to publish the general licence to alleviate some of these concerns. We are continuing to have conversations with the MoJ.

The licence covers legal advisory services in relation to:

- whether an act or proposed act could trigger punitive measures in relation to Russian sanctions
- compliance with or addressing the risk of punitive measures in relation to:
 - sanctions on Russia
 - any Russian laws that frustrate any sanctions, or
 - any criminal law imposed by any jurisdiction, and/or
- the discharge of or compliance with UK statutory or regulatory obligations

Within 30 days of using the licence, you must [register the details of the name and address at which the records are kept on SPIRE](#).

[Read the government's Russia sanctions guidance on licences](#)

The [Russia \(Sanctions\) \(EU Exit\) \(Amendment\) Regulations 2022](#) came into force on 16 December 2022, introducing:

- a ban on the direct and indirect provision of auditing, advertising, architectural, engineering, and IT consultancy and design services to a person connected with Russia
- prohibition on the provision of trust services to, or for the benefit of, a designated person
- provision of new trust services to, or for the benefit of, a person connected with Russia
- amendment and expansion of existing restrictions on dealing with securities or money market instruments, and loans and credit arrangements to a person connected with Russia
- expansion of the goods targeted by trade sanctions
- publication of a related general licence (GL) INT/2022/2448692 for winding down of certain matters covered by the new restrictions

Amendments laid on 10 February 2022 amended the definition of 'involved person' in the criteria which give grounds for a person to be designated.

Persons designated under this regime are included on the UK sanctions list.

[Check the UK sanctions list](#)

Services and goods export ban

On 30 September 2022, the UK government introduced a package of sanctions in response to Russia declaring the illegal annexation of four regions of Ukraine, violating their territorial integrity and political independence.

The new services and goods export bans are targeted at vulnerable sectors of the Russian economy.

Although the legislation is still to come into effect, the sanctions will prohibit (among other things):

- IT consultancy services
- architectural services
- engineering services
- advertising services
- transactional legal advisory services
- auditing services

A Law Society spokesperson said: "Law firms withdrew from the Russian market at pace following the invasion.

"Any UK government proposals should be delivered in lockstep with international partners such as the US and EU.

"It is important that firms are able to continue to give advice to those looking to divest from the Russian market."

OFSI general licence for payment of legal fees: Russia and Belarus

The Office of Financial Sanctions Implementation (OFSI) issued a [general licence \(INT/2022/2252300\)](#) to permit the payment of legal fees owed by individuals and entities designated under the Russia and Belarus sanctions regimes.

On 4 April 2023, the licence was extended for a further six months, expiring on 28 October 2023.

The general licence means a UK legal firm or counsel who has provided legal advice to a person designated under either regime will not have to wait for a specific OFSI licence before receiving payment from the designated person (provided the terms of the general licence are met).

However, the licence is silent on whether payment can be accepted from a designated person from an account held with another designated person.

This includes most Russian banks, which means in practice banks may refuse to process payments without that payment also being authorised.

Under the renewed licence, the legal fees and legal expenses caps have been reset to:

- £500,000 including VAT for legal fees
- 5% of legal fees (up to £25,000) for legal expenses

[Read more about the extension of the general licence \(PDF 51.5 KB\)](#)

SRA guidance on complying with sanctions

The SRA has published guidance covering:

- financial sanctions
- anti-money laundering
- strategic litigation against public participation (SLAPPs)
- continuing to act for clients

The guidance highlights that the SRA is "commencing a process of spot checks on firms to assess compliance with the financial sanctions regime".

It's important that all firms ensure that they immediately review their policies, controls, procedures and sanctions compliance.

[Take a look at the SRA's guidance on the Russian conflict and sanctions](#)

The SRA published further [guidance on complying with UK sanctions](#) in November 2022.

The guide aims to help solicitors and firms comply with the financial sanctions regime. It includes high-risk areas and a framework that firms can put in place to make sure they're compliant.

You should remember that the sanctions regime applies to all firms – not just those that offer services in scope of the Money Laundering Regulations 2017.

SARs glossary code for sanctioned Russian entities

The UK Financial Intelligence Unit has introduced a suspicious activity reports (SARs) glossary code, XXSNEXX, to use where you suspect activity is:

- consistent with money laundering, and
- linked to entities sanctioned by the UK, EU, US and other overseas jurisdictions as a result of the Russian invasion of Ukraine

The [Economic Crime \(Transparency and Enforcement\) Act](#) has removed the knowledge test from breach offences.

A breach offence will be committed regardless of whether a person had a reasonable basis of suspicion that they were dealing with a frozen asset. This is a shift to the US Office of Foreign Assets Control model of enforcement.

You must report frozen assets and suspected breaches to the Office of Financial Sanctions Implementation using the [compliance reporting form](#).

Non-voluntary breach disclosures will result in larger monetary penalties.

Indicators of sanctions evasion risk

- Russian clients communicating changes to the beneficial ownership of their private investment companies (PICs) to non-Russian or dual national family members
- Requests to transfer assets between Russian national/dual-national family members
- Use of trust arrangements, with circumstances of transfers calling into question whether the original owner retains indirect control or otherwise could retain a benefit from the assets transferred
- Assets transferred have usually been shares in companies, both UK and overseas, including both minority and controlling stakes in these businesses
- Payments from venture capital and private equity vehicles, many located in offshore jurisdictions or the far east
- Clients seeking to move all their assets to other financial institutions and closing their accounts in London
- Clients domiciled in Russia asking whether they can make transfers to their London account
- Attempts to purchase sanctioned Russian securities, which have drastically fallen in price
- Increased volume of transaction monitoring alerts resulting from Russian and Ukrainian clients making and receiving larger transfers than is typical
- Payments received by UK businesses, often in innovative areas, also with some elements of ownership by Russia nationals
- Payments via a fintech with Russian investor nexus
- Research on private equity/venture capital vehicles and some people with significant control/officers of UK businesses showing individuals connected to Russian industry previously subject to sectoral sanctions and on occasion politically exposed persons (PEPs)
- Russian high net worth individuals who are already on international sanctions lists (but not UK list) and/or who anticipate that they may become a sanctions target, transferring assets to family members and/or close associates such as employees
- Change in address and names for Russian entities one day prior to invasion
- Change of ultimate beneficial owners from Russian to other nationalities
- Circumvention attempts through open account trade-based money laundering (TBML) typology – for example, increase in third-party open account payments

Resources to help you and your firm comply

[UK Russian sanctions legislation comes into force](#)

[UK sanctions on Russia](#)

[SRA statement on sanctions compliance](#)

[FCA statement on new financial sanctions on Russia](#)

[Financial sanctions FAQs](#)

Foreign, Commonwealth and Development Office (FCDO) resources

[Watch a recording of a government briefing on UK sanctions in relation to Russia](#)

[Check the statutory guidance on the Russia \(Sanctions\) \(EU Exit\) Regulations 2019](#)

[Read the notices to exporters](#)

[Read the notices to importers](#)

Email:

- FCDO sanctions: sanctions@fcdo.gov.uk
- OFSI: OFSI@hmtreasury.gov.uk
- ECJU: exportcontrol.help@trade.gov.uk
- import controls: importcontrols@trade.gov.uk
- transport sanctions: transportsanctions@dft.gov.uk

Anti-money laundering helpline

Our AML helpline offers support on AML issues, including sanctions and high-risk jurisdictions lists.

Call **020 7320 9544** or email aml@lawsociety.org.uk

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