UK FINANCE

UK SANCTIONS STATUTORY INSTRUMENTS REVIEW: BOSNIA AND HERZEGOVINA

This review of the UK's autonomous sanctions regimes has been prepared for general information purposes and in order to illustrate the potential impact of the new UK sanctions provisions. This review does not constitute legal advice and should not be relied on by UK Finance members or any other parties. The impact and applicability of the new autonomous sanctions regimes will differ from firm to firm. It is important, therefore, for all parties to consider and assess the impact of the new sanctions regimes individually and, if appropriate, with the benefit of their own legal advice which takes into account their relevant activities.

This document is valid until Monday 30 November 2020 at which time an updated version will be issued.

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INTRODUCTION

Three sources have traditionally driven sanctions legislation in the United Kingdom. The UK currently applies and implements sanctions originating from the United Nations; sanctions originating from the European Union, commonly referred to as restrictive measures; as well as its own domestic sanctions.

European sanctions have been implemented through regulations made under the European Communities Act 1972[1]. As the Transition Period comes to an end on 31st December 11:00pm GMT as agreed in the Withdrawal Agreement[2], EU legislation and regulations will cease to have effect in the United Kingdom.

In 2018, the UK passed the Sanctions and Anti Money Laundering Act[3] which allows ministers to make sanctions regulation in application of UN sanctions or any other international obligation, or for a range of purposes[4] (including furthering the prevention of terrorism, furthering a foreign policy objective, in the interest of international peace and security, etc.). Under this Act, a number of statutory instruments have been laid before parliament in the past few months. Most will come into force at the end of the Transition Period, with the exception of the Global Human Rights Sanctions Regulations 2020[5], the first UK autonomous sanctions regime, which came into force on 6th July 2020.

OBJECTIVES

This paper aims to provide a helpful resource for financial institutions and other firms with a responsibility to comply with UK sanctions legislation either in the UK or overseas.

SCOPE

This paper covers statutory instruments passed in application of SAMLA and replacing regulations made under the European Communities Act 1972, as well as new autonomous regimes such as the Global Human Rights Sanctions Regulations. This paper should be read in correlation with SAMLA provisions and relevant definitions.

This review focuses on financial sanctions and related trade sanctions that could impact financial institutions and firms in international trade. It does not provide an analysis of other types of sanctions such as immigration.

The paper studies all sanctions regulations, both country and "thematic" (e.g. Global Human Rights Sanctions) sanctions regimes. The tables that follow illustrate a range of areas in which members have indicated they face difficulty preparing for the end of the Transition period. The tables are not comprehensive as there are still UK Sanctions Statutory Instruments (SIs) to be published. Many firms are still working through their post-transition period sanctions obligations, and it is likely that other issues will arise as their analysis of the legislative and regulatory framework is finalised.

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[1] European Communities Act 1972 (https://www.legislation.gov.uk/ukpga/1972/68/contents)

[2] https://www.gov.uk/government/publications/new-withdrawal-agreement-and-political-declaration

[3] Sanctions and Anti-Money Laundering Act 2018 (https://www.legislation.gov.uk/ukpga/2018/13/contents/enacted)

[4] Ibid., see Chapter 1, Section 1.

[5] The Global Human Rights Sanctions Regulations 2020 (https://www.legislation.gov.uk/uksi/2020/680/contents/made)

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We have divided issues into the following categories:

a) Areas where existing EU derived Sanctions requirements drop away and are not carried through to the equivalent UK autonomous SI.
b) Areas where the UK autonomous SI brings in new Sanctions requirements not present in the equivalent EU derived SI.
c) Areas where the spirit of the requirement remains, but the wording or language changes and causes a different opinion or obligation to arise.
d) UK autonomous Sanctions SIs that use a different interpretation or language for a provision, causing inconsistency in the total UK Sanctions SI framework

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The Bosnia and Herzegovina (Sanctions) (EU Exit) Regulations 2020

Restrictive Measure/Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact?
–	Bosnia and Herzegovina (Sanctions) (EU Exit) Regulations 2020/608	Council Decision 2011/173/CFSP	(b)	**Low Impact** There are no current EU Council regulations or UK implementing regulations in respect of the EU's Bosnia and Herzegovina sanctions regime which is contained in Council Decision 2011/173/CFSP (the **EU Bosnia Decision**). As the EU Bosnia Decision is binding on the EU Member States, as well as the UK until the end of the Brexit-related transition period, but not on private actors, the Bosnia and Herzegovina (Sanctions) (EU Exit) Regulations 2020/608 is an entirely new regime from a UK domestic law perspective. However, generally speaking, the language of the UK Bosnia SI reflects the equivalent provisions under other new UK regulations made under SAMLA, except in respect of those changes that are necessary as between the regimes, e.g. the purpose of the regime and the activities being targeted by sanctions.

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Version	Issue Date	Expiry Date	Notes
1.00	5th November 2020	30th November 2020	• First issue. • Initial review of UK Sanctions Sis available as at September 15 2020.

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