



Report of Penalty for Breach of Financial Sanctions
Regulations (section 149(2) PACA 2017 report)

Imposition of Monetary Penalty – Hong Kong International Wine and Spirits Competition Ltd

SUMMARY

1. On 26 April 2022 the Office of Financial Sanctions Implementation (OFSI), part of HM Treasury, imposed a monetary penalty of £30,000.00 in accordance with s146 of the Policing and Crime Act 2017 (“PACA”) against a UK registered company, Hong Kong International Wine and Spirits Competition Ltd (“HKIWSC”), for contravention of regulations 3(1) and 6(1) of the Ukraine (European Union Financial Sanctions) (No.2) Regulations 2014 (“the UK Regulations”) and articles 2(1) and 2(2) of the Council Regulation (EU) No 269/2014 (Ukraine Misappropriation and Human Rights) (“the EU Regulation”).
2. The penalty related to 3 payments and 78 wine bottles HKIWSC received from a designated entity for entry into competitions between September 2017 and August 2020. The total cumulative value of tangible economic resources and funds received by HKIWSC is estimated at £3,919.62. Additionally, HKIWSC made publicity, considered an intangible economic resource, available to that designated entity.
3. HKIWSC did not make a voluntary disclosure in this case, and therefore a penalty reduction discount was not applied.
4. Under the provisions of PACA, applicable at the time, OFSI imposed a monetary penalty because it was satisfied, on the balance of probabilities, that HKIWSC breached prohibitions imposed by financial sanctions legislation and either knew or had reasonable cause to suspect that it was in breach of those prohibitions.
5. Under the provisions of PACA, applicable at the time, any person who had a penalty imposed on them was entitled to a ministerial review. Under these provisions, a minister may:
 - a. uphold the decision to impose the penalty and its amount,
 - b. uphold the decision to impose the penalty but substitute a different amount, or
 - c. cancel the decision to impose the penalty.

6. HKIWSC exercised its right to a ministerial review, which was carried out by the Economic Secretary to the Treasury personally. The minister concluded his review on 25 August 2022, and upheld OFSI's decision both to impose the penalty and on the amount of the penalty.

DETAIL

7. In March 2014, the European Union (including the UK) imposed restrictive measures against those responsible for actions which undermined or threatened the territorial integrity, sovereignty, and independence of Ukraine. The restrictive measures set out in the EU Regulation and UK Regulations imposed prohibitions including an asset freeze on those identified as being involved in destabilising Ukraine or undermining or threatening the territorial integrity, sovereignty, and independence of Ukraine. The State Unitary Enterprise of the 'Republic of Crimea' Production-Agrarian Union ("Massandra") was designated on 25 July 2014, as the ownership of the entity was transferred contrary to Ukrainian law and effectively confiscated by the Crimean 'authorities'. Articles 2(1) and 2(2) of the EU Regulation prohibit dealing with and making funds and economic resources available, directly or indirectly, to a person, entity or body listed in Annex I (which includes Massandra).
8. On 7 December 2020, a suspected breach report was submitted to OFSI detailing a payment received by HKIWSC from Massandra.
9. During its investigation, OFSI used the information powers contained in the UK Regulations to obtain further information from HKIWSC. HKIWSC made materially complete disclosures and fully cooperated with OFSI throughout its investigation. As a result of these information requests, OFSI identified 5 potential breaches in respect of which a monetary penalty could be imposed. OFSI concluded 4 of the breaches related to the receipt of funds and/or wine bottles, a tangible economic resource, from Massandra for entry into HKIWSC's 2017, 2018, 2019 and 2020 competitions. Furthermore, OFSI identified 1 breach relating to the publicity HKIWSC made available to Massandra between September 2017 and August 2020. OFSI has determined this publicity to be an intangible economic resource, an asset which may be exchanged or used in exchange for funds – since it would likely be used by Massandra in exchange for funds on the basis that it is for the purpose of increasing sales of their wine.
10. HKIWSC provided representations in response to the Notice of Intention to Issue a Monetary Penalty, issued by OFSI on 2 February 2022. OFSI considered these representations and determined it had not altered OFSI's assessment of all 5 potential breaches or the appropriate level of penalty. No voluntary disclosure discount was provided in respect of these potential breaches as HKIWSC did not voluntarily disclose them to OFSI (the initial report was submitted by a third party and OFSI used information powers to identify the further breaches). Following OFSI's Monetary Penalty decision issued on 26 April 2022, HKIWSC requested a ministerial review.

11. Having reviewed the case materials, the minister was satisfied that the decision OFSI took met the legal tests for imposing a penalty; that OFSI's assessment of the facts of the case were reasonable; that OFSI followed its own processes correctly; and that the penalty amount was within the range of reasonable and proportionate options open to OFSI.

NOTE ON COMPLIANCE

12. HKIWSC is a UK registered company. UK financial sanctions apply to all legal entities established under UK law (including their branches) and other entities operating within the UK. All UK companies must ensure they comply with UK financial sanctions that are in force, irrespective of where their activities take place and foreign companies operating in the UK must ensure their operations within the UK comply with the applicable UK financial sanctions.
13. In this case, OFSI determined the publicity HKIWSC made available to Massandra following entry to its competitions was an intangible economic resource. This is because the publicity would be exchanged or used by Massandra in exchange for funds based on the reasonable inference it was for the purpose of increasing Massandra's wine sales. Whilst it was not possible to ascribe a financial value to the publicity, this is not necessary because PACA explicitly provides for the possibility of imposing a monetary penalty in these circumstances.
14. This illustrates the need for companies to consider their potential sanctions risk exposure broadly, to include the potential provision of intangible economic resources, and not just financial transactions and tangible economic resources. As well as publicity, intangible economic resources could include certain types of intellectual property.
15. Financial sanctions apply to all sectors, not just the financial sector, and it is not sufficient for any company to rely on the banking sector to conduct due diligence on their behalf. This is especially important if a company has global customers and/or operates internationally.
16. Companies should consider the international scope of their activities, assess their own exposure, and put appropriate due diligence measures in place to identify and manage potential risks of breaching financial sanctions. OFSI does not mandate specific measures to be taken but makes the following suggestions set out below. However, the responsibility remains with companies to ensure they have put in place sufficient measures to ensure they do not breach financial sanctions.
 - Make yourself aware of financial sanctions imposed by the UK as well as the UN and those that are subject to them. Information on which persons are designated under each financial sanction regime is published by OFSI and is available as a consolidated list on our website:

<https://www.gov.uk/government/collections/financial-sanctions-regime-specificconsolidated-lists-and-releases>

You can also [sign up for our email](#) alerts, so you are notified each time the consolidated list is updated.

- Assess all aspects of your business to identify if any companies or individuals you conduct or are considering conducting business with appear on the consolidated sanctions list or are owned or controlled by any listed persons.
- Consider your exposure, especially when operating in high-risk regions, and take steps to mitigate against dealing with designated persons/entities.

17. The breaches in this case occurred between 2017 and 2020, and they were therefore breaches of the EU Regulation and the UK Regulations which implemented the EU Regulation. From 31 December 2020, the UK no longer applies EU sanctions regulations but Massandra remains subject to financial sanctions regulations under the Russia (Sanctions) (EU Exit) Regulations 2019. OFSI will continue to investigate, and impose monetary penalties where appropriate, for breaches which occurred under the EU Regulation and UK Regulations prior to 31 December 2020.

18. If you know or have reasonable cause to suspect that you have committed a breach, you must inform OFSI as soon as practicable. OFSI values voluntary disclosure and if done by the person who has committed a breach may be considered a mitigating factor when OFSI assess the case.

Further information and guidance on UK financial sanctions can be found on OFSI's website:

<https://www.gov.uk/government/organisations/office-of-financial-sanctions-implementation>