



Imposition of Monetary Penalty – TransferGo Limited

Penalty imposed on: TransferGo Limited

SUMMARY

1. Following a review pursuant to s147 of the Policing and Crime Act 2017 (PACA 2017), on 25 June 2021, the Economic Secretary to the Treasury upheld the decision to impose a monetary penalty issued by the Office of Financial Sanctions Implementation (OFSI), part of HM Treasury, on TransferGo Limited (TransferGo). The penalty was imposed for contravention of Regulation 4 of The Ukraine (European Union Financial Sanctions) (No. 2) Regulations 2014 (the UK Regulations) and the penalty amount is £50,000.
2. The penalty related to 16 transactions where TransferGo issued instructions to make payments to accounts held at the Russian National Commercial Bank (RNCB). These payments were made between 20 March 2018 and 18 December 2019. The total value of the transactions was £7,764.77. In carrying out these actions, TransferGo made funds available to a person designated under Council Regulation (EU) No 269/2014 (the EU Regulation).
3. No voluntary disclosure discount was given in this case as TransferGo did not disclose the transactions in issue; some of the transactions were only disclosed by TransferGo in response to information requests issued by OFSI under the UK Regulations. However, during OFSI's investigation TransferGo fully cooperated with OFSI and promptly provided all information which was requested of it.
4. OFSI imposed a monetary penalty because it was satisfied, on the balance of probabilities, that TransferGo breached a prohibition imposed by financial sanctions legislation and either knew or had reasonable cause to suspect that it was in breach of that prohibition.
5. Any person who has a penalty imposed on them by OFSI has the right to a review under s147 of PACA. Under these provisions, the 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. TransferGo exercised its right to a Ministerial review, which was carried out by the Economic Secretary to the Treasury personally. The Minister upheld OFSI's decisions 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 undermine or threaten the territorial integrity, sovereignty and independence of Ukraine. The restrictive measures set out in the EU Regulation impose asset freezes on those identified as being involved in destabilising Ukraine or undermining or threatening the territorial integrity, sovereignty and independence of Ukraine. RNCB was designated on 30 July 2014. After the illegal annexation of Crimea RNCB became fully owned by the so-called 'Republic of Crimea'; it has become the dominant player in the market while it had no presence in Crimea before the annexation. By buying or taking over from branches of retreating banks operating in Crimea, RNCB supported materially and financially the actions of the Russian government to integrate Crimea into the Russian Federation, thus undermining Ukraine's integrity. Article 2(2) of the EU Regulation prohibits making funds available, directly or indirectly, to a person, entity or body listed in Annex I; Annex I includes RNCB.
8. On 18 April 2018 OFSI received a suspected breach report detailing 8 payments made by 2 different individuals to 2 different accounts at RNCB. Further payments were subsequently made. OFSI considered that these payments constituted a breach of sanctions and that TransferGo knew or had reasonable cause to suspect that the payments were in breach of financial sanctions restrictions. TransferGo is a Financial Conduct Authority ("FCA") regulated authorised payment institution, also supervised by HM Revenue & Customs, with knowledge of sanctions and they issued instructions to send payments to accounts of individuals resident in Crimea using a Russian Bank Identification Code which identified RNCB as the receiving financial institution for the relevant payments.
9. TransferGo made an error in its assessment of whether the payments to RNCB were subject to financial sanctions restrictions. TransferGo asserted that as the relevant clients and beneficiaries were not themselves subject to financial sanctions restrictions, the payments

to their accounts with RNCB were not breaches; OFSI considers that this is not the case as funds held in bank accounts ultimately belong to those banks. In respect of this and other factors, TransferGo demonstrated a poor understanding of financial sanctions throughout its engagement with OFSI.

10. Despite being a relevant institution, as defined in the UK Regulations, which would have required TransferGo to inform OFSI of these breaches as soon as practicably possible, it did not. As has been publicised previously, OFSI values voluntary disclosure and had TransferGo voluntarily disclosed these transactions it could have received a discount of 50% of the baseline penalty amount.
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 consistently; and that the penalty amount was within the range of reasonable and proportionate options open to OFSI.
12. TransferGo requested anonymity should the penalty be upheld. The Minister considered that such anonymity would be contrary to the objectives of OFSI's sanctions enforcement regime and not in the public interest. The Minister considered that the penalty should be publicised in line with s149 of PACA and OFSI's published monetary penalty guidance.

NOTE ON COMPLIANCE

13. TransferGo describes itself as a FinTech company which enables customers to send payments to other individuals in other countries (outside the UK). The financial sanctions restrictions in force in the UK apply to all UK registered companies and UK nationals, wherever they are in the world. UK financial sanctions also apply to all persons within the territory and territorial sea of the UK. So all persons, including companies and NGOs, not just traditional financial institutions, must make sure they comply with the restrictions in place.
14. OFSI considers that transferring funds to accounts held by non-designated persons with designated banks is a breach of the prohibition on making funds available to a designated person in the UK Regulations if the person knew, or had reasonable cause to suspect, it was doing so. Companies and individuals must therefore ensure they carry out due

diligence on the banks and financial institutions involved in transactions, as well as all other parties in the transaction, to ensure they do not breach financial sanctions.

15. The breaches in this case occurred in 2018 and 2019, and they were therefore breaches of the relevant EU Regulation. After 23:00 on 31 December 2020 the UK no longer applies EU sanctions regulations and all sanctions regimes are now implemented through UK regulations. RNCB remains subject to financial sanctions restrictions 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 regulations prior to 31 December 2020.
16. Information on which persons are designated under each financial sanctions regime is published by OFSI and is available as a consolidated list on our website. You can also sign up for our e-mail alerts so you are notified each time the consolidated list is updated.
17. If you know or have reasonable cause to suspect that you are in possession of, or in control of, or are otherwise dealing with, the funds or economic resources of a designated person you must:
 - not deal with them, unless there is an exemption in the legislation that you can rely on or you have a licence from OFSI, and
 - inform OFSI

You must also not make funds or economic resources available, directly or indirectly, to, or for the benefit of, any designated person, unless there is an exemption in the legislation that you can rely on or you have a licence from OFSI.

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

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