

# SANCTIONS SCHOOL

## Thematic Sanctions



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## WHAT ARE THEMATIC SANCTIONS?

Many sanctions regimes are targeted at the governments and military leaders of countries or territories. These geographic regimes typically use the name of the country as the title for the Statutory Instrument.

Where sanctions are targeted at a particular issue or behaviour that may span many geographic areas, or where the issue is not linked geographically at all, then the regime may be a 'Thematic' one.

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

Year 2 materials build on those from year 1 and the lessons start to cover materials in more depth, but they are still set at a basic level. Before starting on year 2 materials it is recommended that you review those for year 1 to ensure you have a full understanding of what has been covered so far.

This is lesson 2 of 12 for year 2 which covers Thematic Sanctions. The complete year 1 and other year 2 lessons, tests, and the larger end of year tests are available on the UK Finance web site along with links to accompanying podcasts for each lesson.

# —WHAT THEMATIC REGIMES ARE THERE?—

The UK lists nine thematic sanctions regimes:

- Chemical weapons.
- Domestic Counter Terrorism.
- Cyber activity.
- Global anti-corruption
- Global human rights
- International counter-terrorism
- ISIL (Da'esh) and Al-Qaida
- Unauthorised drilling activities.
- UK Freezing orders.

The US lists nine thematic regimes.

- Counter Narcotics Trafficking
- Counter Terrorism
- Cyber
- Foreign Interference in a United States Election
- Global Magnitsky
- Hostages and Wrongfully detained US Nationals
- Magnitsky
- Non-Proliferation
- Rough Diamond Trade Controls

The EU lists five thematic regimes.

- Chemical Weapons
- Cyber attacks
- Human rights
- Terrorism
- Terrorism (ISIL and Al-Qaida)

While the different jurisdictions use slightly different naming standards, it is easy to see some common thematic sanctions regimes.

- Chemical weapons/WMD
- Cyber
- Human rights (Magnitsky)
- Terrorism.

# UK THEMATIC REGIMES

The UK has a very recently established autonomous sanctions programme and this has allowed the UK to start with a reasonably clean starting point. As a former EU member, a number of the UK thematic regimes mirror those of the EU.

## GLOBAL HUMAN RIGHTS

The first new UK regime, i.e. not those inherited from the UK's membership of the EU was the Global Human Rights regime, this came into force on 6 July 2020 and currently has over 80 individuals and 6 entities listed.

This moved the UK towards Magnitsky style sanctions and was enabled by S.1(2) of SAMLA. This regime puts in place measures to deter and provide accountability for violations of an individual's

- Right to life
- Right not to be subjected to torture or cruel, inhuman or degrading treatment or punishment
- Right to be free from slavery, not to be held in servitude or required to perform forced or compulsory labour whether or not the activity is carried out by or on behalf of a State.

## GLOBAL ANTI-CORRUPTION

Global Anti-Corruption was the second autonomous regime that the UK introduced under SAMLA and gave the UK a comparable Magnitsky set of prohibitions when combined with those under the Global Human Rights sanctions.

The Global Anti-Corruption sanctions came into force on 26 April 2021 and these revoked the short lived misappropriation sanctions under regulation 38.

These sanctions target serious corruption which is defined as 'bribery' or 'misappropriation of property'. These sanctions are primarily aimed at foreign public officials and has over 30 individuals listed.

## CHEMICAL WEAPONS

The Chemical weapons sanctions are to deter the proliferation and use of chemical weapons, including encouraging the effective implementation of the Chemical Weapons Convention. Over 20 individuals and 2 entities are listed under this regime.

## DOMESTIC COUNTER TERRORISM

The domestic counter terrorism sanctions are in place to comply with relevant UN obligations and the prevention of terrorism in the United Kingdom or elsewhere otherwise than by compliance with the relevant UN obligations; and the interests of national security. There are 2 individuals listed under the domestic counter terrorism regime. UK terrorism sanctions are covered in more detail in lesson 9 of year 2.

## INTERNATIONAL COUNTER-TERRORISM

The international counter terrorism sanctions regime aims to further the prevention of terrorism in the UK and elsewhere by bringing together elements of several existing sanctions regimes. The Regulations enable the UK to apply counter-terrorism sanctions in respect of persons for whom there are reasonable grounds to suspect are or have been involved in terrorist activity, with a particular focus on persons who operate internationally.

The purposes given are for :

- Compliance with the relevant UN obligations, and
- The additional purpose of furthering the prevention of terrorism in the United Kingdom or elsewhere, otherwise than by compliance with the relevant UN obligations.

Over 20 individuals and 20 entities are listed under this regime and UK terrorism sanctions are covered in more detail in lesson 9 of year 2.

## ISIL (DA'ESH) AND AL-QAIDA

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The ISIL (Da'esh) and Al-Qaida sanctions enable to UK to maintain compliance with the relevant UN obligations.

These are

Paragraph 1(a) of resolution 2368 (asset-freeze etc)

Paragraph 1(c) of resolution 2368 (arms embargo etc)

and for the UK to take the measures required by those provisions in respect of persons for the time being named on the ISIL (Da'esh) and Al-Qaida Sanctions List; and paragraph 76 of resolution 2368 (unfreezing of assets: Usama bin Laden).

There are over 250 individuals and 80 entities on the list for this regime.

UK terrorism sanctions are covered in more detail in lesson 9 of year 2.

## CYBER ACTIVITY

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The Cyber Sanctions put in place sanctions measures aimed at furthering the prevention of malicious cyber activity which:

- Undermines, or is intended to undermine, the integrity, prosperity or security of the UK or a country other than the UK
- Directly or indirectly causes, or is intended to cause, economic loss to, or prejudice to the commercial interests of, those affected by the activity
- Undermines, or is intended to undermine, the independence or effective functioning of an international organisation, or a non-governmental organisation or forum whose mandate or purposes relate to the governance of international sport or the internet
- Otherwise affects a significant number of persons in an indiscriminate manner

This captures accessing or attempting to access an information system and carrying out, or attempting to carry out system interference or data interference.

Ransomware payments, or processing risks exposing those involved to civil or criminal penalties where such payments are made to individuals or entities subject to financial sanctions.

OFSI has published a ransomware guidance document which is available via the OFSI guidance page.

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

There are over 10 individuals and a small number of entities listed under this regime.

## UNAUTHORISED DRILLING ACTIVITIES

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The Unauthorised Drilling Activities in the Eastern Mediterranean (Sanctions) (EU Exit) Regulations 2020 put in place sanctions measures to discourage any hydrocarbon exploration, production or extraction activity which has not been authorised by the Republic of Cyprus. This includes activity in its territorial sea, or in its exclusive economic zone or on its continental shelf.

This regime replaced the EU's Turkey sanctions regime when the UK left the EU and is one of the two thematic areas that currently has no individuals or entities listed.

## UK FREEZING ORDERS

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The freezing orders regime is enacted under Part 2 of the Anti-Terrorism, Crime and Security Act 2001 and allows the Treasury to make a freezing order where specific conditions are satisfied.

Section 4 – Power to make order sets out the conditions.

(2) The first condition is that the Treasury reasonably believe that—

(a) action to the detriment of the United Kingdom's economy (or part of it) has been or is likely to be taken by a person or persons, or

(b) action constituting a threat to the life or property of one or more nationals of the United Kingdom or residents of the United Kingdom has been or is likely to be taken by a person or persons.

(3) If one person is believed to have taken or to be likely to take the action the second condition is that the person is—

(a) the government of a country or territory outside the United Kingdom, or

(b) a resident of a country or territory outside the United Kingdom.

(4) If two or more persons are believed to have taken or to be likely to take the action the second condition is that each of them falls within paragraph (a) or (b) of subsection (3); and different persons may fall within different paragraphs.

The freezing orders regime is one of the two thematic areas that currently has no individuals listed.

# US THEMATIC REGIMES

## COUNTER NARCOTICS TRAFFICKING

The Nixon administration is credited with enacting the Federal 'war on drugs' and created the Drug Enforcement Administration (DEA) in 1973.

The Counter Narcotics Trafficking sanctions were enacted by President Clinton in October 1995 via EO 12978 and implemented by OFAC via Title 31 CFR part 536 in March 1997.

In December 1999, the President signed the Foreign Narcotics Kingpin Designation Act (Kingpin Act), this was implemented by OFAC via Title 31 CFR 598 in July 2000.

The Kingpin Act carries the highest applicable statutory maximum civil penalty, which is \$1,771,754 (As at September 2023) per violation.

This compares to a maximum of \$356,579 per violation for regimes enacted under IEEPA.

## COUNTER TERRORISM

The Counter Terrorism regime covers 4 CFRs.

- Title 31 CFR 566 Hizballah Financial Sanctions Regulations
- Title 31 CFR 594 Global Terrorism Sanctions Regulations
- Title 31 CFR 596 Terrorism List Governments Sanctions Regulations
- Title 31 CFR 597 Foreign Terrorist Organizations Sanctions Regulations

The Terrorism sanctions cover the Middle East, the Taliban and Al-Qaida. They also cover more global application and include those issued by the UN.

There are 6 EOs that cover this regime, dating from January 1995 and 1998 when the focus was the Middle East peace process. The regime was updated following the events of 11 September 2001 with the issue of EO 13224 and the most recent update was EO 13886 'Modernizing Sanctions To Combat Terrorism', issued in September 2019.

## CYBER

The cyber-related sanctions program began on April 1, 2015, when the President issued Executive Order (E.O.) 13694 and declared a national emergency to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by the increasing prevalence and severity of malicious cyber-enabled activities originating from, or directed by persons located, in whole or in substantial part, outside the United States.

## FOREIGN INTERFERENCE IN A UNITED STATES ELECTION

The imposition of certain sanctions in the event of foreign interference in a United States election regime was introduced via EO 13848 in September 2018.

The regime targets the ability of persons located, in whole or in substantial part, outside the United States to interfere in or undermine public confidence in United States elections, including through the unauthorised accessing of election and campaign infrastructure or the covert distribution of propaganda and disinformation.

## **MAGNITSKY**

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The Magnitsky sanctions were imposed in response to the death in custody of Sergei Magnitsky. The 'Sergei Magnitsky Rule of Law Accountability Act of 2012' enacted the regime which was centred on those responsible for the detention, abuse and death of Sergei Magnitsky and other gross violations of human rights. There are over 60 entries under the [MAGNIT] list.

## **GLOBAL MAGNITSKY**

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The Global Magnitsky sanctions block the property of persons involved in serious human rights abuse or corruption. This regime was enacted via EO 13818 in December 2017. The Global Magnitsky sanctions target those responsible for extrajudicial killings, torture, or other gross violations of internationally recognised human rights, or a government official, or a senior associate of such an official, responsible for, or complicit in, ordering, controlling, or otherwise directing, acts of significant corruption.

The EO listed 13 persons in the Annex, there are now more than 620 entries on the [GLOMAG] list.

## **HOSTAGES AND WRONGFULLY DETAINED US NATIONALS**

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This regime was enacted to target those taking US nationals hostage for financial, political, or other gain. The targets are Terrorist groups, criminal gangs and other malicious actors. This is one of the most recent regimes, which was introduced in July 2022 via EO 14078.

## **NON-PROLIFERATION**

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The proliferation sanctions are also known as the 'Weapons of Mass Destruction' (WMD) sanctions and are set out in two separated code of federal regulations (CFR) entries.

CFR 539 is the WMD Trade Control Regulations.

CFR 544 is the WMD Proliferation Sanctions.

Non-Proliferation sanctions were enacted under EO 12938 by the Clinton administration in November 1994, and a further 4 EOs have been issued under this regime, the most recent being in 2019.

Proliferation / WMD covers nuclear, radiological, biological, chemical weapons, and other devices intended to harm large numbers of people.

## **ROUGH DIAMOND TRADE CONTROLS**

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The Clean Diamond Trade Act was implemented via EO 13312 in July 2003. The regime targets 'blood diamonds' or those that do not follow the Kimberley Process Certification Scheme (KPCS) for rough diamonds. Under the KPCS participants prohibit the importation of rough diamonds from, or the exportation of rough diamonds to, a non-participant and require that shipments of rough diamonds from or to a participant be controlled through the KPCS. The Clean Diamond Trade Act authorizes the President to take steps to implement the KPCS, to address further threats to international peace and security posed by the trade in conflict diamonds, and to avoid undermining the legitimate diamond trade.

## CFR

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Code of Federal Regulations. The Code of Federal Regulations is the codification of the general and permanent rules published in the Federal Register by the departments and agencies of the Federal Government.

## DEA

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The Drug Enforcement Administration. The DEA enforces the controlled substances laws and regulations of the United States.

## EO

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Executive Orders are official documents ... through which the President of the United States manages the operations of the Federal Government.

## EU

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The European Union (EU) is an economic and political union between 27 European countries. The EU's main economic engine is the single market. It enables most goods, services, money and people to move freely. Member States delegate some of their decision-making powers to the shared institutions they have created, so that decisions on specific matters of common interest can be made democratically at EU level.

## ISIL

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Da'esh (also known as ISIL, Islamic State, or ISIS) is a terrorist group.

## KP

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The Kimberley Process (KP) unites administrations, civil societies, and industry in reducing the flow of conflict diamonds - 'rough diamonds used to finance wars against governments' - around the world.

## KPCS

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The Kimberley Process (KP) is a multilateral trade regime established in 2003 with the goal of preventing the flow of conflict diamonds. The core of this regime is the Kimberley Process Certification Scheme (KPCS) under which States implement safeguards on shipments of rough diamonds and certify them as "conflict free".

## OFAC

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The Office of Foreign Assets Control is the US Treasury department that administers and enforces US economic sanctions programs.

## OFSI

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

## SAMLA

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The Sanctions and Anti-Money Laundering Act 2018. The primary act in the UK which sets out the sanctions framework.

## UN

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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.

## WMD

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A weapon of mass destruction is a nuclear, radiological, chemical, biological, or other device that is intended to harm a large number of people.



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