



Office of Financial
Sanctions Implementation
HM Treasury

Financial Sanctions: Guidance

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Financial Sanctions: Guidance

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Introduction

This document is issued by the Office of Financial Sanctions Implementation (OFSI), a part of HM Treasury, which is the competent authority for the implementation of financial sanctions in the UK.

You can contact OFSI by:

Post: Office of Financial Sanctions Implementation
HM Treasury
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SW1A 2HQ

Email: ofsi@hmtreasury.gsi.gov.uk

Phone: 020 7270 5454 between 9am and 5pm on weekdays

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

Status of this document

Most financial sanctions are made through EU law which has direct effect under UK law. OFSI works closely with the EU Commission and other member states in implementing sanctions and developing EU guidance in this area. Other financial sanctions are put in place by UK laws. OFSI cannot issue definitive guidance as to how an EU or UK court might interpret these laws.

This document provides a guide to the approach which OFSI will take when issuing licences and considering compliance, taking into account case law and EU guidance as at the date of publication.

It does **not** represent legal advice. If you are unsure as to your obligations in a given case, you should consider taking independent legal advice.

Applicability of financial sanctions

All individuals and legal entities who are within or undertake activities within the UK's territory must comply with the EU and UK financial sanctions that are in force.

All EU nationals and legal entities established under EU law must comply with the EU financial sanctions that are in force, irrespective of where their activities take place.

All UK nationals and UK legal entities established under UK law, including their branches, must also comply with UK financial sanctions that are in force, irrespective of where their activities take place.

Subsidiaries which are incorporated under EU or UK law must comply with EU and/or UK financial sanctions that are in force, irrespective of where their activities take place.

Format of the Guide

This guide is prepared in two parts. Part A provides a general overview of the financial sanctions framework which applies in the UK. Part B provides practical examples of how OFSI will generally approach licencing and compliance questions, although each case will be considered on its own facts and the specific legal requirements applying to the relevant financial sanctions regime.

References to 'a person' throughout this guide include natural people, as well as entities and bodies of any type. References to a 'designated person' are to persons who are subject to an asset

freeze, and references to the 'listing' of a person means their inclusion on the list of designated persons.

Part A – Financial Sanctions Framework

1. Overview of financial sanctions

1.1. Why do we have financial sanctions

Financial sanctions are restrictions put in place by the UK government or the multilateral organisations that limit the provision of certain financial services or restrict access to financial markets, funds and economic resources in order to achieve a specific foreign policy or national security objective.

Financial sanctions are generally imposed in order to:

- Coerce a regime, or individuals within a regime into changing their behaviour or aspects of it (“offending behaviour”), by increasing the cost on them to such an extent that they decide to cease the offending behaviour;
- Constrain a target by trying to deny them access to key resources needed to continue their offending behaviour, including the financing of terrorism or nuclear proliferation;
- Signal disapproval of a target as a way of stigmatising and potentially isolating them, or as a way of sending broader political messages to international or domestic constituencies; and/or
- Protect the value of assets that have been misappropriated from a country, until such point as they can be repatriated.

1.2. Who is involved in making and implementing sanctions

The United Nations (the UN) may impose financial sanctions and require member states to implement them, by way of a Resolution of the UN Security Council. You can read more about the work of the UN in relation to financial sanctions here:

<https://www.un.org/sc/suborg/en/sanctions/information>

The EU implements financial sanctions imposed by the UN and may also implement EU autonomous financial sanctions. All of these sanctions are implemented through EU regulations, which mean they have direct legal effect in the UK. You can read more about the work of the EU in relation to financial sanctions here:

http://eeas.europa.eu/cfsp/sanctions/index_en.htm

The UK makes statutory instruments to provide for the penalties for any breach of EU sanctions and for the provision and use of information relating to the operation of those sanctions. The UK may also issue its own domestic financial sanctions and restrictions under the following pieces of legislation:

- Terrorist Asset-Freezing etc. Act 2010
- Counter Terrorism Act 2008
- Anti-Terrorism, Crime and Security Act 2001

Departments predominantly associated with sanctions within the UK include:

- The Foreign Office is responsible for negotiating all international sanctions.
- HM Treasury, through OFSI, is responsible for making designations under UK domestic financial sanctions and for the implementation of all financial sanctions in the UK.
- The Department for International Trade, through its Export Control Organisation, implements trade sanctions and embargoes in the UK.
- The Home Office implements travel bans in the UK.

A full list of financial sanctions regimes currently in force in the UK can be located here:

<https://www.gov.uk/government/collections/financial-sanctions-regime-specific-consolidated-lists-and-releases>

1.3. Types of financial sanctions

Financial sanctions come in many forms, and these will be adapted and developed to suit a given situation. The most common types of financial sanctions currently in use or used in recent years are set out below:

- Targeted asset freezes, which are usually applied to named individuals, entities and bodies, restricting access to funds and economic resources.
- Restrictions on a wide variety of financial markets and services. These can apply to named individuals, entities and bodies, to specified groups or to entire sectors. To date these have taken the form of investment bans; restrictions on access to capital markets; directions to cease banking relationships and activities; requirements to notify or seek authorisation prior to certain payments being made or received; and restrictions on provision of financial, insurance, brokering, advisory services or other financial assistance.
- Directions to cease all business of a specified type with a specific person, group, sector or country.

2. Who is subject to financial sanctions

2.1. OFSI lists

Financial sanctions, depending on the type of sanction, are targeted at individuals, entities, sectors or countries.

Where there are sector specific or country wide financial sanctions or directions in place, these will be highlighted on OFSI's website: <https://www.gov.uk/government/organisations/office-of-financial-sanctions-implementation>.

Currently OFSI maintains two lists of financial sanctions targets, one of which is a consolidated list of all designated persons (known as the consolidated list) and another list of entities subject to specific capital market restrictions. These lists can be accessed free of charge here:

<https://www.gov.uk/government/publications/financial-sanctions-consolidated-list-of-targets>

The OFSI lists are generally updated within 1 working day for new EU and UK listings and within three working days for all other amendments.

All updates to financial sanctions are published on the OFSI website and emailed to OFSI's subscription list. You can join OFSI's subscription list here:

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

OFSI does not provide information on sanctions imposed by non-EU countries or on domestic sanctions imposed by other EU member states.

2.2. Using the consolidated list

If a person is a designated person they will be included on the consolidated list. However, an asset freeze and some financial services restrictions will also apply to persons and entities that are owned or controlled, directly or indirectly, by a designated person. Those persons or entities may not be designated in their own right, so their name may not appear on the consolidated list. However, those persons or entities are similarly the subject of the financial sanctions.

The EU's Best Practices guide includes a section on ownership and control which can be found here: <http://data.consilium.europa.eu/doc/document/ST-10254-2015-INIT/en/pdf>.

When searching the consolidated list you may find that you match the name or part of the name of the person or entity you are dealing with to a name on the list. This is known as a **name match**, and it may not necessarily mean that the person or entity you are dealing with is subject to sanctions.

The consolidated list generally contains additional identifying information such as date of birth, passport details, nationality, last known address, and employment or government role. You should consider all of the information that you hold on the person or entity you are dealing with against the information on the consolidated list to determine if you have a real match, usually known as a **target match**.

Where you have reviewed all of the information on the consolidated list against all of the information that you have about the person or entity and you are still unsure as to whether you have a **target match**, you can contact OFSI for assistance.

Examples:

You have a name match for a person who is listed as a Syrian general commanding troops in Syria at the start of the civil war, but the person you are dealing with is aged 15 and was born in the UK. This is probably a name match rather than a target match.

You have a name match for an Egyptian former Member of Parliament accused of misappropriation, but the person you are dealing with is a retired teacher with a different date of birth who has carried out business with you in the UK for the past 10 years. This is probably a name match rather than a target match.

You have a close name match for a person subject to a terrorist asset freeze and they have a similar date of birth but a different address. You may have identified a new alias being used to circumvent financial sanctions. Contacting OFSI may assist you to clarify whether you have a target match.

If you have a target match, what you are required to do next will depend on the specific sanctions which apply. This is outlined in the next section.

3. The prohibitions

You are prohibited from carrying out certain activities or behaving in a certain way if financial sanctions apply. This will depend on the exact terms of the EU or UK legislation which imposes the financial sanction in the given situation.

The information below provides a general overview of the standard prohibitions usually found in respect of financial sanctions.

You should always refer to the up to date version of the law imposing the specific financial sanctions which apply in your case to understand exactly what is prohibited. OFSI construes prohibitions widely, which is in keeping with the way in which Member States approach prohibitions.

The below sections set out the framework of prohibitions in place at the date of publication.

3.1. Asset freezes

3.1.1. What do they do?

Where the financial sanction takes the form of an asset freeze, it is generally prohibited to:

- Deal with the funds or economic resources, belonging to or owned, held or controlled by a designated person,
- Make funds or economic resources available, directly or indirectly, to, or for the benefit of, a designated person; or
- Engage in actions that, directly or indirectly, circumvent the financial sanctions prohibitions.

The funds and economic resources are to be frozen by the person in possession or control of them and they are not confiscated or transferred to OFSI for safekeeping.

An asset freeze imposed under the Anti-Terrorism, Crime and Security Act 2001 relates to funds which under that legislation are financial assets and economic benefits of any kind.

3.1.2. Terminology used

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; and
- documents showing evidence of an interest in funds or financial resources.

Economic resources generally means assets of every kind, whether tangible or intangible, movable or immovable, which are not funds, but may be used to obtain funds, goods or services.

Goods generally means items, materials and equipment.

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.

Making available funds or economic resources directly or indirectly to or for the benefit of a designated person is generally not defined in legislation; OFSI will apply the normal and everyday usage of those words. The provision of basic economic resources for personal consumption is not likely to be viewed by OFSI as having made them available directly or indirectly to or for the benefit of a designated person.

Further information about how OFSI will practically apply this prohibition is contained in Part B.

3.1.3. What must you do?

If you know or have reasonable cause to suspect that you are in possession or control or are otherwise dealing with the funds or economic resources of a designated person you:

- Must freeze them; and
- Must not deal with them or make them available to the designated person, unless there is an exemption in the legislation that you can rely on or you have a licence from OFSI.

An asset freeze imposed under the Anti-Terrorism, Crime and Security Act 2001 relates to funds which under that legislation are financial assets and economic benefits of any kind.

A breach of these requirements will be dealt with by the appropriate authorities and may include criminal prosecution.

Asset freezing regimes require information to be provided to OFSI in order to enable the asset freeze to be properly enforced:

- If the asset freeze is imposed by an EU regulation, all persons, including financial institutions, must generally provide OFSI with information which would facilitate compliance with the asset freeze, including information about the funds and economic resources which have been frozen.
- If the asset freeze is imposed under the Terrorist Asset-Freezing etc. Act 2010, financial institutions must inform the Treasury (OFSI) as soon as practicable if, it knows or has reasonable cause to suspect, that a person is a designated person, or has committed an offence contrary to the prohibitions in that legislation, and the information or other matter on which the knowledge or suspicion is based came to

it in the course of carrying on its business. This would include information about the funds and economic resources which have been frozen.

OFSI also has various information request powers which may, depending on the particular legislation concerned, include powers to establish the extent of funds and economic resources owned, held or controlled by or on behalf of a designated person, to monitor compliance or detect evasion or obtain evidence of the commission of an offence. Failure to comply with a requirement to provide information or an OFSI request for information will be dealt with by the appropriate authorities and may include criminal prosecution.

3.2. Financial markets and services restrictions

OFSI is the responsible authority in relation to restrictions on financial markets and services, including the provision of insurance, where they form part of an asset freeze or if there is a direction prohibiting such services under the Counter Terrorism Act 2008. The Export Control Organisation is the responsible authority in relation to restrictions on financial assistance related to specific trade measures: <https://www.gov.uk/government/organisations/export-control-organisation>.

3.2.1. Terrorist asset freezes

The Terrorist Asset-Freezing etc. Act 2010 prohibits the provision of financial services, directly or indirectly or for the significant benefit of a designated person. Generally, "financial services" in this situation includes (but is not limited to) the provision of insurance, banking, provision of credit, financial trading, participating in issues of securities, money brokering, asset management, settlement and clearing services for financial assets, providing or transferring financial information and providing advisory or other auxiliary financial services including advice on acquisitions and corporate restructuring.

3.2.2. Syria

There are a number of financial restrictions in place in relation to the sale or purchase of certain Syrian public or guaranteed bonds, the establishment of new banking relationships, and the provision of certain insurance and re-insurance products to specified individuals and entities. There are no licencing grounds available for these prohibitions, but time frames and/or specific exemptions apply to certain activities.

3.2.3. Russia

Currently, capital measures apply in relation to Russia's activities to undermine the sovereignty and territorial integrity of Ukraine. These capital market measures are designed to restrict access to the European capital markets in order to limit the ability of specific companies from raising capital within the EU.

Under those measures, if a company is included on the capital market measures list (<https://www.gov.uk/government/publications/financial-sanctions-consolidated-list-of-targets/ukraine-list-of-persons-subject-to-restrictive-measures-in-view-of-russias-actions-destabilising-the-situation-in-ukraine>) you must not directly or indirectly, purchase, sell, provide brokering or assistance in the issuance of, or otherwise deal with transferable securities and money market instruments issued by them where they were:

- Issued between 1 August 2014 and 12 September 2014 with a maturity exceeding 90 days, or
- Issued after 12 September 2014 with a maturity exceeding 30 days.

You must also not directly or indirectly make or be part of any arrangement to make new loans or credit with a maturity exceeding 30 days to these companies.

These are absolute prohibitions, there are no exemptions or licencing grounds to allow this conduct to take place.

These prohibitions are not an asset freeze and funds and economic resources can otherwise be provided to the companies on the capital markets measures list, unless they are separately listed as a designated person on the consolidated list, or are owned or controlled by a designated person.

The European Commission's guidance note on the implementation of certain provisions of Regulation (EU) No 833/2014 can be found here:

http://ec.europa.eu/dgs/fpi/documents/russia_sanctions/1_act_part1_v2_en.pdf

4. Exemptions and licencing grounds

The financial sanctions regimes generally enable certain future transactions to take place which would otherwise be prohibited, where there are specific exemptions or licencing grounds.

The information below provides a general overview of the standard exemptions and licencing grounds found in respect of financial sanctions.

OFSI may only issue licences where there are specific and relevant licencing grounds to do so, when the conditions in those grounds have been met, and may attach such conditions to the licence as OFSI considers appropriate.

Licences cannot be issued retrospectively.

You should always refer to the up to date version of the legislation that imposes the specific sanctions regime in your particular case. OFSI construes licencing grounds in EU sanctions regimes narrowly, which is in keeping with the way in which other Member States approach such grounds.

For domestic regimes, OFSI will consider licence applications on a case by case basis.

Licences issued by OFSI will apply to conduct that will occur in the UK or those who come within the UK penalties regime for the breach of financial sanctions. If the transaction involves, for example, other actions in another EU member state or another country, you will need to consider what other licences you need in respect of the actions in those jurisdictions. You may also need to apply for a licence to the respective competent authority in that jurisdiction.

4.1. Crediting frozen accounts

Asset freezes generally permit any person to make the following payments into a frozen account, so long as those funds are similarly frozen, without the need for a licence from OFSI:

- Any interest or earnings on the accounts;
- Any payments due under contracts, agreement or obligations that were concluded or arose before the date of designation.

Financial sanctions generally permits financial or credit institutions to credit a frozen account with payments from a third party provided that the incoming funds are also frozen and they notify OFSI of the transaction without delay.

Asset freezes imposed under the Anti-Terrorism, Crime and Security Act 2001 do not provide for any automatic exemptions and all payments subject to this asset freeze require a licence.

4.2. Grounds for getting a licence

Asset freezes imposed under EU legislation generally permit licences to be issued under the following licencing grounds:

Licencing ground	OFSI approach
Basic needs of the designated person and dependent family members	EU and UK case law provides that basic expenses are those expenses which are necessary to ensure that the very existence of the designated person is not imperilled. These needs will vary if the designated person is a legal entity rather than a natural person.

	Basic needs licenses do not enable a designated person to continue the lifestyle or business activities they had before designation.
Payment of reasonable legal fees and disbursements	The fees must be reasonable and payments of fees and disbursements must relate specifically to the provision of legal advice or involvement in litigation. Payments of ancillary expenses to the provision of legal services may not be covered. An expense does not come within this ground just because a firm providing legal services is willing to make the payment.
Fees or service charges for routine holding or maintenance of frozen funds or economic	The fees must be for routine activities. Re-design, refurbishment or redevelopment to improve value will generally not be covered.
Satisfaction of prior court or arbitration judgements against the designated person	The judgement or decision must have been given prior to the date of designation and cannot be for the benefit of a designated person.
Satisfaction of prior contractual obligations of the designated person	The contract or obligation must have arisen prior to the date of designation and cannot result in funds or economic resources being made available to the designated person.
Extraordinary expenses	This must be an expense of the designated person, it must be extraordinary in nature (so not recurring or easily anticipated), and cannot be used to grant licences which are more suitable for consideration under other licencing grounds but cannot be issued due to clear limitations in those grounds.

Certain EU financial sanctions regimes may also have specific licencing grounds relating to the circumstances of the specific regime, which could include the provision of humanitarian aid; diplomatic and consular activities and the disposal of chemical weapons.

The domestic financial sanctions regimes, (the Terrorist Asset Freezing etc. 2010; the Anti-Terrorism, Crime and Security Act 2001; and the Counter Terrorism Act 2008) contain a form of general power to issue licences that permit activity that would otherwise be caught by the prohibition. The licencing powers under the domestic financial sanctions regimes will be exercised in accordance with the law, including international law, and the stated policy objectives of the specific regime.

OFSI have issued a small number of general licences under the Terrorist Asset-Freezing etc. Act 2010 and in some cases under the Al-Qaida regime. These general licences are available publicly, they apply in specific circumstances set out in the licence and can be used without making an application to OFSI. These general licences can be found here:

<https://www.gov.uk/government/publications/counter-financing-of-terrorism-general-licenses>

4.3. Process for getting a licence

Applications for licences must be made in writing on the OFSI licence application form by:

Email: ofsi@hmtreasury.gsi.gov.uk

Post: Office of Financial Sanctions Implementation
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

The OFSI licence application form can be found here:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/512770/ofsi_generic_licence_application_form_march_2016.docx

Applications for licences under the Terrorist Asset-Freezing etc. Act 2010 may alternatively be made by sending an email setting out the full details of the proposed transaction to: ofsi@hmtreasury.gsi.gov.uk.

No payment to OFSI is required to obtain a financial sanctions licence.

Applications for export licences should be made separately to the Export Control Organisation:

<https://www.gov.uk/government/organisations/export-control-organisation>

Applicants should provide full information on the parties to the proposed transaction, the complete payment route including account details, the amount (or estimated amount) of the proposed transaction, and identify the licencing ground being relied upon in the application. It is for the applicant to provide evidence to support the claims in the application and demonstrate that the criteria in the relevant licencing ground have been met.

The provision of false or misleading information in a licence application will be dealt with by the appropriate authorities and may include criminal prosecution.

Incomplete applications will not be considered and will be returned to the applicant for re-submission.

OFSI will endeavour to assist applicants who contact us to understand the licencing processes and our evidentiary requirements. However, we cannot provide legal advice and applicants should consider taking independent legal advice, especially for complicated matters. OFSI expects that legal and professional advisers will have fully considered the relevant law and formed a view as to its application before approaching OFSI for guidance or submitting an application.

OFSI will seek to engage with applicants on the substance of completed applications within four weeks, prioritising urgent and humanitarian cases. You should not assume that the licence will be granted or engage in any activities prohibited by financial sanctions until you are in receipt of a signed licence.

Certain licences need to be notified to or receive approval from either the European Commission or the relevant United Nations Sanctions Committee. These requirements are set out in the UN Resolutions and the EU regulations. These requirements will lengthen the processing time for such licence applications and may prevent the licence being issued.

A licence means that specified conduct is not a breach of sanctions. It does not compel any party, including the financial institutions involved in the payment route, to take any action, nor does it confirm that the proposed transaction is lawful aside from financial sanctions considerations.

While any person involved in a transaction can apply for a licence, OFSI will usually require input from the designated person in order for the licence to be issued.

If a licence is refused, the proposed transaction may not take place. You may ask OFSI to review its decision or seek to judicially review the decision. Under the Terrorist Asset-Freezing etc. Act 2010, there is specific provision to apply to the Court for the review of a Treasury decision. In any case, you may wish to seek independent legal advice before taking the matter further.

4.4. Travel to the UK

OFSI expects all designated persons planning to visit the UK to possess an appropriate licence for them to support themselves legally while in the country. If a visa application is also required, the licence application should include a request for permission to pay any visa application fees (in addition to any basic needs). The granting of a licence does not guarantee that the person will be granted a visa.

The requirement to obtain a licence before travelling also applies to non-designated persons visiting the UK who are being funded, in whole or part, by a designated person.

Please note that you should apply for a licence at least four weeks before travelling or applying for a visa, whichever is sooner.

OFSI works closely with other parts of government to ensure that designated persons travelling to the UK have an appropriate licence for the duration of their stay in the UK. Anyone dealing with funds that should be frozen, or who makes economic resources available to a designated person, and who doesn't have an appropriate licence, will be committing an offence. In these instances the matter will be referred to law enforcement.

For information on applying for a licence, please see Section 4.3 of this guidance.

4.5. Complying with the licence

Licences issued by OFSI are not published.

OFSI expects licence holders to share licences with other parties to the transaction to answer questions about the permissions granted for the proposed transaction.

If you are unsure about the validity of a licence that a designated person has shown you, you can send a copy of the licence to OFSI at ofsi@hmtreasury.gsi.gov.uk and we will aim to

provide you with advice as to whether it matches the licence on our records within 1 working day.

If you are unsure as to whether the conduct you propose to undertake is specifically within the terms of the licence, you can seek clarification from OFSI. You should not undertake that action until you receive a response from OFSI and should not take silence as agreement to your interpretation. OFSI will seek to respond to such queries within two weeks of receipt.

Any conduct outside the terms of the licence, such as use of a different payment route or payments in excess of a specific payment cap, will be a breach of financial sanctions and will be dealt with by the appropriate authorities and may include criminal prosecution.

Any requests for amendment, variation or extension of a licence should be submitted as soon as it is apparent that the amendment, variation or extension is required with appropriate supporting information. While urgent applications will be prioritised, OFSI cannot guarantee that last minute amendment, variations or extensions will be authorised within the requested timeframe.

Licences will require that certain information is reported to OFSI within a specific time frame. The failure to comply with these reporting requirements will be dealt with by the appropriate authorities and may include criminal prosecution as well as the revocation, suspension or termination of the licence or further restrictions included in the licence.

5. Enforcement

OFSI is responsible for monitoring compliance with financial sanctions and receiving the notifications of suspected breaches or circumvention of them.

OFSI works with the relevant agencies and regulators to consider all suspected breach cases reported to it. While the decision to prosecute in respect of a breach of financial sanctions ultimately lies with the CPS and the Attorney General, when initially considering the course of action to take in response to a breach, appropriate regard will be had to whether the breach was self-disclosed fully and promptly, the level of cooperation with any investigation and actions being taken to improve future compliance.

A form is available on the OFSI website <https://www.gov.uk/guidance/sanctions-embargoes-and-restrictions> to enable reports of suspected breaches to be reported.

Information about sanctions compliance and suspected breaches will be shared and used by OFSI within the limits prescribed in the relevant EU sanctions regulations and the UK legislation, including the Data Protection Act 1998.

6. Challenging designations

Designated persons who have been subject to sanctions are able to challenge their listing and request their delisting. The financial sanctions will remain in place while the challenge or request is being considered.

For UN listings under the ISIL (Da'esh) and Al-Qaida organisations regime, a petition for delisting can be made to the UN Office of the Ombudsperson to the ISIL (Da'esh) and Al-Qaida Sanctions Committee. More information about the Office of the Ombudsperson can be found here:

<https://www.un.org/sc/suborg/en/node/189>

For all other UN listings a request should be sent to the UN focal point for delisting. More information about the focal point is available here: <http://www.un.org/sc/committees/dfp.shtml>.

Alternatively, if you are a UK resident or citizen you can also petition the UK to submit a delisting request to the UN. You can contact the FCO Sanctions Section at:

Sanctions Section
International Organisations Department
Foreign and Commonwealth Office
Room E.302
King Charles Street
London SW1A 2AH

Or via email to: sanctions@fco.gov.uk

For EU listings you should write in the first instance to the EU at relex-sanctions@ec.europa.eu.

For UK listings, there are avenues of appeal and judicial review within the specific legislation under which the designation is made. The address for the service of legal correspondence on OFSI is:

The Treasury Solicitor
Government Legal Department
One Kemble Street
London WC2B 4TS
DX 123242 Kingsway

If you have been de-listed, but your name still appears on the consolidated list, you should email OFSI at ofsi@hmtreasury.gsi.gov.uk with evidence of your de-listing.

If you believe that your assets in the UK have been frozen mistakenly, for instance as a case of mistaken identity, please contact ofsi@hmtreasury.gsi.gov.uk in the first instance.

Part B: Practical Examples

This part does not contain specific guidance for every situation, but instead, taking into account the range of sanctions in place at the time of publication, and sets out OFSI's general approach to common questions in most situations.

This part should be read in conjunction with Part A.

You should review the up to date law in relation to the specific sanctions regimes that apply in your situation and consider taking independent legal advice if you are unsure of your obligations.

Each case referred to OFSI will be considered on its own facts. If you think that the circumstances of or law relating to your specific situation produces a different outcome to the answer provided below, you can raise this with OFSI to see if we share your view or submit a licence application where relevant.

References to 'You' in this part of the guidance will be references to all persons to which each section is addressed. Questions are posed from the point of view those persons.

7. Compliance for Designated Persons

7.1. Individuals

7.1.1. Can I be paid interest on my bank account / savings?

You can generally be paid interest on your bank account or savings. There are generally express provisions for financial institutions to do this provided your account is frozen or an OFSI licence can be issued to permit this.

7.1.2. Can someone pay a cheque or transfer funds into my frozen account?

A person can generally pay a cheque into your frozen account if the payment is made as a result of a contract or obligation which arose before the person was designated. Otherwise an OFSI licence will be needed to make this payment.

7.1.3. Can I have a debit card?

You are not prohibited from having a debit card, but its use will only be permitted in accordance with a relevant exception or an OFSI licence. It will be a commercial decision for your bank to make as to whether they are willing to give you a debit card or maintain your access to existing debit cards.

If you are designated under the Terrorist Asset-Freezing etc. Act 2010, then you will need an OFSI licence to use a debit card.

7.1.4. Can I have a pre-paid card?

You will need to rely on a relevant exception or an OFSI licence to load and use a pre-paid card.

7.1.5. Can I have a credit card?

Any existing credit cards you have must be frozen. You will need to rely on a relevant exception or an OFSI licence to be given a new credit card or to use any credit card.

If you are designated under the Terrorist Asset-Freezing etc. Act 2010, then you will need an OFSI licence to use a credit card.

7.1.6. Can I use vouchers, coupons or rewards points to pay for things?

Vouchers, coupons or reward points are considered funds. Therefore you will need to rely on an exception or an OFSI licence to accept and use vouchers, coupons or rewards points. If you are designated under the Terrorist Asset-Freezing etc. Act 2010, then you will need an OFSI licence to use vouchers, coupons, or reward points.

7.1.7. If I am a joint signatory on an account, will it be frozen too?

Any account you are a joint signatory on is likely to be frozen, at least initially, because all funds owned, held or controlled by you must be frozen. The financial institution which holds the account will need to consider the ownership of the funds, the level of control you exercise over the funds, whether and to what degree the funds will be made available to you or for your benefit if they release the funds to other non-designated signatories to the account, and whether there is an OFSI licence, before they can decide whether to allow another signatory can access the funds in the account.

7.1.8. Can I let someone pay a bill for me?

You will generally need to either rely on an exception or an OFSI licence to let someone else pay a bill for you or on your behalf, where payment of the bill means that you receive a financial benefit.

For example it will generally be permitted for someone to pay for your share of a meal without a licence, but paying your monthly utility bill or school fees for a term for your children will need an OFSI licence.

If you are designated under the Terrorist Asset-Freezing etc. Act 2010, and receive a significant financial benefit as the result of such a payment, then you will need an OFSI licence before the payment can be made.

7.1.9. Can I take out insurance?

Generally you will be able to take out insurance.

If you are subject to an asset freeze under the Terrorist Asset-Freezing etc. Act 2010, there is a general licence in place to allow insurance to be provided to you. The payment of claims is permitted where the payment is exempt or a licence has otherwise been granted by HM Treasury.

If you are subject to any other asset freeze, the provision of insurance itself is not prohibited, but you will need to rely on exception or apply for an OFSI licence to pay any premiums and for any payments of claims.

7.1.10. Can I invest my funds?

You will generally not be able to actively invest your funds and move them from one account to another in order to simply get a better rate of interest.

The exceptions or existing licencing grounds in relation to asset freezes imposed by EU Regulations are unlikely to allow such activity to be permitted. Applications for licences in relation to asset freezes imposed by UK law will need to demonstrate that such activity would be in line with licencing policy for that regime.

7.1.11. I jointly own an asset, can I transfer my ownership?

You will not be able to transfer ownership of an asset without an exception or an OFSI licence.

7.1.12. Can I avoid paying my debts?

You may apply for an OFSI licence to make payments in respect of obligations which were incurred prior to your designation. Therefore, if an OFSI licence is granted, you will not be able to use the fact that your assets are frozen for not paying your debts.

If you enter into a contract after designation without having an OFSI licence, you may be breaching sanctions. If you do not have an OFSI licence and you fail to tell the provider of the goods or services about the restrictions on your ability to pay, you may also have engaged in fraud.

7.1.13. Can I take employment?

Financial sanctions do not prevent you from taking employment, however you will be required to rely on an exception or an OFSI licence in order to be paid, and those funds will need to be paid into a frozen account.

Under the Terrorist Asset-Freezing etc Act 2010 there is an exception to the prohibition on making funds or financial services available for the benefit of a designated person which covers the making of a payment which is a benefit under an enactment relating to social security, and is made to a person who is not a designated person, whether or not the payment is made in respect of a designated person.

7.1.14. Can I make use of my own assets – e.g. a car?

You may use your assets for your own personal use provided that you do not use them to generate income without the need for an OFSI licence.

For example, you may use your car to do grocery shopping and your house for your personal residence. However, you cannot use your car to generate income (e.g. as a courier) or rent your house to someone, without having an OFSI licence.

7.1.15. Can I use frozen funds to keep multiple houses open and ready for me to visit?

All asset freezes will enable you to maintain one residence for your use.

If you are subject to an asset freeze imposed by EU law, it is OFSI's view that the basic needs licencing ground only requires one residence to be maintained for use. Licences may be granted for routine maintenance and fees associated with holding the other properties, but this will be limited to what is strictly necessary to prevent the property from deteriorating.

If you are subject to an asset freeze imposed by UK law, you will need to demonstrate that such activity would be in line with licencing policy for that regime.

7.1.16. Can I use frozen funds to pay for private education for my children?

Your ability to pay for private education for your children may be limited.

If you are subject to an asset freeze imposed by EU law, it is OFSI's view that generally private education will not be considered to be a basic need where there is a suitable state school alternative available. Generally there may be licencing grounds which may permit the payment of such private school fees to the end of any current contract or to the end of the academic year to minimise the disruption to the child. OFSI will judge licence requests on a case by case basis, including the needs of the children.

If you are subject to an asset freeze imposed by UK law, you will need to demonstrate that such payments would be in line with licencing policy for that regime.

7.1.17. Can I use frozen funds to go on holiday?

You will need an OFSI licence to use frozen funds to pay for a holiday.

If you wish to use frozen funds you will need to apply for a licence relying on relevant licensing grounds in the usual way.

7.1.18. Can I use un-frozen funds from outside of the EU in the UK?

You will need a licence to use un-frozen funds from outside the EU in the UK because all your funds, or funds made available to you, must be frozen when they enter the EU.

OFSI will consider applications for a licence to use funds in these circumstances on the same basis as if the funds had initially been held in the UK.

7.1.19. Can I use frozen money in the UK to pay for things outside of the EU?

You may be permitted to use frozen funds in the UK to pay for expenses outside of the EU under an OFSI licence. However, OFSI will generally require you to demonstrate that you do not have access to unfrozen funds outside of the EU to meet those expenses before OFSI will decide whether to issue a licence.

7.1.20. What reporting obligations apply to me?

OFSI may ask you for information about your assets and your financial activities as part of their role in implementing financial sanctions. Specific reporting requirements may also be included in any licence you are issued. For example you may be required to provide a copy of your bank statement and all receipts each month. Failure to comply with reporting requirements on time may be dealt with by criminal prosecution.

7.2. Entities and organisations

If your business is subject to an asset freeze, its continued existence is not prohibited but its operations will be strictly limited because the asset freeze applies.

7.2.1. Can I still pay my suppliers and staff?

You will need an OFSI licence to pay existing staff and suppliers.

The asset freeze may limit the amount of staff and suppliers you continue to need as well as your ability to meet regulatory requirements, hire new staff or engage new suppliers.

7.2.2. Can I still receive payments from my customers?

Payments due under contracts made prior to your designation can generally be made into your frozen account where there is a relevant exemption to this effect.

Dealings that your business has with customers, after its designation, will generally need an OFSI licence. The extent to which you are able to operate your business under the asset freeze will be more restricted than prior to your designation, which is likely to limit the amount of activity you can undertake with new customers.

7.2.3. Can I still receive goods from my suppliers?

You may be able to receive an OFSI licence in limited circumstances to receive goods from your suppliers. Those circumstances are likely to be limited to ensuring that your businesses continued existence is not imperilled.

7.2.4. Can I invest my profits?

Your business will generally not be able to actively invest its profits or move funds from one account to another in order to simply get a better rate of interest.

If the nature of the business which has been designated is a wealth fund or investment business, OFSI is of the view that limited portfolio management may be permitted under the basic needs licencing ground, to ensure that the continued existence of the business is not imperilled.

Applications for licences in relation to asset freezes imposed by UK law will need to demonstrate that such activity falls under a relevant licencing ground for that regime.

7.2.5. Can I pay dividends to shareholders?

You may be able to pay dividends to shareholders under an OFSI licence.

7.2.6. Can I issue new equity or debt?

If payments relating to debt or equity issues are due under obligations arising prior to your business' designation, then generally payments may be made into your frozen account without a licence.

You will need an OFSI licence in order to issue new equity or debt.

The existing licencing grounds under asset freezes imposed by EU law and licencing policy for asset freezes imposed by UK law are unlikely to permit the issuing of new equity or debt except in the most exceptional circumstances.

7.2.7. Can my business' shares be traded by third parties?

Where your business' shares are owned or controlled by non-designated persons, it is not prohibited for those third-parties to trade those shares provided that the proceeds of the sale or shares are not made available to the business.

7.2.8. Can I maintain my business premises?

Your ability to use business premises to generate income will be limited as a result of the asset freeze.

You will need an OFSI licence to enable payments to be made and activities undertaken to ensure that business premises remain safe.

OFSI considers that existing licencing grounds under asset freezes imposed by EU law and licencing policy for asset freezes imposed by UK law are unlikely to permit significant refurbishment for presentational or business promotion reasons.

7.2.9. Can I manage a property portfolio?

You will need an OFSI licence in order to manage a property portfolio.

The existing licencing grounds in relation to asset freezes imposed by EU are unlikely to allow such activity to be permitted. However, if the nature of the business which has been designated is property management, OFSI is of the view limited portfolio management may be permitted under the basic needs licencing ground, to ensure that the continued existence of the business is not imperilled.

Applications for licences in relation to asset freezes imposed by UK law will need to demonstrate that such activity would be in line with licencing policy for that regime.

7.2.10. Can I obtain insurance?

Generally you will be able to take out insurance.

If you are subject to an asset freeze under the Terrorist Asset-Freezing etc. Act 2010, there is a general licence in place to allow insurance to be provided to you. The payment of premiums, however, will require an OFSI licence.

If you are subject to any other asset freeze, the provision of insurance itself is not prohibited, but you will need an OFSI licence specifically for you to pay any premiums and for any payments of claims.

7.2.11. As a financial institution which is subject to sanctions, can I continue to operate accounts for customers?

You will need an OFSI licence to release funds to customers.

7.2.12. What reporting obligations apply to me?

OFSI may ask you for information about your assets and your financial activities as part of their role in implementing financial sanctions. Specific reporting requirements may also be included in any licence you are issued. For example you may be required to provide a copy of your bank statement and all receipts each month. Failure to comply with reporting requirements on time may be dealt with by criminal prosecution.

8. Compliance for family, friends and members of the public

If you undertake an act that is prohibited by an asset freeze and at the time you did so, you knew or had reasonable cause to suspect that the act was prohibited, then you will have breached financial sanctions and may face criminal prosecution.

If you are unsure about your obligations, you should consider seeking independent legal advice or contact OFSI.

8.1. Can I give or lend money to a designated person?

You will almost certainly need an OFSI licence to give or lend money to a designated person.

8.2. Can I give or lend money to a family member of a designated person?

You can give or lend money to a family member of a designated person, but you must satisfy yourself that the money is not going to be given to the designated person or used for their significant financial benefit.

If you give money to a person who is financially dependent on the designated person to discharge an obligation of the designated person you would be giving the money for the benefit of the designated person.

If the designated person will receive a significant financial benefit from you giving money to a family member of the designated person, it is likely that you will need an OFSI licence.

8.3. Can I give a designated person a gift?

You cannot give a gift of cash, vouchers or other funds without an OFSI licence.

OFSI is of the view that if the gift is an economic resource (e.g. a tangible good), which is of a low value and for personal consumption, it will not breach the asset freeze. Examples of such gifts could include a book, an item of clothing, a box of chocolates or a bunch of flowers.

If however the items are of a higher value or able to be used or sold onward to generate income (e.g. a theatre or sporting ticket, a mobile phone) then you will require an OFSI licence.

8.4. Can I give a gift to a family member of a designated person?

You can give a gift to a family member of a designated person, but you must satisfy yourself that the gift is not going to be given to or used for the significant benefit of the designated person.

If the gift is of significant value, or would normally be something that the designated person is responsible for providing to a person who is financially dependent on them, this may constitute the indirect making available of funds or economic resources and you will require an OFSI licence.

For example the one off purchase of a toy or clothing for a child that a designated person is financially responsible for is likely to be permitted without an OFSI licence, but purchasing an item of furniture or a whole season's worth of clothing for the child will require an OFSI licence.

8.5. Can I loan something to a designated person?

You can loan an item to a designated person if the item is not funds and is for personal use by the designated person without an OFSI licence, unless the extent or value of the loan is significant.

If however the item represents a significant benefit to the designated person or can be used to generate income, then an OFSI licence is required.

For example, you could lend a designated person a lawn mower for the day to mow their grass, but not for use in a gardening business.

8.6. Can I give a designated person a meal or a drink?

You can give or pay for a meal or a drink to a designated person for their own personal consumption.

However, if you are regularly providing meals to a designated person or buying them groceries, this will require an OFSI licence.

8.7. Can I pay for a designated persons' travel or give them my oyster card?

You will need an OFSI licence in order to provide an oyster card to a designated person, as it is a pre-paid card, and accordingly it is the provision of funds.

You will need an OFSI licence to pay for a designated person's travel if the designated person would receive a significant financial benefit as a result.

For example, you may make a one-off payment for a local bus fare or day tube pass without an OFSI licence, but long distance travel, weekly tickets or repeated payments for short trips will require an OFSI licence.

8.8. Can I pay for a designated persons' accommodation?

It is likely you will need an OFSI licence to pay for a designated person's accommodation, as this may represent the indirect provision of funds to the designated person.

8.9. Can I let a designated person stay at my house?

You may allow a designated person to stay at your house for a temporary period without an OFSI licence. However you should contact OFSI in such a circumstance.

OFSI also considers that allowing a person to share a hotel room or similar accommodation that you have paid for, with you on a temporary basis will not require a licence, provided you are staying there as well.

However, you will need an OFSI licence if you are providing access to accommodation to a designated person for free over a prolonged period of time.

8.10. I work for a designated person, what do sanctions mean for me?

Your employer will need an OFSI licence to pay your salary and expenses. You will also need to be careful that your actions at work do not breach any of the conditions of the asset freeze.

The continued operation of their business will be restricted by the terms of licences granted. If you are involved in ordering stock or supplies, agreeing contracts or making payments, you should familiarise yourself with the terms of any OFSI licence in place for the business to ensure you comply with the licence. Failure to comply with the terms of the licence may be dealt with by criminal prosecution.

You are not permitted to make payments on behalf of your employer from your own funds while they are in the process of obtaining licences.

8.11. I bought goods from a designated person, can I still receive them?

The goods may constitute an economic resource, and if they are still owned or controlled by the designated person, you will need an OFSI licence to allow the goods to be sent to you.

8.12. I owe a designated person money under a contract agreed before they were designated. Can I pay them back?

You may be able to make a payment due as a result of obligations arising prior to the person being designated as long as the payment is into a frozen account if the sanctions regime in question contains such an exemption.

8.13. A designated person owes me money, can I get it back?

You will need an OFSI licence to allow the designated person to make the payment to you.

There are clear licencing grounds for such payments where the obligation to make the payment arose before the person was designated.

If you entered into a contract with a designated person after their designation and without an OFSI licence in place, you should contact OFSI for further advice.

It is important to note that an OFSI licence does not compel a person to make a payment. So if the designated person does not wish to pay you, then you may need to take legal action to enforce the debt.

Instituting legal action is not prohibited by sanctions, however you may need an OFSI licence in order to enforce any judgement or settlement agreement.

8.14. A designated person is suing me for not completing on a contract, how can I respond to this claim and still comply with sanctions?

How sanctions apply to your situation will depend on the exact circumstances of the claim, and you should consider taking independent legal advice.

You may be able to make a payment into a frozen account of the designated person in respect of obligations which arose under a contract prior to them being designated, if the sanctions regime in question contains such an exemption.

An OFSI licence granted in respect of the contract will also enable you to complete on the contract.

If you do not want to complete on the contract or are dispute about whether you have completed the contract, it will not be a breach of sanctions for the designated person to bring a claim against you. However, they will need an OFSI licence to pay legal representatives or to enforce any judgement in their favour which requires you to make funds or economic resources available to them.

If the designated person is subject to an asset freeze implemented by EU law, then you cannot incur liability for failing to undertake an action, if financial sanctions prevent you from undertaking that action. This protection will not apply where an OFSI licence is available to allow you to undertake that action.

8.15. I am a joint signatory of an account with a designated person, can I still access the funds?

Your joint account is likely to be frozen, at least initially, because all funds owned, held or controlled by a designated person must be frozen.

The financial institution will need to consider the ownership of the funds, the level of control the designated person exercises over the funds, whether and to what degree funds will be

made available to or for the benefit of the designated person if the funds are released to you, and whether there is an OFSI licence, before they can decide whether to allow you to access the funds in the account.

Where joint ownership or control applies, you will require an OFSI licence to access the funds.

8.16. I jointly own an asset with a designated person, can I sell my share?

You are likely to be able to legally sell your share, however, given the complexities of jointly holding assets with a designated person, you should consider taking independent legal advice prior to entering into any agreement to dispose of your share.

OFSI considers that existing licencing grounds under asset freezes imposed by EU law are unlikely to permit the sale of your share to the designated person or to a third party who has agreed to hold it for the benefit of the designated person. For domestic asset freezes imposed by UK law, an application for a licence would be considered on a case by case basis.

8.17. I own shares in a designated person, can I sell those shares?

You can sell your shares on the secondary market without an OFSI licence provided that the sale will not result in funds or economic resources being made available to the designated person.

OFSI considers that existing licencing grounds under asset freezes imposed by EU law are unlikely to permit the sale of your share to the designated person or to a third party who has agreed to hold it for the benefit of the designated person. For domestic asset freezes imposed by UK law, an application for a licence would be considered on a case by case basis.

8.18. I own shares in a designated person, can they pay me a dividend?

The designated person will need an OFSI licence to pay you a dividend.

As the asset freeze will restrict the manner in which the business can operate after designation, the ability to pay dividends may also be limited.

8.19. I have a licence but my bank will not process the payment, what can I do?

An OFSI licence does not compel any party to make a payment.

When you are doing business with designated persons, you should talk to your bank about the business they are willing to transact through your accounts under an OFSI licence.

8.20. What reporting obligations apply to me?

When a person is designated by the EU, the EU measure will impose a requirement to immediately supply information that would facilitate compliance with the measure. The requirement applies to all persons, and not just the designated person. In respect of financial sanctions, you must provide information to OFSI, which will include information about the funds and economic resources that have been frozen.

For all regimes, OFSI may request information from you to establish the extent of funds and assets belonging to a designated person, to monitor compliance and detect evasion or obtain evidence of the commission of an offence. Specific reporting requirements will often be included in licences. Failure to comply with an OFSI request for information may be dealt with by way of criminal prosecution.

If you are in any doubt as to what you need to provide to OFSI, please contact us, or seek independent legal advice.

9. Compliance for Businesses

9.1. All businesses

9.1.1. How do I manage my sanctions risk?

If you undertake an act that is prohibited by financial sanctions and at the time you did so, you knew or had reasonable cause to suspect that the act was prohibited, then you will have breached financial sanctions and may face criminal prosecution.

OFSI is of the view that financial sanctions are generally widely publicised and that businesses, particularly those operating in an international context, will have reasonable cause to suspect that sanctions might be engaged, and so will not be able to avoid liability simply by failing to consider their sanctions risks.

OFSI expects all businesses who engage in activities where financial sanctions apply to stay up to date with the sanctions regimes in force, to consider the likely exposure of their business to sanctions, and to take appropriate steps to mitigate those risks taking into account the specific nature of their activities. It is important to remember in this context that designated persons live and operate in the UK.

While anti-money laundering and anti-corruption systems and controls can be integrated with your sanctions compliance systems, there are important differences in terms of the lists to be considered and the specific prohibitions which need to be expressly considered.

OFSI does not require businesses to buy particular software to screen against the sanctions lists. Businesses may find it cost-effective to use specialised software from third parties where, for example, the business is of the view that considerable checking against the OFSI consolidated list is required.

The consolidated list does not currently have a fuzzy-matching search facility, however standard direct search tools are available for the Excel, PDF and HTML formats of the lists.

If you decide that individual checks using an e-verification provider or purchasing screening software is appropriate for your business, you should understand its capabilities and limits and ensure that it is tailored to your business needs and risk profile. Some issues to consider include:

- Does the search facility include the OFSI consolidated list?
- How often does the search facility or screening software update the list?
- Does the search facility or screening software provide for fuzzy matching, enabling differences in spelling, name reversal and number removal to be identified?

If you are unsure as to what systems and controls you should have in place for your specific business to mitigate your sanctions risk, you should consider taking independent legal advice.

9.1.2. Can I talk to my customers, contractors or suppliers about sanctions?

You can discuss sanctions with your customers, contractors and suppliers.

There are no “tipping off” provisions in relation to sanctions which prevent you discussing sanctions compliance with any person. In the majority of cases, the fact that a person is subject to sanctions is a matter of public record and OFSI is open about its support for compliance with sanctions by all persons.

If you have been informed by OFSI that a person is subject to a designation under the Terrorist Asset-Freezing etc. Act 2010 and that the Treasury have restricted those notified of the designation and specified that information contained in it is to be treated as confidential, you must comply with the restrictions in section 10 of that legislation and must not disclose the confidential information without lawful authority. Contravention of this prohibition is a criminal offence. For example, you would have lawful authority to disclose the information to the limited extent that disclosure (for example within your organisation) is necessary to give effect to the asset freeze and ensure compliance with it.

9.1.3. I bought goods from a designated person, can I still receive them?

The goods may be an economic resource, and if they are still owned or controlled by the designated person, an OFSI licence will need to have been granted for you to receive the goods.

9.1.4. I sold goods to a designated person, can I still deliver them?

The goods will generally constitute an economic resource and you will need an OFSI licence to deliver them. If the good is of low value and purely for personal consumption, such as food, water, and electricity or gas for domestic use, then you may provide such goods without a licence.

9.1.5. A designated person owes me money, can I recover it?

You will need an OFSI licence to allow the designated person to make the payment to you.

If the asset freeze relates to a regime implemented at EU level, there are likely to be clear licencing grounds for such payments where the obligations to make the payment arose before the person was designated.

If you entered into a contract with a designated person after their designation without an OFSI licence in place, or the asset freeze relates to any of the domestic asset freeze regimes (including the Terrorist Asset-Freezing etc. Act 2010) please contact OFSI for further advice.

It is important to note that an OFSI licence does not compel a person to make a payment. So if the designated person does not wish to pay you, then you may need to take legal action to enforce the debt.

Instituting legal action is not prohibited by sanctions, however you will need an OFSI licence in order to enforce any judgement or settlement agreement.

9.1.6. I owe a designated person money, how can I pay it and still comply with sanctions?

You can make a payment due as a result of obligations arising prior to the person being designated as long as the payment is into a frozen account where there is an exemption to the asset freeze.

If the debt occurred after the designated person was listed, and in the absence of an OFSI licence, you should contact OFSI for further advice.

9.1.7. A designated person is suing me for non-completion of a contract, how can I respond to the claim and still comply with sanctions?

How sanctions apply to your situation will depend on the exact circumstances of the claim, and you should consider taking independent legal advice.

You will be able to make a payment to the designated person in respect of obligations which arose under a contract prior to them being designated, where there is an exemption to the asset freeze.

An OFSI licence granted in respect of the contract will also enable you to complete on the contract.

If you do not want to complete on the contract or are dispute about whether you have completed the contract, it will not be a breach of sanctions for the designated person to bring a claim against you. However, they will need an OFSI licence to enforce any judgement in their favour.

If the designated person is subject to an asset freeze imposed by EU law, then you cannot incur liability for failing to undertake an action, if financial sanctions prevent you from undertaking that action. This protection will not apply where an OFSI licence is available to allow you to undertake that action.

9.1.8. A designate person owes me money, can I write it off?

You will need an OFSI licence to write off a debt.

9.1.9. A designated person owes me money and I owe them money, can I exercise the right to set off the debts?

You will need an OFSI licence to set off a debt.

9.1.10. Can I provide goods or services to a designated person?

You will generally need a licence to make goods available to a designated person without an OFSI licence. However, if the good is of low value and purely for personal consumption, such as food, water, electricity or gas for domestic use, then you may provide these goods without an OFSI licence.

In all cases the designated person will need a licence in order to pay you for those goods.

The provision of services, except in the case of certain financial services¹, are not prohibited by sanctions. However, where you provide services on credit, you are creating a debt and will need an OFSI licence to do so.

In all cases, the designated person will need a licence in order to pay you for those services.

9.1.11. Can I issue vouchers, coupons or reward points to a designated person?

You will need an OFSI licence to issue or allow the redemption of vouchers, coupons or reward points.

9.1.12. I've made a mistake in how I charged a designated person or realised we gave them poor service, can I fix the accounting mistake, reimburse our overcharging or give them a refund?

You will need an OFSI licence to correct the mistake, reimburse or provide a refund to a designated person. However if such actions were expressly permitted under obligations which arose prior to the person's designation and the payment is into a frozen account, then an OFSI licence is not required, provided the legislation which imposes the asset freeze has the relevant exemption.

¹ See 3.2 of this Guide.

9.1.13. I have an existing contract with a designated person, can the contract be amended or extended?

Whether you may or may not amend a contract that you have with a designated person will depend on whether the relevant prohibitions would be infringed. We would encourage you to seek independent legal advice if you wish to re-consider your contractual position with a designated person. You may need an OFSI licence to amend or extend an existing contract with a designated person. This may not be possible in all circumstances.

While the contract itself may not be an economic resource, the amendment of the contract, extension of the contract, or the actions it permits are likely to involve the dealing in funds or economic resources.

If the original contract specifically permitted the amendment or extension requested, then it may be possible to issue a licence under a prior contract licensing ground. In all other cases an alternative licencing ground will need to be identified in order for the amendment or extension to take place.

9.1.14. Can I employ a designated person?

Yes, but you may need an OFSI licence in order to pay their salary or related expenses. This depends on the terms of their employment, and when it began. We would encourage you to seek independent legal advice, or to contact OFSI if you are in any doubt about whether you need a licence.

9.1.15. I jointly own a business with a designated person, is the whole business subject to sanctions?

You are likely to need an OFSI licence to continue to operate the business.

This is because, while the assets of a non-designated person are not frozen, all assets owned, held or controlled by a designated person are frozen, so in practice jointly held assets may be frozen. Prohibitions also operate to prevent funds or economic resources being made available, directly or indirectly, to the designated person without an exemption or an OFSI licence, which is something that ongoing business might do.

The extent to which you can operate your business under the asset freeze will be more restricted than prior to your co-owners' designation. We would encourage you seek independent legal advice, or to contact OFSI if you are in any doubt about whether you need a licence.

9.1.16. I jointly own a business with a designated person, can I sell my share?

You are likely to be able to legally sell your share to another person, however, given the complexities of jointly holding assets with a designated person, you should consider taking independent legal advice and consult with OFSI prior to entering into any agreement to dispose of your share.

OFSI considers that existing licencing grounds under asset freezes imposed by EU law are unlikely to permit the sale of your share to the designated person or to a third party who has agreed to hold it for the benefit of the designated person. For domestic asset freezes imposed by UK law, an application for a licence would be considered on a case by case basis.

9.1.17. A designated person owns shares in the business, can we sell the business?

You will need to consider taking independent legal advice given the complexities of assets being part owned by a designated person.

This will depend on the specific ownership structure of the business and the facts of the case.

Generally any action which makes funds or economic resources available directly or indirectly to the designated person are prohibited.

If the sale would make funds or economic resources available to the designated person, then OFSI considers that existing licencing grounds under asset freezes imposed by EU law are unlikely to permit such a sale. For domestic asset freezes imposed by UK law, an application for a licence would be considered on a case by case basis.

9.1.18. I have a licence but my bank will not process the payment, what can I do?

An OFSI licence does not compel any party to make a payment. If the bank has not seen your licence, it may help if you show it to them.

When you are doing business with designated persons, you should talk to your bank about the business they are willing to transact through your accounts under an OFSI licence.

9.1.19. What are my reporting requirements?

For most businesses the EU regulations implementing the freeze require you to voluntarily provide information to OFSI about information which would facilitate compliance with financial sanctions regime, including information about the funds and economic resources which have been frozen.

Similar reporting obligations apply in respect of certain institutions in respect of domestic asset freezes imposed by the Terrorist Asset-Freezing etc. Act 2010.

Failure to provide this information may be dealt with by way of a criminal prosecution. This includes information about the funds and economic resources which have been frozen, suspected or attempted breaches of financial sanctions or information which may assist in detecting circumvention of sanctions.

OFSI may also request information from any person to establish the extent of funds and assets belonging to a designated person, to monitor compliance and detect evasion or obtain evidence of the commission of an offence. Specific reporting requirements will often be included in licences. Failure to comply with an OFSI request for information may be dealt with by way of criminal prosecution.

9.2. Financial Institutions

9.2.1. What is the role of the FCA in sanctions compliance?

The Financial Conduct Authority (FCA) as part of its objective of enhancing the integrity of the UK financial system requires firms to protect themselves from being misused for financial crime. This includes compliance with UK financial sanctions.

The FCA has published its financial crime guide for firms to illustrate examples of good practice for designing systems to mitigate sanctions risks.

Read more from the FCA on financial sanctions: <https://www.fca.org.uk/firms/financial-crime/financial-sanctions>.

9.2.2. Can I close or transfer accounts of a designated person?

You may need an OFSI licence to close or transfer an account of a designated person.

The existing licencing grounds in relation to asset freezes imposed by EU law to permit such an action are limited, and whether they can be used will depend on the specific circumstances of the case. Applications for licences in relation to asset freezes imposed by UK law will need to demonstrate that such activity would be in line with licencing policy for that regime.

9.2.3. Can I credit payments from third parties to a frozen account?

You will generally be permitted to apply payments from a third party to a frozen account, where it involves a contract, obligation, or court order made prior to the person's designation, without an OFSI licence, provided the asset freeze has the relevant exemption.

You will generally be permitted to apply social security payments to an account, even when they are for the benefit of a person designated under an asset freeze imposed by the Terrorist Asset-Freezing etc. Act 2010.

You must advise OFSI of any of the above transactions without delay.

You may credit other payments to a frozen account in accordance with an OFSI licence.

9.2.4. Can I apply interest to the account of a designated person?

You will be able to credit interest to the account of a designated person without an OFSI licence, where the legislation imposing the asset freeze has the relevant exemption.

You will not be able to apply negative interest rates to the account of a designated person without an OFSI licence.

9.2.5. Can I correct errors in accounts?

If the account was opened prior to designation and the terms and conditions of operating the account permit you to correct errors, then you will be able to make the corrections without an OFSI licence where the legislation imposing the asset freeze contains the relevant exemption. You must advise OFSI of the transaction without delay.

9.2.6. Can I give a designated person a credit or debit card?

You must freeze existing accounts and credit cards of a designated person.

An OFSI licence is required to provide access to a new credit card or use any credit card.

You are not prevented from providing a designated person with a debit card, but an OFSI licence is required for its use.

If you decide to provide debt or credit cards to a customer who is a designated person, you should have systems and controls in place to enable you to satisfy yourself that the use of the debit or credit card is restricted to what is permitted by the OFSI licence.

If you decide to provide debt or credit cards to a customer who is designated under the Terrorist Asset-Freezing etc. Act 2010, then you will need an OFSI licence to use a credit or debit card.

9.2.7. How do I treat funds being transferred from a designated person based outside the EU, to a non-designated person in the UK?

Since 1 August 2014, any funds arriving in the UK, or in a UK bank anywhere in the world, which have come from, or via a designated person based outside the EU, must be frozen in a suspense account or other separate account, on arrival in the UK bank. Funds can only be released if an OFSI licence is obtained.

9.2.8. How do sanctions apply to a safety deposit box?

You must freeze safety deposit boxes or secure storage facilities owned, controlled or held by a designated person, because a safety deposit box or other secure storage facilities may be an economic resource of, or be used to hold funds or economic resources belonging to, a designated person.

You should notify OFSI that you hold such a safety deposit box or secure storage facility for the designated person. Where the contents are not known, the report to OFSI should make that clear. Boxes do not need to be opened or searched before a report is made.

You must not let the designated person access their safety deposit box or secure storage facilities without an OFSI licence.

9.3. Insurers

There are certain restrictions relating to the provision of insurance in the following situations:

- Asset freezes imposed under the Terrorist Asset-Freezing etc. Act 2010
- To certain Syrian entities in specific circumstances
- In relation to specific trade transactions which are otherwise prohibited by sanctions.

In relation to asset freezes imposed under the Terrorist Asset-Freezing etc. Act 2010, there are two general licences which will allow you to provide insurance to those designated persons. The general licences permit the provision of insurance and the immediate and temporary provision of goods and services in respect of an insurance claim, like courtesy cars or emergency hotel accommodation to designated persons. Note that payment of claims, and receipt of premiums will need an OFSI licence. Those general licences can be located here: <https://www.gov.uk/government/publications/counter-financing-of-terrorism-general-licenses>

For information on restrictions on providing insurance and reinsurance where trade sanctions apply, you will need to contact the Export Control Organisation who implement those restrictions. <https://www.gov.uk/government/organisations/export-control-organisation>

An asset freeze issued imposed by EU law or the Anti-Terrorism, Crime and Security Act 2001, does not generally ban the provision of insurance of itself, although payments to and from designated persons for insurance will require an OFSI licence.

9.3.1. Who is responsible for sanctions compliance in an insurance chain?

Each business to whom UK sanctions apply² is responsible for their own compliance with financial sanctions and the financial related aspects of trade sanctions.

Insurers, Reinsurers and underwriters: OFSI is of the view that you should undertake reasonable enquiries to identify whether the underlying clients or claimants may be designated persons. You should consider your arrangements with introducers and other parties to maximise the detail of information provided when providing cover, and make appropriate use of that identifying information in designing your sanctions compliance systems and controls.

Where insurance is provided through an agent, broker, introducer, delegated authority or bordereau arrangement, you should satisfy yourself that the third party's systems and controls are sufficient to mitigate the UK sanctions risks. This could include making specific reference to sanctions compliance in their terms of business with introducers, reviewing

² See Introduction

sanctions compliance policies and requiring positive affirmation from their introducers as to their financial sanctions systems and controls.

Where the level of detailed information cannot be obtained, it may be appropriate for you to still screen the partial information you hold on a more targeted basis. This for example could be screening UK focused business against designated persons resident in the UK only or for non-UK businesses screening against entries that correspond to the jurisdiction where the underlying client or claimant is suspected to reside.

Agents and brokers: You will usually deal directly with clients and OFSI is of the view that you should be well placed to obtain sufficient information to allow you to conduct appropriate sanctions checks against the clients and the beneficiaries of the insurance cover at the time the cover is issued. The specific requirements that an insurer or an underwriter applies to you in respect of sanctions compliance are a matter for the parties to contract.

9.3.2. I provide pensions and related products to an employer, so may not know who the relevant employees are. How can I comply with sanctions?

Depending on the precise arrangements, it is likely that the contract will be with the employer and the employer will provide the benefits to the employees further to their contracts of employment.

OFSI is of the view you should initially focus on the employer when conducting your sanctions checks. Where specific employees are drawn to your attention (for example for special underwriting or the direct payment of benefits), OFSI expects that you would conduct sanctions checks on the employee details.

9.3.3. What should I do if a person becomes designated after I agreed to insure them?

An asset freeze imposed by EU law or under the Anti-Terrorism, Crime and Security Act 2001 does not void any insurance cover that the designated person had at the time of their designation and does not require you to discontinue the provision of insurance.

You will not be required to discontinue insurance issued to a person subject to an asset freeze imposed by the Terrorist Asset-Freezing etc. Act 2010, where a general licence permits the insurance to continue or if a specific OFSI licence is issued in respect of the policy.

If you are making an assessment of whether you wish to discontinue cover to a designated person, you should take into account the potential social harm that might be caused if you terminate a contract that is either not subject to any restriction or is permitted under a general licence.

You are required to discontinue insurance in the circumstances set out under the Syrian sanctions regime.

9.3.4. Can I make a payments to or on behalf of a designated person?

You will require an OFSI licence. This applies whether you insure the designated person or are paying out a claim in favour of the designated person on behalf of a third party that you insure.

There are no licencing grounds available in relation to prohibited insurance under the Syrian regime.

9.3.5. Can I provide temporary access to assets, such as accommodation or vehicles in response to a claim?

If the provision is to a person subject to an asset freeze under the Terrorist Asset Freezing Act 2010, then a general licence may apply.

For all other asset freezes, OFSI is of the view that were the provision of the asset of limited duration (e.g. less than one week) and for personal consumption (e.g. personal use of the vehicle rather than businesses use of the vehicle), this will not amount to making an economic resource available to a designated person. If you are providing the asset beyond that timeframe or for business use, you will need an OFSI licence. You should mark the application as urgent and OFSI will endeavour to provide an indication as to approach within one working day.

9.4. Lawyers

9.4.1. Can I provide legal advice or otherwise act for a designated person?

Generally you will not be prohibited from providing legal advice under an asset freeze. However, the payment for legal services and the provision of legal services on credit do require an OFSI licence.

Certain legal services such as the provision of company formation services may constitute the provision of “financial services” which are otherwise prohibited under the Terrorist Asset-Freezing etc. Act 2010. Also, where sanctions prohibit specific actions (e.g. restructuring of finance) you will need to carefully consider whether your advice and support for the client is helping them comply with sanctions or is participating in or otherwise facilitating a breach.

For example, if it is prohibited to raise capital on EU markets, providing advice on how this effects a business will be permitted, but preparing documents required to raise such capital may amount to attempted circumvention.

9.4.2. How quickly must I apply for a licence?

If you are providing legal advice to a person designated under the Terrorist Asset -reezing etc. Act 2010, EU Regulation 2580/2001, or EU Regulation 881/2002 (given effect in the UK by the Al Qaida (Asset Freezing Regulations) 2011), you may use the general licences to allow for payments of legal aid or for payments by third parties.

For all other asset freezes, an individual OFSI licence is required.

OFSI recognises that a small amount of work will need to be undertaken in order to obtain instructions to apply to OFSI for an individual licence. You should restrict this work to the amount that is necessary to apply for the licence and no funds should be taken on account or disbursements paid until a licence is granted.

If urgent work is needed to be undertaken to provide urgent legal services, such as lodging an appeal before it is out of time, you should send an email to OFSI as soon as you are instructed, outlining:

- the details of the services required,
- the date by which they must be undertaken,
- the accounts which will be used to pay and receive the funds and
- an estimate of the likely level of fees and disbursements

to enable OFSI to consider an urgent interim licence to cover those services. OFSI will endeavour to engage with such requests within 1 working day.

9.4.3. Do I have to freeze the client's money?

You must freeze any funds or economic resources³ owned, held or controlled by the client which are in your possession.

If you hold money on account for a person who is designated after you are instructed by them, you may take steps to move the funds from a pooled client account to a designated client account in the UK, in order to freeze the funds, without an OFSI licence, but should alert OFSI as soon as you have done so.

Interest, in accordance with the Solicitors' Accounts Rules may be credited to the account, provided that they are also frozen, where the asset freeze contains such an exemption.

9.4.4. Do I still need a licence if the legal services for the designated person are being paid for by a non-designated person?

If the designated person is subject to an asset freeze imposed by the Terrorist Asset-Freezing etc. Act 2010, EU Regulation 2580/2001, or EU Regulation 881/2002 (given effect in the UK by the Al-Qaida (Asset-Freezing) Regulations 2011), there is a general licence which is likely to apply to such payments. For all other asset freezes you will need an OFSI licence.

You should carefully consider how you establish the retainer and in whose name you hold the funds, as this will have a bearing as to whether any excess funds on account can be returned to the payer at the end of the retainer.

9.4.5. What fees and disbursements can be licenced?

Under an asset freeze imposed by EU law, OFSI is only permitted to licence the release of frozen funds for the payment of reasonable legal fees and disbursements related to the provision of legal services. The licensing ground does not permit payments in respect of any other services, even if these have been paid for by a law firm. These restrictions apply even if a third party is paying for the legal fees.

It is for you to demonstrate to OFSI that the legal fees and disbursements are reasonable. You should provide an estimate of the likely fees and a breakdown of how these will be charged in the application. You should separately identify significant disbursements, such as payments for counsel and expert witnesses.

Generally, OFSI is of the view that licencing fees for one law firm and one set of counsel (where appropriate) is reasonable for a given action or piece of advice. You will need to provide a detailed case if the designated person is seeking to be represented by more than one law firm or set of counsel and OFSI will consider each application on its merits. In terms of levels of fees, OFSI considers that the Supreme Court Cost Guides or the sums that could be expected to be recouped if costs were awarded, provide a useful starting point for assessing the reasonableness of legal fees and disbursements. If you are seeking fees of a level significantly in excess of those, you will need to demonstrate why those increased fees are reasonable in the given case.

OFSI is of the view that both court fees and payments into court for security for costs can be licenced under the reasonable legal fees licencing ground. However, OFSI is of the view

³ See 9.2.8 re. safety deposit boxes.

that a separate licencing ground will need to be identified to pay security for damages into court, depending on the specific circumstances of the case.

For individual legal fee licences sought in relation to asset freezes imposed by UK law, you will need to demonstrate that the amounts sought are in accordance with licencing policy.

9.4.6. What should I take into account when monitoring compliance with licences?

You, your staff and your clients need to be clear about the specific permissions contained in the licence, as they must be strictly complied with.

You should be clear with your client that they can only pay the legal fees permitted by the licence, and via the payment route specified in the licence. You should ensure that your accounts staff are aware that any funds must remain frozen and that any receipts or payments must be strictly in accordance with the licence.

9.4.7. What should I do if a court order conflicts with sanctions obligations?

You cannot comply with a court order that conflicts with sanctions obligations. To do so would be a breach of EU and UK legislation. You should consider whether an OFSI licence is available to allow you to comply with the court order. You should also consider whether the court should be made aware of the financial sanctions and whether you should ask for the order to be amended.

The bringing of a claim either on behalf of or against a designated person is not prohibited by sanctions, nor is it a breach of sanctions for a court or arbitrator to adjudicate on the claim.

However, the claim can only be settled or the court judgement/arbitration order enforced where there is a licencing ground to allow this to happen. Whether there is a licencing ground available will depend on the specific facts of the case and the sanctions regime under which the asset freeze applies.

If a court has ordered a judgement in favour of a person subject to an asset freeze under EU law, and there are no licencing grounds to allow the payment to be made, then the third party cannot be made subject to any further liability (such as accruing interest) for their non-payment while the sanctions continue to apply.

9.4.8. Can I return funds to a designated person?

If the obligation to return or pay funds to a designated person arose prior to their designation, you may pay them into a frozen account, where the legislation imposing the asset freeze has the relevant exemption.

In other instances there will be very limited licencing grounds on which to allow the funds to be returned and they may have to remain frozen by the law firm until such time as the DP is no longer subject to sanctions.

9.4.9. How does legal professional privilege apply to my reporting obligations?

The general reporting obligations are set out at 9.1.19.

You are not required to provide information that is subject to legal professional privilege. OFSI expects legal professionals to approach their disclosure obligations with rigour and precision. Blanket claims of privilege will be viewed dimly, and you should proactively engage with your client about the need to provide information to meet the reporting requirements in licences.

9.5. Exporters

9.5.1. I have an export control licence, is that all I need?

Export control licences only provide permissions in respect of trade sanctions and embargoes. If the goods are going to a designated person or the funds are transferring through a designated person, then you will need to apply separately for an OFSI licence. Just because an export control licence has been granted, it is not guaranteed that an OFSI licence will be granted.

9.5.2. My product is not subject to trade controls, do financial sanctions still apply to me?

You will still need to consider financial sanctions if goods are being made available, directly or indirectly to designated persons. Equally, if payments are coming through a designated person (such as a designated bank), and there is no relevant exception, an OFSI licence will be required.

9.5.3. Does it make a difference if my goods are for humanitarian, medical or diplomatic purposes?

You will need to consider carefully the restrictions in place against the specific designated person. So if a person is subject to sanctions under the Syrian regime, you will need to look at the legislation imposing that regime.

Some regimes have specific exemptions or licencing grounds for provision of goods or funds for humanitarian, medical or diplomatic purposes, which may expand the options from the normal licencing grounds. OFSI will seek to prioritise applications for licences in these cases.

9.6. NGOs and Charities

OFSI recognises the very important work that NGOs and charities undertake in regions of the world including those suffering from conflict and humanitarian crises. OFSI also recognises that financial sanctions regimes may be in force in many of those regions as a way of applying diplomatic pressure to resolve a conflict or to prevent the funding of terrorism, terrorist organisations or groups.

It is the clear intention of the international community, specifically expressed in sanctions measures with humanitarian provisions, not to prevent the passage of humanitarian funds or goods. In many cases there will be exemptions or licencing grounds to allow the provision of goods and payments for services and OFSI will treat these as a priority. Accordingly, financial institutions, NGOs and charities should be able to safely undertake humanitarian transactions.

However, sanctions may still apply to certain payments even if they are related to humanitarian activity. For example, OFSI is not able to licence payments such as taxes or fees that are being paid to an organisation subject to a terrorist asset freeze, even if such a payment is necessary for an NGO or charity to operate within a conflict zone.

If you are involved in humanitarian activity in a region where a sanctions regime is in force, you will need to consider your existing and proposed activities in that region in light of the terms of the relevant sanctions regime.

The Home Office has provided guidance for international NGOs on operating within counter-terrorism legislation: <https://www.gov.uk/government/publications/operating->

[within-counter-terrorism-legislation/for-information-note-operating-within-counter-terrorism-legislation](#)

The Charity Commission has also published a toolkit to assist charities understand the risks they face from money laundering and terrorist financing and how to manage these – including complying with sanctions.

<https://www.gov.uk/government/collections/protecting-charities-from-harm-compliance-toolkit>

Other financial sanctions administrators (such as the US Treasury's Office of Foreign Assets Control) publish their own guidance on humanitarian assistance and related exports.