

News

Financial Sanctions - be aware of changes

12 September 2023

The Government's financial sanctions regime is adapting to the challenges it faces all the time. [The UK regime \[https://www.gov.uk/guidance/uk-sanctions\]](https://www.gov.uk/guidance/uk-sanctions) is operated by the Office of Financial Sanctions Implementation (OFSI). These measures are imposed by the Government to achieve specific foreign policy or national security objectives.

We have seen a number of developments recently and all solicitors should take note and consider how they might affect their practice.

General trade licence: Russia sanctions - legal advisory services

[This new general trade licence \[https://www.gov.uk/government/publications/general-trade-licence-russia-sanctions-legal-advisory-services\]](https://www.gov.uk/government/publications/general-trade-licence-russia-sanctions-legal-advisory-services) was issued on 11 August and [modifies the sanctions on the provision of legal services \[https://rules.sra.org.uk/sra/news/sra-update-117-russian-services/\]](https://rules.sra.org.uk/sra/news/sra-update-117-russian-services/) which came into force in July 2023. It allows legal advisory services to be provided:

- as to whether an act or a proposed act complies with, or could trigger punitive measures (which includes administrative penalties) in relation to, restrictive measures, including sanctions, export and import controls on or concerning Russia or the non-government controlled Ukrainian territory, imposed by any jurisdiction
- in relation to, or in connection with compliance with, or addressing the risk of punitive measures (which includes administrative penalties) in relation to:
 - restrictive measures, including sanctions, export and import controls on or concerning Russia or the non-government controlled Ukrainian territory, imposed by any jurisdiction;
 - any laws of Russia that have as their object or effect the frustration of any laws... including sanctions, export and import controls or other restrictive measures imposed by Russia;
 - any criminal law imposed by any jurisdiction.
- where the legal advisory services are provided in relation to the discharge of or compliance with UK statutory or regulatory obligations.

Previously, the exemption for such services applied to the UK sanctions regime only.

[Statutory guidance \[https://www.gov.uk/government/publications/russia-sanctions-guidance/russia-sanctions-guidance\]](https://www.gov.uk/government/publications/russia-sanctions-guidance/russia-sanctions-guidance) on the Russia sanctions regime has also been updated to add legal services as grounds for licensing.

If you wish to rely on the general trade licence, you must register online via [SPIRE \[https://www.spire.trade.gov.uk/spire/fox/espire/LOGIN/login\]](https://www.spire.trade.gov.uk/spire/fox/espire/LOGIN/login) within 30 days of doing so.

OFSI: updates to general guidance

- OFSI has made two important updates to its [general guidance \[https://www.gov.uk/government/publications/financial-sanctions-general-guidance/uk-financial-sanctions-general-guidance\]](https://www.gov.uk/government/publications/financial-sanctions-general-guidance/uk-financial-sanctions-general-guidance) recently, in relation to its refusal of licences.
- OFSI will return a licence application they deem to be incomplete without further engagement, as set out in paragraph 6.9. [In a blog post \[https://ofsi.blog.gov.uk/2023/07/12/an-update-to-our-licensing-process-returning-incomplete-applications/\]](https://ofsi.blog.gov.uk/2023/07/12/an-update-to-our-licensing-process-returning-incomplete-applications/), OFSI explains that due to the high volume of applications it is receiving, it is no longer possible for it to work with applicants to perfect their application. You may resubmit the application, however. **Paragraph 6.12** has been amended to read as follows:

'If OFSI refuses to issue a licence, the proposed transaction or activities may not be lawful. OFSI will write to you giving reasons for refusing your application.'

We at the SRA might also refuse your application if you do not require a licence for the proposed transaction or activities.

If you have had an application for a licence refused, you have the following options:

- re-apply with new or supplementary evidence or new supporting arguments;
- re-apply under a different derogation (where applicable); or
- seek to challenge the decision in court.

As we have said before, you can register with OFSI for updates on the regime. You can do that here:

[Register for OFSI updates \[https://www.gov.uk/government/organisations/office-of-financial-sanctions-implementation/about#:~:text=To%20get%20list%20updates%20and,is%20available%20in%20OFSI's%20guidance.\]](https://www.gov.uk/government/organisations/office-of-financial-sanctions-implementation/about#:~:text=To%20get%20list%20updates%20and,is%20available%20in%20OFSI's%20guidance.)