

Importers and exporters

Financial Sanctions Frequently Asked Questions



HM Treasury
Office of Financial
Sanctions Implementation

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Importers and Exporters

This document covers questions relevant to those involved in importing and exporting goods and services, especially those operating in areas where financial sanctions are in force. It should be read alongside the Office of Financial Sanctions Implementation's (OFSI's) Financial Sanctions Guidance and the guidance that accompanies each sanctions regime. Helpful sources of information are listed at the end of this document.

Office of Financial Sanctions Implementation

This guidance is produced by the Office of Financial Sanctions Implementation (OFSI), part of HM Treasury, the authority for the implementation of financial sanctions in the UK.

It provides financial sanctions guidance for entities and individuals which operate in, or with, the import and /or export sector, especially those involved in areas that may be subject to UK trade sanctions.

This should be considered supplementary to, and not a replacement for, OFSI's general guidance document. Further sources of information which may prove helpful are listed at the end of this document.

This guidance does not represent legal advice. If you are unsure about your obligations in a given case, you should consider seeking independent legal advice.

What are sanctions?

Sanctions help the United Kingdom meet its foreign policy and national security aims, while maintaining confidence in its business sectors. Sanctions regimes are imposed for a variety of reasons such as proliferation of nuclear weapons, terrorist activity, and violation of human rights. Effective implementation and enforcement of sanctions is essential in helping to stop these actions.

Sanctions are used to:

- coerce designated persons into changing their behaviour
- deny them access to resources they need to continue their 'offending behaviour'
- signal disapproval, stigmatise and potentially isolate them
- send broader political messages to domestic and international audiences, and
- protect assets that have been misappropriated.

Sanctions are imposed by the United Nations, European Union, UK and other countries, such as the United States, Canada and Japan. They include arms embargoes, trade sanctions and financial sanctions.

Trade Sanctions

- controls on the export and import of certain goods and technology, such as military goods and technology
- controls on the provision of certain assistance and services, such as financial services, related to controlled goods and technology
- controls on other trade related activities, such as services relating to ships and aircraft

Financial Sanctions

- asset freezes which restrict access to funds and economic resources
- restrictions on dealing with various financial markets
- restrictions to cease business of a specified type, e.g. with suspected links to terrorism
- directions to cease all business with certain sanctioned individuals or organisations

ECJU and OFSI

OFSI works closely with the Export Control Joint Unit (ECJU), which sits in the Department for International Trade (DIT).

OFSI deals with **financial sanctions** and the ECJU with export-related **trade sanctions**. These different types of sanctions have differing processes, for instance in licensing activity. Therefore, it is important to consider the relevance of both financial and trade sanctions to your business.

ECJU is responsible for implementing trade sanctions and administering the licensing provisions on behalf of the Secretary of State for all trade sanctions, except those relating to imports which are implemented and administered by the Import Licensing Branch. HM Treasury, through OFSI, is responsible for:

- the implementation and administration of financial sanctions in effect in the UK
- licensing exemptions to financial sanctions
- promoting awareness of, and compliance with, financial sanctions
- imposing monetary penalties for financial sanctions breaches

You may need a licence from OFSI **as well as** from the ECJU.

Financial sanctions may apply to individuals, entities and government bodies who may be resident in the UK or abroad. Certain financial sanctions may also prohibit providing or performing other financial services, such as insurance, to designated individuals or entities.

It is an offence to breach a financial sanction, punishable by up to 7 years in prison and/or a monetary penalty.

OFSI publishes a consolidated list of individuals and organisations subject to financial sanctions, known as designated persons, as well as general guidance to help you comply. This is available at www.gov.uk/ofsi.

Please refer to OFSI's GOV.UK web pages and Financial Sanctions Guidance if you know or suspect that you are working in areas with high sanctions risk or with persons or entities subject to sanctions restrictions.

Financial sanctions and importing / exporting

The financial sanctions due diligence you should consider when importing / exporting include (but not limited to) are:

- **who** and **where** the goods or services are coming from or going to. It is possible that financial sanctions such as an asset freeze may apply to one of the parties or to the financial aspects of the trade.
- **who** is shipping the goods, and whether they are being shipped on a sanctioned vessel.
- **whether** a designated person is based in a different country to the one you are operating in, but is still subject to financial sanctions in that country.

OFSI's consolidated list

OFSI's consolidated list is a regularly updated list of designated persons published on the GOV.UK site.

However not all those subject to financial sanctions are contained on that list. Sectoral sanctions imposed because of Russia's actions in destabilising Ukraine appear on a separate list. There are no individuals on this list, only organisations, and they are not subject to asset freezes.

Restrictions that apply under this regulation include:

- restrictions to capital markets for certain Russian banks, energy companies and defence companies
- an arms embargo and restrictions on certain dual-purpose technologies which, although intended for civilian use, might have military applications
- restrictions on exports of high-tech goods and services in the energy sector.

Therefore, if you are doing business with Russian organisations, you may also need to check the Russia sanctions regime:

<https://www.gov.uk/government/collections/uk-sanctions-on-russia>

Please note that the OFSI consolidated list only includes entities subject to certain financial sanctions. For trade sanctions, please contact the ECJU.

Further guidance on this regulation has been produced by OFSI and can be found in the Russia section on the OFSI Gov.uk pages:

Dealing with a Designated Person

If you think you are dealing with a designated person, you should review the information you have about the individual or organisation, checking OFSI's lists of those subjects to financial sanctions on its pages of the GOV.UK website. If you are unsure and there is no physical risk to yourself, consider asking the individual or organisation for more information.

If you find out that you are dealing with a designated person, you may wish to consider taking the following steps:

1. Contact OFSI immediately
2. Freeze any funds and economic resources belonging to the suspected designated person in your possession
3. Notify the relevant institution
4. Don not make further funds or economic resources available to them.

OFSI's General Guidance contains more detailed information. We have also included a glossary of terms at the back of the general guidance which defines what we mean by economic resources

You should also consider if individuals or organisations are 'owned' or 'controlled' either directly or *indirectly* by designated persons. If individuals or organisation are 'owned' or 'controlled' directly or indirectly by a designated person, you will need to take the same actions as stated above.

Chapter 4 of OFSI's Financial Sanction Guidance includes more information on 'ownership and control'. However, if you are still unsure, contact OFSI for guidance.

HMRC's CHIEF system and financial sanctions

The HMRC Customs Handling of Import and Export Freight (CHIEF) system records the declaration to customs of goods being shipped by land, sea or air.

Goods subject to export controls such as high risk or strategic exports must provide details of the appropriate licences prior to export clearance being granted.

OFSI's consolidated lists are not covered by the CHIEF system as they list individuals and organisations subject to financial sanctions.

OFSI's lists cover **who** you should not be doing business with, unless you have a licence or there is an exemption in the

relevant regulations, rather than **what** you are importing or exporting. You are responsible for exercising due diligence.

Complying with financial sanctions

Each organisation should assess their own risks and put due diligence measures in place to manage these risks.

Make yourself aware of the financial sanctions imposed by the UK and other jurisdictions that apply to you, and who they impact. OFSI publishes an up-to-date, online list of those subject to certain financial sanctions in the UK as well as a separate list relating to Russia's actions destabilising the situation in Ukraine.

You should also assess all aspects of your proposed project to identify if any partners, contractors or financial institutions appear on the above sanctions list.

Tailor your compliance approach on the likelihood of you dealing with these individuals and organisations, directly or indirectly.

In addition to sanctions, you should also consider other financial crime risks such as: terrorist financing, corruption or laundering the proceeds of crime – they all form part of a comprehensive compliance approach. Talk to your bank before you agree a contract which may have a financial crime risk. Check that the bank is willing to process a payment from your counterparty. Your bank may require information on your compliance approach before processing payments as it needs to ensure compliance with applicable financial crime laws.

Where there are risks, such as a project being based in a high-risk location, conduct thorough checks of who you are dealing with, checking all points in the payment chain and those involved in your project on the ground.

If you think you may be conducting business with individuals or organisations subject to financial sanctions:

- contact OFSI
- consider if you need to apply for a licence from OFSI
- consider seeking independent legal advice.

Even if products you importing / exporting are not subject to sanctions or export controls, financial sanctions regulations still apply. Trade sanctions, export controls and financial sanctions are different so you will still need to consider financial sanctions if funds or economic resources are being made available – directly or indirectly – to, or for the benefit of, a designated person.

Equally, if payments are coming from or through a designated person, such as a designated bank, and there is no exemption in the relevant financial sanctions regulation, you will require an OFSI licence to deal with the funds.

Proliferation Finance

Some sanctions breaching activity, particularly **Proliferation Finance** activity, is not just about the acquisition or purchase of a controlled good or service.

In many cases sanctions breaching activity has the sole aim of generating access to foreign currency and the international financial system. This can be through what appears to be a legitimate trading entity. For this reason, it is important to understand the full payment chain and consider how any trade may be used to enable illicit activity.

For more information on proliferation finance, visit the Financial Action Task Force website:

[http://www.fatf-gafi.org/publications/financingofproliferation/?hf=10&b=0&s=desc\(fatf_releasedate\)](http://www.fatf-gafi.org/publications/financingofproliferation/?hf=10&b=0&s=desc(fatf_releasedate))

Licensing

An licence is a written authorisation that permits an otherwise prohibited activity. Licences can be applied for in relation to financial and trade sanctions from OFSI or ECJU respectively.

You will need a licence from OFSI if your transaction involves a person subject to financial sanctions restrictions. This is the case even if you already have an export or trade control licence.

The Export Control Joint Unit (ECJU) issues licences for **strategic goods, the provision of related services and other activities covered by trade sanctions**.

Having a licence from ECJU is no guarantee that an OFSI licence will be granted.

To apply for an OFSI licence:

- use the application form on our website
- apply for the licence well before you need it
- identify the appropriate licensing grounds
- provide a full description of the payment chain.

Licences cannot be issued retrospectively. If you have carried out an act that required a licence without having obtained one beforehand, you may have breached financial sanctions and you should contact OFSI immediately.

You may want to check that your bank will allow the transaction before entering a contract.

Licensing grounds

Potential licence grounds for importers or exporters include existing obligations under a prior contract – a contract that existed before the individual or entity was designated under financial sanctions legislation.

You should check if your activity is exempt. Specific exemptions are contained in financial sanctions regulations. These apply automatically in defined circumstances and do not require a licence. These could include provision of goods for humanitarian purposes.

For more information about licensing grounds and details on how to apply for a licence please refer to the 'exemptions and licensing' section in our general guidance.

<https://www.gov.uk/government/publications/financial-sanctions-faqs>

Licensing timeframes

OFSI aims to engage with applicants on the substance of a completed licence within four weeks. This does not mean a licence will necessarily be issued within four weeks. Each case is dealt with on a case-by-case basis. More complex cases may take longer to resolve and we may need to come back to you for more information.

Sometimes we may need to notify, or seek approval from relevant United Nations Sanctions Committee before we can issue a licence. These requirements are set out in the relevant United Nations Security Council resolutions. These requirements will lengthen the processing time for such licence applications and may, in some cases, prevent a licence being issued.

Humanitarian, medical or diplomatic activity

You need to consider carefully the restrictions in place against the designated person or company. For example, if a person is subject to financial sanctions under the Syrian regime, you need to look at the regulation that underpins that regime.

Some regimes have exemptions or licensing grounds for the provision of goods or funds for humanitarian, medical or diplomatic purposes. OFSI seeks to process applications

for licences where there is a risk to life as a priority.

Export Licences

Some trade sanctions have exceptions and licensing considerations that allow for the participation in activity covered by trade sanctions in certain circumstances. These exceptions and licensing considerations will be set out in each sanctions regime. Exceptions apply automatically but applications for licences should be submitted to ECJU.

Remember financial sanctions licences are **NOT** covered by ECJU.

Financial sanctions licences are NOT covered by the ECJU's online export licensing system, SPIRE.

If you are doing business with or through a designated person, you will need a separate licence from OFSI.

For more information on the steps to take to see if you need a licence for activity prohibited by trade sanctions, and the assessment of your application, please see the guidance on GOV.UK:

<https://www.gov.uk/government/collections/uk-sanctions-regimes-under-the-sanctions-act>

Financial sanctions along the export chain

Other parties involved in import/export activities and related financial transactions, such as vessels, airlines, road hauliers, banks and insurers could be subject to financial sanctions. You may require an OFSI licence if:

- payments are coming from or through a designated person, such as a listed bank, and there is no exemption in the relevant regulation
- any goods are being transported by a designated person

- if you are forwarding goods to a third party, you could be making funds or economic resources available – directly or indirectly – to a designated person.

Import / Export agents

Agents such as couriers, express operators and freight forwarders are responsible for their own due diligence.

If you find that you have funds or economic resources in your possession that belong to a designated person, you must freeze them. You mustn't make funds available to or for the benefit of a designated person unless:

- there is an exemption in the relevant financial sanctions regulation you can rely on, or
- you have a licence from OFSI.

If you are transporting goods supplied by or going to a designated person, you could be in breach of financial sanctions.

Port or landings fees

Financial sanctions can also apply to port or landing fees if the port or shipping company is on the consolidated list or is owned or controlled by a designated person. If you pay any fees to these ports without a valid licence, you could be in breach of financial sanctions

Vessels can also be subject to sanctions restrictions, for example if they are connected with or from sanctioned regimes such as those targeting North Korea. Other vessels which are flagged from non-sanctioned regimes have also been designated.

A port that accepts fees from these ships could also be in breach of financial sanctions.

Bills of lading

A bill of lading is issued by a ship owner to acknowledge the receipt of a cargo for transportation to a specified destination. Bills of lading are classified as 'funds' for the purposes of financial sanctions.

If you know or suspect that you have a bill of lading that belongs to a designated person, you must freeze it, and not deal with it or make it available to a designated person (or for their benefit) in the absence of a licence or exemption.

Financial sanctions breaches

If you suspect a breach of financial sanctions has occurred, you should contact OFSI immediately even if you are unsure and want to make further checks.

It is in your interest to declare a suspected breach or potential breach as early as possible.

OFSI considers self-disclosure of information when deciding:

- what action to take
- whether a monetary penalty for a breach is appropriate and, if so
- the level of the penalty.

For example, the benefit of voluntary disclosure could include a reduction of up to 50% of any monetary penalty amount.

Relevant firms such as financial services providers and relevant professions such as auditors, casinos and accountants also have specific reporting obligations under UK law.

These professions must report to OFSI as soon as practicable if they know or have reasonable cause to suspect that someone is a designated person or has committed an offence under UK regulations. Failure to do so could result in a criminal prosecution or monetary penalty.

To report to OFSI, please use the form on our website:

<https://www.gov.uk/guidance/suspected-breach-of-financial-sanctions-what-to-do>

For more information, please see the reporting obligations section in Chapter 5 of our General Guidance

If a breach involves sufficient connection to the UK, it will be within OFSI's remit. This could include:

- a UK company working overseas
- actions taking place overseas but directed from the UK
- actions taken by a local subsidiary of a UK company
- financial transactions using clearing services in the UK.

These examples are not definitive nor exhaustive.

Financial sanctions imposed by other countries

As a member of the UN the UK implements all UN financial sanctions. The UK also unilaterally implements its own financial sanctions.

Financial sanctions imposed by other governments may also impact your ability to operate where:

- your operations are within their jurisdiction
- goods originate from that country (if exporting goods)
- you are dealing in their currency
- If you operate in (or through) another country, check:
 - what financial sanctions are in place in that country
 - if you need a licence with the relevant foreign licensing body.

For example, if you plan to transact in US dollars or work with US persons or companies, check that you comply with US sanctions.

You can liaise with the US sanctions administrator, the Office of Foreign Assets Control (OFAC), for more information.

You may need a licence from OFAC as well as from OFSI and a licence from ECU.

Commons risks for Importers / Exporters

A non-exhaustive list of commons risks importers / exporters can account for as part of wider due diligence:

- An individual or company is:
 - a name match (on OFSI's consolidated list)
 - a partial match (on OFSI's consolidated list)
- A company uses overly complex payment methods and complex ownership structures
- Refusal to do business with company A is followed by a request for the same equipment from company B, which has a similar profile to company A
- Multiple requests for the same quantities of equipment at the same time from a number of different individuals or companies.

Enforcement action and penalties

Any person carrying out, or partaking in, business involving importers and / or exports, should be aware of the risks posed and the consequences for failure to ensure compliance.

OFSI is responsible for monitoring compliance with financial sanctions applicable in the UK and for assessing suspected breaches of the regulations. OFSI has powers under the Policing and Crime Act 2017 to impose monetary penalties of up to 50% of the value of the breach or up to £1 million, whichever is higher, for breaches of financial sanctions. OFSI can

also refer cases to law enforcement agencies for investigation and potential prosecution. Breaches of financial sanctions are considered a serious criminal offence and are punishable by up to 7 years in prison on indictment or up to 6 months for a summary offence in England, Wales or Northern Ireland (12 months for a summary offence in Scotland). For exact penalties, please refer to the relevant legislation.

Financial sanctions are part of a wider sanctions framework targeting malign activity. As such, OFSI works with other parts of government, supervisory bodies and regulators to consider all reported non-compliance, and shares relevant information accordingly in line with the relevant sanctions and data protection legislation.

OFSI's approach to compliance and enforcement is detailed in Chapter 7 of its [general guidance document on GOV.UK](#).

Contact OFSI

Helpline:

020 7270 5454

Monday – Friday, 9am – 5pm GMT

Email enquiries:

ofsi@hmtreasury.gov.uk

Visit OFSI's web pages:

<https://www.gov.uk/ofsi>

OFSI's Financial Sanctions Guidance:

<https://www.gov.uk/government/publications/financial-sanctions-faqs>

Subscribe to OFSI's e-alert:

<http://public.govdelivery.com/accounts/UKHMTREAS/subscriber/new>

OFSI blog:

<https://ofsi.blog.gov.uk/>

Contact ECJU

For more information on export controls, contact the Export Control Joint Unit Helpline on

+44 (0) 20 7215 4594

or email

exportcontrol.help@trade.gov.uk

or [subscribe to the Export Control Joint Unit's notices to exporters](#).

Annex I

Funds generally means financial assets and benefits of every kind, including but not limited to:

- cash, cheques, claims on money, drafts, money orders and other payment instruments
- deposits with financial institutions or other entities, balances on accounts, debts and debt obligations
- publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives contracts
- interest, dividends or other income on or value accruing from or generated by assets
- credit, right of set-off, guarantees, performance bonds or other financial commitments
- letters of credit, bills of lading, bills of sale
- documents showing evidence of an interest in funds or financial resources
- any other instrument of export financing

Economic resources generally mean assets of every kind – tangible or intangible, movable or immovable – which are not funds but may be used to obtain funds, goods or services. This includes but is not limited to:

- precious metals or stones
- antiques
- vehicles
- property

Dealing with **funds** generally means moving, transferring, altering, using, accessing, or otherwise dealing with them in any way which would result in any change to their volume, amount, location, ownership, possession, character, destination or other change that would enable the funds to be used, including portfolio management.

Dealing with **economic resources** generally means using the economic resources to obtain funds, goods, or services in any way, including, but not limited to, by selling, hiring or mortgaging them. The everyday use by a designated person of their own economic resources for personal consumption is not prohibited.

If **funds** or **economic resources** are made available (directly or indirectly) to or for the benefit of a designated person and they obtain, or can obtain, a 'significant financial benefit', or for use in exchange for funds, goods or services, this may constitute a criminal offence.

In this case, 'financial benefit' includes the discharge, in whole or in part, of a financial obligation for which the designated person is wholly or partly responsible.

Goods generally means items, materials and equipment.