UK FINANCE

YEAR 1

SANCTIONS SCHOOL

Financial sanctions

The primary act for the UK sanctions regime is the Sanctions and Anti-Money Laundering Act 2018 (SAMLA).

Under section 3 of SAMLA, the financial sanctions are set out. These are then further codified under the relevant secondary legislation (Statutory Instrument) for each sanctions regime. Financial sanctions can also be implemented via two pieces of terrorism legislation, the Counter Terrorism Act 2008, and the Anti-Terrorism, Crime and Security Act 2001 (part 2).

Financial sanctions are generally imposed in order to:

- Coerce a regime, or individuals within that regime to change their behaviour.
- Constrain a target by denying access to key resources.
- Signal disapproval to the target and possibly isolating them.

Protecting assets that have been misappropriated pending repatriation.

Financial sanctions are one of the most often used aspects of the UK sanctions framework and there are very few entries on the UK sanctions list that are not subject to an asset freeze. An asset freeze blocks all assets of the designated person, so this applies to financial and non-financial assets.

The UK sanctions list is managed and updated by the **Foreign, Commonwealth and Development Office as they are responsible for the foreign policy that encompasses UK sanctions.**

HM Treasury hold responsibility for the enforcement of financial sanctions and the key financial sanctions regulator, the Office of Financial Sanctions Implementation (OFSI) is a department within HM Treasury.

The UK Finance sanctions school is free to everyone and builds knowledge and understanding of the international sanctions environment.

Year 1 materials cover the foundations of what sanctions are, their history, what types of sanctions are imposed, the key regulators for UK based companies and the licences, reporting, and enforcement that sanctions programmes have.

This is lesson 4 of 12 which covers financial sanctions and immigration sanctions. The other lessons, tests and the end of year exam are available on the UK Finance website along with links to accompanying podcasts for each lesson.

Types of Financial Sanctions

Under Financial sanctions in SAMLA there are eight prohibitions which are set out. **These generally apply under three criteria** unless restricted to designated persons only.

The three Criteria are:

i) Designated persons.

ii) Persons connected with a prescribed country.

iii) A prescribed description of persons connected with a prescribed country.

The eight prohibitions are:

- freezing funds or economic resources owned, held or controlled by designated persons.
- preventing financial services from being provided to, or for the benefit of (i)(ii) or (iii).
- preventing financial services from being procured from, or for the benefit of (i)(ii) or (iii).
- preventing funds or economic resources from being made available to, or for the benefit of (i)(ii) or (iii).
- preventing funds or economic resources from being received from (i)(ii) or (iii).
- preventing financial services from being provided, where the services relate to financial products, or financial products of a prescribed description, issued by designated persons.
- preventing persons from owning, controlling or having a prescribed interest in persons (other than individuals) which are (i)(ii) or (iii).
- The regulations also "impose financial sanctions" if they impose prohibitions or requirements for the purpose of preventing persons from entering into, or continuing to be a party to, arrangements for commercial purposes, or for prescribed commercial purposes, with (i), (ii) or (iii).

Financial sanctions, despite the often used term of 'asset freeze' are actually a wide ranging set of prohibitions that cover everything from current accounts being frozen to prohibitions on financial services, for example insurance or loans, as well as freezing other assets such as vehicles, property etc.

It is very common for a statutory instrument to contain the asset freeze requirement, and this will be accompanied by the prohibitions on making funds or economic resources available to, or for the benefit of, a designated person.

ONLY TWO UK REGIMES DO NOT CURRENTLY CONTAIN ANY FINANCIAL SANCTIONS, THE SYRIA CULTURAL PROPERTY SANCTIONS REGULATIONS (UN) AND THE LEBANON SANCTIONS REGULATIONS 2020.

Financial Sanctions Lists.

While the UK publishes lists of sanctions targets, these lists only contain the primary designation and some aliases for the primary.

SANCTIONS HAS A COMPLEXITY WHICH CAUSES ENTITIES THAT ARE OWNED, HELD, OR CONTROLLED BY A DESIGNATED PERSON TO BECOME SUBJECT TO THE SAME APPLICABLE SANCTIONS MEASURES.

The meaning of owned or controlled is set out in the relevant Statutory Instrument and the criteria broadly covers two areas.

1. **If a designated person owns more than 50% of an entity, or holds more than 50% of the voting rights in the entity, or has the power to appoint the majority of the board, then that entity is also considered to be subject to sanctions.** A good example of this was UK sanctions capturing Chelsea Football Club when Roman Abramovich became subject to UK sanctions.
2. If a designated person can exercise control over an entity, in order for their wishes to be carried out, then this also leads to the entity becoming subject to sanctions.

The impact of ownership and control can be alleviated with an exception or a licence when the consequences are unintended. Licences are covered in lesson 11. Ownership and Control is covered in more detail in year 2 where the concepts of owned, held, and controlled are discussed in detail.

OFSI publish a 'consolidated list' of financial sanctions targets. This is made up of those that are subject to asset freezes from the UK government or the UN. The OFSI list also contains some entries that invoke financial restrictions under other UK legislation, such as Freezing Orders.

OFSI also maintains a list of entities that are subject to specific capital market restrictions, these are not within the consolidated list, so you should ensure your process captures updates to both lists. The capital markets restrictions list is a short list and is available here. The capital market restrictions prohibit new debt or new equity.

All UK persons are legally obliged to adhere to UK sanctions and for corporates this requires ensuring no customers or business would lead to a breach of sanctions. Many firms use technology to help screen their customers and transactions against the sanctions lists. Screening is covered in lesson 10.

Immigration sanctions

Immigration sanctions, or 'Travel bans' are implemented and enforced by the Home Office. Travel bans are often applied to those who are also targets for asset freeze restrictions. This is because the relevant regulation empowers the Secretary of State to designate persons by name for regulations related to asset freezes and immigration. Travel bans or visa restrictions can be imposed in their own right without an accompanying asset freeze.

The Immigration Act 1971 contains the powers to prevent travel into the UK and this is applied to those parties that are designated under the 'Power to designate persons' regulation in the relevant statutory instrument.

The part of the immigration act that applies under Statutory Instruments for sanctions is section 8B, 'Persons excluded from the United Kingdom under certain instruments' which prevents an excluded person from entering the United Kingdom, or removes their leave to remain in the United Kingdom if they are already present.

The 'certain instruments' part of section 8B was inserted by the Sanctions and Anti-Money Laundering Act 2018.

Those subject to a travel ban are thus refused entry into the UK and this includes for transit purposes. It is possible to request to travel to or through the UK in exceptional circumstances via the visa application process.

Glossary

Asset freeze

– An asset freeze blocks all assets of the designated person, so this is applies to financial assets and non-financial assets such as vehicles, property etc.

Export Controls

– are national level controls (e.g. licensing requirements) on the export and movement of controlled goods to all destinations.

HM Treasury (HMT)

– His Majesty's Treasury, the government department with responsibility for financial sanctions. HM Treasury is the government's economic and finance ministry.

OFSI

– The Office of Financial Sanctions Implementation (OFSI) helps to ensure that financial sanctions are properly understood, implemented and enforced in the United Kingdom.

Regime

– A single set of sanctions restrictions set out in an SI. Often these have a country name as the title, such as the Russia regime which is titled 'The Russia (Sanctions) (EU Exit) Regulations 2019'. The sanctions regimes are NOT a complete embargo. Regime can also refer to the complete set of sanctions regulations under the context of regime as a system or ordered way of doing things

SAMLA

– The Sanctions and Anti-Money Laundering Act 2018. The primary legislation that sets out the framework for UK sanctions legislation.

SI

– Statutory Instrument. A form of legislation which allows the provisions of an Act of Parliament which was subsequently brought into force or altered without Parliament having to pass a new Act. Also called secondary, delegated or subordinate legislation.

UN

– United Nations. The United Nations is an international organization founded in 1945. Currently made up of 193 Member States, the UN and its work are guided by the purposes and principles contained in its founding Charter.

Authors

Neil Whiley
Director, Sanctions
Economic Crime

Anila Haleem
Manager, Sanctions
Economic Crime

Francesca Flynn
Intern, Sanctions
Economic Crime