

Module	<b>FINANCIAL SANCTIONS</b>
Jurisdictions	<b>UK</b>
Legal Expert	TBC

## Module Application

Does your organisation understand and comply with all relevant financial sanctions?

Does your organisation comply with financial sanctions relating to targeted asset freezes, financial and investment restrictions, and directions to cease all business with designated persons?

Does your organisation identify all designated persons subject to financial sanctions under the UK's various thematic sanctions regimes and take appropriate steps to report and comply with the requirements of those sanctions?

Does your organisation comply with all geographic sanctions regimes, including identifying and reporting persons subject to financial restrictions?

Does your organisation qualify as a 'relevant firm' under UK financial sanctions regulations and comply with reporting obligations related to designated persons?

Does your organisation comply with UK financial sanctions law, and therefore ensure its business dealings do not involve prohibited financial activity, unless it is able to rely on an exception or a licence permitting the otherwise prohibited dealing?

Does your organisation know what powers and functions are granted to enforcement authorities to ensure compliance with financial sanctions, as well as how such powers and functions tend to be exercised?

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## Module Scope

The UK's Financial Sanctions regime is a powerful legal tool - rooted in foreign policy and national security. It comprises of several sets of regulations and has broad application, applying to:

- › All individuals and legal entities who are within, or undertake activities within, the UK's territory
- › All UK nationals and legal entities established under UK law, including their branches (irrespective of where their activities take place)

The module is comprised of the following core obligations:

### 1. Sanctions Regimes

The UK has a legal duty under international law to implement UN financial sanctions at a domestic level. To achieve this, the UK government has enacted various financial sanctions laws and regulations. The regime currently includes 26 sets of sanctions focusing on specific countries/regions (referred to as geographic sanctions), and nine sets of sanctions focusing on particular issues (referred to as thematic sanctions).

### 2. Financial Sanctions

The main types of financial sanctions are (1) targeted asset freezes; (2) financial and investment restrictions, and; (3) directions to cease all business with certain individuals and entities.

Targeted asset freezes oblige an organisation to immediately freeze funds and/or economic resources where the organisation knows, or suspects, that it is engaging in business involving a designated person.

Financial and investment restrictions can include various restrictive measures, all of which an organisation must comply with when dealing with a designated person in the course of its business. Some examples of such restrictions are:

- Restricting access to capital markets
- Restricting access to loans and credit arrangements
- Restricting access to clearing services
- Prohibiting dealing in reserves for certain state-owned financial institutions (e.g., the Central Bank of the Russian Federation)
- Further, an organisation must not conduct business activity with individuals, groups, countries, or companies that are prohibited from doing business in the UK under UK's financial sanctions laws.

An organisation should regularly check to ensure it is not conducting business, or facilitating transactions, involving designated persons, including any entity owned or controlled by a designated person.

### 3. Thematic Sanctions

Thematic sanctions are put in operation as a way for the UK government to mitigate global threats without needing to target a specific country or region.

Currently, the UK imposes financial sanctions under the following thematic sanctions regimes:

- Chemical Weapons Sanctions
- Counter-Terrorism Sanctions
- Cyber Sanctions
- Anti-Corruption Sanctions
- Global Human Rights Sanctions
- Sanctions on Unauthorised Drilling Activities

An organisation must have sufficient due diligence and screening procedures to identify designated persons and comply with UK's thematic financial sanctions to help confront these serious issues.

#### 4. Geographic Sanctions

Individuals and entities from certain countries associated with destabilising activities, human rights abuses, undermining democracy and violating international law are subject to targeted and severe financial sanctions. Currently, the UK government imposes financial sanctions against the following countries:

- › Afghanistan
- › Belarus
- › Bosnia and Herzegovina
- › Burundi
- › Central African Republic
- › Democratic Republic of Congo
- › Guinea
- › Haiti
- › Iran
- › Iraq
- › Lebanon
- › Libya
- › Mali
- › Myanmar
- › Nicaragua
- › Republic of Guinea-Bissau
- › Russia
- › Somalia
- › South Sudan
- › Sudan
- › Syria
- › Venezuela
- › Yemen
- › Zimbabwe

Organisations should routinely check the appropriate sanction lists to ensure they are not conducting business with or facilitating transactions for designated persons. Performing due diligence on new and existing customers, suppliers, and partners can assist with identifying any potential relationships that would otherwise contravene UK's financial sanctions laws.

#### 5. Reporting and Information

Financial sanctions laws require certain organisations, which are referred to as 'relevant firms' in the legislation, to report suspect breaches of financial sanction laws to the Office of Financial Sanctions Implementation (OFSI).

Relevant firms include:

- › An individual or entity with permission to carry out regulated financial activities
- › A business operating a currency exchange, transmitting money, or cashing checks
- › A cryptoasset exchange provider

- › A custodian wallet provider
- › A provider of legal, notarial, tax, or trust/company services
- › A real estate agent
- › A casino operator
- › A dealer in precious metals or stones

Further, if requested, an organisation must provide certain information and documents to OFSI in the manner indicated and timeframe specified by the enforcement body.

## 6. Exceptions and Licences

Organisations must comply with all financial sanctions imposed under UK law, unless it can rely on an available exception or has obtained a valid licence from OFSI, noting an organisation can only obtain a licence under strict and limited circumstances.

Where an organisation identifies a financial transaction or activity as involving a designated person it must assess whether any exceptions exist under the relevant sanctions regime that enable the organisation to proceed lawfully without needing to obtain a formal licence from OFSI.

## 7. Enforcement

Government authorities responsible for overseeing compliance with financial sanctions in the UK are OFSI and the National Crime Agency (NCA). NCA is responsible for criminal enforcement of financial sanctions in the UK, whereas OFSI looks after civil matters.

The OFSI may issue a fine, or else may:

- › Issue a warning
- › Refer the regulated professional (e.g. lawyer, accountant) to their professional regulator
- › Publish information relating to the breach
- › Recommend the case be pursued, investigated, and possibly prosecuted by criminal law enforcement agencies (e.g., NCA)

The NCA may pursue criminal prosecution. It also has the authority to compel an organisation to:

- › Provide information or documents that are reasonably required by the NCA in connection with an NCA investigation
- › Comply with conditions of a search warrant
- › Comply with restrictions on carrying out financial transactions or business/commercial activities
- › Comply with asset freezing or forfeiture requirements

An organisation should understand what enforcement options are available to both OFSI and NCA for the purpose of regulating and implementing financial sanctions in the UK.

It is beneficial for an organisation to understand what steps OFSI takes when investigating a potential breach and how OFSI determines the amount of a penalty, including what factors are known to help with lowering the amount of the penalty imposed.

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